

Petition for Spouse of U.S. Citizen or Permanent Resident Application for Immigrant Visa at the U.S. Consulate

The Petition for Alien Relative (I-130) begins the process to get permanent residence for spouses of U.S. citizens and permanent residents (green card). The Relative Petition is filed with the U.S. Citizenship and Immigration Service in the U.S. by the US citizen or Permanent Resident.

Spouse of a U.S. Citizen or Permanent Resident Qualifies for Relative Petition and Immigrant Visa

Immediate Relatives. Relatives of U.S. citizens are immediate relatives if they are spouses, children under 21, or parents of the U.S. citizen. There is no wait to file for IR visas.

Family-based preference classification. Spouses and minor children of permanent residents are classified as FB-2B relatives. There may be a DOS visa bulletin priority date backlog for this classification.

Step 1. Immigrant Visa Petition (I-130)

The immigrant visa petition for an alien relative can be filed at any time. The Petitioner must show proof of U.S. citizenship and documentary evidence of the qualifying relationship to the Beneficiary spouse.

Step 2. National Visa Center (NVC)

Once the I-130 is approved, the CIS will send it to the National Visa Center (NVC). The NVC will send instructions regarding an Affidavit of Support by the USC and fees associated with the Affidavit of Support and application for immigrant visa at the American Consulate.

Step 3. American Consulate or Embassy

After all documents have been submitted to the NVC, the NVC sends the petition to the American consulate in the Beneficiary's home country. Additional forms, medical exam and photographs will be required. The Consulate will send a letter scheduling the visa appointment.

Step 4. Entry to the U.S.

The Beneficiary has 6 months, from the date of the consular interview, to enter the U.S. On entry to the U.S., the officer at the port of entry will annotate the passport and the permanent resident card will be sent directly to the applicant.

If at the time of entry into the U.S. (following the issuance of an immigrant visa by the American consulate), the US Petitioner and Beneficiary have been married *less* than two years, the Beneficiary will be granted *conditional permanent residence*. The Beneficiary must file a petition to remove the conditions (I-751) 90 days prior to the two-year anniversary of granting conditional permanent residence.

Relative Petition and Application for Permanent Residence Document List

Petitioner

- ❑ U.S. passport (unexpired), Naturalization Certificate or Permanent Resident Card
- ❑ State issued identity document (driver's license, etc.)
- ❑ Birth Certificate or Certificate of Unavailability
- ❑ Marriage Certificate and Divorce Decree(s)—court-certified copies
- ❑ Income Tax printout from IRS for last year filed
- ❑ Income tax return for last year filed (with W-2)
- ❑ Job verification letter
- ❑ Evidence of marriage (birth certificates of children, wedding photos, insurance policies, accounts in both names)
- ❑ Passport style photos (2)

Beneficiary

- ❑ Passport (current and expired)
- ❑ I-94 card or printout
- ❑ All USCIS Approval Notices, Employment Authorization Card, I-20's, etc. (I-797, I-20, EAD)
- ❑ State issued identity document (driver's license, etc.)
- ❑ Birth Certificate or Certificate of Unavailability (If Canada, the long form birth certificate)
- ❑ Marriage Certificate and/or Divorce Decree(s)
- ❑ Photographs (2)

Marriage Document List

The United States Citizenship and Immigration Services (CIS) requires evidence of the validity of marriage and financial support for relative petitions. To determine this, the CIS requests documentary evidence of **cohabitation** and **co-mingling of funds**.

Please submit as many of the following documents as possible from as far back as possible to the current date. These documents will be filed with the Relative Petition. Additional documents will 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 electric, 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•Ilagan, LLP works with clients to simplify the spouse immigrant visa process. To discuss your case with a board-certified immigration attorney, please contact our office at 713.772.2300.