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 Fulbright, 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.”
16. Taking Money Across the Border

Taking cash or things like cash (such as checks, money orders, etc.) across the border presents both legal and practical concerns. This section discusses these concerns, which are relevant to all people leaving the United States, both in the deportation context and otherwise. The chapter addresses the following issues:

What Legal Obligations Does an Individual Have When Taking Cash or Things Like Cash When Leaving the United States? What Practical Issues Should an Immigrant Facing Deportation Consider? How Do You Find and Receive Your Unclaimed Assets?

What Legal Obligations Does a Person Have When Taking Cash or Things Like Cash When Leaving the United States?

There is no limit to how much cash a person may take when leaving the country. However, if a person takes more than $10,000 in (i) cash, (ii) traveler’s checks, (iii) checks that have not been made out to a specific person or (iv) money orders across the border at one time, they must fill out a form called “Report of International Transportation of Currency or Monetary Instruments” or FinCEN Form 105. This form may be obtained from a customs officer at the point of departure from the U.S. or online at https://www.fincen.gov/sites/default/files/shared/fin105_cmir.pdf. If a person facing deportation does not make this declaration, the currency may be seized.

Note that a person does not have to report checks or money orders if they have not yet been endorsed or don’t contain any restrictive endorsements. Although these checks are not required to be reported, the person should consider reporting the checks to avoid any delays in crossing the border.

Is There a Cost to Filing This Form?

No. There is no cost for filing FinCen Form 105. The form may be obtained for free from the customs officers or customs website.
**Is There a Duty or Tax on the Money Reported?**

No. Customs does not charge taxes on cash or things like cash that must be reported in FinCEN Form 105.

**What May Happen if the Cash or Money is Not Reported or Not Properly Reported?**

If a person does not report amounts greater than $10,000, then customs may seize the money. If the money is seized by customs, there is a risk that the money will not be returned to the person. In some cases, especially if there is related criminal activity, there may be criminal penalties for failing to report the money.

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**What Practical Issues Should an Immigrant Facing Deportation Consider?**

There are risks associated with transporting large amounts of cash across the border or generally when leaving the country. Cash and checks are generally not retrievable if lost or stolen while traveling.

A person facing deportation should consider carefully whether they are willing to take this risk. There may be other options for removing cash assets from the United States upon deportation.

**For Immigrants Prior to Detention**

If you are able to go to the bank in person, you may request a bank draft made out to “payee.” This is slightly safer than cash because the draft can be cancelled if lost or stolen. But the lost or stolen draft must be cancelled before another person finds the draft and cashes it, and it may be difficult to cancel the draft quickly (because a deported immigrant would have to contact the United States bank from the home country, taking into account business hours and time differences). Also, some banks charge fees to issue and cancel a bank draft, and banks in the immigrant’s home country may charge a fee to cash the draft.

**For Detained Immigrants**

For an individual who has been detained and who will not be released prior to deportation, it may be impossible to go to the bank in person. However, the immigrant can take certain steps so that they will have the cash when they arrive in their home country.
Withdrawing Cash While the Immigrant is Detained

An individual in detention who has cash in a bank account can withdraw that cash using a variety of methods. One option is for the person facing deportation to give their bankcard to a trusted friend or family member and ask them to withdraw the cash. Later, this person can send the money to the immigrant via Western Union (or another similar service) once they reach their home country. Keep in mind that the individual withdrawing the money will need to know the immigrant’s PIN number to get the cash and will have access to all of the immigrant’s money.

Another option is to have the bank card itself mailed to a trusted friend or family member in the immigrant’s home country and then have the immigrant retrieve the card and withdraw the cash upon arrival.

Third, if the immigrant had a chance to set up a POA, their agent can authorize a bank draft or wire transfer of the money to the immigrant’s account in their home country (assuming the immigrant has a bank account in their home country) or, alternatively, the agent can send a check or money order directly to the immigrant in their home country.

Withdrawing Cash Outside of the United States

As discussed above, a United States bank account is accessible in many foreign countries through ATMs. Whether this is a useful or reliable method for extracting cash will depend on individual circumstances, including whether and to what extent ATMs are available. Note that this option also requires that the immigrant keep the United States bank account open after deportation. Nevertheless, in certain situations, this option may be best.

How Do You Find and Receive Your Unclaimed Assets?

An immigrant may have property in an account that has been unclaimed of which they have no knowledge. These assets may have come from various sources, and many times people are unaware of their existence. An immigrant can reclaim this property by contacting the unclaimed property office in their state. Or you can go to https://www.usa.gov/unclaimed-money (sponsored by the National Association of Unclaimed Property Administrators) for instructions on doing a more general search that covers more than one jurisdiction.
CHECKLIST: TAKING MONEY ACROSS THE BORDER

☐ If you take more than $10,000 in cash, traveler’s checks, checks not made out in your name or which have been endorsed but not made out to any specific person when you leave the United States, you must fill out a form called “Report of International Transportation of Currency or Monetary Instruments,” also known as FinCEN Form 105, which can be obtained from a customs officer at the point of departure or online at https://www.fincen.gov/sites/default/files/shared/fin105_cmir.pdf. If you do not make this declaration, the currency may be seized.

☐ Be very careful when transporting cash since it is not recoverable if it gets lost.

☐ If you are detained, you may have limited options for accessing your funds.

☐ If you have time to make arrangements to mail a debit card, or expect to withdraw money from the U.S. bank account in your home country, call the bank ahead of your departure to your home country to let them know there will be activity from your home country.

☐ If you plan to take any checks or money orders, you can make traveling with these items safer if they are made out to a specific person, or contain certain restrictions, such as, “for deposit only account number xxxxxx.” Keep in mind that placing such restrictions on the check or money order may also make it harder for you to cash the check in your home country if you do not have proper identification to show the bank in your home country.

- You may want to select a trusted friend or family member to give your debit card to in order to withdraw cash for you. The friend could give you the cash or send it to you by wire transfer once you reach your home country.
- If you have had a chance to set up a power of attorney, your agent could authorize a bank to draft or wire transfer of money to an account in your home country or send you a check or money order there.