

REENTRY PERMITS

Employees holding lawful permanent resident status (or the “green card”) have a potentially indefinite U.S. status, such that it may appear that they no longer have U.S. immigration issues. However, permanent resident status can be lost.

For employees of multinational companies, this happens most frequently if the employee is deemed to have “abandoned” U.S. permanent residence due to having spent time abroad. The decision of whether to apply for a reentry permit is up to the individual green card holder. However, there are circumstances where it is both in the employee’s and the employer’s interest to take steps to protect the employee’s U.S. permanent residency. One major step that can be taken is to file for a **Reentry Permit**.

A returning permanent resident who is returning to the U.S. after an absence of **180 or more days** must prove that s/he is admissible to the U.S. and has not abandoned his/her status as a permanent resident. Such permanent residents may be subject to more extensive questioning by US Customs & Border Protection (CBP) on entry to the U.S., to determine whether they are maintaining their U.S. residence, especially in cases where there is a pattern of frequent travel, or long absences from the U.S.

If a permanent resident is absent from the U.S. for **one year or longer**, the greencard is no longer a valid document for readmission. Such permanent residents will not be admitted to the United States unless they are able to either obtain an advance permission from a U.S. Consulate, or if they possess a valid reentry permit. While holding a valid Reentry Permit does not guarantee admission, it documents an advance representation by the permanent resident that s/he does not intend to abandon U.S. residence, and that the U.S. Citizenship & Immigration Service (USCIS) approved the grant of the reentry permit for the absence.

We advise filing a Reentry Permit application in all cases where anticipated travel may extend to 180 or more days, or even in cases of shorter duration high frequency travel, especially if in the context of a temporary assignment to a multinational company’s non-U.S. offices. A valid Reentry Permit is strong evidence that the permanent resident is returning from a temporary absence abroad and has not abandoned permanent residence status.

The Reentry Permit application must be filed with the USCIS when the employee is physically present in the U.S., although it can be adjudicated and issued after s/he departs from the U.S. USCIS will require submission of biometrics (photos and fingerprints), as it conducts security checks in processing this application.

The application should be filed well before the planned departure, to avoid the need to return to the U.S. to submit biometrics. It is possible to request expedited USCIS processing in cases of imminent travel. Reentry Permits are usually valid for a two-year period. The employee must return to the U.S. prior to the expiration of the reentry permit.

Filing for a Reentry Permit is not only in the employee’s interest, in that complications in returning to the U.S. are burdensome and potentially traumatic, but also in the employer’s interest, in that company project goals and timelines are met, and the investment made in sponsoring the employee for permanent residency is not lost.