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US IMMIGRATION & NATIONALITY LAW

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Feature Article

CITIZENSHIP: AN OVERVIEW – This article provides an overview in Q&A format of citizenship issues in several countries.

Country Updates

HONG KONG – This article discusses expatriation issues in Hong Kong; explains the rationale behind some U.S. citizens' decision to migrate to Hong Kong and, in some cases, renounce their U.S. citizenship; provides tips for those contemplating renunciation; and discusses the immigration and tax consequences.

ITALY – This article provides updates on 2018/19 entry quotas for non-EU professional sportsmen, labor inspectors increasing investigations to ensure compliance with rules for transnational posting of workers, work for family permit applicants, and Italy's new legislative decree to attract international talent.

RUSSIA – Russia has updated its rules on address registrations during the World Cup and Confederation Cup FIFA events.

UNITED KINGDOM – There is a new application process for work or study visas in the United Kingdom (UK). Also, on the advertising site for Tier 2 applications, Universal Jobmatch will be replaced by Find a Job.

Feature Article

CITIZENSHIP: AN OVERVIEW

This article provides an overview of recent developments in several countries with respect to citizenship.

Canada

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

To become a Canadian citizen through the process of naturalization, an individual must be a Canadian permanent resident and must have accumulated a physical presence in Canada of at least three years (or 1,095 days) in the five-year period immediately preceding the date of the application (or since becoming a permanent resident of Canada if less than five years ago). In addition, applicants for Canadian citizenship between the ages of 18 and 54 must prove that they have "adequate knowledge of English or French" and must demonstrate that they have "knowledge of Canada and the responsibilities and privileges of citizenship" by taking the citizenship test. Lastly, all applicants must have filed their income tax returns for at least three years during their eligibility period and must not be inadmissible to Canada on criminality or security grounds.

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

As a general rule, individuals who were born abroad to a parent who was a Canadian citizen at the time of their birth can normally become citizens themselves through "descent" (i.e., without first becoming a Canadian permanent resident). However, amendments to the Citizenship Act were introduced on April 17, 2009, which limit citizenship by descent to the first generation. This means that individuals who were not already citizens on April 17, 2009, cannot become citizens through descent if they were born abroad in the second generation (i.e., to a Canadian citizen parent who at the time of their birth was a citizen by descent). There are some exceptions to this rule related to Canadian or provincial government service abroad.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

Minor children who are Canadian permanent residents can apply to become Canadian citizens without having to demonstrate that they have accumulated a physical presence of at least 1,095 days in Canada. However, minor children applying alone (i.e., not at the same time as their parent) must comply with the requirement to have been present in Canada at least 1,095 days in the five

years preceding the date of application.

Individuals who are adopted by a Canadian citizen (whether as minors or adults) can apply directly for Canadian citizenship without first becoming a Canadian permanent resident or, in the alternative, they can first become a Canadian permanent resident and then immediately apply for Canadian citizenship. The advantage of first becoming a Canadian permanent resident instead of applying directly for Canadian citizenship is that this way the adopted person will retain the ability to pass Canadian citizenship to any future children born abroad. However, the limitation on citizenship by descent after the first-generation rule applies.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

Canada does not offer any direct "citizenship by investment" programs. However, the Province of Québec operates a passive immigrant investor program under which applicants with a net worth of CAD$1,600,000 (subject to change in August 2018 to CAD$2,000,000) and a minimum of two years of management experience can apply to become Canadian permanent residents. Once they meet the eligibility requirements, these individuals can apply to become Canadian citizens through the process of naturalization.

5. *Does your jurisdiction permit dual citizenship?*

Canadian citizens are allowed to keep their current citizenship or obtain new foreign citizenships. However, since November 2016 dual citizens who are traveling to Canada by air must use their valid Canadian passports (with the exception of dual U.S./Canadian citizens, who can continue to travel on their U.S. passports).

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Canadian citizens can renounce their citizenship according to the criteria set out in Subsection 9(1) of the Citizenship Act (i.e., the main criteria are to have citizenship in another country or to have citizenship in another country upon approval of the application to renounce, be 18 years old or older, and not reside in Canada). Once a renunciation application is approved, the individual will lose status in Canada. Canadian permanent residents who had applied to become Canadian citizens through naturalization will not revert to their prior

status.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Yes. Subsection 5(4) of the Citizenship Act allows the Minister to grant citizenship based on discretion to any person "to alleviate cases of statelessness or of special and unusual hardship or to reward services of an exceptional value to Canada."

Colombia

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

For Latin American and Caribbean nationals: Be domiciled in Colombia for a term of one year as of the issuance of a residence visa.

For Spanish nationals: Be domiciled in Colombia for a two-year term as of the issuance of a residence visa.

For foreigners who are not Latin American, Caribbean, or Spanish: Be domiciled in Colombia for a five-year term. This term will be reduced to two years if the foreigner is married to a Colombian national, has a Colombian permanent companion, or has a Colombian child after the issuance of a residence visa.

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

Per Article 96 of the Colombian Constitution, Colombians are considered citizens by descent in the following cases:

1. a) Colombia natives when one of the following two conditions are met: (i) one of the parents is a native or Colombian citizen; or (ii) a person is the child of foreigners who were domiciled in Colombia at the time of birth.
2. b) Children of a Colombian father or mother born abroad but domiciled in Colombia afterwards or registered in a Colombian consulate.
3. *Do these eligibility requirements differ for minor children or adopted persons?*

No.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

No.

5. *Does your jurisdiction permit dual citizenship?*

Yes, it is permitted.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Yes, it is possible. Colombian law also allows a person to recover Colombian nationality after renouncing it.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Yes.

India

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

Citizenship of India by naturalization can be acquired by a foreign national (other than an undocumented migrant) who is ordinarily resident in India for 12 years (throughout the period of 12 months immediately preceding the date of application and for 11 years in the aggregate in the 14 years preceding the 12 months).

In addition, other qualifications must be met by the applicant as specified in the Third Schedule of The Citizenship Act, 1955 (hereinafter the Citizenship Act). The applicant must be of good character; renounce the citizenship of the country where he or she is already a citizen; have adequate knowledge of a language specified in the Eighth Schedule of the Constitution (English is not among them); and must not be a subject or citizen of any country where citizens of India are prevented by law or practice from becoming subjects or citizens by naturalization.

Although different from naturalization, another option for acquiring Indian citizenship is through registration. One form of registration is available for a person who is married to a citizen of India and who is, ordinarily, a resident in India for 7 years before making an application (throughout the period of 12

months immediately before making an application and for 6 years in the aggregate in the 8 years preceding the 12 months).

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

A person born outside India on or after January 26, 1950, but before December 10, 1992, is a citizen of India by descent, if his or her father was a citizen of India by birth at the time of the person's birth. If the father was a citizen of India by descent only, that person shall not be a citizen of India, unless the birth is registered at an Indian consulate within one year from the date of birth or with the permission of the central government, after the expiration of that period.

A person born outside India on or after December 10, 1992, but before December 3, 2004, is considered a citizen of India if either of his or her parents was a citizen of India by birth at the time of his birth. If either of the parents was a citizen of India by descent, that person shall not be a citizen of India, unless the birth is registered at an Indian consulate within one year from the date of birth or with the permission of the central government, after the expiration of that period.

A person born outside India on or after December 3, 2004, shall not be a citizen of India, unless the parents declare that the minor does not hold a passport of another country and his or her birth is registered at an Indian consulate within one year from the date of birth or with the permission of the central government, after the expiration of that period.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

Indian citizenship by registration can be acquired by a minor child (younger than 18 years old) whose parents are both Indian citizens under § 5(1)(d) of the Citizenship Act.

Application for registration of the birth of a minor child to an Indian consulate under § 4(1) of the Citizenship Act shall be accompanied by an undertaking in writing from the parents of such minor child that he or she does not hold the passport of another country.

Any minor child can be registered as a citizen of India under § 5(4) of the Citizenship Act if the central government is satisfied that there are special circumstances justifying such registration. Each case would be considered on

the merits.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

No.

5. *Does your jurisdiction permit dual citizenship?*

India does not allow or recognize dual citizenship.

A person whose previous nationality was Indian before acquiring any foreign nationality must surrender his or her Indian passport to the nearest Indian Mission/Post immediately after acquisition of foreign citizenship and must obtain a surrender certificate.

Holding or acquiring an Indian passport or travelling on an Indian passport after acquisition of foreign citizenship constitutes an offense under the Indian Passport Act, 1967, and attracts penalties.

Although Indian citizenship is terminated when a person takes the citizenship of another country under § 9 of the Citizenship Act, it is also mandatory for all persons of Indian origin who had ever held an Indian passport to renounce their Indian citizenship upon acquiring any foreign nationality. This is a prerequisite for obtaining further benefits such as visas or Overseas Citizen of India (OCI) cards from the Indian consulate. Such persons must renounce their Indian citizenship and obtain a Surrender Certificate for their Indian passports, whether valid or expired. If the Indian passport has been lost, an applicant may still formally renounce his or her Indian citizenship.

If the Indian passport has already been stamped as "Cancelled" subsequent to acquisition of U.S./foreign citizenship, there is no penalty for acquiring a Surrender Certificate if it has not been obtained earlier.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Under § 8 of the Citizenship Act, an Indian citizen of full age and capacity may renounce citizenship, and upon such renunciation as prescribed through a declaration of renunciation, may be registered with the prescribed authority. This results in the person ceasing to be a citizen of India.

However, if any such declaration is made during any war in which India may be

engaged, registration may be withheld unless the central government otherwise directs.

The minor child of such a person also ceases to be a citizen of India if the parent ceases to be a citizen of India through renunciation. However, this child, within one year of attaining full age, may make a declaration that he wishes to resume Indian citizenship and shall again become a citizen of India.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Section 6 of the Citizenship Act enables the central government to grant a certificate of naturalization to foreign nationals if they seek Indian citizenship and fulfill the conditions specified in the Third Schedule of the Citizenship Act.

The central government can waive any or all of the conditions specified in the Third Schedule if, in its opinion, the applicant has rendered distinguished service to the cause of science, philosophy, art, literature, world peace, or human progress.

For further details on Indian citizenship, see the official website of the Foreigners Division, Ministry of Home Affairs, Government of India, at https://indiancitizenshiponline.nic.in/.

Mexico

2012 was an important year for immigration law in Mexico. New legal paradigms took place, having a tremendous impact with regard to refugees and the process of acquiring Mexican nationality. This process is also known as derived nationality, which means that someone voluntarily decides to acquire a nationality in addition to the one they currently hold.

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

There are several options under which a foreigner can choose to obtain Mexican nationality by naturalization:

- By residency: Legal residency in the country either as a permanent or temporary resident. In general, five years of residence in Mexico are required, while there are some exceptions, including a two-year residency

for nationals from any Latin American country or from the Iberian Peninsula.
- By marriage to a Mexican national: After two consecutive years of residency in Mexico by marriage, providing that the spouse has lived in the country for that same amount of time, the spouse can obtain Mexican nationality.

2 and 3. Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"? Do these eligibility requirements differ for minor children or adopted persons?

Mexican law supports family reunification; therefore, the law provides for the possibility of acquiring residency in the country by family bonds, and includes the aspect of foreign nationals obtaining Mexican nationality via adoption by Mexicans. Examples include:

- Being a descendant of a Mexican: This must be evidenced through legal residency of two years in temporary resident status before the request.
- Having Mexican-born children: This must be evidenced through legal residency of two years in temporary resident status before the request.
- Holding the custody of a Mexican or having a Mexican minor dependent: This must be evidenced through legal residency of one year in temporary resident status before the request. Residency must be uninterrupted.
- Being adopted by a Mexican(s): This must be evidenced through legal residency of one year in temporary resident status before the request.

If the request is not made while the adopted or minor persons are still under age, the ones holding custody can process this up to one year after they become of age.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

Mexico does not allow naturalization by investment, but the law does contemplate the possibility of obtaining Mexican nationality if the interested foreigner has made an outstanding contribution in the social, scientific, technical, sports, culture, or business sectors. The foreigner must have a minimum two-year residency in temporary resident status before making this request.

Mexico has maintained an open-border policy and has reaffirmed its promise

of holistic support for all international citizens, especially those located in Latin America. Nevertheless, given Mexico's proximity to the United States and other international considerations, the Mexican government still has established laws for obtaining citizenship. One of the most relevant is the waiver of a person's right to appeal to their nationality of origin, therefore renouncing all the rights under that nationality he or she would otherwise hold while in Mexico. A person obtaining Mexican citizenship also must take an oath of obedience to Mexican law, institutions, and authorities. This is mandatory as long as the person is located in Mexico.

As part of this process, the interested foreigner must prove sufficient knowledge of the language, history, and culture of Mexico, among other facts, to be granted Mexican nationality. The applicant must not stay abroad longer than 180 days in the period before filing the application, must hold a valid residence card, and must evidence his or her legal stay in the country.

5. *Does your jurisdiction permit dual citizenship?*

Mexico allows dual citizenship, but the foreigner must always identify himself or herself as Mexican while in the country. This includes Mexican embassies, consulates, vessels, and aircraft.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

As there are several options under which a foreign national can obtain Mexican nationality, the law also addresses the possibility of loss of Mexican nationality. The options include:

1. By the procurement of another nationality before any Mexican institution or authority, using a non-Mexican passport or acquiring a title of nobility from a foreign state.
2. By residing for five continuous years abroad.

Either of the above will result in the immediate loss of Mexican nationality. Mexican nationality by birth does not include any assumption of loss; therefore no native Mexican can lose his or her Mexican nationality.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Although Mexican law is quite flexible, the conditions described in this article must be met when applying for naturalization. Failure to do so will result in the impossibility of obtaining Mexican nationality.

This article includes an overall view of the steps to follow and what acquiring Mexican nationality implies. The way the law is enforced can change from time to time.

Peru

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

To be eligible for Peruvian naturalization, a person must:

1. Express his or her will to be Peruvian and meet the following requirements:
2. a) Be at least 18 years of age and enjoy full civil capacity.
3. b) Reside legally in the territory of the Republic for at least two consecutive years.
4. c) Exercise regularly a profession, art, trade, business, or entrepreneurial activity.
5. d) Have no criminal or judicial background and have good conduct.
6. e) Demonstrate economic solvency that allows him or her to live independently, without affecting public order.
7. f) Demonstrate a strong grasp of Spanish language and Peruvian history, geography, culture, and current events.
8. Reside in the territory of the Republic and, by distinguished service to the Peruvian Nation, at the proposal of the Executive Power, the Congress of the Republic confers them this honor through Legislative Resolution.
9. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

To be eligible for Peruvian "citizenship by descent," a person must:

1. Be born in the territory of the Republic.
2. Be a minor in a state of abandonment, residing in the territory of the Republic, or a child of unknown parents.
3. Be born in foreign territory, a child of a Peruvian father or mother of birth, who are registered in the corresponding Registry (Civil Status-Birth

Section Registry or a Consular Offices of Peru abroad), according to the law.

This right is recognized only for descendants up to the third generation.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

The Nationality Law N° 26574 and its Regulations approved by the Supreme decree N° 004-97-IN do not make distinctions in this regard.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

No, citizenship by investment is not offered. This is not considered under Peruvian Nationality Law. However, an investor can apply for citizenship by naturalization by complying with the requirements noted above and established in the Single Text of Administrative Procedures of MIGRACIONES.

5. *Does your jurisdiction permit dual citizenship?*

Yes, dual citizenship is permitted. Peruvians by birth who adopt the nationality of another country do not lose their Peruvian nationality unless they expressly renounce it before the competent authority.

Persons who enjoy dual citizenship exercise the rights and obligations of the nationality of the country where they reside. Dual nationality does not confer to foreigners who naturalize themselves the exclusive rights of Peruvians by birth. Peruvians by birth who have dual nationality do not lose the exclusive rights conferred by the Peruvian Political Constitution.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Yes, renunciation is possible. As noted above, Peruvians by birth who adopt the nationality of another country do not lose their nationality, unless they expressly renounce it before the competent authority (MIGRACIONES). Once the renunciation is approved, the individual must return his or her national identity document (ID card) or other Peruvian identity document he or she has in his or her possession.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Yes, as mentioned above, citizenship may be acquired by naturalization if a foreign person is residing in the territory of the Republic and, by distinguished service to the Peruvian Nation, at the proposal of the Executive Power, the Congress of the Republic confers him or her this honor through Legislative Resolution.

South Africa

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

The key requirements are that the applicant (i) be a permanent resident, (ii) have been ordinarily resident in South Africa for at least 5 years and continuously resident for the last 12 months and (iii) demonstrate that he or she can speak one of the country's official languages and knows the responsibilities and privileges of South African citizenship.

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

Only adopted children qualify for citizenship by descent.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

See (2).

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

No, only for permanent residence.

5. *Does your jurisdiction permit dual citizenship?*

Yes. The South African Citizenship Act, 1995, provides that if a South African citizen wishes to acquire a second citizenship, the applicant must first obtain the written consent of the Department of Home Affairs to retain his or her South African citizenship before obtaining the second citizenship. Failure to do so will result in the automatic loss of South African citizenship. Separate consent must be obtained for further citizenship applications. If the person who has lost South African citizenship is a citizen by birth, it is permissible to apply for a resumption of that citizenship.

6. *Is it possible to renounce citizenship and, if so, what are the implications and*

consequences?

Yes, if the person has an existing citizenship. If the renunciation is done from inside South Africa, the person becomes an illegal foreigner and liable to arrest and deportation. It is possible to apply for a resumption of South African citizenship.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Yes, this can be done by the Minister if there are exceptional circumstances, with the caveat that the only eligibility requirements that can be waived by the Minister relate to the required periods of residence in South Africa. The Minister must report to Parliament should he or she use this power and must identify the person(s).

Turkey

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

For naturalization based on residency (as opposed to citizenship based on "Council of Ministers' approval of exceptional circumstances,") the main requirements are that the person must:

- Have sufficient mental capacity;
- Have five years' lawful residence in Turkey (defined as no cumulative absence of 180 days or more);
- Have the intention to settle in Turkey;
- Not have a disease that constitutes a danger to public health;
- Have good moral character;
- Have sufficient Turkish language skill;
- Have an income or a profession to provide sufficient support for the applicant and dependents;
- Not be a threat to national security and public order.

If the applicant is married to a Turkish national, he or she may file an application without being subject to the residence requirement. To be eligible, the person must file after three years of marriage, and prove that he or she still lives in "marital union" with the spouse.

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

A person born inside or outside Turkey of a Turkish national mother or father may register to be a Turkish citizen.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

Yes, an adopted child may also acquire Turkish citizenship. Pursuant to Article 17 of the Citizenship Law, a child, under the age of 18, adopted by a Turkish citizen, acquires Turkish citizenship from the date of adoption if he or she does not pose a threat to national security or the public order.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

Yes. The regulations as of January 2017 allow the categories of investors below to be eligible to pursue Turkish citizenship. Each category must seek evidence provided by either the Committee on Banking Supervision, the Under-Secretariat for the Treasury, or the Ministries of Economy, Labor or Environment & Urbanization. This category appears to be underutilized:

- Applicant has invested $2,000,000 as a free capital investment,
- Applicant has invested $1,000,000 in real estate in Turkey, bought with a deed restriction that blocks selling for 3 years,
- Applicant has provided employment for 100 employees,
- Applicant has invested $3,000,000 US for 3 years with banks active in Turkey (as proven to the Committee on Banking Supervision),
- Applicant has invested in the government's debt instruments of $3,000,000 US bought with a deed restriction that blocks selling for 3 years (as proven).

5. *Does your jurisdiction permit dual citizenship?*

Yes.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Yes, generally a Turkish national may apply to renounce Turkish citizenship via the Turkish consular post. The process generally takes several months.

If the applicant is a male, the issue of whether he has served compulsory

military service will arise and, if not, whether he had been granted the appropriate deferment or exemption. If compulsory military service requirements are not complied with, renunciation may not be granted.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

Yes. Turkey has a naturalization procedure whereby citizenship may be granted for exceptional circumstances by the Council of Ministers. These may include exceptional athletes, entrepreneurs, scientists, or artists. Applicant must still be shown not to be a public threat or contrary to national security.

United Kingdom

1. *What are the main eligibility requirements to present a "citizenship by naturalization" application in your jurisdiction?*

The two most common ways to naturalize are:

- Based on five years of continuous residence in the United Kingdom (UK); or
- Based on marriage to, or civil partnership with, a British citizen and three years of continuous residence.

Typically, applicants must:

- Be age 18 or over;
- Be of sound mind;
- Intend to continue living in the UK, or to continue in Crown service;
- Have met the English language and knowledge of life in the UK requirements;
- Be of good character;
- Have held Indefinite Leave to Remain in the UK (ILR) or Permanent Residence (PR) for at least 12 months before applying; and
- meet the relevant residential requirements.

For more information, see https://www.gov.uk/browse/citizenship/citizenship.

2. *Who is eligible to present a "citizenship by descent" application in your jurisdiction? Are there any restrictions to "citizenship by descent"?*

British citizens are divided into two categories:

- British citizens "by descent": Those who transmit their British citizenship to their children born abroad only if they are in Crown, designated, or EC service.
- British citizens "otherwise than by descent": Those who transmit citizenship to children born abroad. With a few exceptions, individuals enjoy this status if:
    - They are British citizens by birth, adoption, registration, or naturalization in the UK or Falkland Islands; or
    - They were British Overseas Territories Citizens by connection with a qualifying territory immediately before May 21, 2002; or
    - They were adopted on or after June 1, 2003, in any country under the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption 1993.

3. *Do these eligibility requirements differ for minor children or adopted persons?*

Children under the age of 18 who, for example, are born outside of the UK to a parent who is British "by descent," may apply to register (instead of naturalize) to become British citizens, provided they meet the relevant registration requirements.

Additionally, there are separate processes for children who:

- Are stateless;
- Were born in the UK after 1983;
- Were born on or after February 4, 1997, in Hong Kong; and
- Are from Gibraltar.

The process and requirements for adopted children are the same as for biological children.

4. *Does your jurisdiction offer any "citizenship by Investment" programs?*

Under the Points-Based System (PBS), migrants from outside the European Economic Area and Switzerland (collectively the "EEA") who have a minimum of £2 million to invest in the UK can apply under the Tier 1 (Investor) route. This route, while not guaranteeing citizenship, offers a path to naturalize as a British national.

Additionally, higher investment values offer migrants accelerated paths to becoming a citizen. Typically routes under the PBS that offer a path to citizenship take a minimum of six years (five years of continuous residence under the relevant PBS category, and a minimum of one year under Indefinite Leave to Remain (ILR) status). However, investors of £5 million and £10 million may enjoy expedited routes to settled status (ILR) of three and two years, respectively. After one year under ILR status, they may apply for citizenship.

5. *Does your jurisdiction permit dual citizenship?*

Yes, the UK permits dual citizenship.

There is no special application to obtain dual citizenship. Individuals must simply apply to obtain foreign citizenship and maintain their British citizenship. However, some countries do not permit dual citizenship, and becoming a national of one of those countries may require an individual to give up British citizenship.

6. *Is it possible to renounce citizenship and, if so, what are the implications and consequences?*

Yes. Individuals who renounce their British citizenship lose all associated rights of UK nationals and are subsequently limited to the rights associated with the nationality they retained.

7. *Can citizenship be granted to individuals who have not met the eligibility requirements (e.g., through ministerial discretion or under any exceptional circumstances)?*

In certain circumstances, ministers may be able to waive eligibility requirements. In a recent example, the former Home Secretary, Amber Rudd, waived the English language and knowledge of life in the UK requirements for Commonwealth citizens affected by the Windrush crisis. For more information, see https://www.gov.uk/government/news/free-citizenship-for-the-windrush-generation.

Back to Top

Country Updates

HONG KONG

This article discusses expatriation issues in Hong Kong; explains the rationale behind some U.S. citizens' decision to migrate to Hong Kong and, in some cases, renounce their U.S. citizenship; provides tips for those contemplating renunciation; and discusses the immigration and tax consequences.

Among desirable immigration destinations, which include Western democracies such as Canada, Australia, the United Kingdom, and New Zealand, the United States until recently was the "Holy Grail" of immigration jurisdictions. With its democracy, robust economy, top educational system, high quality of life, and abundant employment opportunities, people from all over the world flocked to the United States in pursuit of the "American Dream."

However, in this increasingly globalized world, many immigrants to the United States originally from Hong Kong who have become naturalized U.S. citizens have returned to pursue careers in Hong Kong. Moreover, an increasing number of U.S. citizens, whether naturalized or American-born, have been assigned to work by multinationals in Hong Kong or established businesses in Hong Kong.

With its proximity to China and its low-tax regime, Hong Kong is a strategic gateway to business opportunities in mainland China. In addition to its well-established infrastructure, Hong Kong has a free economy with a simple and low tax regime. It has no capital gains tax, no tax on dividends and interest income from bank deposits, and no sales tax. It abolished the estate tax effective February 11, 2006. Assessable profits of corporations are assessed at 16.5%, while the standard salaries tax, at 15%, is among the lowest in the world.

These factors have made Hong Kong a top location for commerce, investment, and trade. Moreover, Hong Kong's common law jurisdiction offers a transparent and accessible judicial system that extends to its flexible immigration policies. These characteristics have consistently attracted multinationals to set up Asia Pacific regional headquarters in Hong Kong, and foreign expatriates around the world have been drawn to work in Hong Kong and to take part in growing economic opportunities in Asia, including global talent in the areas of finance, banking, marketing, and management.

For the past decade, many U.S. professionals in the banking and financial industry, as well as U.S. entrepreneurs and investors who have settled in Hong Kong permanently, have either expatriated or are taking a hard look at the costs and benefits of keeping their U.S. citizenship.

In addition to its low tax regime, Hong Kong only taxes its residents on salary income and profits from a Hong Kong source, unlike the United States, which taxes its citizens on a worldwide basis. The U.S. system of taxation is unique in that, unlike most jurisdictions around the world, it taxes its citizens and persons with U.S. lawful permanent resident ("green card") status on worldwide income regardless of their actual place of residence. Almost all other countries in the world tax their citizens on a territorial basis, i.e., only if they are residents within that country's territory.

This, coupled with the fact that Americans residing abroad must file U.S. income tax returns and complicated information returns that carry costly penalties even if they have little or no tax obligations due, have been the impetus for an increasing number of Americans to consider renouncing their U.S. nationality. For example, a failure to report a foreign bank account carries a fine of $10,000. Other civil or criminal penalties can involve a fine of $500,000 and imprisonment of not more than five years in certain circumstances.

The increasing number of American citizens residing abroad deciding to give up their U.S. citizenship can also be attributed to the enactment of the Foreign Account Tax Compliance Act (FATCA), which became fully effective on July 1, 2014.

In the first three quarters of 2017, 5,448 persons renounced U.S. citizenship, already topping the total of 5,411 who renounced in calendar year 2016, up 26% from 2015, with 4,279 published expatriates. This in turn was 58% more than 2014.

Under FATCA, foreign financial institutions—including banks, stock brokerage firms, hedge/pension funds, insurance companies, and trusts—must report detailed information to the Internal Revenue Service (IRS) about their American customers each year.

FATCA's costly IRS reporting requirements and the hefty penalties imposed for noncompliance have resulted in many financial institutions simply closing the pre-existing accounts of their American clients or refusing to open accounts for American citizens living abroad, making it difficult for Americans living and working abroad.

Independent Legal Advice and Right to Counsel in Expatriation Proceedings

Before renouncing citizenship, a person contemplating expatriation should obtain independent legal advice concerning both the tax and immigration consequences. While consular officers will advise the renunciant that the decision to renounce citizenship is a serious and irrevocable one, and must be a voluntary decision, the consular officer should not be expected to give detailed advice about the legal pros and cons of expatriation or the nonimmigrant visa categories available to the renunciant and the limitations of these visa options post-expatriation, especially where the client has continuing business or personal interests in the United States.

In the past, Edward A. Betancourt, former Director of the U.S. Department of State's Office of Policy Review and Interagency Liaison, Overseas Citizen Services (later renamed the Office of Legal Affairs, Overseas Citizen Services), expressed the view that the State Department "values the important role an attorney may play in advising an individual of the consequences of renouncing his/her citizenship" and "strongly encourages potential renunciants to consult with an attorney before taking the Oath of Renunciation." To that end, it has included language in Form DS-4079, Request for Determination of Possible Loss of United States Citizenship, advising the executor of the document to consult with an attorney.

Mr. Betancourt further opined in his letter that "ince the presence of an attorney during the procedures leading up to the taking of the Oath of Renunciation will in all likelihood increase a potential renunciant's understanding of the consequences of renouncing U.S. citizenship, the Department has no objection to an attorney being present during these safeguarding procedures" but noted that "hile the Department encourages the presence of an attorney at all stages leading up to the taking of the Oath of Renunciation, when the consular officer administers the Oath of Renunciation, ... a consular officer may ask that a potential renunciant's attorney not be present in the room at the time he/she administer the Oath" as "he presence of others in the room at the time of the administration of the Oath could suggest that the individual taking the Oath was subjected to the undue influence of another in renouncing his/her U.S. citizenship." "However, a potential renunciant should be allowed access to his/her attorney at all points in the renunciation process, up to and including the taking of the Oath of Renunciation."

This well-reasoned opinion unfortunately was never formally reflected in the

Foreign Affairs Manual's guidance notes. Instead, with Mr. Betancourt's retirement, 7 FAM 1262.3(f) (CT:CON-586; 07-06-2015) now provides, "In order for the consular officer to ascertain whether the renunciant's action in relinquishing his or her U.S. citizenship is a product of his or her own free will, a parent, guardian, attorney, legal representative, or other representative should not participate in any interview, including a telephonic one, conducted by the consular mission member or attend the administration of the oath of renunciation."

Furthermore, the language in former 7 FAM 1263a.(3)(b) (CT:CON-407; 06-29-2012), the FAM note concerning Translations, Interpreters and Witnesses, which used to provide specifically that non-English speaking renunciants may be accompanied by their attorney as a witness, was deleted in an update to 7 FAM 1263 published in 2015 (CT:CON-586; 07- 06-2015).

On May 24, 2017, the American Immigration Lawyers Association and the American Immigration Council petitioned the Department of Homeland Security and the Department of State to initiate rulemaking proceedings pursuant to the Administrative Procedure Act, 5 USC 553(e), to provide access to legal counsel in various proceedings, including the representation of U.S. citizens and nationals seeking recognition or relinquishment of their citizenship or nationality status. In the absence of the enactment of regulations, the right to counsel in expatriation interviews is now somewhat limited unless 7 FAM 1262 is revised by the State Department. Prior to this FAM note, the right to counsel in expatriation matters has existed as a matter of policy for at least 40 years.

An attorney's involvement guarantees the integrity of the act of renunciation, a matter that has important irrevocable consequences, and the presence of the renunciant's counsel has generally been welcomed by the U.S. consulates and embassies abroad in the past as this ensures that the individual renouncing citizenship is acting completely voluntarily and exercising his or her free will without undue influence or coercion by anyone after seeking independent legal advice.

This right has generally been unquestioned and, in fact, may be constitutionally mandated under the due process clause of the Fifth Amendment given the serious legal consequences of renouncing citizenship. The right to be accompanied by counsel in an administrative proceeding such as renunciation

is also supported by statutory authority. See Administrative Procedure Act, 5 USC § 555(b)(1994).

Former 7 FAM § 1232C(2) had specifically stated that an appellant may appear in person or with an attorney who must be admitted to practice in the United States in matters before the Board of Appellate Review which reviews loss of citizenship cases (see 22 CFR 7.5(k)).

Indeed, the right to counsel in the renunciation process has been assumed to exist by Alan James, a former Chairman of the Board of Appellate Review, which until its abolishment, was responsible for the appellate review of expatriation cases. The Board of Appellate Review was eliminated on October 20, 2008, and the procedure for requesting an administrative review of a loss of nationality now rests with the Director of the State Department's Office of Legal Affairs, Overseas Citizen Services.

Chairman James has written that:

It seems to me that if one consults an attorney and asks him to be present at the renunciation, one would have a hard time later to prevail on appeal. Presumably, one who wants to renounce asks an attorney for advice to ensure that renunciation will be effective. If the attorney sees that all bases are touched at renunciation and does not perceive mental or physical incompetence in the renunciation, there are not likely to be grounds for a later appeal (See Letter from Alan James to Gary Endelman (November 1, 1995) excerpted in Nationality and Citizenship Handbook (Edited by Robert A. Mautino and Gary Endelman, AILA 1996).

Thus, when the renunciant has consulted with and retained counsel to accompany him or her to the expatriation process, very strong proof exists that the renunciant's formal renunciation is voluntary, unambiguous, and done with informed consent since counsel would have advised the renunciant of the serious legal consequences of this action and is present to witness the voluntary act as well as consult with the renunciant should he or she have any last-minute questions.

Immigration and Tax Consequences of Expatriation

Unlike some jurisdictions such as Hong Kong, where a former Chinese national with the right of abode in Hong Kong can retain his or her right of abode or permanent residence in Hong Kong after a declaration of change of nationality

to another nationality is approved, a naturalized U.S. citizen cannot revert to U.S. permanent resident status after he relinquishes U.S. citizenship.

E.B. Duarte Jr., Acting Chief, Naturalization and Special Projects Branch Adjudications, made this point in a letter to Donna Becker:

Persons who gained United States citizenship through naturalization may relinquish United States citizenship; however, they do not revert back to the immigrant classification that they held prior to their naturalization. They would either return to being a citizen of the country of prior citizenship; of if they lost citizenship in that country when they naturalized as a United States citizen, they may in fact become stateless.

A person who retains continuing business interests or close family relationships in the U.S. must therefore consider the nonimmigrant visa options available to them to return to the U.S. and understand the limitations of the activities they may undertake in certain visa categories once they have relinquished their citizenship.

More importantly, § 212(a)(10)(E) of the Immigration & Nationality Act, 8 USC § 1182(a)(1)(E), provides that a former citizen of the United States who officially renounced U.S. citizenship for the purpose of tax avoidance is ineligible for a visa to the United States. While the regulations implementing this statute have never been published in the Federal Register and most consular officers routinely issue visas to former U.S. citizens despite this provision of law being on the books, some less-enlightened consular officers at certain posts have improperly refused to grant visas to former U.S. citizens based on this provision, although these denials were subsequently overturned.

INA § 212(a)(10)(E) states as follows: "Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States Citizenship for the purpose of avoiding taxation by the United States is inadmissible."

In providing guidance to consular officers in the application of a § 212(a)(10)(E) finding of ineligibility, 9 FAM 302.10-6(B)(2)(CT: VISA-85; 03-07-2016) states: "The role of the Department and the consular officer is very limited in implementing this ground of inadmissibility. Unless the applicant appears as a hit on the lookout system revealing a finding of inadmissibility under INA 212(a)(10)(E),

you must assume the applicant is eligible."

While high-profile and wealthy individuals who renounce their U.S. citizenship attract a great deal of media attention, many individuals who decide to expatriate are actually ordinary middle-class persons who have settled abroad and who are bewildered by the increasingly complex tax and information filing rules of the United States. Their situation were exacerbated when FATCA became effective July 1, 2014.

Some Americans find it difficult to open a bank or brokerage account in their country of residence because of their U.S. citizenship. Others complain of having to incur costly professional accountancy fees to prepare complicated tax returns even though their foreign wages and salary are below the foreign earned income exclusion amount that would render them liable for U.S. taxes (the exclusion amount is US $104,100 for calendar year 2018 and indexed for inflation for future years).

While relinquishing U.S. citizenship should not be taken lightly and many foreign nationals still spend years and significant sums of money to successfully emigrate to the United States and to become U.S. citizens, for many Americans whose lives have taken them abroad, retaining U.S. citizenship has become burdensome. This is especially true for "accidental" Americans who acquired U.S. citizenship by operation of law simply because they were born in the United States or if they acquired U.S. citizenship by descent through birth to a U.S. citizen abroad but have no ties or contact with the United States otherwise. Such persons are nevertheless obligated to file U.S. tax returns, to pay taxes, and to report on foreign bank accounts and other "specified financial assets" and to make other burdensome informational filings as part of their tax returns.

In addition to the immigration consequences of their action, renunciants should be advised that under the Heroes Earnings Assistance and Relief Tax Act of 2008, Pub L. No. 110-245, 122 Stat. 1624 (the "HEART' Act), § 877A of the Internal Revenue Code imposes an exit tax on certain U.S. citizens (and long-term residents) of the United States who are "covered expatriates."

Any U.S. citizen, or a long-term resident who is a lawful permanent resident of the United States who held lawful permanent resident status for at least 8 taxable years during the 15-year period ending with the taxable year during which he or she renounces citizenship or abandons lawful permanent resident

status, is a "covered expatriate" under § 877(a)(2) of the Internal Revenue Code.

A "covered expatriate" is a person who meets any of the following three tests:

- The individual's average annual net U.S. federal income tax liability for the 5 years ending before the date of expatriation is US $165,000 or more for a person who expatriates in 2018.
- The individual has a net worth of US $2 million or more as of the date of expatriation.
- The individual fails to certify under penalty of perjury on Form 8854 that he or she has complied with all U.S. federal tax obligations for the preceding 5 years.

The exit tax treats the unrealized gain in appreciated capital assets of a "covered expatriate" as having been sold at their fair market value on the day before the person expatriates even though there has been no actual sale of the assets. For those expatriating in 2018, the first US $713,000 gains are exempt from the expatriation taxes (Rev. Proc. 2017-58) with the excluded amount allocated *pro rata* among all assets included in the exit tax base, with any gain over this figure subject to U.S. income taxes.

As a result of the media attention focused on Facebook co-founder Eduardo Saverin's reported tax savings when he moved to Singapore and renounced his U.S. citizenship, Sens. Charles Schumer of New York and Bob Casey of Pennsylvania introduced the Ex-PATRIOT Act, S. 3205, in the 112th Congress on May 12, 2012, to provide that U.S. persons renouncing citizenship for a substantial tax avoidance purpose shall be subject to a 30% withholding tax on capital gains from U.S. investments and banned from admission to the United States under either immigrant or nonimmigrant visa categories. Sen. Schumer's view was that § 212(a)(10)(E) of the Immigration & Nationality Act was ineffective as it lacked a mechanism for the Attorney General to make a finding of inadmissibility of tax-motivated renunciants and needed to be remedied with additional legislation.

Although S. 3205 died in committee, Sen. Schumer joined with Sen. Jack Reed in the 113th Congress to put forward Senate Amendment 1252 (known as the "Reed-Schumer" Amendment) to a major immigration reform bill, the Border Security, Economic Opportunity, and Immigration Modernization Act, to apply an automatic exclusion ground to ex-U.S. citizens with either a net worth of US

$2 million or an average annual income tax liability of US $148,000 over the last 5 years. However, the amendment was not included in the version of the bill that passed the Senate on June 27, 2013.

Thus, the admissibility determination remains for the Department of Homeland Security to make, with the consular officer playing a limited role.

When INA § 212(a)(10)(E) was first enacted, the Department of State sent a cable on October 21, 1996 (96–State–219622) to all diplomatic and consular posts on the application and implementation of this new ground of exclusion. The cable explained that three agencies play a role in the implementation of INA § 212(a)(10)(E): the Department of State, the Department of Treasury, and the Immigration and Naturalization Service (INS).

At that time, when a U.S. citizen renounced his or her citizenship at a U.S. consulate, the Health Insurance Portability and Accountability Act of 1996 required an information statement to be filed as part of the process.

The cable advised that the Department of State would provide the Department of Treasury with the information statement filed by the renunciant and Treasury would then review the information provided by State and would coordinate with the INS as to whether § 212(a)(10)(E) was applicable. INS would then determine if the person was ineligible and inform the Department of State's Visa Office, which would then enter the person's name into the computerized Lookout System. "The role of the State Department and the consular officer is actually very limited in implementing this ground of ineligibility. Absent a hit revealing a finding of ineligibility, the consular officer would process the visa application to conclusion if the alien is otherwise qualified. A hit would indicate a finding of ineligibility and would be a basis for visa refusal," the cable said.

Many years have passed since that cable was sent, but implementing regulations have never been published. Although the former INS had drafted a proposed rule to implement § 212(a)(10)(E) after extensive collaboration among the Department of State, the IRS, and the Department of Justice (the INS and the Tax Division), and sent the proposed rule to the Office of Management and Budget in 2000 for approval, the proposed rule was subsequently withdrawn and no further efforts to promulgate rules relating to § 212(a)(10)(E) have been undertaken.

At the time § 212(a)(10)(E) was enacted, expatriate tax liability under the relevant provisions of the Internal Revenue Code was based on whether an individual's intent upon expatriating was to avoid U.S. taxation. In the same vein, a renunciant might be found inadmissible to the United States if the renunciant's motive in renouncing U.S. citizenship was found by the attorney general to have been for the purpose of tax avoidance.

Perhaps in part because the determination of a tax avoidance motive was fraught with difficulties, Congress amended the Internal Revenue Code at 26 USC §§ 877, 877A to impose an exit tax on "covered expatriates," renunciants who met objective financial threshold standards based on average annual net federal income tax liability for the past 5 years, net worth, or the renunciant's failure to certify that he or she had been in tax compliance for the 5 years immediately preceding expatriation.

This does not mean, however, that an individual who admits to having renounced his or her citizenship for the purpose of tax avoidance cannot be found inadmissible under INA § 212(c)(10)(E).

Conclusion

In calendar year 2017, a total of 1,534 applications for naturalization as Chinese nationals were received by the Hong Kong Immigration Department.

For foreign nationals who have acquired the right of abode in Hong Kong, naturalization as a Chinese national is a potentially attractive option, as, under the "One Country, Two Systems" formula, Hong Kong has a totally different tax regime than China and Chinese nationals who hold the right of abode in Hong Kong are entitled to a Hong Kong SAR passport, which, unlike a People's Republic of China passport with extremely limited visa-free privileges, accords the bearer visa-free or visa-on-arrival privileges to some 147 countries and territories.

In an increasingly globalized world, many naturalized or natural-born U.S. citizens who are permanent residents in Hong Kong and who have developed very successful careers in Asia have discovered that, for them, it makes sense to give up their U.S. citizenship and to become naturalized Chinese citizens in Hong Kong and obtain Hong Kong SAR passports.

Back to Top

ITALY

This article provides updates on 2018/19 entry quotas for non-EU professional sportsmen, labor inspectors increasing investigations to ensure compliance with rules for transnational posting of workers, work for family permit applicants, and Italy's new legislative decree to attract international talent.

2018/19 Entry Quotas for Non-EU Professional Sportspeople

The government has set the maximum number of non-European Union (EU) sportspeople who can be registered by Italian Sports Clubs for the sports season 2018/2019.

The maximum number is 1,090, to be shared among the various National Sports Federations. This number includes both non-EU sportsmen entering in Italy for the first time (as employees or as self-employed workers) and non-EU nationals regularly residing in Italy on a work or family permit.

In Italy, the maximum number of non-EU citizens who can be engaged in competitive sports activities is set by a decree issued by the government each year. The decree is issued on the basis of the Italian National Olympic Committee (CONI) proposal.

Italian Sports Clubs who wish to hire a foreign national must file an application and obtain a special permit from the CONI. Upon receiving approval, the non-EU national athlete must apply for a sports visa at the Italian consulate in the country of residence.

Within eight days of arrival in Italy with the sports visa, the foreigner must apply for the residence permit (*permesso di soggiorno*), which is issued by the local police.

Labor Inspectors to Increase Investigations

The Italian Labor Inspectorate (*Ispettorato Nazionale del Lavoro*, INL) is implementing stricter rules on investigating transnational posting of workers. Labor inspectors will increase their investigations to ensure compliance with the provisions of Decree 136/2016 (Directive 2014/67), which governs the transnational posting of workers to Italy.

Inspectors must assess that the posting is genuine and deter any abuse or circumvention of the rules of Decree 136. The Inspectors will make an increased use of the information available on the new Internal Market

Information System (IMI). Particular attention will be given to companies that systematically defer sending the required notifications and who rotate the same posted workers frequently to fill the same position.

Update on Work for Family Permit Applicants

The Italian Ministry of Labor has confirmed that family permit applicants can start work right after they have filed the application. It is no longer necessary to wait until the residence permit (*permesso di soggiorno*) is issued. The receipt of application issued by the post office (*ricevuta postale*) is enough to start work.

Until now, family permit applicants had to wait for several months, until they had the residence permit in hand, before they could start work activities. Further to the Ministry of Labor clarification, employers can hire family members shortly after they have entered Italy.

Further details from the Ministry of Labor are at https://bit.ly/2kfqeiN (Italian).

Italy Implements Policy to Attract International Talent

On May 8, 2018, the Italian government approved a legislative decree that transposes directive (EU) 2016/801 on the conditions of entry and residence of third-country nationals for the purposes of research, study, training, voluntary service, pupil exchange schemes, educational projects, and au pairing. The new provisions are expected to facilitate entry, stay, and mobility of third-country nationals seeking to transfer to Italy for one of the above reasons.

Back to Top

RUSSIA

Russia has updated its rules on address registrations during the World Cup and Confederation Cup FIFA events.

According to Presidential Order #214 dated May 12, 2018, "On amendments to Presidential Order N. 202 dated 09.05.2017," "On special security measures during the World Cup FIFA 2018 and Confederation Cup FIFA 2017," the period for foreign nationals to register their addresses between May 25 and July 25, 2018, is increased to 3 calendar days.

During that period, VFBS will be able to support foreign nationals' address registrations in Moscow only.

Back to Top

UNITED KINGDOM

There is a new application process for work or study visas in the United Kingdom (UK). Also, on the advertising site for Tier 2 applications, Universal Jobmatch will be replaced by Find a Job.

New Application Process for Work or Study Visas in the UK

On May 17, 2018, UK Immigration Minister Caroline Nokes announced details of the outsourcing of the visa application submission process to a single third-party provider, Sopra Steria, for people applying for a work or study visa, settlement, or citizenship from within the UK. This will take effect in October 2018.

In the lead-up to the introduction of this new outsourced service, the Home Office has implemented the gradual roll-out of online application forms for most application types in the UK, including Tier 2 work visas, Tier 4 student visas, and Tier 1 investor, settlement, and citizenship applications. At the same time as submitting the application forms online, the associated fees are paid and the biometric appointment booked. Applicants have then attended either a Home Office visa application centre to submit their biometric data and deliver their documents or submitted their application package by post and gone to a Post Office to submit their biometric data, once asked to do so by the Home Office.

The application process will now be streamlined. The main changes will be:

- Once applicants have submitted their applications online and paid the fees, they will be able to upload the required documents in advance of their biometric appointments.
- Over 60 locations will be provided for applicants to submit their biometric data and present original documents, including their passports.
- All original documents will be checked at the appointments and immediately returned to the applicants, who can then take their passports and other documents away with them.
- The Home Office will then process applications immediately.
- There will no longer be premium service centre (PSC) appointments at the Home Office in Croydon and their other offices around the country. The Tier 2 priority service will also cease. However, Home Office service centres will still be available for certain "vulnerable" applicants and

asylum applicants.

With the cessation of the PSC same-day processing service, there is some uncertainty as to whether Sopra Steria will offer a 24-hour service. Full details of turnaround times will be published in due course, along with the associated priority processing fees. Sopra Steria is expected to be able to offer bespoke services, similar to the current Super Premium Service, whereby applicants can submit their biometric data at locations of their choosing, subject to payment of the relevant premium service fees.

Changes to Advertising Site for Tier 2 Visa Applications: Universal Jobmatch to be Replaced by New Find a Job Service

If you are a Tier 2 sponsor with responsibility for placing advertisements on the government's Universal Jobmatch site to support Tier 2 applications, this will apply to you. When hiring Tier 2 migrants in the Tier 2 General category, sponsors currently using Universal Jobmatch (UJM) when conducting a resident labour market test must register with a new service called Find a Job.

The government has stated that the new Find a Job service offers a simpler and more streamlined way to log in and access information. Key features include:

- A simple email and password login, replacing Government Gateway
- Updated functionality and a redesigned account page
- A streamlined job posting process
- The ability to access Find a job via Gov.UK and directly through the following URL: dwp.gov.uk

How do I register for the new service?

- Account details for existing UJM account holders will automatically be moved across to Find a Job so you will automatically be verified and ready to post jobs once you register.
- Your account login will be the email address on your existing account and you will be asked to create a new password.
- Each employer account must have an administrator who can add and remove other colleagues (recruiters). You can edit administrator details once you have registered.

What about pending adverts?

- If the expiration date is beyond June 17, 2018, a new advert will need to be posted on Find a Job.
- Any existing adverts or applicant details will **not** be moved to the new service. You will therefore need to save any information that you wish to keep from your UJM account before June 17, 2018
- UJM will notify account holders shortly as to how to save information currently on the site.
- You will only be able to access your existing UJM account until June 17, 2018.
- The Home Office has confirmed that copies of adverts posted on either site will be accepted as evidence to satisfy the resident labour market test, and the Immigration Rules will be updated shortly.

Back to Top