

Illegal Aliens – Three and Ten Year Bars

Minnesota Immigration Lawyers

The Immigration and Nationality Act (INA) section 212(a)(9)(B)(i) bars certain immigrants from returning to the United States if they accrued unlawful presence, i.e., were in the U.S. illegally. This means that if you have been in the U.S. illegally and then leave the country, you could be prevented from returning for several years. This applies whether the USCIS knows that you were in the country illegally or not. If you admit to being in the U.S. illegally or the Immigration Service learns of it, the bar applies.

What are the immigration bars?

If you were in the country illegally for **more than 180 days** but less than one year and then leave, you are barred from returning for three years. If you were in the U.S. illegally for **one year or more** and you leave, you will be barred for ten years. In addition to the 3 and 10 year bars, there is also a permanent bar you need to know about.

Permanent Bar – INA section 212(a)(9)(C)(i) permanently bars you from returning to the U.S. if you were previously in the U.S. illegally for a year or more, or were deported, left the country, and attempt to return without a proper visa. Anyone in this situation cannot even seek a visa to return for at least ten years. After the ten years has passed, you would still need a waiver to return; the visa issuance is not automatic merely because you stayed out of the country for ten years.

What should I do?

Call an immigration attorney before you leave the United States to discuss any possible bars on returning in the future. As you will see from the information above, it is the departure from the United States that triggers these immigration bars. This means that if we can fix your immigration status from within the U.S., the bars would not apply. Not all violations of the immigration law make one subject to these bars and therefore, an analysis of your situation is needed. In some instances there are waivers available that would permit you to come back before the three or ten year bar is reached, but waivers are beyond the scope of this article.

Minneapolis Immigration Lawyers can be reached at www.cundyandmartin.com.