

## **Family Based Petition**

### **Application for Permanent Residence for Spouse of a U.S. citizen**

The Petition for Alien Relative and Application for Permanent Residence is the process to get permanent residence for the spouse of a U.S. citizen.

The spouse of a U.S. citizen is classified as an **immediate relative**. As such, immigrant visas are *always* available and so there is no visa wait to file for adjustment of status (green card application in the US).

#### **Step 1. Immigrant Visa Petition (I-130)**

The immigrant visa petition for a spouse is to prove up the U.S. citizenship of the petitioning spouse and includes documentary evidence of the marriage to the Beneficiary (cohabitation and co-mingling of funds). The Petitioner can file the Relative Petition at any time.

#### **Step 2. Application for Permanent Residence (I-485)**

The application for Permanent Residence can be filed if the beneficiary spouse is in the U.S. lawfully or otherwise qualifies to file while present in the U.S. **Visas are *always* available for immediate relatives of U.S. citizens.** As the spouse is an immediate relative and is in the U.S., the Relative Petition and the Application for Permanent Residence can be filed together (concurrent filing).

At the time the Application for Permanent Residence is filed, the Beneficiary spouse can apply for work authorization (EAD) and permission to travel (advance parole) outside the U.S. while the application is processing with the USCIS. There may be some travel restrictions on a case-by-case basis.

The beneficiary spouse will be scheduled for “biometrics” at the USCIS Application Support Center (ASC), to take fingerprints for the required background check and the picture for the permanent resident card.

#### **Step 3. Final review, interview preparation and USCIS interview**

When the case has been scheduled for the USCIS interview, we complete a final review of the case to ensure the case has been filed correctly and amend or prepare a supplement of the filing to be submitted at the USCIS interview.

*Conditional Permanent Residence:* If the Petitioner and Beneficiary have been married *less* than two years, *at the time of the interview*, the USCIS will grant the Beneficiary *conditional permanent residence*. The Beneficiary must file a petition to remove the conditions (I-751) 90 days prior to the two-year anniversary of conditional residence. The USCIS does not send a reminder of this required filing.

Please note that if your permanent residence is approved at the interview, it will take some time for you to receive your Permanent Resident Card. The Service is not required to give you any temporary evidence of your permanent residence. We advise you to wait for issuance of the permanent resident card prior to making any international travel plans.

## **Naturalization**

Permanent residence for either 3 years or 5 years is a prerequisite to apply for US citizenship. Some important points regarding eligibility are (1) physical presence (half the time) in the United States, (2) no trips outside the US for more than 180 consecutive days, (3) passing the criminal background check, (4) English language fluency and literacy, and (5) passing basic a US civics (government, history, geography) test.

## **Relative Petition and Application for Permanent Residence Document List**

### **Petitioner**

- ❑ U.S. passport or Naturalization Certificate (as applicable)
- ❑ State issued identity document (drivers license, etc.)
- ❑ Birth Certificate or Certificate of Unavailability (required)
- ❑ Marriage Certificate and Divorce Decree(s)
- ❑ I-864 Affidavit of Support
- ❑ IRS Income Tax *printout* for past 3 years: <http://www.irs.gov/Individuals/Get-Transcript>
- ❑ Job verification letter (position, dates of employment, salary)
- ❑ Passport-style Photos (2)

### **Beneficiary**

- ❑ Passport (current and expired)
- ❑ I-94 Card
- ❑ USCIS Approval Notices and Employment Authorization Card (I-797, I-20, EAD)
- ❑ State issued identity document (Drivers license, etc.)
- ❑ Birth Certificate or Certificate of Unavailability
- ❑ Marriage Certificate and Divorce Decree(s)
- ❑ Medical Examination (USCIS approved physician)  
[https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office\\_type=CIV](https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=CIV)
- ❑ Passport-style photos (8) – *must be identical*
- ❑ For applicants who have ever held F-1 status: I-20s, certified unofficial transcripts and a confirmation of enrollment letter from each school attended. If OPT was authorized—proof of employment (W-2s, verification of employment letter)

## Marriage Document List

**The United States Citizenship and Immigration Services (USCIS) requires evidence of the validity of marriage and financial support for spouse petitions.** To determine this, the USCIS requests documentary evidence of **cohabitation** and **co-mingling of funds**. Additional documents can be submitted to supplement the file at the CIS interview.

1. Joint income tax returns. Married couples can file a joint income tax return even if only one was working and even if married for only part of the year. Call 1-800-829-1040, Personal Account Information, to request IRS verification of **tax filing and tax accounts**.
2. Joint bank accounts. Checking account and savings account statements; retirement and brokerage accounts (stocks, bonds, mutual funds); and other financial accounts.
3. Birth certificates or adoption decrees of **all** children from the current marriage **and** from previous relationships, anywhere in the world.
4. Marriage certificates and final divorce decrees for **all** previous marriages.
5. Photographs of the couple together; with family and friends at the wedding, other social and business functions throughout the relationship, **including prior to marriage**.
6. Driver's licenses, credit cards, employment I.D. cards, and club membership cards, showing the married name of wife **or** the marital address.
7. Apartment lease in either names or a letter from the management confirming that joint occupancy **or** evidence of joint ownership of a house (closing documents).
8. Life, medical, health and auto insurance naming the spouse as the insured or beneficiary.
9. Letters, birthday and holiday cards, written to each other or addressed to both.
10. Civil and religious marriage certificates, if applicable.
11. Utility bills such as; electricity, gas, cable TV, telephone or cell phone bills in both names **or** in individual names at the marital address.
12. Evidence of major purchases made together, such as an automobile television, computer, home appliances (refrigerator, washer & dryer); receipt or contract in both names.
13. Evidence of travel together; tickets, itinerary, reservations, event documents and photos.

**Fong•Ilgan, LLP** works to simplify the spouse petition process. To discuss your case with an experienced board-certified immigration attorney, please contact our office at 713.772.2300.