

## **THE BEIBEHALTUNGSGENEHMIGUNG - A PATH TO GERMAN-U.S. DUAL CITIZENSHIP**



For a long time German nationals had to choose between the U.S. and German citizenship but an amendment of the Staatsangehörigkeitsgesetz (“StAG” or “German Nationality Act”) in 2000 has made it much easier to retain German citizenship while naturalizing in the U.S. For many Germans becoming a U.S. citizen is a desirable goal. Being a citizen of the country in which one lives not only has a sentimental value, it also provides more stability than the permanent resident status, a status which bears the potential risk of being lost.

As a general rule, naturalization in the U.S. may result in the loss of the applicant’s German citizenship. This can be avoided by obtaining a Retention Certificate (“Beibehaltungsgenehmigung”) before naturalizing. In order to obtain a Beibehaltungsgenehmigung, German nationals must file an application with the competent German Consulate or Embassy. The ultimate decision on the application is made by the German Federal Office of Administration (“Bundesverwaltungsamt”) located in Cologne, Germany.

A successful application for a Beibehaltungsgenehmigung needs to withstand a two-prong test.: First, the applicant has to show that he or she has close ties to Germany, which will justify keeping German citizenship upon naturalization in the U.S. Second, the applicant has to show that it is advantageous for him or her to obtain U.S. citizenship or that it will eliminate significant disadvantages. The reasons need to be laid out in detail and the applicant has to provide proof for the claims made. Examples of close ties to Germany are regular visits to Germany; the existence of close relatives; ownership of real estate located in Germany etc. Advantages of the acquisition of U.S. citizenship include business or family relations whereas inheritance tax law issues are an example for significant disadvantages. General restrictions, like the lack of the right to vote or the need to renew one’s residence permit, are general factors which affect all foreigners and therefore are not regarded as sufficient reasons for the issuance of a Beibehaltungsgenehmigung.

In practice it is not unusual that applications get rejected or the approval is delayed because the applicant stated insufficient grounds or submitted insufficient documentation although he or she would make an eligible candidate. Since the decision of the Bundesverwaltungsamt is discretionary, the outcome of the application highly depends on the presentation of the case and the completeness of documentation.

The Beibehaltungsgenehmigung becomes valid when its beneficiary or his or her authorized representative picks it up at the German Consulate or Embassy. It remains valid for a period of 2 years. It is of utmost importance to wait until the Beibehaltungsgenehmigung is handed to the applicant before naturalizing. Pursuant to StAG, if a German national fails to have a Beibehaltungsgenehmigung in his or her hands before obtaining U.S. citizenship, he or she will automatically lose German citizenship. This may become reality if a German national fails to apply for a Beibehaltungsgenehmigung or files for naturalization too soon and gets naturalized before the certificate of the Beibehaltungsgenehmigung was handed to him or her.

## **OUR FIRM**

Law Offices of Annabelle Fischer is an immigration law firm based in New York City. We provide legal services to international and domestic companies and individuals with respect to business and family based U.S. Immigration and Naturalization Law, especially dual citizenship. Our clients include multinational, medium-sized and growing companies, as well as individuals from various different industries. We provide consultations in English, German and French.

Annabelle Fischer is an attorney licensed to practice law in Germany and New York, USA.

## **Law Offices Of Annabelle Fischer**

The Chrysler Building  
405 Lexington Avenue, 37<sup>th</sup> Floor  
New York, NY 10174, USA  
Tel: +1-646-237-0423  
Fax: +1-212-972-3026  
E-Mail: [annabelle@afischerlaw.com](mailto:annabelle@afischerlaw.com)  
[www.afischerlaw.com](http://www.afischerlaw.com)