

Department of Justice
Immigration and Naturalization Service

Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the
Immigration and Nationality Act, as amended

INSTRUCTIONS: (*READ CAREFULLY-FEE WILL NOT BE REFUNDED*) (Please tear off this sheet before submitting application)

Application on this form may be submitted only by an alien who believes that compliance with the foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, would impose exceptional hardship upon his/her spouse or child who is a citizen of the United States or a lawful permanent resident thereof, or by an alien who believes that returning to the country of his/her nationality or last residence would subject him/her to persecution on account of race, religion, or political opinion.

1. FOREIGN RESIDENCE REQUIREMENT. In order to be eligible to apply for an Immigrant Visa or for permanent residence in the United States, or for a nonimmigrant visa as a temporary worker, certain exchange visitors (visa symbols J-1 and J-2) must reside and be physically present in the country of their nationality or last foreign residence for an aggregate of at least two year: following departure from the United States.

An exchange visitor is subject to the two year foreign residence requirements only if:

- a. His/her participation in the exchange program was financed at any time in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of his/her country of nationality or last foreign residence; or
- b. prior to issuance of an exchange visitor visa, or admission as an exchange visitor without a visa, or acquisition of status as an exchange visitor, to participate in an exchange program. his/her country of nationality or last foreign residence was designated by the Secretary of State as clearly requiring the alien's specialized knowledge or skill;
- c. he/she entered the United States as, or changed status to that of an exchange visitor on or after January 10, 1977. to participate in graduate medical education or training.

If a participant in an exchange program is subject to the two year foreign residence requirement, his/her spouse and unmarried minor children who are admitted as exchange visitors or acquired such status after admission are also subject to this requirement. If you have any question as to whether you are subject to the two year foreign residence requirement, the nearest Immigration and Naturalization Service office or American Consulate will be glad to advise you.

2. ELIGIBILITY FOR WAIVER OF THE TWO YEAR FOREIGN RESIDENCE REQUIREMENT. Waiver of the two year foreign residence requirement may be authorized only if:

- a. The alien has a United States citizen or lawful resident alien spouse or unmarried minor child and establishes in an application to the Immigration and Naturalization Service that compliance with the two year foreign residence requirement would impose exceptional hardship upon such spouse or child; or
- b. the alien established in an application to the Immigration and Naturalization Service that returning to his/her country of nationality or last foreign residence would subject him/her to persecution on account of race, religion or political opinion; or
- c. a United States Government agency requests the Secretary of State to recommend a waiver in the alien's behalf for the reason that compliance with the two year foreign residence requirement would be detrimental to a program or activity of official interest to the agency; or
- d. the country of the alien's nationality or last foreign residence furnishes the Secretary of State a written statement that it has no objection to the waiver. This ground, however, is not available to the alien who came to the United States on or after January 10, 1977 as an exchange visitor, or who acquired such status on or after that date, in order to receive graduate medical education or training.

In no case may the two year foreign requirement be waived unless a favorable recommendation is made by the Director of the United States Information Agency to the Attorney General.

3. SUBMISSION OF APPLICATION.

If you are in the United States, submit the application to the office of the Immigration and Naturalization Service having jurisdiction over your place of residence. If you are abroad, submit the application to the office of the Immigration and Naturalization Service having jurisdiction over the place of your last residence in the United States.

An alien who believes that a United States Government agency may be officially interested in his/her case and may wish to request a waiver in

his/her behalf should inquire directly of that agency whether It would make such request.

An alien who seeks a waiver of the foreign residence requirement on the basis that the foreign country of his/her nationality or last foreign residence has no objection to the waiver should, if in the United States, apply directly to the Embassy of the country concerned; if abroad, should inquire of his/her foreign ministry.

4. SPOUSE OF APPLICANT. If your spouse is or was an exchange alien who is subject to the foreign residence requirement solely because of relationship to you, he or she may be included in this application by checking Box A in Block 6 of the application. If your spouse is subject to the foreign residence requirement because of participation in an exchange program, your spouse may apply for a waiver of the foreign residence requirement by submitting a separate application on Form I-612; In such case Box B of Block 6 should be checked on each application.

5. PREPARATION OF APPLICATION. The application must be type-written or printed legibly in ink with block letters

6. SUPPORTING DOCUMENTS. The following documents must be submitted with this application.

a. To prove United States citizenship of spouse or child, if you check Box 'A' in Block 5.

- (1) If your spouse or child is a citizen by reason of birth in the United States, submit (a) birth certificate of spouse or child; or (b) if birth certificate is unobtainable, a copy of the baptismal certificate under seal of the church, showing place of birth (baptism must have occurred within 2 months after birth); or (c) if birth or baptismal certificate cannot be obtained, affidavits of two United States citizens who have personal knowledge of the birth of your spouse or child in the United States.
- (2) If your spouse or child was born outside the United States, became a citizen of the United States through a parent, and has not been issued a certificate of citizenship, submit evidence of the citizenship and marriage of parent, as well as termination of any prior marriages of parent. Also submit birth certificate of child and a separate statement showing the dates, ports and means of all arrivals and departures into and out of the United States by spouse or child. (Do not make a photostat of a certificate of citizenship. See instruction No. 8.)
- (3) If naturalization of spouse or child **occurred** within 90 days immediately preceding the filing of this application, the naturalization certificate must accompany the application. (Do not make a photostat of such certificate. See Instruction No.8.)

b. To prove relationship between applicant and spouse or child, if you check Box "A" in Block 5.

- (1) Every application must be accompanied by a certificate of marriage to the spouse and proof of legal termination of all previous marriages of applicant and spouse. If application is based on hardship to a child, also submit the birth certificate of the child.

c. To support your application for waiver.

You may, in addition to your own required statement, submit any documentary evidence available to you which you believe bears on the matters of exceptional hardship or persecution.

d. If you are in the United States, you must submit your temporary entry permit (Form I-04, Arrival-Capture Record) and the entry permit of your spouse if the latter is in the country and is not a U.S. citizen or lawful permanent resident. If the entry permit is attached to the passport, remove it for this purpose. **DO NOT SEND IN THE PASSPORT.**

7. DOCUMENTS IN GENERAL. All supporting documents must be submitted in the original. If you desire to have the original of any of the documents returned, and if copies are by law permitted to be made, you may submit photographic or typewritten copies, with the originals, and the originals will be returned to you. However, a photographic or other machine-made copy unaccompanied by the original document may be accepted if the copy bears a certification by an Immigration or Consular officer that the copy was compared with the original and found to be identical. Any document in a foreign language must be accompanied a translation in English. The translator must certify that he is competent to translate and that the translation is accurate. (Do not make a copy a certificate of naturalization or citizenship. To do so is prohibited by law.)

8. PENALTIES - SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT OR USING ANY FALSE DOCUMENT IN THE SUBMISSION OF THIS APPLICATION.

Title 18, United States Code, section 1426(h) provides: "Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a * * * certificate of naturalization or citizenship, or any part thereof, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

9. A fee of ninety dollars (\$90) must be paid for filing this application. It cannot be refunded regardless of the action taken on the application. **DO NOT MAIL CASH. ALL FEES MUST BE SUBMITTED IN THE EXACT AMOUNT.** Payment by check or money order must be drawn on a bank or other institution located in the United States and be payable in United States currency. If applicant resides in Guam, check or money order must be payable to the "Treasurer, Guam." If applicant resides in the Virgin Islands, check or money order must be payable to the "Commissioner of Finance of the Virgin Islands." All other applicants must make the check or money order, payable to the "Immigration and Naturalization Service." When check is drawn on account of person other than the applicant, the name of the applicant must be entered on the face of the check. If application is submitted from outside the United States, remittance may be made by bank international money order or foreign debt drawn on a financial institution in the United States and payable to the "Immigration and Naturalization Service" in United States currency. Personal checks are accepted subject to collectibility. An uncollectible check will render the application and any document issued pursuant thereto invalid. A charge of \$5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it drawn.