

7 FAM 1260

RENUNCIATION OF U.S. CITIZENSHIP

(CT:CON-277; 01-05-2009)
(Office of Origin: CA/OCS/PRI)

7 FAM 1261 INTRODUCTION

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- a. A written renunciation of U.S. citizenship (INA 349(a)(5), 8 U.S.C. 1481(a)(5)) before a U.S. consular officer in the form prescribed by the Secretary of State is a very serious decision. Consular officers must inform potential renunciants of the consequences of renunciation and must keep a detailed record of all interactions with the individual as well as all actions taken in furtherance of the renunciation. This is explained in Form DS-4079, Questionnaire: Information for Determining Possible Loss of U.S. Citizenship, and Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship.
- b. **Who may administer oath of renunciation:** The oath must be taken in the presence of a U.S. diplomatic or consular officer. Locally engaged staff (LES), **consular associates, consular agents or any other person may not administer the oath.** The oath must be taken outside the United States, its territories and possessions. The oath must be in the precise form prescribed by the Secretary of State: Form DS-4080, Oath of Renunciation of the Nationality of the United States.
- c. Renunciation must conform to the precise requirements of INA 349(a) and 22 CFR 50.50 in order to be effective.
- d. **Comprehension:** When faced with a potential renunciant, a consular officer must make a judgment whether the individual fully understands what he or she is seeking to do, including the consequences such as losing the right to reside in the United States without documentation as an alien. You must also assess whether the person is acting of his or her own free will, without undue influence from others and without reservation. (See 7 FAM 1290 for guidance about minors, incompetents, prisoners, plea bargains, cults and other special circumstances.)
- e. **Intent:** Execution of the Oath of Renunciation usually is sufficient evidence of intent to lose U.S. nationality. You should, however, report any contemporaneous statements made by a would-be renunciant that alter the meaning of the renunciation or call into question the individual's

intent to renounce citizenship. The Department is unlikely to approve a CLN in such a case. You should also report, and CA/OCS/ACS may ask you to look into, other conduct by the individual that creates doubt that the individual intends to give up the rights and privileges of U.S. nationality. Note, however, that subsequent statements that the individual did not intend to lose nationality are not likely to prevent CA/OCS/ACS from approving the CLN or persuade CA/OCS/PRI to vacate the CLN.

- f. **Voluntariness:** If the individual is operating under actual duress you should not administer the Oath of Renunciation. See 7 FAM 1290 for guidance regarding renunciation and duress.
- g. **Renunciation and statelessness:** Potential renunciants who do not possess another nationality or a claim to one are nonetheless permitted to renounce U.S. nationality. In doing so the individual becomes stateless. You should explain the extreme difficulties that a stateless individual may encounter trying to establish residency in a foreign country or traveling between countries in order to ensure that the individual understands the consequences of statelessness. See 7 FAM 1218 for additional information about statelessness. If the individual still desires to proceed with the renunciation, you may proceed.
- h. **Potential renunciants who claim a right of continuing residence in the United States:** Potential renunciants may also express the intention to continue to reside in the United States or its territories and possessions without documentation as aliens. Since this right of residency is a fundamental right that U.S. citizens and nationals possess, potential renunciants who wish to retain this right do not possess the intent necessary for an effective renunciation. Consular officers must not take renunciations from any individual who seeks to retain the right to reside in the United States or one of its territories or possessions. If a potential renunciant understands the loss of the right to residency and chooses to become stateless nonetheless, the consular officer handling the case must allow him or her to do so. See the Renunciation of U.S. Citizenship by Person Claiming a Right of Residence in the United States brochure.
- i. **Would-be temporary renunciants:** Many foreign countries now require individuals to divest themselves of other nationalities that they may possess before granting them nationality or permitting them to enjoy the benefits nationals receive. Potential renunciants sometimes inquire whether their U.S. citizenship can be held in “suspense” so that they can temporarily claim a benefit, or take up a policy-level position in the government of, a foreign state. The answer is “no.” The individual must choose whether he wishes to keep or give up U.S. citizenship permanently. In renouncing U.S. citizenship one is irrevocably giving up all rights and privileges attendant to being a U.S. citizen. U.S. citizens

contemplating renunciation for whatever reason should be advised clearly and unequivocally that, if they choose to exercise their right to renounce U.S. citizenship under INA 349(a)(5) (8 U.S.C. 1481(a)) and the Department of State issues a Certificate of Loss of Nationality, such action is final and irrevocable.

7 FAM 1262 INTERVIEW WITH POTENTIAL RENUNCIANT

7 FAM 1262.1 Threshold Questions

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When an individual approaches you attempting to renounce U.S. citizenship, you should ...

- Verify that the potential renunciant is a U.S. citizen;
- Clear the individual's name in the Consular Lookout and Support System (CLASS);
- Review the PIERS and ACS automated systems for any previous case history.

7 FAM 1262.2 Initial Interview with Potential Renunciant

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- a. **Public information:** At an initial interview, provide the individual with a copy(ies) of the following brochures available on the Department of State Bureau of Consular Affairs Web site:
 - (1) Renunciation of U.S. Citizenship;
 - (2) Renunciation of U.S. Citizenship by Person Claiming a Right of Residence in the United States;
 - (3) Possible Loss of U.S. Citizenship and Dual Nationality.
- b. **Consequences:** Explain the serious consequences of renunciation as summarized in Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship.
- c. **Reflection:** Tell the individual to think over whether he or she truly wishes to renounce U.S. nationality, and, if so, to schedule an appointment for the renunciation ceremony.

7 FAM 1262.3 Site of Renunciation

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- a. **Setting:** Renunciation procedures should always be held at post in a setting that reminds the renunciant of the gravity of the consequences.
- b. **U.S. flag:** The flag should be present.
- c. **Stand and raise right hand:** If possible, the renunciant should stand and raise his or her right hand while taking the Oath of Renunciation. This formality and the symbols of the United States underscore that the renunciant is severing all ties of allegiance to the United States and in doing so loses the protections that the U.S. Government provides to citizens and noncitizen nationals.

7 FAM 1262.4 Documentation of Renunciation

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- a. As prescribed in 7 FAM 1264, you will need five copies of each of the required documents, which are in fact five original documents, each containing the requisite original signature(s). You must first ask the renunciant to read Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship, and indicate that he or she comprehends it. Then, he or she should be requested to sign Form DS-4081.

NOTE: Failure to sign DS-4081 does not prevent the renunciation from going forward, unless the failure to sign is indicative of a lack of intent to relinquish United States citizenship.

- b. Next, the renunciant must read Form DS-4080, Oath of Renunciation of the Nationality of the United States, and then sign it.
- c. You must sign both Form DS-4080 and Form DS-4081 to attest that you witnessed the actions of the renunciant.
- d. In cases where the renunciant does not understand English and witnesses are required, the witnesses should sign Form DS-4082, Witnesses' Attestation Renunciation/Relinquishment of Citizenship.
- e. You, the renunciant and any witnesses must initial any deletions, amendments or corrections, however minor, in the body of Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship.
- f. **No amendments, deletions or additions are permitted on Form DS-4080, Oath of Renunciation of the Nationality of the United States.**
- g. Any statement of reasons for renouncing must be made in a separate

affidavit. If the person does not understand English this should also be witnessed.

- h. You must keep a detailed written record of every interaction with the renunciant, and, following the renunciation, must provide a signed Consular Officer's Opinion. This opinion should include the consular officer's assessment of the renunciant's state of mind and the reasons given, if any, for desiring to renounce. Such opinions might note if there appeared to be family pressure to renounce, if the individual was likely renouncing for tax purposes, etc. The opinion should also note if the renunciant displays animosity or has spoken threateningly towards the United States.
- i. See 7 FAM 1220 regarding preparation of the Certificate of Loss of Nationality, entry of the name into the CLASS system, and disposition of evidence of citizenship (passport, naturalization certificate, certificate of citizenship, etc.).

7 FAM 1263 TRANSLATIONS, INTERPRETERS AND WITNESSES

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- a. The need for translations, interpreters, and witnesses for renunciations arises when a potential renunciant cannot read or when the renunciant's comprehension of English is in question. Procedures for these situations are as follows:
 - (1) If the renunciant cannot read but speaks English:
 - (a) You must read all documents to the renunciant;
 - (b) The renunciant and two disinterested witnesses (not relatives, friends or associates) must sign all documents in your presence;
 - (2) If the renunciant can neither read nor speak English but can read or speak another language:
 - (a) You must contact the Department (CA/OCS/PRI) to *request* translations of the Statement of Understanding and the Oath of Renunciation *or other documents, which may be subject to the availability of funds*;
 - (b) The renunciant and two disinterested witnesses must sign all documents, including the original English documents and the translations;
 - (c) A disinterested interpreter (this can be U.S. embassy/consulate locally engaged staff (LES) (who may also

- serve as one of the witnesses) must attest in your presence that the renunciant has read and understood all of the documents in the language that he or she understands;
- (3) If the renunciant speaks a language other than English but cannot read:
- (a) You must contact the Department (CA/OCS/PRI) to *request* translations of Form DS-4080, Oath of Renunciation of the Nationality of the United States, and Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship *or other documents, subject to the availability of funds ;*
 - (b) The renunciant and two disinterested witnesses must sign all documents, including the original English documents and the translations;
 - (c) A disinterested interpreter (this may be a U.S. embassy/consulate locally engaged staff (LES)) (who may also serve as one of the witnesses) shall attest in the presence of the consular officer that the renunciant has been read and understood all of the documents in the language that he or she understands.
- b. Copies of translated documents (Statement of Understanding, Oath of Renunciation) in locally spoken languages should be kept at post for future cases of non-English speaking renunciants. LES employees may serve both as interpreters and witnesses if they speak the same language or dialect as the renunciant and they are disinterested parties (not relatives, friends or associates). The renunciant may be accompanied by his or her attorney as a witness, but posts should not be telling renunciants to get an attorney to act as a witness.

7 FAM 1264 DISPOSITION OF DOCUMENTS AND DEPARTMENT APPROVAL

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- a. 7 FAM 1220 provides guidance about preparation of the loss-of-nationality packet and transmittal to the Department.
- b. You should submit five (5) original signed and sealed copies of the:
 - (1) Form DS-4079, Questionnaire: Information for Determining Possible Loss of U.S. Citizenship;
 - (2) Form DS-4083, Certificate of Loss of Nationality of the United

States;

- (3) Form DS-4080, Oath of Renunciation of the Nationality of the United States;
- (4) Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship;
- (5) Form DS-4082, Witnesses' Attestation Renunciation/ Relinquishment of Citizenship, **to be used only when the person relinquishing or renouncing citizenship does not speak English.**

7 FAM 1265 RENUNCIATION AND SPECIAL CIRCUMSTANCES

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For information regarding loss of nationality of minors, prisoners, persons of questionable mental competence, plea-bargain case, members of cults, and other special circumstances, see 7 FAM 1290.

7 FAM 1266 RENUNCIATION AND TAXATION

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If a would-be renunciant indicates a desire to renounce U.S. citizenship to avoid income tax liability, you should inform the person that:

- (1) Renunciation may not exempt him or her from U.S. income taxation; and
- (2) If the Department of Homeland Security determines that the renunciation is motivated by tax avoidance purposes, the individual will be found inadmissible to the United States under Section 212(a)(10)(E) of the Immigration and Nationality Act (INA 212(a)(10)(E), 8 U.S.C 1182(a)(10)(E)), as amended.

You should advise the person to contact the Office of International Operations of the Internal Revenue Service for further information. See 7 FAM 1243 Internal Revenue Service (IRS), Taxation and Loss of Nationality.

7 FAM 1267 RENUNCIATION AND THE BRADY ACT

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The Brady Handgun Violence Prevention Act (Brady Act) of 1993, Public Law 103-159 — Persons Who Renounce U.S. Citizenship Ineligible to Purchase Firearms, provides that it is unlawful to sell firearms to persons for whom a finding of loss of nationality due to renunciation has been made. Subsequent laws have extended this restriction to the transporting of hazardous materials by renunciants and other activities. The U.S. Department of State and the FBI entered into an **interagency agreement** on the sharing of information concerning renunciants of May 1998 (CA FBI 1998 MOU)—persons who lose U.S. citizenship under Section 349(a)(5) INA. See 18 U.S.C. 922G Unlawful Acts — Sale of Firearms to Renunciants; Federal Register 68, 86, May 5, 2003 Transporting Hazardous Materials By Renunciants. For additional information, see 7 FAM 1244.

7 FAM 1268 CHECKLIST

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When an individual approaches a post claiming the desire to renounce his or her U.S. citizenship, you should ...

- Confirm the individual's U.S. citizenship.
- Counsel the individual about the extremely serious and irrevocable consequences attendant to the renunciation of U.S. citizenship and advise her or him to return to post to renounce citizenship only after having reflected seriously on the matter.
- If the individual decides to proceed, have the individual execute Form DS-4079, Questionnaire: Information for Determining Possible Loss of U.S. Citizenship, Form DS-4080, Oath of Renunciation of the Nationality of the United States, and Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship.
- Submit signed and sealed copies of the CLN, the Oath of Renunciation, Statement of Understanding, and consular officer opinion to the appropriate geographic branch in CA/OCS/ACS.
- Enter a Q/F Lookout in the CLASS system immediately as explained in 7 FAM 1220.
- If the CLN is approved, provide a copy to the individual by registered mail. Be sure to include page 2 on appeals procedures.
- Follow the guidance at 7 FAM 1220 regarding disposition of the U.S. passport, naturalization certificate, certificate of citizenship, and consular report of birth abroad.

7 FAM 1269 UNASSIGNED