

PUBLICATION

Aliens Must Notify INS of Address Changes

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July 31, 2002

The law and regulations have long required all "aliens" (anyone besides citizens) in the U.S. to "register" with INS (now Department of Homeland Security – DHS). This usually happens automatically upon entry, when DHS issues an I-94 card showing the foreign national's classification and required departure date or when DHS issues a Permanent Resident Card.

But the law and regulations also have always technically required foreign nationals in the U.S. to notify INS/DHS of a change of U.S. address within 10 days of the change. The primary way to give the required notice is by sending Form AR-11 to INS at an address in London, KY printed on the form itself. Persons from certain countries who have been subjected to "special registration" procedures must instead use Form AR-11SR.

Failure to register that was "willful" or not "reasonably excusable" could lead to deportability and other civil and criminal penalties, but INS has not enforced this rule except in very peculiar circumstances where it needed a technicality to deport someone, usually for other reasons. DHS has stated that it may use the address change rules to remove a broader class of aliens, particularly some terrorist suspects.

Most recently, on July 26, 2002, INS published a proposed rule to add another twist to the rule on notification of address changes. The problem for INS was that the Board of Immigration Appeals had recently overturned a removal order on the grounds that the charging document ("Notice to Appear") was returned by the postal service as "undeliverable" at the last address contained in INS files. The INS now proposes to change most of its forms for seeking immigration benefits to add a statement by which the foreign national must acknowledge the requirement to file timely notification of address and the fact that notice of action on the case and notice of any removal proceedings will be served at the last address given. The idea is to allow INS to obtain an "in absentia" order of removal even when the postal service returns the notice "undeliverable" and the alien does not show up at the hearing. This rule has not yet been finalized.

The clear signal to all foreign nationals, both those here temporarily and those who are permanent residents, is to send INS notice of each change of U.S. address within 10 days of the change. We recommend that the notice be sent by registered mail, return receipt requested, in both of two ways:

1. On Form AR-11 or AR-11SR to the London, KY address, attaching a copy of the permanent resident card, I-94 from latest entry, or other evidence of present immigration status, if any.
2. By letter to any government office where the foreign national has any case pending (other than an I-129 or I-140 in which the employer is the petitioner), attaching a copy of the government receipt notice for the benefit filing.

Persons subject to special registration must make other appearances before INS as instructed upon initial registration. For more information on special registration, see BCIS information collection.

How We Can Help

We assist clients in evaluating and comparing the seemingly innumerable visa classifications for which they might be qualified, whether a visa will be required (and if not required whether it should be obtained anyway), where and how to apply, and how best to accomplish entry. We advise clients about inadmissibility grounds that may apply and assist in waiver applications and appeals from denials of them. We assist clients in seeking review of visa denials. We represent clients in removal proceedings, where available if they are found inadmissible. We help clients seek remedies even when they have been removed at the border without a hearing. We help clients maintain their status and extend and change it to meet new goals. We also plan and take appropriate steps toward permanent residence, coordinating such plans and steps with the temporary status. We help clients maintain their U.S. permanent residence and naturalization eligibility by helping them plan their travels within manageable parameters and by filing for them various types of applications to demonstrate and preserve their U.S. residence. We advise clients on steps to take to be ready to demonstrate ties to the U.S. We defend clients in proceedings regarding loss of permanent residence, particularly in removal proceedings.