Forbes

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THE TAX LAWYER

TAXES 11/03/2017

Americans Renouncing Citizenship Hits New Record; Tax Bill Won't Change That

The number of Americans handing in their passports forever is statistically small, but there has been another notable spike. The total for the first quarter of 2017 was 1,313. The number on the second quarter's list went up to 1,759, which is the second highest quarterly number *ever* (second only to the fourth quarter of 2016, which had 2,365 published expatriates). The total for the third quarter of 2017 was 1,376, putting the annual tally on track to top 2016's record. Some observers may want to blame President Trump for the spike, but it is much more likely that longstanding tax issues are the real culprits. And the tax reform now being considered is hardly a game-changer. These 'published' numbers are probably lower than the real ones, for a variety of reasons.

The total for calendar 2016 was 5,411, up 26% from 2015, which had 4,279 published expatriates. The 2015 total was 58% more than 2014. These lists of those who expatriated may not seem big, but how complete these lists are remains unclear. Despite the official list, many leavers are not counted.

Curiously, both the IRS and FBI track Americans who renounce. The reasons for renouncing can be family, tax and legal complications, and some renouncers write why they gave up their U.S. citizenship.

One organization suggests renouncing U.S. citizenship not because of Trump, but because of American taxes. The newest list in the Federal Register names individuals who renounced U.S. citizenship, or who terminated long-term U.S. residency (green cards), during the third quarter of 2017. Expats have long clamored for tax relief, something the GOP tax bill does not appear to address. One law motivating some is FATCA, the Foreign Account Tax Compliance Act. FATCA has been ramped up worldwide, and requiring an annual Form 8938 filing if your foreign assets meet a threshold. It was enacted in 2010, and took years to implement. FATCA was painstakingly implemented worldwide by the U.S. Treasury Department, spanning the globe with an unparalleled network of reporting. America requires foreign banks and governments to hand over secret bank data about depositors. Non-U.S. banks and financial institutions around the world must reveal American account details or risk big penalties.

Some renounce because of global tax reporting and FATCA. Dual citizenship is not always possible, as this infographic shows. America's global income tax compliance and disclosure laws can be a burden, especially for U.S. persons living abroad. Their American status can make them untouchable by many banks. Many foreign banks do not want American account holders. Americans living and working in foreign countries must generally report and pay tax where they live. But they must also continue to file taxes in the U.S., where reporting is based on their worldwide income. A foreign tax credit often does not eliminate double taxes. Moreover, enforcement fears are palpable for the annual foreign bank account reports called FBARs. They carry big civil and even potential criminal penalties. The civil penalties alone can consume the entire balance of an account.

Ironically, leaving America can be costly. America charges $2,350 to hand in your passport, a fee that is more than twenty times the average of other high-income countries. The U.S. hiked the fee to renounce by 422%, as previously there was a $450 fee to *renounce*, and no fee to *relinquish*. Now, there is a $2,350 fee either way. The State Department said raising the fee was about demand and paperwork, but the number of American expatriations kept increasing. Moreover, to exit, one generally must prove 5 years of IRS tax compliance. And getting into IRS compliance can be expensive and worrisome. For some, a *reason* to get into compliance is to renounce.

Even the exit can be expensive. If you have a net worth greater than $2 million, or have average annual net income tax for the 5 previous years of $162,000 or more, you can pay an exit tax. It is a capital gain tax, calculated as if you sold your property when you left. A long-term resident giving up a Green Card can be required to pay the exit tax too. Sometimes, planning and valuations can reduce or eliminate the tax, but the tax worry can be real, even for those who will not face it.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.