

9 FAM 42.23 CERTAIN FORMER U.S. CITIZENS

(TL:VISA-3 8-30-87)

(a) Women Expatriates

An alien woman, regardless of marital status, shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that she was formerly a U.S. citizen and that she meets the requirements of INA 324(a).

(b) Military Expatriates

An alien shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that the alien was formerly a U.S. citizen and that the alien lost citizenship under the circumstances set forth in INA 327.

9 FAM 42.23 Related Statutory Provisions

INA 101(a)(27)(B)

(27) The term "special immigrant" means --...

(B) an immigrant who was a citizen of the United States and may, under section 324(a) or 327 of title III, apply for reacquisition of citizenship;

INA 324(a)

(a) Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this title, except—

(1) no period of residence or specified period of physical presence within the United States or within the State where the petition is filed shall be required;

(2) the petition need not set forth that it is the intention of the petitioner to reside permanently within the United States;

(3) the petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(4) the petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner and the witnesses have appeared before such examiner for examination. Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: Provided, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

INA 327

Sec. 327. (a) Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, may, upon compliance with all the provisions of title III, of this Act, except section 316(a), and except as otherwise provided in subsection (b), be naturalized by taking before any naturalization court specified in section 301(a) of this title the oath required by section 337 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice.

(b) No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a), a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: Provided, That nothing contained herein, or in any other provisions of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.