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Requirements for Naturalization in USA (Forms I-131/N-470)

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Hello, everyone. This is Rajiv S. Khanna for immigration.com, the Law Offices of Rajiv S. Khanna, P.C.

I wanted to talk with you folks about requirements for naturalization for people who get their Green Card based upon employment and then have to stay outside USA for a certain period time. Many of the criteria here are common to people who have obtained their Green Card through any other method such as through marriage or through political asylum. Pretty much, it is the same law. But I want to focus primarily on people who have gotten an employment-based Green Card, because those are the inquiries I receive the most and I don't want to miss anything, because N-470 typically does not apply to people in non-employment situations, except for missionaries. I'll get to that in a second.

So, first of all, let's look at the requirements for somebody to get naturalized in USA. What are the normal requirements?

Right here. You must have received your Green Card approval five years ago. Actually, it is a little bit more complicated than that. You can apply 90 days before your 5th year anniversary of Green Card. In case you got your Green Card through marriage, then it is three years, when you are married to a US citizen. After that, you must have stayed in USA for at least 30 months physically. 2 ½ years. Half the time. You should not have visited outside USA for a year or more. If you go outside USA for a year, your Green Card is gone. It's difficult to get it back. Not impossible, but what you will have to do if you end up staying for a year or more outside USA is, you will have to go to the consulate and convince them that you have not abandoned your US permanent residence, your Green Card, and you can do that by a process called SB-1 (Returning Resident Permit). I'm not going to go into that in too much detail, but just to give you an idea. If you are outside USA for one year or more, for naturalization purposes, you have to start your five years all over again, except in the following two circumstances, I-131 and N-470, which are these. I'll get to that in a second as well.

So, physical presence of 2 ½ years, no visit outside USA for a year or more, any visit outside USA for six months or more but less than one year, you have to explain. Why were you gone that long? So this is for people who have not filed these special forms called I-131 and N-470. I also want to make a quick note about I-131 and N-470.

What is I-131?

It's the same form you used for filing for Advanced Parole when you are in need of Advanced Parole during your Adjustment of Status. It's also the same form used for protecting your Green Card through a process called Reentry Permit. So you use your I-131 to apply for a Reentry Permit, which is typically given for two years at one go, and you can get that extended, depending on the circumstances. Basically, the I-131 tells the government, "Look. I am not abandoning my permanent residence. I am just going outside temporarily." Once you file the I-131, things change for naturalization purposes.

Did you stay outside USA for one year continuously?

If you did, ordinarily, if you had not filed I-131, you would have to start five years all over again, if you have not lost your Green Card. You could have even lost your Green Card. But, if you had filed your I-131, you don't lose your Green Card, and you also get a respite of one year. When you come back, you have to establish your US residence for four years and one day instead of five years and apply after you have accumulated physical presence in USA for 2 ½ years. It gives you one year off from those five years. That's an added advantage of I-131. It protects your Green Card as much as humanly possible. There's more to it. I would always advise you to talk with a lawyer before you take any steps of going outside USA for an extended period of time. It also shortens the time of five years that you would have to otherwise accumulate for naturalization.

Did you stay outside USA for one year continuously after I-131?

If the answer is no, then these same requirements that apply to normal people will apply to you. Physical presence of 30 months, no visit outside USA for a year or more, six months or more will have to be explained.

Then comes N-470.

N-470 is one of those tricky strange forms. It's applicable to a certain group of people. I would strongly encourage you to read up on the instructions on N-470. They're pretty informative.

The way this works is, if you're going to work for a US company abroad and, again, I am talking about employment context. There are other reasons N-470 can be filed. Read the instructions. What N-470 does is it allows you to stay outside USA for a year or more and not have a break that will restart your five years all over again. Let me explain. Let's say I file I-131 and N-470. I do it together. Usually, in most cases, we do both forms together. When you file I-131 and N-470 together, let's say you stayed outside USA for 1 ½ years. Normally, when you come back, you have to start that five-year period all over again, because you were outside USA for one year or, in case of I-131, you have to start the four year, one day period all over again. But N-470 says, "We forgive your stay outside USA for one year or more for naturalization purposes. We don't forgive your requirement of 30 months of physical presence." But it stops the discontinuity that would normally restart the five-year clock or the four year, one day clock after having stayed outside USA for one year. It is a clock-stopping device. It is a very good device. One problem though. N-470 has one strange requirement. You must have at least one year anywhere during your stay in USA as a Green Card holder where you did not travel outside USA for even for one day. Makes no sense to me. I don't know why it is there, but it's there. Go figure, but keep that in mind.

I hope this has been informative. I had told one of our posters. Somebody had posted a comment on immigration.com wanting to know more about this. And I told him that I'll record something, but I've had some technical issues. They're working on our website developing some new material that will make it easier for us to post our videos. I hope to be doing this a lot more, and I'll continue to do so.

Thank you for being here. I hope to speak with you very soon.

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