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Chapter 6 - Jurisdiction, Place of Residence, and Early Filing

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A. Three-Month Residency Requirement (in State or Service District)

In general, an alien applying for naturalization must file his or her application for naturalization with the state or service district that has jurisdiction over his or her place of residence. The alien must have resided in that location for at least three months prior to filing.

The term “state” includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands (CNMI).^[1] The term “service district” is defined as the geographical area over which a USCIS office has jurisdiction.^[2]

The service district that has jurisdiction over an alien’s application may or may not be located within the state where the alien resides. In addition, some service districts may have jurisdiction over more than one state and most states contain more than one USCIS office.

In cases where an alien changes or plans to change his or her residence after filing the naturalization application, the alien is required to report the change of address to USCIS so that the alien’s A-file (with application) can be transferred to the appropriate office having jurisdiction over the alien’s new place of residence.

B. Place of Residence

The alien’s “residence” refers to the alien’s principal, actual dwelling place in fact, without regard to intent.^[3] The duration of an alien’s residence in a particular location is measured from the moment the alien first establishes residence in that location.^[4]

C. Place of Residence in Certain Cases

There are special considerations regarding the place of residence for the following aliens:^[5]

1. Military Member

Special provisions exist for aliens who are serving or have served in the U.S. armed forces but who do not qualify for naturalization on the basis of the military service for one year.^[6]

- The service member’s place of residence may be the state or service district where he or she is physically present for at least three months immediately prior to filing (or the examination if filed early);
- The service member’s place of residence may be the location of the residence of his or her spouse or minor child, or both; or
- The service member’s place of residence may be his or her home of record as a member of the armed forces at the time of enlistment and as currently reflected in the service member’s military personnel



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file.

2. Spouse of Military Member (Residing Abroad)

The spouse of a U.S. armed forces member may be eligible to count the time he or she is residing (or has resided) abroad with the service member as continuous residence and physical presence in any state or district of the United States.^[7] Such a spouse may consider his or her place of residence abroad as a place of residence in any state or district in the United States.

3. Students

An alien who is attending an educational institution in a state or service district other than the alien's home residence may apply for naturalization where that institution is located, or in the state of the alien's home residence if the alien is financially dependent upon his or her parents at the time of filing and during the naturalization process.^[8]

4. Commuter

A commuter must have taken up permanent residence (principal dwelling place) in the United States for the required statutory period and must meet the residency requirements to be eligible for naturalization.^[9]

5. Residence in Multiple States

If an alien claims residence in more than one state, the residence for purposes of naturalization will be determined by the location from which the alien's annual federal income tax returns have been and are being filed.^[10]

6. Residence During Absences of Less than One Year

An alien's residence during any absence abroad of less than one year will continue to be the state or service district where the alien resided before departure. If the alien returns to the same residence, he or she will have complied with the three-month jurisdictional residence requirement when at least three months have elapsed, including any part of the absence, from when the alien first established that residence.^[11]

If the alien establishes residence in a different state or service district from where he or she last resided, the alien must reside three months at that new residence before applying for naturalization in order to meet the three-month jurisdictional residence requirement.^[12]

7. Nationals, but not Citizens, of the United States

A national, but not citizen, may naturalize if he or she becomes a resident of any state and is otherwise qualified.^[13] Nationals, but not citizens, will satisfy the continuous residence and physical presence requirements while residing in an outlying possession. Such nationals must reside for three months prior to filing in a state or service district to be eligible for naturalization.

D. 90-Day Early Filing Provision (INA 334)

An alien filing under the general naturalization provision may file his or her application up to 90 days before he or she would first meet the required 5-year period of continuous residence as an LPR.^[14] Although an alien may file early according to the 90 day early filing provision, the alien is not eligible for naturalization until he or she has reached the required five-year period of continuous residence as a lawful permanent resident (LPR).

USCIS calculates the early filing period by counting back 90 days from the day before the alien would have first satisfied the continuous residence requirement for naturalization. For example, if the alien would satisfy the five-year continuous residence requirement for the first time on June 10, 2010 USCIS will begin to calculate the 90-day early filing period from June 9, 2010. In such a case, the earliest that the alien is allowed to file would be March 12, 2010 (90 calendar days earlier).

In cases where an alien has filed early and the required three month period of residence in a state or service district falls within the required five-year period of continuous residence, jurisdiction for filing will be based on the three-month period immediately preceding the examination on the application.^[15]

Footnotes

[^1] See [INA 101\(a\)\(36\)](#). As of November 28, 2009, the CNMI is part of the definition of United States. See Consolidated Natural Resources Act of 2008, [Pub. L. 110-229 \(PDF\)](#) (May 8, 2008). See Chapter 3, Continuous Residence, Section E, Residence in the Commonwealth of the Northern Mariana Islands [[12 USCIS-PM D.3\(E\)](#)].

[^2] See [8 CFR 316.1](#).

[^3] See [INA 101\(a\)\(33\)](#). This is the same as the alien's actual domicile.

[^4] See [8 CFR 316.5\(a\)](#).

[^5] See [8 CFR 316.5\(b\)](#).

[^6] See [INA 328](#). See Part I, Military Members and their Families, Chapter 2, One Year of Military Service during Peacetime (INA 328) [[12 USCIS-PM I.2](#)].

[^7] See [INA 319\(e\)](#). See Part I, Military Members and their Families, Chapter 9, Spouses, Children, and Surviving Family Benefits, Section B, Spouses of Military Members [[12 USCIS-PM I.9\(B\)](#)]. See Part G, Spouses of U.S. Citizens, Chapter 3, Spouses of U.S. Citizens Residing in the United States [[12 USCIS-PM G.3](#)].

[^8] See [8 CFR 316.5\(b\)\(2\)](#).

[^9] See [8 CFR 211.5](#). See [8 CFR 316.5\(b\)\(3\)](#).

[^10] See [8 CFR 316.5\(b\)\(4\)](#).

[^11] See [8 CFR 316.5\(b\)\(5\)](#).

[^12] See [8 CFR 316.2\(a\)\(5\)](#).

[^13] See [INA 325](#). See Chapter 5, Modifications and Exceptions to Continuous Residence and Physical Presence [[12 USCIS-PM D.5](#)].

[^14] See [INA 334\(a\)](#). See [8 CFR 334.2\(b\)](#).

[^15] See [8 CFR 316.2\(a\)\(5\)](#).