

## Surrendering U.S. Citizenship: How it Can Help, How it Can Hurt



# Immigration Blog

By [Elizabeth M. Klarin](#)

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U.S. citizenship is a privilege for many, but it can also be a burdensome and unwanted obligation for others.

Some individuals find themselves to be U.S. citizens without wanting to be, such as if their parents transmitted citizenship automatically to them by birth. I have had clients who contacted me for nonimmigrant visas, who yelled with joy when they found out that they were actually already U.S. citizens and only needed to apply for a passport to obtain all the rights and privileges of citizenship. However, I have also had many clients who contacted me because they are stressed and annoyed by the obligations that come along with unwanted citizenship, like annual tax filing obligations and extra estate planning necessities.

When addressing the benefits and drawbacks of having or keeping U.S. citizenship, there are several topics I address with clients. These include the following:

### **1. Benefit: Free movement and work authorization.**

Most Canadians don't have any problem entering the United States for extended periods. Snowbirds commonly have lengthy stays in the United States, particularly during the winter months if they own or rent property in warmer climates. That said, obtaining work authorization can be a chore. If you maintain U.S. citizenship, you cannot be denied entry to the United States, and you also have the right to work for any employer in any position, regardless of your education, skills, or abilities.

## **2. Benefit: Potential to transmit U.S. citizenship to children.**

It is worth considering whether you may be able to transmit U.S. citizenship to one or more of your children before you renounce your U.S. citizenship. The Child Citizenship Act of 2000 allows foreign-born, biological and adopted children of U.S. citizens to acquire U.S. citizenship if they satisfy certain requirements before age 18. The Act applies to children who did not acquire U.S. citizenship at birth. While renouncing citizenship won't necessarily mean the child wouldn't still be able to acquire U.S. citizenship so long as they apply before age 18, parental U.S. citizenship might make it easier for the child to meet the requirements for U.S. citizenship. For example, if the child is residing outside the United States, they must be residing in the legal and physical custody of the U.S. citizen parent (if the parent is living). If moving to the United States, the child must be a lawful permanent resident. A minor child can obtain an immigrant visa through a U.S. citizen parent, and it would be issued by a U.S. Consulate abroad. Once the child enters the United States as a permanent resident, with the intent that they will live in the legal and physical custody of the U.S. citizen parent — even for a short while — they will automatically become a U.S. citizen.

## **3. Benefit: The right to vote in U.S. elections.**

Since 2024 is an election year, the privilege of U.S. citizenship also permits one to have a say in who runs the country. While I have yet to hear of someone who chose to maintain U.S. citizenship exclusively in order to vote in U.S. elections, it is one more consideration to keep in mind as a potential benefit.

## **4. Benefit: Education.**

Having U.S. citizenship can make it possible to borrow money from the U.S. federal government for education in the U.S. Most purely foreign attendees of U.S. institutions who cannot self-fund their education in the states must find other sources of funding or obtain a U.S. citizen co-signor on the loan. Additionally, many state schools charge higher tuition rates for foreign students than U.S. citizens.

## **5. Drawback: The obligation (and annoyance) to file and pay annual U.S. taxes.**

The main drawback to maintaining U.S. citizenship is that U.S. citizens are taxed on their worldwide employment and obligated to pay taxes annually. While there may not actually be payments due to the United States when living full-time outside the United States (usually based on income) due to treaties offering credits for taxes paid to other countries such as Canada, the sheer annoyance and minimal cost of hiring someone to prepare and file U.S. tax forms each year is enough for some to wish to renounce or relinquish their citizenship.

## **6. Drawback: Estate obligations/complications.**

Dual citizenship can complicate estate planning and probate, especially if the individual owns property in both countries. It can also complicate the distribution of other assets after death as the estate of dual citizens may be subject to the laws of both countries. In some cases, an individual's estate may need to be probated in both countries —which can add significant time and expense to the process of winding up one's estate.

## **7. Drawback: Exit tax.**

If your net worth exceeds a certain amount — currently, US \$2 million — on your renunciation date, your average net income tax liability for the past five years exceeds certain thresholds or you have failed to certify your tax compliance for the five years preceding your renunciation, you may be subject to a significant “exit tax” upon renunciation.

Before renouncing, it is prudent to speak with a cross-border tax or accounting professional in addition to immigration counsel. This will ensure that you are informed about your potential tax obligations due to renunciation, as well as the best options and process for renouncing your U.S. citizenship.

Please reach out to Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)), partner and Lippes Mathias LLP Immigration Practice Team member, to learn more about surrendering U.S. citizenship.

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