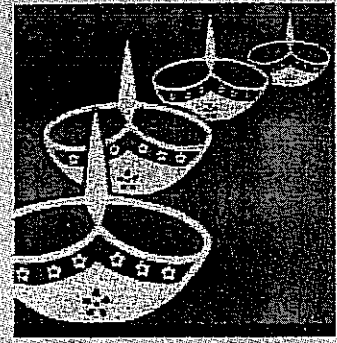


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IMMIGRATION

Please send your Questions to
India.Int@sbcglobal.net

Naturalization of Spouse

QUESTION: I was born in US. Two years ago, I married a lady in India, and we live in US.

She is entitled to apply for US citizenship after two years. (She got her Green Card a year ago).

My company wants me to go to India and work at its office there for two years. If we move to India after a month, and stay there for two years, can my wife still file for citizenship after two years?

Or the time spent in India wouldn't be counted, and she would have to wait for two years after we come back?

ANSWER: A spouse of a United States citizen is eligible to naturalize three years after obtaining permanent resident status. In order to qualify under this provision, the person must be married to and reside with the United States citizen spouse for the entire three-year period.

A naturalization applicant must also reside in the United States for 1/2 of the three-year period and reside continuously within the United States from the date of the application up until the time of citizenship.

In addition, the person must not be absent from the United States for a continuous period of more than one year.



Your Questions Answered By Attorney Margaret Wong

Margaret Wong & Assoc. co. LPA, recognized as one of the country's leading Immigration law firms, has been practicing for the last 29 years and has successfully represented thousands of clients.

It does not appear that she would be able to meet the requirements for naturalization if you depart now. Based on the information you have provided, it appears that she has only lived in the United States as a lawful permanent resident for approximately one year.

In answering this question, I am assuming that you (and not your spouse) are the only person with a job offer in India.

In some circumstances, a spouse of a United States citizen may be entitled to expedited naturalization. This is possible where:

(A) The spouse is a United States citizen;

(B) the spouse is in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof; or

of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and

(C) the spouse is regularly stationed abroad in such employment, and

(D) the lawful permanent resident is in the United States at the time of naturalization, and

(E) the lawful permanent resident declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse.

This expedited naturalization law allows the spouse to avoid the residence and physical presence requirements. If you believe that you meet these criteria, you should contact an immigration lawyer immediately.

If your wife does not qualify for expedited naturalization, she would have to meet the naturalization requirements when she returns. She would have to wait to file until two years and one day after returning to the United States to apply for naturalization.

One other important consideration is that your wife must be sure not to abandon permanent resident status. If she intends to depart for more than one year, she should apply for a re-entry permit before she departs.

This is because a permanent resident who is outside the United States for more than one year is presumed to have abandoned her residency.

Your wife can depart after it is filed but before it is approved and can then pick it up overseas at a consulate or DHS office.

This document is valid for two years and will make it much easier to return to the United States.

She can still be asked questions as to whether she abandoned her residency but they cannot deny her admission solely on the basis of her length of time outside the United States.