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affidavit of support under section 213a of the ina form i

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Affidavit of Support Under Section /213(a) of the INA: A Complete Guide

When a foreign national seeks to enter the United States for family or employment purposes, the **Affidavit of Support** is one of the most critical documents in the immigration process. Rooted in **Section /213(a) of the Immigration and Nationality Act (INA)**, this legal pledge binds the sponsor to provide financial assistance to the immigrant, ensuring they will not become a public charge. Understanding the nuances of this affidavit, from its legal foundation to the practical steps of filing Form I 864, is essential for anyone involved in sponsoring a relative or employee.

In this article, we will walk through the entire journey of the affidavit of support: its purpose, the statutory framework, the required form, step by step instructions, common pitfalls, special circumstances, and the legal consequences of mistakes. By the end, you will have a clear roadmap to complete a flawless affidavit, safeguarding both your responsibilities and the immigrant's future in the United States.

Understanding the Affidavit of Support

What Is an Affidavit of Support?

An **Affidavit of Support** is a sworn, written statement in which a U.S. citizen, lawful permanent resident, or certain other qualifying individuals promise to financially support an immigrant. The affidavit ensures that the immigrant will not rely on public benefits such as Medicaid, food stamps, or welfare. It is a binding legal contract; if the immigrant becomes a public charge, the sponsor can be held liable for the costs.

Legal Basis: Section /213(a) of the Immigration and Nationality Act

Section /213(a) of the INA mandates that all family-based and certain employment-based immigrant visa applicants submit an affidavit of support. This section provides the statutory authority for the U.S. Citizenship and Immigration Services (USCIS) to require sponsors to meet income and asset thresholds. The affidavit is codified in the Code of Federal Regulations (8 /CFR /214.2) and is enforced through the **Form /I 864**, the official name of the Affidavit of Support.

Form /I 864: The Core of the Affidavit Process

Who Must File a Form /I 864?

- U.S. citizens or lawful permanent residents sponsoring a relative for a family-based immigrant visa.
- Certain employment-based sponsors, such as employers who petition for an employee under a specific visa category.
- Domestic partners or spouses of U.S. citizens in certain circumstances.
- Individuals sponsoring a refugee or asylee who has been granted a visa.

In all cases, the sponsor must demonstrate that they have the financial means to support the immigrant at or above 125% of the U.S. poverty guidelines.

Key Requirements and Income Thresholds

The sponsor's income is measured against the **U.S. Department of Health & Human Services (HHS)**

poverty guidelines. These guidelines vary by household size and are updated annually. For example, in 2024 the 125% threshold for a household of two was $26,500. The sponsor can use current-year income, the average of the last three years, or a combination of income and assets if they fall short of the required threshold.

Key points to remember:

- Household Size: Includes the sponsor, the sponsored immigrant, any other dependents, and the sponsor's spouse.
- Income Sources: Wages, salaries, bonuses, self‑employment income, investment income, and other legitimate sources.
- Assets: Savings, stocks, real estate, or any other property that can be liquidated.
- Public Assistance: The sponsor must certify that they are not receiving public benefits that would affect the affidavit.

Step‑by‑Step Guide to Completing the Affidavit of Support

Gathering Necessary Documents

1. Proof of Income: Recent pay stubs, W‑2 forms, or a self‑employment tax return (Schedule C).
2. Tax Returns: Federal income tax returns for the last three years, including all schedules.
3. Employment Verification: A letter from the employer confirming employment status and salary.
4. Bank Statements: For asset calculations.
5. Proof of Citizenship or Lawful Permanent Resident Status: U.S. passport, birth certificate, naturalization certificate, or green card.
6. Household Information: Names, dates of birth, and relationship of all household members.

Filling Out the Form

Form I‑864 is available on the USCIS website. When completing the form, pay close attention to the following sections:

- Section /A – Sponsor's Information: Full legal name, address, and citizenship status.
- Section /B – Household Information: Household size calculation and the sponsor's income.
- Section /C – Income Verification: Detailed income sources, including employment and self‑employment.
- Section /D – Asset Verification: If the sponsor's income is below the threshold, provide asset documentation.
- Section /E – Affidavit Statement: The sponsor's sworn statement of financial responsibility.
- Section /F – Sponsor's Signature: The sponsor must sign and date the form in the presence of a notary public.

Always double‑check the math: the sponsor's income plus the value of qualifying assets must meet or exceed 125% of the poverty guideline for the household.

Submitting the Affidavit

Once the form is completed and signed, attach all supporting documents and submit the package to the appropriate USCIS office or consular post. For most family-based cases, the affidavit is submitted along with the immigrant's visa application packet. If the sponsor is a U.S. citizen, they can file the form electronically via USCIS's **e‑file system**For green card applicants, the affidavit is usually mailed to the USCIS lockbox.

Common Pitfalls and How to Avoid Them

Misunderstanding Income Calculations

Many sponsors mistakenly use only their most recent year's income. The form allows the use of the average of the last three years, which can provide a more accurate representation of financial stability. Always calculate the

average or combine current and previous years as required.

Failure to Meet Household Size Requirements

Household size is a crucial factor. Sponsors often forget to include all household members, leading to a lower threshold and an incomplete affidavit. Double check the list of household members before calculating the poverty guideline.

Documentation Errors

Missing or incomplete documents can delay the application or result in a denial. Ensure every piece of supporting evidence is clearly labeled and matches the form's reference numbers. Keep copies for your records.

Special Cases and Exceptions

Self Sponsorship for Certain Immigrants

Some immigrants, such as certain refugees and asylees, may qualify for self sponsorship if they can demonstrate sufficient income or assets. However, this is rare and requires a detailed petition to USCIS explaining the financial circumstances.

Use of a Co Sponsor

When a primary sponsor's income is insufficient, a co sponsor can step in. The co sponsor must be a U.S. citizen or lawful permanent resident, meet the same income thresholds, and sign a separate Form I 864. The co sponsor's affidavit is attached to the primary sponsor's packet.

Previous Affidavit of Support Disqualifications

If a sponsor has previously failed to support an immigrant, leading to a public charge determination or a court order, that history can impact future affidavits. It's advisable to consult an immigration attorney to navigate any potential complications.

Legal Consequences of a Faulty Affidavit

Potential Penalties

Providing false information on a Form I 864 can lead to civil penalties, including fines of up to $10,000, and criminal charges that may result in imprisonment. The sponsor can also face removal proceedings if the immigrant becomes a public charge.

Impact on Future Immigration Benefits

A sponsor's failure to meet the affidavit's obligations can jeopardize future visa petitions for other family members. USCIS may impose a 10 year bar on the sponsor's ability to file new immigration applications.

Tips for a Successful Affidavit of Support

Maintain Accurate Records

Keep a dedicated file of all income statements, tax returns, and asset documents. This makes it easier to assemble the affidavit quickly and reduces the risk of errors.

Consult an Immigration Attorney

Complex financial situations or prior immigration issues warrant professional guidance. An experienced attorney can help interpret regulations, prepare supporting documents, and address any legal concerns.

Use Online Resources and Checklists

USCIS provides a comprehensive **Affidavit of Support Checklist** that outlines all required documents. Many immigration websites also offer downloadable PDF forms and step by step tutorials. These resources help ensure you haven't missed any critical component.

Conclusion

The **Affidavit of Support under Section /213(a) of the INA** is more than a bureaucratic form; it's a legal covenant that safeguards the immigrant's well being and upholds the integrity of the U.S. immigration system. By understanding the statutory framework, meticulously completing Form I 864, and avoiding common pitfalls, sponsors can provide robust financial backing and smooth the path to permanent residency or citizenship for their loved ones.

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