



AMERICAN CITIZENS ABROAD

EDUCATE, ADVOCATE AND INFORM

October 20, 2020

Mark Phillips
Residence and Naturalization Chief
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Comments from American Citizens Abroad, Inc. (ACA) on proposed rule changes concerning the Affidavit of Support (Form I-864) as proposed by the U.S. Citizenship and Immigration Services under DHS Docket No. USCIS-2019-0023.

Dear Mr. Phillips,

ACA is a Washington, DC based, non-partisan, non-profit section 501(c)(4) advocacy organization representing Americans living and working overseas and as such is objecting to the proposed rules as explained below.

Almost all US sponsors of intending family-member immigrants have to file the Affidavit of Support in conjunction with filing the Petition for Alien Relative (Form I-130). The proposed rule changes would:

- Require submitting credit scores and credit reports (current regulations do not require this);
- Require submitting certified copies or transcripts of the last three years of US income tax returns (current rules only require one year – three years optional);
- Require submission of bank account information (current regulations do not require this - optional reporting is possible if the sponsor's income is below 125% of the Federal poverty line).

Credit reports:

Many US citizens living abroad contemplating returning to the US in a perfectly legal fashion with their non-US citizen spouse and children will not be able to provide a US credit report since they have been out of the country for several years. US credit reports and scores are available only for US residents who have a residential address in the US. An American living abroad is not a US resident until he/she returns to the US to live there with his/her family. Legal immigration with family members should not be denied just because the US-citizen sponsor cannot provide a credit report.

Tax returns:

Returning US citizens may have filed their US tax forms correctly during the years they were living abroad but obtaining official IRS-issued certified copies or transcripts is a lengthy and complicated process. Each year there are substantial delays and difficulty with communications even for the simplest tax returns, especially when filing from abroad.



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Bank accounts:

US citizens living abroad have already raised objections to the reporting of bank account information as required by the FBAR and FATCA and should not have to report this information if they can prove sufficient means for the financial support of the intending immigrant as required by the current rules.

In addition, the proposed ruling is unclear as to the interpretation and consideration of the newly required information when evaluating the financial capacity of the sponsor. The current rules require proof of income at or above 125% of the Federal poverty line. This is a fixed and clear threshold for evaluating the sponsor's ability to financially support the intending family-member immigrant. Requiring supplemental information such as credit reports and bank accounts without clear thresholds for evaluation opens the door to arbitrary and unaccountable decisions.

Another proposed change would make it too easy for third parties to access private information. Current regulations require a duly issued subpoena before USCIS can provide a certified copy of Form I-864. The proposed rule would eliminate the requirement for a duly issued subpoena before USCIS will provide a certified copy. Note that the proposed rules would require credit reports, three years of tax returns and bank account information. Allowing this private financial information to be released to third parties without a due-process legal procedure is a serious invasion of privacy.

In conclusion, ACA OBJECTS to the proposed rule changes for the reasons stated above.

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