

Preserving Permanent Residence

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Meg Hobbins, Partner

Khandikile Mvunga Sokoni, Counsel

Maintaining Permanent Residence –
What are the rules?



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8 CFR 211.1(a)(2):

- A permanent resident card will no longer be valid after an **absence of one year or more** from the United States.

(With some exceptions for U.S. military and crewmen, and if the person has a reentry permit.)



What are the rules?

A lawful permanent resident is considered a 'returning resident' after a temporary trip abroad and is not scrutinized under the various grounds of inadmissibility UNLESS:

- They have been absent from the United States for a continuous period in excess of 180 days.

OR

- They have “abandoned or relinquished that status”

- See INA § 101(a)(13)(C)



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A high-speed photograph of a water droplet splashing on a surface. The droplet is captured mid-air, forming a crown-like shape with a central stem. The surface below is covered in concentric ripples, and the background is a soft, out-of-focus green and blue gradient.

What are the remedies when an LPR needs to spend significant time abroad?

Remedies When the Absence is Planned

- RE-ENTRY PERMITS:
 - What: Apply for Re-entry permit prior to prolonged departure.
 - When: Must be physically in the U.S. at time of filing.
 - Where: Need to do biometrics in the U.S.
 - Re-entry permit can be sent to a U.S address or to U.S. Consulate abroad.
- N-470: *To preserve continuous residence requirement for naturalization purposes only!*
 - Must have been continuously physically present in the U.S. as LPR for one year prior to departure.
 - Will be employed abroad for:
 - US Govt
 - US research institute
 - Certain US Corporations
 - Certain international organizations

Remedies When the Absence is *not* Planned

Returning Resident (SB1) Visa

- Need to prove that you:
 - Had the status of a lawful permanent resident at the time of departure from US;
 - Departed from the US with intention of returning and still have this intent;
 - Are returning to the US from a temporary visit abroad and, if the stay abroad was protracted, this was caused by reasons beyond your control and for which you were not responsible.
- Two Major Steps:
 1. Submit Application to Determine Returning Resident Status, Form DS-117 along with documentation to prove LPR status, continuous intent to return, and circumstances that protracted your stay.
 2. If consular officer determines you meet these criteria, then proceed with immigrant visa process, DS-260 (online immigrant visa application), medical examination and interview.

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Distinction Between Maintaining Permanent Residence
and Protecting Eligibility for Naturalization

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Re-entry	Naturalization Eligibility
<ul style="list-style-type: none">• Green Card is valid for re-entry into the U.S. only if entering after an absence of one year or less. Entry after one year requires additional documentation (special immigrant visa or re-entry permit).• If LPR knows prior to departure that absence will be one year or longer, LPR must apply for Re-entry permit prior to departure. Valid for up to 2 years.	<ul style="list-style-type: none">• LPR for 5 years (3 if married and living with USC)• Must have been physically present in the U.S. for more than half that time (i.e. 30 or 18 months respectively).• No breaks in continuous residence in last 5/3 years. When does pro-longed absence restart the clock?• Exceptions for U.S military and spouses of USC's working abroad for U.S. employer or certain qualified entities (319(b) natz).



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Conclusion/Q&A

Thank you!

Meg Hobbins, Partner
mhobbins@grossmanyouth.com

Khandikile M. Sokoni, Counsel
ksokoni@grossmanyouth.com