

# **7 FAM 1250 RENUNCIATION OF U.S. CITIZENSHIP**

*(TL:CON-5; 3-30-84)*

## **7 FAM 1251 RENUNCIATION ABROAD**

a. Former Section 349(a)(6) INA, which was redesignated as Section 349(a)(5) INA on October 10, 1978, by 92 Stat. 1046 (Public Law 95-432) states that a person who is a national of the United States whether by birth or naturalization, shall lose U.S. nationality by:

Making a formal renunciation of nationality before a diplomatic or consular officer in a foreign state, in such form as may be prescribed by the Secretary of State; ...

b. Section 401(f) NA provided that a person who is a national of the United States, whether by birth or naturalization, shall lose U.S. nationality by:

Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; ...

Under Section 401(f) NA, U.S. citizenship could have been relinquished voluntarily even though at the time of renunciation the United States was engaged in war. Renunciation must have been in the precise language and in accordance with the format prescribed by the Secretary of State. Attempts to renounce U.S. nationality in various forms that deviated only slightly from the prescribed form were ineffective. The Department had the administrative duty to examine the process of renunciation under Section 401(f) to determine whether the formal requirements of the prescribed procedure had been met. However, if the form was in order, no discretion was vested in the Department to accept or reject renunciation.

## **7 FAM 1252 RENUNCIATION IN THE UNITED STATES**

a. Section 349(a)(6) INA (formerly Section 349(a)(7) INA) provides for formal renunciation of U.S. citizenship while the person is in the United States. The renunciation is performed before an officer designated by the Attorney General, but it can be done only when the United States is at war. The wording in this renumbered section remains in effect in its original form. Because it is limited by its language to renunciations within the United States, it cannot be administered by consular officers outside the United States.

b. Under Section 401(f) NA, renunciation could not be made while the national was in the United States or in one of its outlying possessions.

## **7 FAM 1253 REQUIREMENTS FOR RENUNCIATION ABROAD**

There are three requirements for renunciation of U.S. citizenship; the omission of any one invalidates an attempted renunciation. The oath of renunciation must:

- (1) Be taken in the presence of a diplomatic or consular officer;
- (2) Be taken outside the United States; and
- (3) Be in the precise form prescribed by the Secretary of State.

NOTE.--A formal oath of renunciation must be taken personally in the presence of a duly commissioned diplomatic or consular officer. It may not be taken before a Foreign Service national employee, consular agent, foreign notary, or any other person. A U.S. diplomatic or consular officer assigned to Washington, the U.S. Mission to the United Nations, or any other assignment in the United States may not administer an oath of renunciation.

### **a. Site of Renunciation**

Whenever possible, the renunciation should be administered at the post. Problems have arisen when oaths have been taken at the renunciant's home or in prison. Oaths taken outside the post are more easily subject to allegations that they were made involuntarily or given improperly. The officer should urge the potential renunciant to appear at the post. The oath may be taken outside the post only as a last resort and only if the person is physically unable to travel to the post or if other unusual circumstances require it. If at all possible, the post should report all such circumstances in advance to the Department (CA/OCS/CCS) by telegram.

### **b. Interview**

The consular officer must be satisfied that the person desiring to renounce U.S. citizenship is a U.S. citizen. A person not believed to be a citizen should not be permitted to an oath of renunciation. If the person has not previously been documented as a citizen, the would-be renunciant should present evidence of citizenship. If this is not possible or not feasible, the consular officer must document the basis for believing that the person is a citizen. This information should be given in the report to the Department. If the person previously performed a currently valid statutory act of expatriation, the voluntariness and intent of that act must first be developed.

### **c. Determining Voluntariness**

The consular officer must attempt to ensure that the person subscribing to an oath of renunciation is doing so voluntarily. This is to avoid an appearance of coercion or misunderstanding. Although a person has a right to renounce citizenship, consular officers must not urge renunciation. A recommendation to renounce could be construed as evidence of duress. Officers may advise a citizen of the right to renounce and of the provisions of Section 349(a)(5) in response to inquiries. They may also provide a copy of the oath of renunciation and supporting documents for the person's information if it is requested. The officer should suggest that the person defer the contemplated act of renunciation for a period of time to permit reflection on its gravity and consequences, especially when the person is young, uneducated, or seems uncertain. It should be stressed that a renunciation is an irrevocable act and that the only way a renunciant can reacquire citizenship is through the naturalization process. Consular officers should be aware that many renunciants subsequently appeal findings of loss of citizenship, alleging that the consular officer misled them or otherwise acted improperly in the renunciation process.

### **d. Statement of Understanding**

(1) Renunciants must read and understand the Statement of Understanding (see 7 FAM 1253 Exhibit 1253d ). If circumstances make the voluntariness or comprehension of the renunciant questionable, the statement must be read to the person. If read to the renunciant, two disinterested witnesses must be present. The renunciant should sign the Statement of Understanding in triplicate. Witnesses must sign in the presence of the consular officer. Any deletions, amendments, or corrections, however minor, in the body of the Statement of Understanding must be initialed by the renunciant. The consular officer and witnesses must also initial any deletions, amendments, or corrections in their statements. A renunciant who does not read English, or reads it so poorly as to be unable to understand its meaning and effect, should subscribe to it on the prepared English-language form. A formal interlinear translation of every word on the form, including the title, jurat, and other language apart from the wording of the oath, should be typed onto the form.

(2) No amendments, deletions, or additions are permitted on the form of the oath except for writing "Embassy" in place of the "Consulate" or "Consulate General" where appropriate. Additional statements, for example, the reason for the renunciation, should be made in a separate affidavit.

## **e. Other Documents and Disposition**

The Oath of Renunciation is completed by the consular officer and signed in triplicate by the renunciant and the officer (see 7 FAM 1253 Exhibit 1253e ). A CLN is prepared in quadruplicate (see 7 FAM 1221 Exhibit 1221b ). The consular officer has authority to approve a CLN prepared as discussed in section 7 FAM 1221 e. It is not necessary to develop the issue of intent because intent to relinquish U.S. citizenship is implicit in the renunciatory language of the oath. The Statement of Understanding should not be listed as evidence on the CLN. Notarial acts required in connection with the above are performed without fee pursuant to Item 58(a) of the Schedule of Fees (see section 7 FAM 052 ).

## **7 FAM 1254 SPECIAL RENUNCIATION PROBLEMS**

### **7 FAM 1254.1 Minors**

a. Sections 403(b) NA provided that persons could not divest themselves of U.S. nationality before attaining age 18. However, there is no legal minimum age under which renunciation is not permitted. Common law establishes an arbitrary limit of age 7 below which a child is incapable of understanding. An arbitrary limit of age 14 is set under which a child's understanding must be proven by substantial evidence. Posts should always inquire of the Department (CA/OCS/CCS) in advance of a determination of loss when dealing with a potential renunciant who is under age 18. The consular officer must be satisfied that the minor fully understands the nature and consequences of the oath of renunciation. The consular officer must also be completely satisfied that the minor is acting entirely voluntarily rather than under duress imposed by parents or guardians. When possible, the minor should be interviewed privately with only another officer or Foreign Service national employee present as an added assurance against parental pressure.

b. The consular officer keeps a complete record of all contacts with a minor renunciant and parents or guardians, including a full description of statements and behavior and the consular officer's opinions about the minor's capacity and voluntariness. This record is included as part of the officer's report to the Department. Doubtful cases that involve renunciation by minors are referred to the Department for decision.

### **7 FAM 1254.2 Mental Competency**

a. Special attention must be given to would-be renunciants whose mental competency is in question. A person suffering from a mental disorder or defect of such severity that the person is incapable of understanding the nature or consequences of renunciation is considered to be acting involuntarily. This condition must be proven by a preponderance of the evidence to rebut the presumption of voluntariness as found in Section 349(c) INA.

b. The fact that a person may be acting belligerently or irrationally does not necessarily establish mental incompetence to such a degree as to render the renunciation invalid. To avoid later challenges as to the validity of the renunciation on the grounds of involuntariness, the officer must explain the person's rights, authority for the renunciation process, and its effects on the person's status in as much detail as possible considering the person's perception and behavior. The officer should attempt to gather background information by obtaining medical statements or information from local authorities, family members, neighbors, and others which relate to the person's mental state. The investigation should be conducted before the renunciation occurs, or as soon as possible thereafter.

c. A consular officer is not qualified to make clinical observations and diagnoses of mental conditions. The officer should keep a detailed record of all contacts with the would-be renunciant, including a full description of unusual statements and behavior and the officer's impressions of the person's emotional state. This record is part of the report sent to the Department (Attention CA/OCS/CCS) for review and decision.

## **7 FAM 1254.3 Prisoners**

a. U.S. citizens held in jails or prisons in the United States or foreign states often attempt renunciation of citizenship. Some persons held in this country believe that by such action they will avoid deportation; others believe that if they are able to renounce U.S. citizenship they will achieve deportation from the United States. Some, held abroad, believe that they can avoid prosecution on charges pending in the United States. These erroneous views may be attributed partly to the number of prisoner-transfer treaties now in force between this country and foreign states.

b. The desire to avoid deportation, extradition, imprisonment, or prisoner transfer does not constitute duress sufficient to render a renunciation involuntary. However, the nature of the prison or jail environment raises questions of possible coercion or pressure that may be used as a future claim of involuntariness of the renunciation; for this reason it is important that the consular officer keep a detailed record of all interviews and proceedings.

c. Prisoners should be informed that renunciation does not exempt persons from prosecution for charges pending in the United States. The officer should explain applicable prisoner-transfer treaties. Interviews with prisoners should, if possible, be conducted in private. The presence of prison officials may contribute to the coercive nature of the setting. The same considerations also apply regarding the place where the oath is taken; the oath should be administered on consular premises rather than in the prison. In most cases, it should be possible for the prisoner to be escorted to the post for administering the oath. This also should be done privately. The officer should consult with the post security officer and local police whenever necessary. If the prisoner is particularly dangerous, it may be possible for the oath to be given within the observation of the guards but removed from them in order to diminish the coercive effect of their presence. If security reasons preclude taking the oath on consular premises, the officer should explore the possibility of taking it at a third site. The oath is to be taken within the prison confines only when no other site is available.

d. The consular officer keeps a detailed record of all contacts with an incarcerated renunciant, including mention of all aspects of the place and physical circumstances of all interviews, consultations with other officials, and the administration of the oath itself. This record should be part of the report sent to the Department. Cases in which the oath is taken outside the post are referred to the Department for decision.

## **7 FAM 1254.4 Renunciation for Tax Avoidance**

If a would-be renunciant indicates a desire to renounce U.S. citizenship to avoid income tax liability, the consular officer informs the person that under some circumstances Section 877 of the Internal Revenue Code (26 U.S.C. 877) assesses certain income tax liability as of the date of expatriation. The person is advised to contact the Office of International Operations of the Internal Revenue Service for further information.

## **7 FAM 1254.5 Warren Commission Requirements**

The special reporting procedures recommended by the Warren Commission report on the assassination of President John F. Kennedy must be followed if the would-be renunciant exhibits hostility toward the United States, its government, or officials and show indications of mental or emotional instability. This procedure need not be followed if the person is lucid and gives plausible reasons for the renunciation.

## **7 FAM 1255 THROUGH 1259 UNASSIGNED**

# 7 FAM 1253 Exhibit 1253d

(TL:CON-5; 3-30-84)

## Sample of a Statement of Understanding

### STATEMENT OF UNDERSTANDING

I, \_\_\_\_\_, understand that:  
(Name)

1. I have a right to renounce my United States citizenship.
2. I am exercising my right of renunciation freely and voluntarily without any force, compulsion, or undue influence placed upon me by any person.
3. Upon renouncing my citizenship I will become an alien with respect to the United States, subject to all the laws and procedures of the United States regarding entry and control of aliens.
4. My renunciation may not affect my military or Selective Service status, if any, and may not exempt me from income taxation. I understand that any problems in these areas must be resolved with the appropriate agencies.
5. My renunciation may not affect my liability, if any, to prosecution for any crimes which I may have committed or may commit in the future which violate United States law.
6. If I do not possess the nationality of any country other than the United States, upon my renunciation I will become a stateless person and may face extreme difficulties in travelling internationally and entering most countries.

7. The extremely serious and irrevocable nature of the act

of renunciation has been explained to me by Consul George J. Sanders  
(Name)

at the American Consulate General at  
(Fill in rank of post)

Toronto, and I fully understand its consequences.  
(City)

I (do not) choose to make a separate written explanation of

my reasons for renouncing my United States citizenship. I

(swear, affirm) that I have (read, had read to me) this Statement  
(Circle one verb) (Circle one verb)

in the English language and fully understand its  
(Name the language)

contents.

/s/ ☺ ☐ ☞ ■ ☺ ☞ ☹ ☹ ☹ ● ● ● m  
(Signature)

John J. LaSalle  
(Renunciant's typed name)




CONSULAR OFFICER'S ATTESTATION

John J. LaSalle appeared personally and (read, had read)  
(Name) (Circle one verb)

to him this Statement after my explanation of its meaning and the consequences of renunciation of United States citizenship and signed

this Statement (under oath, by affirmation) before me this  
(Circle one)

12th day of May 1983 .  
(Day of month) (Month) (Year)

Seal \_\_\_\_\_ /s/ 

Consul of the United States of America

WITNESS' ATTESTATION

The undersigned persons certify that they witnessed the personal

appearance of John J. LaSalle before the consular officer  
(Name)


George J. Sanders , who explained the seriousness and  
(Name)


consequences of renunciation of United States citizenship and the meaning of the attached Statement of Understanding, after which this

Statement was signed (under oath, by affirmation) before the named  
(circle one)

consular officer and undersigned witnesses this 12th day of  
(Day of month)

May 1983 .  
(Month) (Year)

  
Witness Richard B. Roebuck 650 Elm St., Toronto, Canada  
(Full name) (Complete address)

  
Witness Susan Adams 3012 Maple St., Toronto, Canada  
(Full name) (Complete address)

# 7 FAM 1253 Exhibit 1253e

(TL:CON-5; 3-30-84)

## Sample of the Oath Renunciation

### OATH OF RENUNCIATION OF THE NATIONALITY OF THE UNITED STATES

(This form has been prescribed by the Secretary of State pursuant to Section 349 (a) (5) of the Immigration and Nationality Act, 66 Stat. 268, as amended by Public Law 95-432, October 10, 1978, 92 Stat. 1046.)

Consulate General of the United States of America at

Toronto, Canada , ss:

I, John J. LaSalle , a national of the United States,  
(Name)

solemnly swear that I was born at Denver ,  
(City or town)

Colorado , on June 8, 1945 .  
(Province or country) (State or country) (Date)

That I am a national of the United States by virtue of 133 King Street  
(Street)  
Denver, Colorado  
(City) (State)

That I am a national of the United States by virtue of  
birth in the United States .  
(If a national by birth in the United States, or abroad, so state: if

naturalized, give the name and place of the court in the United States before  
which naturalization was granted and the date of such naturalization.)

That I desire to make a formal renunciation of my American nationality, as provided by section 349 (a) (5) of the Immigration and Nationality Act and pursuant thereto I hereby absolutely and entirely, without mental reservation, coercion or duress, renounce my United States nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

/s/ [Signature]  
(Signature)

Subscribed and sworn to before me this 12th day of May ,  
19 83 , in the American Consulate General at Toronto, Canada.

/s/ [Signature]

(Signature of officer)

George J. Sanders

(Typed name of officer)

Consul of the United States of America  
(Title of officer)

SEAL

