

Residency Requirements for Green Card Maintenance and Naturalization

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Once an **EB-5 investor** receives conditional permanent residency, he or she must follow certain rules and regulations to ensure **conditional permanent residency** is not lost, including physical presence requirements. Additionally, if an EB-5 investor desires to obtain U.S. citizenship, he or she must meet certain **residence** and **physical presence requirements**.

In order to maintain conditional permanent residency, an EB-5 investor should not remain physically outside of the United States for more than one year without obtaining [a reentry permit or returning resident visa](#). However, in determining whether an EB-5 investor has abandoned his or her status, USCIS may consider any length of absence from the United States, even if less than one year. If an EB-5 investor secures a reentry permit, he or she should not remain physically outside of the United States for more than two years after issuance of a reentry permit without obtaining a returning resident visa. An EB-5 investor also should file his or her income tax returns in a timely fashion and make sure not to declare himself or herself a “nonimmigrant” on such income tax returns. Lastly, USCIS will attempt to ascertain the intent of an EB-5 investor if it is inquiring about whether or not the EB-5 investor has abandoned his or her conditional permanent residency. An EB-5 investor can take certain steps, including and without limitation, holding property within the United States; establishing personal connections with family, friends and other members of the community in which the EB-5 investor resides; ensuring employment can be completed remotely from the United States or does not require significant time spent abroad; and always declaring himself or herself a permanent U.S. resident by listing his or her permanent U.S. address on any government form, whether for the United States or another country, to demonstrate to USCIS the requisite intent to remain a conditional permanent resident.

Naturalization has a different set of requirements. In order to naturalize, an EB-5 investor will generally be required to show that he or she has resided continuously in the United States for five years before applying for naturalization. “Continuous residence” is defined rather loosely and as a general guideline, USCIS instructs visitors to its website that absences of more than six months may disrupt an EB-5 investor’s continuous residence. In addition to the “continuous residence” requirement, an EB-5 investor generally is required to demonstrate he or she has been physically present in the United States for 30 months (2.5 years or 913 days) within the five year period before applying. This physical presence requirement is similar to the physical presence requirements for maintaining conditional permanent residency. USCIS will review actual travel logs and count days in

and out of the United States towards the physical presence requirements. However, failure to meet this physical presence requirement by an EB-5 investor will not result in loss of conditional permanent residency or him or her being barred from naturalizing. The EB-5 investor will merely be ineligible to naturalize until the “continuous residence” and physical presence requirements can be met.

EB-5 investors should plan their future according to the various immigration laws and regulations in order to ensure maintenance of conditional permanent residency and timely naturalize, should an EB-5 investor wish to naturalize.

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National Law Review, Volume IV, Number 169

Source URL: <https://natlawreview.com/article/residency-requirements-green-card-maintenance-and-naturalization>