

# Are you a U.S. Citizen?

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Amendment XIV, Section 1, Clause 1 of the U.S. Constitution directs that all persons born in the United States are U.S. citizens. This is the case regardless of the tax or immigration status of a person's parents. Furthermore, a person born outside the United States may also be a U.S. citizen at birth if at least one parent is a U.S. citizen and has lived in the United States for a period of time. **American Expat Tax Services** is not able to make a legal determination of a person's nationality, but we can guide our clients in discovery of their correct status.

It is imperative that you discern if you are a U.S. citizen, because all U.S. citizens must generally file an annual tax return to report their income from all sources worldwide. For U.S. citizens, this means that no matter where you live or where your income comes from, you must file a U.S. tax return. In addition to a U.S. tax return, there are various additional reporting requirements in regards to non-U.S. assets and financial Accounts. Failure to file tax returns and additional information filings can result in penalties starting at \$10,000.00 USD.

## **You can obtain U.S. citizenship in two ways:**

1. At birth or
2. Through naturalization

## **One acquires citizenship at birth when they are:**

-  Born in the United States or certain territories or possessions of the United States, and are not born under Diplomatic Status in the United States; **OR**
-  Born outside the United States and one or both parents was/were U.S. citizens at the time of their birth and had resided in the U.S. at some time. The law in effect at the time of birth determines how long one's parent or parents must have lived in the U.S.

## **Acquiring U.S. Citizenship through Naturalization:**

Naturalization is a process through which citizenship is granted for persons who apply and fulfill a set of requirements laid out in the Immigration and Naturalization Act (INA) of the U.S.

The rules allow certain persons born outside the United States to acquire U.S. citizenship in an expedited manner without having to complete a full naturalization process. This process is for certain individuals who have some US citizenship in their bloodline.

The laws regarding U.S. citizenship have changed extensively over time with two major changes coming into effect in 1978 and 2001. The law in effect at the time of one's birth will generally dictate the requirements.

## General Provisions for Acquisition of Citizenship for Children Born Abroad

INA Section	Status of Parents	Resident or physical Presence Requirements	Child is a U.S. Citizen
301(c)	Both parents are U.S. citizens	At least one U.S. citizen parent has resided in the United States or outlying possessions prior to child's birth	At Birth
301(d)	One parent is a U.S. citizen; other parent is a national but not a U.S. citizen	U.S. citizen parent was physically present in United States or its outlying possession for one year prior to child's birth	At Birth
301(f)	Unknown parentage	Child is found in the United States while under 5 years of age	At Birth
301(g)	One parent is a U.S. citizen; other parent is a foreign national	U.S. citizen parent was physically present in United States or its outlying possessions for at least 5 years (2 after age 14) prior to child's birth	At Birth
301(h)	Mother is a U.S. citizen and father is a foreign national	U.S. citizen mother resided in the United States prior to child's birth. Child is born outside the limits and jurisdiction of the U.S.	At Birth (Only applies to births prior to May 24, 1934)
309 (a)	Out of wedlock birth, claiming citizenship through father	Requirements depend on applicable provision: INA 301(c), (d), (e) and (g) and of paragraph (2) of section 308	At Birth (Out of wedlock)
309 (c)	Out of wedlock birth, claiming citizenship through mother	U.S. citizen mother physically present in the U.S. or its outlying possessions for one year prior to the child's birth	At Birth (For birth after December 23, 1952)
320	At least one parent is a U.S. citizen (through birth or naturalization)	Child resides in the United States as a lawful permanent resident	At Time Criteria Is Met
321 Repealed by CCA	Both parents naturalize, or in certain cases, one parent naturalizes	Child resides in the United States as a lawful permanent resident	At Time Criteria is Met
322	At least one parent is a U.S. citizen (through birth or naturalization)	Child resides outside of the United States and child's parent (or grandparents) was physically present in the U.S. or its outlying possessions for at least 5 years (2 after 14), child is under 18 years	At Time Oath is Administered

### References:

- ✦ United States Citizenship and Immigrations Services (USCIS) National Customer Service Center: [1-800-375-5283](tel:1-800-375-5283)
- ✦ USCIS Canadian Inquiries can be made through email at [USCIS.Canada@uscis.dhs.gov](mailto:USCIS.Canada@uscis.dhs.gov)
- ✦ USCIS website: <http://www.uscis.gov/>
- ✦ Immigration and Nationality Act (INA): <http://www.uscis.gov/laws/immigration-and-nationality-act>
- ✦ Child Citizen Act (CCA): [http://www.uscis.gov/sites/default/files/files/pressrelease/ChildCitizenshipAct\\_120100.pdf](http://www.uscis.gov/sites/default/files/files/pressrelease/ChildCitizenshipAct_120100.pdf)
- ✦ USCIS U.S. Citizen: <http://www.uscis.gov/us-citizenship>
- ✦ USCIS Citizenship & Policy Manual: <http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12.html>