



Foreigners and Florida – Pathway to Paradise



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We are privileged to live in Florida, which is considered by many to be the closest thing to paradise that they will ever see. As American citizens, we have the freedom to live anywhere in the U.S. that we choose. This freedom of choice is not available for those who are not U.S. citizens. They must go through a series of procedures to enable them to enjoy the freedom that many of us have as a right of birth.

Not all foreigners desire to permanently live in Florida. Many of them are very happy to just be able to visit as a tourist. Others, who wish to spend more time in paradise, often buy a property, not only for use as a vacation home, but also as an investment that they can rent out and later sell, hopefully at a profit. Still others love it so much that they choose to make Florida their new home. The reality of this dream is often a lengthy and costly process. Unlike almost every other developed country, we have no “retirement” visa. Affluent, older, prospective immigrants cannot simply buy property, show money in the bank and a desire to make Florida their home. They must maneuver through the labyrinth of visa possibilities, mixing and matching to develop an effective immigration strategy to suit their personal needs and goals.

The news has been filled these past few years with the complex issue of immigration and the controversy over enforcement of our borders vs. an increase in benefits. Many terms have been paraded through the news, such as “illegal aliens,” “amnesty” and “a path to citizenship.” What many Americans do not realize is just how difficult it is for foreigners to come to live in the U.S., how strict our laws are and how cumbersome our rules appear to foreigners. And since the mainstream news focuses largely on the Mexican community, most Americans believe that the problem of illegal immigration is a Mexican border issue. In Sarasota, a significant percentage of our foreigners come from Europe or Canada. Those who overstay their permission to be in the U.S. or work without permission, or even stop going to school or stop working where they have been authorized to work, are all classified as illegal aliens by our legal system.

The practical impact of our immigration system typically requires that a foreigner come to the U.S. first as a non-immigrant with some sort of visa. Using one of only four methods to become a lawful permanent resident (“green card”), the foreigner can wait another 3 to 5 years to seek U.S. citizenship. There is no immediate route to citizenship except by transmission of that gift from parent to child and even those rules are cumbersome. Foreigners who want to participate in the American Dream of immigration must wait anywhere from 6 months if they marry to 20 years if they rely on U.S. citizen siblings. On average, it takes most people about 5-7 years to get green cards and another 5 years to acquire citizenship.

Moreover, the tax laws applying to foreign nationals are quite different than those applying to tax residents. Any attorney who has handled a real estate closing for a foreign seller is familiar with the provision of the tax law that requires 10% of the sales price to be deducted from the net proceeds and remitted to the IRS. Foreigners are also required to file a U.S. income tax return on certain types of U.S. income. In addition, the U.S. estate tax applies to foreigners who own U.S. real estate and/or other U.S. assets. Instead of receiving the \$5,000,000 exemption applicable to U.S. citizens, the foreign national is only entitled to a \$60,000 exemption. Tax treaties between the U.S. and the home country of the foreign national can greatly alleviate their U.S. tax burden.

If the foreign national does succeed in immigrating to the U.S., they are then subject to all the tax laws that apply to U.S. citizens. Even if they become U.S. tax residents, there may still be benefits available under the tax treaties. It is imperative that any tax advice given to foreign nationals take into consideration any available tax treaty provisions.

In summary, working with foreign nationals can be a very rewarding experience. They know how things are done in their own country, but recognize they must rely on professionals who are knowledgeable in their respective fields to guide them through the complexities of their various transactions in Florida. They tend to be very loyal clients and, in many cases, also become good friends.

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