

PART 18—EXPATRIATION; PRESUMPTION

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18.1 Section 2 of the Act of March 2, 1907; expatriation.	18.4 Definite arrangements to return immediately to United States for permanent residence.
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Section 18.1 Section 2 of the Act of March 2, 1907; expatriation. Section 2 of the Act of March 2, 1907 (34 Stat. 1228; 8 U.S.C. 17), concerning expatriation provides in part as follows:

Sec. 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign State in conformity with its laws, or when he has taken an oath of allegiance to any foreign State.

When any naturalized citizen shall have resided for two years in the foreign State from which he came, or for five years in any other foreign State it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however,* That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: *And provided also,* That no American citizen shall be allowed to expatriate himself when this country is at war.

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*§§ 18.1 to 18.5, inclusive, issued under the authority contained in sec. 2, 34 Stat. 1228; 8 U.S.C. 17.

†The source of §§ 18.1 to 18.5, inclusive, (with the exception noted in the text,) is Departmental Order 438, Department of State, Mar. 6, 1938.

18.2 Evidence to be presented to diplomatic or consular officer. Naturalized citizens against whom the presumption of expatriation shall have arisen, under the statute quoted above, because of protracted residence abroad may overcome such presumption upon presenting to a diplomatic or consular officer of the United States satisfactory evidence of the existence of any of the following facts:

(a) That they are residing abroad solely or principally as representatives of American trade and commerce, and that they intend eventually to return to the United States permanently to reside.

(b) That their residence abroad is in good faith for reasons of health or education in special subjects, and that they intend eventually to return to the United States permanently to reside.

(c) That some unforeseen and controlling exigency beyond their power to foresee has prevented their carrying out a bona fide intention to return to the United States within the time limited by law, and that it is their intention to return and reside permanently in the United States immediately upon the removal of the preventing cause.

(d) That they are residing abroad principally for the purpose of representing a recognized American educational, scientific, philanthropic, or religious organization, and that they intend eventually to return to the United States permanently to reside.

(e) That they reside in a country other than that from which they came principally for the purpose of engaging independently in

educational, philanthropic, or religious work, or principally for the purpose of engaging in some legitimate professional or scientific occupation, for which work or occupation they were trained in American institutions; that such work or occupation is not inconsistent with American interests; that they maintain effective ties with the United States, and that they intend eventually to return to the United States permanently to reside.

(f) In the cases of naturalized American citizens residing in Canada, Mexico, the West Indies, Central America, or Panama, that they are following the profession of teaching in a recognized educational institution for which they were trained in an American institution, or that they are employed by a legitimate corporation or company or are principally engaged by or connected with a legitimate concern, which is effectively owned and controlled by a citizen or citizens of the United States and materially promotes the interests of this country, and that they intend eventually to return to the United States permanently to reside.

(g) That they have made definite arrangements to return immediately to the United States permanently to reside.

(h) In the cases of naturalized American citizens who have resided in the United States 20 years subsequent to their naturalization, have attained the age of 60 years, and have retired from active participation in professional or business pursuits, that they have during the period of their residence outside of the United States held themselves out as American citizens, have from time to time applied for American passports or to be registered as American citizens in American consulates, or satisfactorily explained their failure to do so, have maintained effective ties with the United States, and intend eventually to return to the United States permanently to reside.* [Dept. Order 438, Mar. 6, 1928; Dept. Order 544, Jan. 6, 1933]

18.3 Affidavits; specific facts. The affidavits and other proofs required to overcome the presumption must set forth the specific facts and circumstances which bring the persons concerned under one or more of the above rules, and mere assertions even under oath that any of the enumerated reasons exist will not be accepted as sufficient.*†

CROSS REFERENCE: For evidence to overcome the presumption of expatriation, see § 18.2.

18.4 Definite arrangements to return immediately to United States for permanent residence. The burden is upon an applicant who alleges that he has made definite arrangements to return immediately to the United States permanently to reside, under the provisions of § 18.2 (g), to show that he is in good faith about to establish a permanent home in this country. Therefore, such person, if married, should be accompanied by his wife or her husband, as the case may be, and the minor unmarried members of his or her immediate family who may be residing abroad and are American citizens, or if the wife or husband or minor children are aliens and residing abroad, he or she is making arrangements for them to ob-

tain visas to enable them to come to the United States in the immediate or near future permanently to reside. The allegation of such a person that because of financial reasons he is unable to defray the expenses incident to the transportation of the members of his family to the United States will not of itself be considered as a sufficient reason for not bringing his or her family to the United States and will ordinarily vitiate the allegation that definite arrangements have been made to return immediately to the United States permanently to reside as is required under § 18.2 (g).*†

18.5 American women married to aliens. An American woman who was married to an alien on or after September 22, 1922, and has become subject to the presumption of expatriation under the terms of section 3 of the Act of September 22, 1922 (42 Stat. 1022), may overcome such presumption by showing that she herself is residing abroad for one of the reasons mentioned in § 18.2 (a)–(f) and that she intends to return to the United States permanently to reside. Also, if she is residing abroad with her alien husband and intends to return to the United States for permanent residence, she may overcome the presumption by showing that her husband has maintained a residence of a permanent nature in the United States and intends to renew such residence, and that his residence abroad is of a temporary nature and due to one of the causes mentioned in § 18.2 (a)–(f). If such a woman desires to obtain a passport to enable her to return to the United States, under § 18.2 (g), she must fulfill the requirements of that portion of section 4 (42 Stat. 1022; 8 U.S.C. 369) relating to the conditions under which passports may be issued to persons coming within § 18.2 (g).*†

PART 21—FLAGS

Sec.	Sec.
21.1 Office of the Secretary of State.	21.2 Office of the Under Secretary of State.

Section 21.1 Office of the Secretary of State. [It is hereby ordered] That the official flag, indicative of the office of Secretary of State, be as follows: On a blue rectangular field a white disk bearing the official coat of arms of the United States adopted by the Act of June 20, 1782, in proper colors. In each of the four corners a white five-pointed star with one point upward. The colors and automobile flag to be the same design adding a white fringe. For the colors a cord and tassel of blue and white to be added. The sizes to be in accordance with military and naval customs. (R.S. 161; 5 U.S.C. 22) [Dept. Order 545, Jan. 21, 1933]

21.2 Office of the Under Secretary of State. [It is hereby ordered] That the official flag indicative of the office of the Under Secretary of State, be as follows: On a white rectangular field a blue disk bearing the official coat of arms of the United States adopted by Act of June 20, 1782, in proper colors. In each of the four corners a five-pointed star with one point upward. The colors

*†For statutory and source citations, see note to § 18.1.