

MEMORANDUM OF LAW ON DUAL CITIZENSHIP

Do Naturalized U.S. Citizens from Jamaica lose any Rights in Jamaica?

1. Jamaica recognizes the concept of **Dual Citizenship**.
2. A person who was born outside of Jamaica before August 6, 1962 and whose father or mother would have become a citizen of Jamaica on August 6, 1962 automatically became a Jamaican citizen. See Section 3A of the Jamaican Constitution.
3. A person who is married to a Jamaican citizen is entitled to be registered as a Jamaican citizen, regardless of his prior citizenship. See Sections 4 and 7 of the Jamaican Constitution.
4. Every person born in Jamaica after August 5, 1962 is entitled to Jamaican citizenship, regardless of whether he/she is entitled to the citizenship of any other country. See Section 5 of the Jamaican Constitution.
5. A person born outside of Jamaica after August 5, 1962 is entitled to Jamaican citizenship if his father or mother was born in Jamaica. See section 6 of the Jamaican Constitution.
6. The Governor General has a power to deprive a Jamaican of his Jamaican citizenship if (a) citizenship was acquired other than by birth; or (b) if a Jamaican citizen exercises a right of citizenship in a foreign country exclusively reserved for citizens of that country. See Section 8 of the Jamaican Constitution
7. There is nothing automatic about the deprivation of Jamaican citizenship by the Governor General. It may only be exercised in extreme circumstances. Parliament has a power to pass legislation to deprive a person of Jamaican citizenship (OTHER THAN A PERSON BORN IN JAMAICA). See Section 11 of the Constitution.
8. The mere fact that a Jamaican citizen becomes a naturalized U.S. Citizen does not automatically affect his Jamaican citizenship.
9. Such a person could only lose his Jamaican citizenship if (a) he was not born in Jamaica and (b) if the Governor General deprives him/her of that citizenship pursuant to Section 8 of the Constitution.
10. A Jamaican citizen who renounces his Jamaican citizenship at the time of naturalization as a U.S. Citizen does not automatically lose his Jamaican citizenship. This is so because by Jamaican law a Jamaican citizen can only lose his Jamaican citizenship if the Governor General deprives him/her of that citizenship.

11. Under the US Law, an alien is required to renounce his/her former citizenship at the time of naturalization. This renunciation does not automatically take away from a Jamaican citizen his citizenship of Jamaica.

12. The Constitution of the United States does not forbid dual citizenship. Indeed, the United States recognizes dual citizenship. This was decided in 1967 by the Supreme Court of the United States in the case of **Afroyim v. Rusk 387 US.S. 253, 67 S. Ct . 1660; 18 L. Ed. 2d. 757**, which decided that a US citizen did not lose his citizenship after foreign naturalization. Justice Black in writing for the majority of the Court said:

“We hold that the 154th Amendment was designed to, and does protect every citizen of this Nation against a Congressional forcible destruction of his citizenship, whatever his creed, color, or race. Our holding does no more than to give to this citizen that which is his own, a constitutional right to remain a citizen in a free country unless he voluntarily relinquishes that citizenship”.

13. A person who is born in the United States and becomes a citizen of the U.S. by birth, and who voluntarily becomes a citizen of another country and participates in that country's parliamentary elections, cannot be deprived of his U.S. citizenship as a result of such conduct.

14. An Article "Questions and Answers on dual U.S./other citizenship" states in paragraph 2 that "The official U.S. State Department Policy on dual citizenship is that the United States does not favor it as a matter of policy because of various problems they feel it may cause, but the existence of dual citizenship is recognized in individual cases".

15. At Paragraph 9 of the above Article the question is asked, **"I've heard of people who became U.S. Citizens via naturalization but then claim they still have their old citizenship too. How is this possible? One of the answers given is this:**

"The person's old country may not recognize the renunciation of citizenship he made as part of U.S. Naturalization. Such a person could be a dual citizen, as it were, in spite of himself".

16. Paragraph 10 of the Article on dual citizenship, in answer to the question; **If I am a dual U.S./other citizen, is there any way I can lose my U.S. Citizenship? states, inter alia.**

"On 16 April, 1990, the State Department adopted a new set of guidelines for handling dual citizenship which are much more streamlined and liberal than before:

The State Department now says that it will assume that a U.S. Citizen intends to retain (not to give up) his U.S. Citizenship if he:

- a. is naturalized in a foreign country;
- b. takes a routine oath of allegiance to a foreign country;
- c. accepts foreign government employment that is of a non policy level" nature.

17. Paragraph 12 of the Article deals with the Two Passport Questions and provides the following answer.

“There is nothing in U. S. Law forbidding a U. S. Citizen to possess both a U.S. Passport and a foreign Passport - provided of course, that the person really is a citizen of both countries”.

SUMMARY

Jamaica recognizes **dual citizenship**. Only the Governor General of Jamaica can deprive a Jamaican of his/her Jamaican citizenship.

The mere act of renunciation of Jamaican nationality in the naturalization process to become a U.S. Citizen does not deprive the Jamaican of his/her Jamaican citizenship.

It is not contrary to U.S. Law to have both a Jamaican Passport and a U.S. Passport.

Is this **Dual Citizenship**?

November 1, 2002

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