

Immigrants: Don't treat your Green Card like it was a Visitor's Visa



Immigration Corner

Atty. Michael Gurfinkel

trips to the US, or if they do not stay outside the US for over one year, they are "safe," and will not encounter any problems with US Immigration.

However, even though a person has been granted a green card, it is still possible that he could lose his immigrant status, or be considered to have "abandoned" that green card, if he stays outside the US too long or for too much time. The Department of Homeland Security (DHS) takes the position that if a green card holder stays outside the US continuously for more than one year, it is considered as though that person has abandoned his immigrant status (being a green card holder). A green card could be abandoned even if a person is outside the US for less than one year, when he lives and works abroad.

The DHS is taking a stronger stand against these "part-time" green card holders. CBP officers at US entry points (i.e. airports) ask green card holders "How long have you been outside the US on this trip?" In the past, the CBP would not ordinarily question you, even if you stayed out for 11 months, as long as you did not exceed one year. However, now, even if you are out only six months and one day, the CBP could investigate and question why you were out so long, and the CBP could determine that you abandoned your green card.

There are certain steps that you can take to ensure that you retain your immigrant status, if you are planning to stay temporarily out of the US. One of the most im-



FUNNY WOMAN POKWANG REVEALS HOW COMEDY CAN BE SERIOUS BUSINESS ON THIS SUNDAY'S 'CITIZEN PINOY' This Sunday, award-winning comedienne Pokwang (left) joins attorney-to-the-stars Michael J. Gurfinkel (right) and spices up the most popular immigration talk show on television—"Citizen Pinoy", where she recalls her own life as an OFW! Tune in for zany entertainment and relevant US immigration information in this brand-new episode. 'Citizen Pinoy'—airs every Sunday at 5:40pm (PST), with replays on Wednesdays at 12:15 m (PST) on TFC. 'Citizen Pinoy' also airs on ANC-US every Sunday at 12:00 am with replays on Sundays at 8am and Thursdays at 7pm, all PST; and on ANC- Philippines every Sunday at 4pm with replays at 12 midnight on Mondays.

DEAR Atty. Gurfinkel:

I got my green card several years ago, but I still like my life in the Philippines. So, I spend most of my time in the Philippines, and go to the US only for a month or two each year. The last time I went to the States, the Immigration Officer at the airport asked me how long I was outside the US, and started making a big deal about the fact that I'm away all the time. He even wrote something in my passport about warning me.

I have a home and business in the Philippines, my kids are in school, and I'm just not ready to settle down in the States. I thought that as long as I don't stay outside the US for over one year, that I won't have any problems in holding on to my green card. Why is the Immigration giving me such a hard time?

Very truly yours,
GC

Dear GC:

Some green card holders treat their green card as though it were a visitor's visa. They come to the US for only a month or two, but spend most of the time in the Philippines. They think that as long as they make brief, periodic

important things you should do is to maintain evidence or proof of your residence in the US, or show that you truly intend to reside in the US, such as:

- File US tax returns.
- Maintain a US address (either actual or in care of a relative in the

US. Merely having a P.O. Box does not show you have a residence in the US).

- Make sure you enter the US at least once a year, although the more often you enter and stay in the US, the better it is for you.
- Maintain a valid US driver's license.
- Keep US stocks and bonds.
- Continue to use US credit cards.
- Continue any club memberships in the US.
- In any correspondence, make reference to your temporary assignment abroad.
- Maintain bank account in the US

If you file a tax return in another country, make sure that you indicate your residence is the US (Many immigrants abroad are told by accountants that they can avoid paying US taxes by stating that they are not residing in the US. However, this attempt at tax savings would directly contradict your status as a "permanent resident" of the US, and could affect

or jeopardize your immigration status.)

Another thing that you can do to "protect" your immigrant (green card) status is to apply for a "re-entry permit" while you are in the US and before you go abroad. (You cannot apply for a re-entry permit when you are outside the US) This re-entry permit allows a green card holder to remain outside the US for up to two years, without being considered to have abandoned his immigrant status.

Even if the DHS believes that you have "abandoned" your green card, under certain circumstances, with a proper presentation of appropriate evidence and other documentation, it is possible to overcome this presumption of abandonment of your green card. However, each case is different, and would need to be considered on a case-by-case basis. If you have any questions or problems in this area, I would recommend seeking the advice of a reputable attorney,

who can analyze your (or your relative's) situation and advise you of the appropriate course of action to take or preserve your green card.

Michael J. Gurfinkel is licensed, and an active member of the State Bar of California and New York. All immigration services are provided by, or under the supervision of, an active member of the State Bar of California. Each case is different.

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(Advertising Supplement)

A case for coming home ...

(PART 2 OF 7)

"The world is a book, and those who do not travel read only a page."

— St. Augustine

TRY not to wince every time the exchange rate dips against the dollar. On the upside, it is good for the Philippine peso. If only the prices of commodities were going down ... but NOT! Sigh ... You map out the daily schedule from Day One to the end date and get all the advance information you need. Why? Because unlike in the US where information is

like water available on tap, the flow of information in the Philippines, unless you are wired with a laptop and always in a place with wi-fi access, may

IMMIGRANT LIVING: 101 AND BEYOND



MONETTE ADEVA MAGLAYA

be spotty and information, inaccessible. That's a real bummer. A better way is to get a cellphone with local access and be good at texting. Filipinos are champion texters and they will leave you in the dust, if you aren't. Even the magtataho owns a cellphone.

Why go to the Philippines when there are a lot of choices out there at far less cost? Ask any emigre. A trip to the native country is in a class by itself when it comes to travel choices. For many first generation expatriates, the Philippines holds a special place in one's heart. It's a place you've seen before but would like to look at again with fresh eyes—notwithstanding the negatives: the withering value of the dollar against most world currency, the seemingly endless spate of negative news, disconcerting tales of horrific traffic congestion, the heat, the pollution, extremes in poverty and wealth and vicious politics. Okay then, it's not perfect but no place in the world is. Nonetheless, it's still a special place. Period. No ifs and buts about it. Warts and all, there are a million and one reasons a Philippine trip is all worth it—particularly during Christmas.

With few exceptions, there can be no happier group of people come Christmastime than Filipinos. It's a perplexing phenomenon that the world has taken notice of with somewhat of a jaundiced eye. Christmas begins in September and ends with a bang in January of the New Year, the longest season of merrymaking anywhere in the world. It is as commercial and profit-driven as anywhere else, with cavernous shopping malls and a slew of holiday activities that can give other international shopping malls a run for their money. Dining out in restaurants can have you wearing clothes 2 sizes bigger in no time at all, if you don't watch it. There's just something about the Philippines during Christmas.

Despite crass commercialism, Christmas joy among the multitudes seems genuine. The churches still get filled to the rafters with the faithful, unlike some churches in Europe that are more like empty, tomblike museums than churches with just a handful in attendance. In a largely cynical, jaded world as we have today, JOY as pure, unfettered,

unfeigned and childlike as all that, cutting across all social strata in a poor country, is a phenomenon as rare as the appearance of Halley's comet.

Why do we come home? Part of the reason is the people—a complex combination of goodness and wickedness, of intelligence and ineptitude and of humility and pride. In the world stage, the Filipino has become the unofficial poster child of what an imported model worker is—and for good reason. Our best export is our overseas foreign workers, whose remittances, put together, from everywhere in the world, have been propping the Philippine economy, for decades now, in a big way. There are large numbers of OFWs that come home for Christmas just to be with their loved ones. The Filipino is an amazing worker. Whether we like it or not, the work we do has become our sense of worth. To be sure, we have our fair share of scumbags and scalawags whose shenanigans make us cringe and cower in collective shame.

We have a disproportionate share of character flaws we laugh off self-deprecatingly with jokes we use in spades as we poke fun at ourselves. We don't take ourselves too seriously and maybe it's time we did, so the world will sit up, take notice and render to us the respect that we deserve. All told and for the most part, we are a God-loving and God-fearing mass of people—80 million plus strong with about 3 million Fil-Ams and several millions more scattered about the globe—who, in droves, contribute to the general good of humanity in an increasing number of places in the world in myriad capacities.

Edith Wharton was right when she said of travel, "... you find out how many good, kind people there are." This is true of a Philippine trip. With fresh eyes, you find out that your native land is worth coming home to again and again.

More importantly perhaps, a trip such as this forms part of a lifelong journey of self-discovery. This trip and others I have taken over the years in different other places, reveals to me those secret places about myself that I would not otherwise have known. I have brought back with me thousands of digital images as a future, foreseeable crutch to my memory, to help me remember over time. I have brought back spare change and worthless trinkets and a string of pearls from the Philippine deep, some burnay pottery and some Ilocano cotton blankets from Vigan. But the intangibles I've taken home with me are the best by far—shared experiences of grief, tears and laughter, rekindled friendships, a heartfelt appreciation of people I have met and will probably never meet again, a sense of genuine gratitude for life on both sides of the globe and above all, a deeper, newer and fresh understanding of our tiny, yet brilliant and beautiful place in the universe.

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