

Lessons Learned from Filing Requests for Certificates of Loss of Nationality



Immigration Blog

By [Eileen M. Martin](#)

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Americans wanting to get rid of U.S. citizenship has been a hot topic for the past 20 years or so. This is based on the IRS's streamlined process that has allowed delinquent U.S. persons to catch up with required filings for the past few years without penalty, eliminating potential penalties for all years before that. It has been popular since many U.S. citizens living abroad do not know or are not concerned about their filing requirements. With age comes a concern about what one will leave behind, both in terms of assets and tax messes.

With decades of experience filing requests for clients to obtain Certificates of Loss of Nationality (CLN), I have learned some things along the way — lessons I am happy to share.

Form DS-4079 is not usually a required document for a renunciation request. However, the answers to its questions are very important in assessing whether the filing should be for renunciation, or its preferable relative, relinquishment. As a result, I complete this informative document and obtain client approval before submitting any CLN request. Also, if the U.S. Department of State decides it must be reviewed, it is already prepared. For any

relinquishment request for a CLN, it should be submitted anyway.

Relinquishment has certain advantages over renunciation. For instance, it may, in certain circumstances, result in a lighter tax bill, especially if the relinquishment occurred a long time ago. Relinquishing one's citizenship also allows a person to claim a retroactive loss of citizenship if they committed an expatriating act, such as applying for citizenship in a foreign country. However, this claim presents certain challenges. To qualify, one must show that they committed the expatriating act with the intent to lose U.S. citizenship. If the expatriate is unable to speak to their intent due to cognitive decline, no CLN will be issued. Also, it is recommended that an affidavit be obtained from any U.S. citizen who will make a request based on relinquishment. If the U.S. citizen dies before the interview without proof of intent, it will be difficult to convince U.S. government officials from any agency of the intent of the deceased when they engaged in the expatriating act.

Clients should always be debriefed after their interview. It is important to have an opportunity to clarify information obtained from Consular officers and staff. One of my clients reported that she was told that after renunciation but before receipt of the CLN, she was still a U.S. citizen and could, therefore, vote in an upcoming U.S. election. I was happy to advise the client that her U.S. citizenship was gone and that voting in a U.S. election would be a criminal act. Another client reported that the U.S. Consular officer gave bold assurances that the client's renunciation could never result in the application of the Reid Amendment — the application of which can result in inadmissibility to the United States if it is determined that the individual renounced their citizenship to avoid taxation by the United States. I advised the client that the Reid Amendment had no implementing regulations, and although enforcement has been extremely rare and was highly unlikely, it was not impossible.

Making a decision to give up citizenship is important, can be a heavy determination and is sometimes life-altering. Those who are considering doing so and those who have decided to forge ahead with such a decision should do so with all the knowledge and experience that a seasoned professional can offer. The attorneys at Lippes Mathias LLP are ready and able to bring decades of experience to our CLN request files. For further guidance on this process, contact Eileen M. Martin (emartin@lippes.com) or Elizabeth M. Klarin (eklarin@lippes.com).

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