

## Transmission of U.S. Citizenship: A Blessing or a Curse?



# Immigration Blog

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Children of U.S. citizens often can go their whole lives without knowing that they actually are—already—U.S. citizens themselves. To individuals in this situation, finding out you are already a U.S. citizen can be like winning the lottery or your worst nightmare. U.S. citizenship comes with certain rights and privileges but also with certain obligations. Those who want to divest themselves from these obligations can do so but may be frustrated with how lengthy the process of renouncing or relinquishing U.S. citizenship can be.

### **The Benefits**

I have had many clients who call asking for U.S. work authorizations or visas, desperate to take advantage of some work or personal opportunities in the U.S. that require their presence state-side. U.S. nonimmigrant options are quite limited—particularly for those who are not working in a professional position or who do not have a bachelor's degree in their field of work and/or have a U.S. sponsor for their petition for work authorization. Many foreign individuals with a U.S. parent (many of whom became dual citizens with the adult son or daughter's home country) don't even know that they qualify as U.S. citizens. It is a joy to be able to tell these sons and daughters of U.S. citizens that they are also U.S. citizens and that all they need do is prove that one or both of their U.S. parents met

the physical presence requirements for time spent in the U.S. in order to demonstrate that they are eligible for U.S. passports. Depending on how quickly this can be done, these individuals can obtain U.S. passports and be on their way to the U.S. within a few months.

## The Drawbacks

But this is also a point of frustration for some individuals, who may stumble on the fact that U.S. citizenship was transmitted to them at birth by a parent when they are doing estate planning, applying for work authorization, or speaking to foreign tax professionals. Professionals operating in a cross-border or international work environment might identify that such individuals have certain risks—particularly relating to their finances, tax obligations, and estate planning—if they are unwittingly and unavoidably U.S. citizens.

While the IRS has not historically reached out to other countries to identify which U.S. citizens have had children and which of those children are U.S. citizens by birth and therefore taxable by the U.S. government based on their worldwide income, it is more and more of a concern as technology becomes more sophisticated. However, the government of Canada does require the Canada Revenue Agency to provide them with names (as gathered by banks and accountants) of people they believe to be U.S. citizens—so U.S. citizenship is being tracked.

Therefore, the best and most prudent approach upon finding oneself to have unwanted dual citizenship in the U.S. (along with one's home country), is to either renounce or establish that one has relinquished U.S. citizenship. Renunciation is for those who wish to formally or publicly state that they no longer support, believe in, or have a connection with the U.S. Relinquishment is for those who wish to assert that they voluntarily performed an "expatriating act" with the express intention to relinquish U.S. citizenship. Examples of expatriating acts include acquiring another country's citizenship, becoming a state worker for another country, or joining the army of another country.

The process for establishing relinquishment and renouncing are largely the same, starting with an application made electronically to the U.S. Department of State, followed by an appointment at the consulate in the country of application. However, for renunciation, one then takes an oath and affirmatively surrenders one's U.S. citizenship (and nationality) at that time; for relinquishment, an individual is aiming for a Certificate of Loss of Nationality applied retroactively.

## Conclusion: Think Carefully

As stated by the U.S. Department of State itself, the loss of nationality should be considered carefully, as it is a serious and irrevocable act. U.S. citizens considering renouncing or relinquishing their U.S. nationality should carefully review and understand the consequences and ramifications. Only an applicant who renounced his or her U.S. citizenship before the age of 18 can have that citizenship reinstated if he or she makes that desire known to the Department of State within six months after reaching the age of eighteen. It is rare for a Department of State Officer to be willing to permit renunciation by a minor child.

If you or someone you know has questions regarding the transmission of U.S. citizenship or related immigration matters, please contact [Elizabeth M. Klarin \(eklarin@lippes.com\)](mailto:eklarin@lippes.com) or another member of the Lippes Mathias Immigration Practice Team.

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