



Robert W. Wood

THE TAX LAWYER

TAXES 3/11/2015

Give Up Citizenship, Keep Your Passport

Can you *ever* give up your passport and keep it? Axiomatically, one cannot renounce citizenship and become stateless, so you should first have another passport before you renounce. But what about renouncing and keeping your American passport? We'll come back to that seeming impossibility.

With a 422% price hike to give up a U.S. passport, you might think no one would renounce, especially now. Think again. Many who have a tenuous connection to the U.S. are finding that American disclosure and tax obligations are too onerous. Tax rules for U.S. citizens are notoriously unforgiving and expansive even for persons abroad.

As the uptick in American expatriations is continuing, the State Department [raised the fee](#) for renunciation from \$450 to \$2,350, more than [twenty times the average level](#) in other high-income countries. The list of the [individuals](#) who renounce keeps going up, with many claiming [they aren't counted](#). Of those on the official list, 2013 saw a 221% increase, with [record numbers renouncing](#). The Treasury Department is required to publish a [quarterly list](#), but these numbers are understated.



[FATCA](#), America's global disclosure law, isn't helping this trend. FATCA requires foreign banks everywhere to tell on Americans. Fortunately, the presence or absence of tax motivation is not relevant under current law. But regardless of what motivates a person to renounce, you can come back to see friends and relatives, right? It's an assumption that may not be safe these days.

To leave America, you generally must prove 5 years of U.S. tax compliance. If you have a net worth greater than \$2 million or average annual net income tax for the 5 previous years of \$157,000 or more for 2014 (that's tax, not income), you pay an [exit tax](#). It is a capital gain tax as if you sold your property when you left. At least there's an exemption of \$680,000 for 2014. Long-term residents giving up a Green Card can be required to pay the tax too.

No one is likely to want to pay an exit tax if they can avoid it. And sometimes planning and valuations can reduce or even eliminate the tax. But taxed or not, many still seem to be headed for the exits. Some groups are especially vocal about their tax plight. Dual citizens in Canada who are trying to shed their U.S. citizenship have [created a backlog](#) at the U.S. consulate in Toronto.

Can you keep your U.S. passport while you are trying to get your renunciation approved? The U.S. State Department has updated its Foreign Affairs Manual so individuals can keep their U.S. passports until the renunciation process is complete. In the past, one had to surrender a U.S. passport immediately following a renunciation interview.

The change was reportedly accomplished by law firm [Withers Bergman](#). It can help materially because U.S. citizens are not eligible for a U.S. visa, and without a passport, persons in this awkward transition status could be deprived of the ability to visit America. Consular Officers at U.S. Embassies and Consulates around the world have apparently now been instructed to return U.S. passports to any recent U.S. citizen renunciant with travel plans to America.

Of course, this is a stop gap measure only. A decision to expatriate should not be taken lightly. Yet around the world, many people are talking about taking this step. Increasing numbers of people are actually doing it too.

For alerts to future tax articles, follow me on Forbes. You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.