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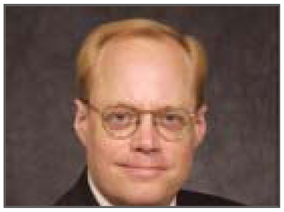

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THE TAX LAWYER

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Expats Face Steep Exit Tax Courtesy Of Facebook

Eduardo Saverin, co-founder of Facebook (Image credit: via @daylife)

Facebook's Eduardo Saverin must wish he wasn't the poster-child of wealthy investors fleeing America. Many rail at his tax reasons. He did the deed well in advance of Facebook's IPO. See Why Facebook's Co-Founder Just Defriended America and Facebook Co-Founder Saverin Fires Back At Senators' Accusations. It was a pretty smart move, perhaps saving Saverin $67 million or more in tax. See Facebook's Saverin May Save $67 Million on U.S. Tax Bill.

Some say he made his money here so should have to pay U.S. tax. Others say the U.S. tax system is increasingly anachronistic. We already taxed him as capital gain on the way out. But was it enough?

Senator Charles Schumer (D-NY) proposed legislation to impose a 30% tax unless an expat shows he didn't renounce to avoid taxes. See U.S. Lawmakers to Fight Facebook Co-Founder on Taxes. Schumer's proposal would not only slap a 30% tax on those renouncing for tax-avoidance, it would ***bar re-entry***. The name of the bill?

The **"Expatriation Prevention by Abolishing Tax-Related Incentives for Offshore Tenancy"**—that's **Ex-Patriot** for short. Schumer's bill requires the IRS to determine if individuals with a $2 million net worth or an average income-tax liability of at least $148,000 renounced for tax-avoidance. Tax avoidance is ***presumed*** *so e*xpats would need other reasons to escape the tax.

Unfortunately, we tried this once and it was a dismal failure. That's right, U.S. tax law ***used*** to proscribe tax avoidance but the law was eliminated. Why? Expats could easily show family, political, geographic or other reasons to flee.

In 2004, Congress threw out the tax avoidance test altogether. See Ten Facts About Tax Expatriation. From 2004 through 2008, expats were still subject to some U.S. tax for a 10 year window after expatriation. In 2008, the law changed again, this time with an exit tax as if you ***sold*** your property.

It currently applies regardless of the reason for expatriation. Schumer's new tax would double to 30% but only if tax avoidance motivated the expatriation. My prediction? Even if it passes, the IRS is unlikely to collect much money.

Barring a memo sent to the IRS admitting you are leaving solely for tax reasons, as under the old law, the IRS is likely to have a tough time. Still, Schumer plans to move the legislation quickly.

For more, see:

Facebook co-founder Saverin targeted by U.S. senators for tax 'avoidance scheme'

Tax Code Overhaul Must Be Made a U.S Priority, Camp Says

Tax Expatriates: We'll Always Have Paris

Celebrity Leavings: Bidding Stars Adieu

Living Abroad Sounds Idyllic-Until You Consider Taxes

Dual Citizen Tax Relief From IRS

Top Tax Tips From Zuckerberg's Facebook Bonanza

If IRS Is Like Kryptonite, What Would Superman Do?

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