Protecting Assets & Child Custody in the Face of Deportation

A Guide for Practitioners Assisting Immigrant Families

Product of the Appleseed Network

Now Featuring
New & Revised Content For 2017
FOREWORD

Dear Friends,

Can you imagine being abruptly ejected from the United States — and leaving behind your home, your children, your job, your bank account, and everything else you’ve spent years to build? Can you imagine what your children would feel when they arrived home and you’re gone?

Deportation can be a cataclysm for families and communities, destroying decades of hard-earned assets and rupturing family development. But with advanced planning, immigrant families can prevent an enormous amount of this damage.

That’s why Appleseed is proud to present an updated version of its 2012 Manual, “Protecting Assets and Child Custody in the Face of Deportation.” This one-of-a-kind resource is designed for immigrants and those who work with them; the host of attorneys, nurses, social workers, religious workers who are stepping up in challenging times.

Appleseed’s Manual will help families develop plans in advance to deal with critical financial and family issues in the event of deportation, arrest, and other family emergencies. It will help immigrant families deal with child custody and related children’s issues, personal finances, assets and personal property, remittance payments, wages and benefits, business issues, and taxes. And it includes special guidance for family and children’s issues, including professional advice for parents to help their families deal with painful psychological issues, and for immigrant survivors of domestic violence and sexual assault.

Make no mistake: for vulnerable immigrant families, advance planning can make all the difference. Once an immigrant is detained or deported from the United States, navigating a legal proceeding or managing assets is much more difficult, or even impossible, especially since immigration laws bar immigrants from reentering the United States after deportation for several years.

We are grateful to our pro bono law firms, volunteer psychologists, translation companies, and more than 20 nonprofit partners across the country who wrote, researched, proofread, and translated this manual into Spanish. We could simply not have done it without you. Thank you so much to Adams and Reese LLP, the Asian Pacific Institute on Gender-based Violence, ASISTA, Ballard Spahr LLP, BGBG Abogados, Cooley LLP, Directum Translations, Hogan Lovells LLP, Mexico Appleseed, the Mexico
City Department of Labor, MomsRising/MamasConPoder, Norton Rose Fullbright, O’Melveny & Myers, The William Alanson White Institute Center for Public Mental Health, and White & Case for your commitment, careful drafting, and counsel during this process. We are also deeply grateful to the Annie E. Casey Foundation and the Ford Foundation for their support of these efforts.

Immigrants come to the United States to build a better future and to unite with family members. Most have lived in the United States for many years, paying taxes and joining the daily life of their communities. Over time, immigrants buy homes, start businesses and build personal assets. When they build better lives, they make our country stronger.

That’s why this Manual is a labor of love for all who worked on it. We are committed to fairness and compassion for the millions of immigrants living in our country. Our hope is that you can use this resource to help them build better lives.

Sincerely,

Annette LoVoi, Director, Financial Access and Asset Building, Appleseed
Disclaimers

Each Chapter is intended to provide generalized information on a particular topic. In many cases, laws may differ from state to state. Therefore, this information is not intended to replace state-specific legal assistance. Nothing in this manual is intended to create an attorney-client or fiduciary relationship.

Appleseed recognizes and understands the legal term “alien,” used to describe any person born in another country to parents who are not American and who has not become a naturalized citizen, but is living or staying in the United States. However, throughout this Manual, we will primarily use the term “immigrant” in place of the term “alien” based on AP Stylebook guidance and the recommendations of our partners. The exception will be when citing laws, codes, or regulations that specifically use the term “alien.”
13. Cars, Car Loans, and Car Leases

If you are being deported, you can sell your car, give it up, or take it with you. It depends on whether you own or lease your car and if you have a car loan. This chapter addresses the following issues:

- What Can You Do With Your Car If You’re Being Deported?
- What Can You Do If You Own Your Car Outright?
- What Can You Do If You Have a Car Loan?
- What Can You Do If You Lease Your Car?
- Surrendering Your Car to a Lender or Leasing Company
- Selling Your Car
- Insurance and Registration
- Exporting Your Car

What Can You Do With Your Car If You’re Being Deported?

It depends on whether you own or lease your car. If you own your car, it also depends on whether or not you have a loan.

What Can You Do If You Own Your Car?

If you own your car, you can sell it or export it. Exporting a car can be complicated, so it may be simpler to sell your car in the U.S. and buy a new car in your destination country. Please see below for more information about selling or exporting your car.

What Can You Do If You Have a Car Loan?

If you have a car loan, you should start by reviewing your loan documents. Depending on what they say, you may be able to:

- pay off the loan and export your car;
- sell your car and pay off the loan with proceeds;
- sell your car to someone who is willing to assume the loan; or
- surrender your car to the lender.
Please see below for more information on selling or exporting your car.

**What Can You Do If You Lease Your Car?**

If you lease your car, you should start by reviewing your lease. Depending on what it says, you may be able to:

- terminate and pay off the lease;
- sell the lease to someone else (e.g., using online or other services);
- surrender the vehicle to the leasing company (you will owe any deficiency);
  or
- if your car is worth more than the lease payoff, you can sell your car and pay off the lease at the same time.

If another person is obligated on the lease, you should tell that person about your situation.

See online websites or other resources for more information on ending your lease early. While we do not endorse particular businesses, we believe it is important to point immigrants who may not have made similar transactions to examples of services. Some examples are:

- [http://www.jdpower.com/cars/articles/tips-advice/how-end-your-lease-early](http://www.jdpower.com/cars/articles/tips-advice/how-end-your-lease-early)

**Surrendering Your Car to a Lender or Leasing Company**

If you have a car loan, you can surrender your car to your lender. Check your loan documents for details. You may be able to negotiate any fees for defaulting on your car loan if you explain your situation to the lender.

If you lease your car, you can return your car to the leasing company. Check your lease agreement for details, especially because there may be a penalty for ending your lease early. You may be able to negotiate this penalty if you explain your situation to the leasing company.

**Selling Your Car**

Before selling your car, find out how much your car is worth using the Kelley Blue Book ([http://www.kbb.com](http://www.kbb.com)) or another resource. Decide the lowest price that you would accept for your car.
If you still owe money on the car, compare the value of your car to the amount left on your loan. If your car is worth more than the loan and you have enough money to pay off the loan, you can pay off the loan, then sell your car. If you do not have enough money to pay off the car loan before finding a buyer, you can use the buyer’s payment to pay off the loan and keep the difference as profit. You will have to get permission from your lender(s) to make the sale in order to transfer clear title to the buyer. If the car is worth less than the loan, consider surrendering the car to the lender instead of selling it.

You can sell your car to another person using on-line or paper classified advertisements or word-of-mouth. You can also sell your car to a used-car dealership.

Before allowing a potential buyer to test drive the car, make sure that your insurance policy covers test drives.

Put the sale terms in writing and get the payment from the buyer in cash or a certified check to limit the chances of fraud before giving the keys or transferring the title to the buyer.

File the necessary forms for transferring title and for sales tax purposes.

If you don’t have time to sell your car before you leave, you could give a limited Power of Attorney (POA) to a trusted friend and ask the friend to sell the car for you. You will have to give your friend the signed vehicle title to give to a buyer.

See these websites for more information on selling your car:

- [https://www.kbb.com/sell-your-car/steps-to-sell-your-car/](https://www.kbb.com/sell-your-car/steps-to-sell-your-car/)
- [https://www.carfax.com/guides/selling/private-party-sale](https://www.carfax.com/guides/selling/private-party-sale)
- [https://www.edmunds.com/sell-car/10-steps-to-selling-your-car.html](https://www.edmunds.com/sell-car/10-steps-to-selling-your-car.html)

**Insurance and Registration**

If you sell or surrender your car, cancel your car insurance and registration and take your license plates to the Department of Motor Vehicles. You may have to take the registration sticker and inspection sticker off the car too.
Exporting Your Car

To export your car, you have to meet exportation requirements in the United States and importation requirements in your destination country.

U.S. Exportation Requirements

If you want to export your car, you’ll have to hire a U.S. agent (a Freight Forwarder, Broker, etc.) to file export information with U.S. Customs on your behalf. This information includes the original Certificate of Title for your car or a Certified Copy of the Certificate of Title and two complete copies of the original Certificate of Title or the Certified Copy. Your agent will have to file this information at least three days before you plan to export your car.

If the title to your car shows that there is a lien on your car, you will have to show that the lien has been removed or that you have the lienholder’s permission to export your car. A lien is a legal document that permits the lender to repossess your car if you fail to make payments.

See online websites or other resources for more information on exporting your car. While we do not endorse particular businesses or services, we believe it is important to point immigrants who may not have made similar transactions to sources of information. Some examples are:

- [https://www.cbp.gov/trade/basic-import-export/export-docs/motor-vehicle](https://www.cbp.gov/trade/basic-import-export/export-docs/motor-vehicle)

Mexican Importation Requirements

Importing a car to Mexico is relatively complicated. The requirements depend on your car’s age and Vehicle Identification Number (VIN). Consider hiring a Mexican Customs Broker Agency to import your car for you.

See online websites or other resources for more information on importing your car to Mexico. While we do not endorse particular businesses or services, we believe it is important to point immigrants who may not have made similar transactions to sources of information. Some examples are:

- [http://www.expatsinmonterrey.com/single-post/2016/04/14/FAQ%C2%B4s-Importing-cars-in-to-M%C3%A9xico](http://www.expatsinmonterrey.com/single-post/2016/04/14/FAQ%C2%B4s-Importing-cars-in-to-M%C3%A9xico)
• http://www.bajainsider.com/article/how-import-your-car-mexico