HUFFPOST MONEY

Catherine New
catherine.new@huffingtonpost.com

American Expat Taxpayers Would Rather Ditch Citizenship Than Face New IRS Rules

Posted: 11/09/2012 2:46 pm EST Updated: 11/09/2012 3:51 pm EST

In 2005, Richard Morrison made a major life change. He moved from the sunny climate of San Diego to the chillier environs of London. It was a good move for his career and allowed him to climb the corporate ladder to where he is today, a legal counsel for an energy investment firm.

But now he's ready to make another life change: Morrison plans to ditch his American passport and become a British citizen. It's not because Morrison, 37, loves the London fog, but because his Yankee credentials will soon bring the Internal Revenue Service's gaze where it's unwanted: his workplace.

Under a new rule that is part of the Foreign Account Tax Compliance Act, or FATCA, all foreign financial institutions must report any accounts that have an American co-signer. Information required includes accounts used for personal and business reasons, and banks will face a hefty fine if they don't comply. American citizens abroad will also now be required to disclose certain types of assets.

The rules will be phased into place over the next several years. The original deadline for compliance was January 2013, but the tax agency recently extended the deadline to 2014 under pressure from foreign institutions facing compliance costs.

In an email to The Huffington Post, Morrison said he fears the new regulations will make him appear as a liability to his employer, hindering a hoped-for move the partner level at his firm. “If I am a signatory, all the firms' accounts will be monitored by Uncle Sam,” he said. While it's not Morrison's employer that is required to report to the IRS, but rather the bank that holds the firm's accounts, Morrison said he is taking no chances.

The rule change followed legislation made in the wake of the financial crisis that was meant to help the U.S. government close the tax gap and combat tax evasion. But the FATCA rule change is shaping up to be an administrative and diplomatic nightmare for some foreign banks. For expats, it is complicating life overseas, curtailing opportunities in everything from jobs to getting bank accounts -- and, of course, potentially raising their tax burden. The Wall Street Journal reported last month that Swiss banks are shutting Americans out from their client lists, as the institutions just don't want to bother with the administrative headache of having to answer to the U.S. tax bureau.

“The ones really complaining are the institutions,” said Robert Wood, a tax attorney based in San Francisco. “Do I see this impacting regular people living in Europe? Yes. It would impact all of us if Americans were pariahs.”

Of course, for Americans living overseas, the relationship with the IRS has always been fraught. Expats have been required to report personal accounts to the IRS for decades with a form commonly known as the FBAR. Enforcement, however, has been spotty at times, and foreign banks typically keep mum on clients' information. That discretion has been part of the allure of Swiss bank accounts and doing offshore business -- aspects of such foreign banking have been generally out of the IRS' reach.

Now, with the promise of higher taxes coming next year, many expats are saying enough. The benefits of holding an American passport may no longer outweigh the alternative. Tax lawyers and those in the expat community who spoke to HuffPost said the level of interest in expatriation is significantly up this year, though none provided specific numbers on just how many international U.S. citizens are joining other nations instead.

“For the most part, it is in reaction to the complexity of the legislation and the tax situation that affects Americans,” said Marylouise Serrato, executive director of American Citizens Abroad, an advocacy group for Americans who lives overseas.

In September, a professional group based in Geneva called The Americans in Switzerland wrote a 10-page letter to Congress spelling out the many problems they expected to encounter due to FATCA legislation, including getting shut out of financial institutions and the IRS' alleged use of rewards for informants willing to provide information about citizens suspected of not complying with U.S. tax code.

Of course, abandoning U.S. citizenship because of taxes is not a new thing. But it is hard to do. The number of people who expatriate each year is typically in the hundreds. Earlier this year, Facebook co-founder Eduardo Saverin renounced his American citizenship to move to Singapore; super-rich Democratic donor Denise Rich also gave up her passport to permanently move to Europe. Saverin and Rich did not say that their choices were made to avoid paying taxes, but experts say their moves are one way to legally avoid the IRS forever, particularly as capital gains taxes are set to rise.

Election season usually gives another little boost to the number of people who at least express interest in migrating elsewhere. Following the Bush-Kerry presidential race in 2004, Canadian immigration applications rose threefold, according to a story in the Atlantic.

To truly leave the U.S., one must clear several hurdles with the IRS, including paying a huge exit tax and ensuring a current status on the last five years of taxes. The U.S. is one of the only countries in the world that uses a citizenship-based tax law, which means many Americans living overseas pay local taxes in addition to American taxes.

Back in London, Morrison is not going to risk it with new IRS requirements. He has already taken the citizenship test for Britain, he said.

“I have no qualms about ditching the U.S. passport,” Morrison said. “The American government is essentially punishing those who choose to live overseas.”