

# Law Offices of Alex T. Barak, P.A.

## **FREQUENTLY ASKED IMMIGRATION QUESTIONS TO ALEX T. BARAK, ESQUIRE**

### **1. Is there any difference in applying for a green card at the U.S. Embassy abroad, as opposed to applying in the United States ?**

If one has filed for a green card in the category of a job offer or investment, these categories are known as “employment-based immigration,” there are no immigration interviews, generally. A work permit can be issued before you are approved for the green card. Under certain circumstances, while your application is pending, you can obtain special permission to leave the U.S. until the formal approval of the green card.

If you apply overseas, political considerations may make the U.S. embassy officers refuse to follow the law. While applying in the United States, you will have an attorney fighting for your approval at every step and you will be able to take comfort that you will be in a safe country.

### **2. If I am approved for a green card, do I have to live in the U.S.?**

Every green card holder must reside in the U.S. 183 days a year. He can travel out of the country as long as he keeps track of the days in and out of the U.S. In the event the green card holder needs to be outside the U.S. for more than 183 days in a particular year, he should have his attorney obtain for him a legal document called “re-entry permit” which will protect the green card holder from a charge that he has abandoned his U.S. permanent residency.

### **3. I am married and I have two children under the age of 21. If I am approved for a green card, will my wife and children also get theirs at the same time?**

Yes, as long as they apply with you.

### **4. My wife and child cannot obtain a visa like I did to enter the United States. Can I apply for the green card from the U.S. and include my family? And where will the papers be processed?**

After the first immigration step is successfully completed, you can apply for the second step with U.S. immigration while you are in Miami, while your other family members will have to process in at the U.S. embassy abroad.

### **5. I cannot hire an immigration attorney unless the attorney will guarantee results. I am not willing to gamble my hard-earned money without a guarantee. What does the attorney say?**

An attorney in the state of Florida is not allowed, by law, to guarantee results. However, the attorney, based upon his experience and his review of the client's documentation, should be able to determine if the case has a high likelihood of success. You should be careful with any attorney who guarantees anything, since by doing so he is violating laws applicable to him.

No one would ask a medical doctor performing a routine operation with a 99% success rate to guarantee the result. An attorney can only guarantee that he will perform his legal services at a very high professional level.

### **6. If I own my own business in my own country, what do you recommend that I do to be able to live and work in the U.S. and to bring my wife and kids with me?**

You can either buy an existing American business which has been operating for at least one year and legally establish it as your subsidiary and possibly qualify for a green card under the multinational manager category, or you can open a new subsidiary, establish it as your subsidiary and become eligible for a working visa, known as L-1.

### **7. If I want to open a subsidiary in Florida of my company from my own country, do I have to establish a business, which is similar to my foreign company?**

No.

### **8. How long does it take to obtain a U.S. passport?**

After receiving a green card (permanent residency), one must wait five years before becoming eligible to apply for citizenship, unless one received the green card as the result of a marriage case, and then there is a three-year waiting period. Immediately after receiving citizenship, one can obtain a passport within two weeks

### **9. If I buy an American company, do I have to pay 100% of the purchase price right away?**

This varies from transaction to transaction. Some sellers are willing to finance 50% of the purchase price with payments over two to four years. Others want full payment up front, forcing you, if you wish to buy that company, to obtain private financing. This will usually be at a higher interest rate than that which private banks charge, due to the fact that you most likely have insufficient American credit history.

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**10. I have a company with two managers and 18 employees, in which I am the owner and one of the two managers. Can we two managers obtain green cards with the purchase of one American company?**

This is possible only if the American company purchased is large enough to need two managers or executives. If the American company has only four clerks and an owner/manager who is selling his company, obviously, this company will support only one manager in obtaining a green card.

On the other hand, if the American company has 20 employees, including a general director, director of sales, and a chief engineer, it can support more than one foreign manager/director in obtaining green cards.

**11. Am I eligible for the multinational manager green card category or the L-1 working visa if I already sold my foreign company?**

No. The foreign company, which will purchase and/or establish an American company as its subsidiary must be, at the present time, active in business.

Remember. In order to qualify for this category, the foreign company must be an active one, in legal existence for at least one year, and the manager attempting to be transferred to the American company to be purchased/established, must have worked for the foreign company in an executive or managerial capacity for at least one year in the last three years.

The individual owner of the foreign company, or the foreign company, must be the registered owner of 51% or more of the American company in order for a green card or working visa to be obtained.

The American company must be in lawful existence for at least one year in order for the transferring manager to qualify for a green card. If not, then the best the foreign business manager can obtain at the beginning is an L-1 temporary working visa, which is valid, initially, for only one year, but which can be extended.

**12. I have lived illegally in the United States for two and a half years and I finally found myself a perfect wife. Can she obtain a green card for me?**

The answer will shock you, but the answer is no, with very few exceptions. Beginning April 1, 1997, a new law went into effect which states that if you live in this country illegally for six months to a year after April 1, 1997 and you then become eligible for a green card, you will have to leave the country for three years, a penalty for living here illegally. If you have stayed here over a year illegally, the penalty is 10 years. You will be eligible for a green card after you have lived outside this country for 10 years. This is a very harsh law.

**13. Are there possibilities for certified chefs or religious school teachers?**

Yes. If you have a certificate from a culinary institute and/or have a certain level of experience which you must prove, it is possible to qualify for a working visa and later a green card, if certain conditions are met. For a religious school teacher with a university diploma, an H-1B working visa or an R-1 working visa is very workable, with a green card coming later after the labor certification process is successfully concluded.

**14. Do you handle any other types of legal cases besides immigration?**

I have 19 years of experience in many areas of law. My office provides a full range of legal services for clients.

**15. I am a university graduate. Can you help me get a working visa called H-1B?**

If you have a company or business which wishes to offer you a job with the requirement that you at least have a university diploma, you are then eligible for an H-1B working visa. It will take about 3-4 months to process this in the United States, after which you will need to have the H-1B visa issued in your passport at a U.S. Embassy or Consulate abroad.