



Relief Procedures for Certain Former Citizens

The IRS updated their procedures for certain former citizens who have renounced, or intend to relinquish, their U.S. citizenship. These are persons who wish to become compliant with their U.S. income tax and reporting obligations. By being compliant, they can avoid taxation as a “covered expatriate”, under section 877A of the U.S. Internal Revenue Code (IRC). The IRS website includes information on this announcement as well as Frequently Asked Questions (FAQ) that can assist those persons who are in question.

All U.S. Persons must remain compliant on their tax reporting requirements even while residing outside of the United States. U.S. citizens must report their worldwide income and financial assets high balances (if threshold met) each year to the U.S. government agencies. Persons born in the U.S. to foreign parents are considered U.S. citizens, or possibly “accidental Americans”. By relinquishing the U.S. citizenship and not being compliant could subject the person to taxes imposed by the IRS.

With the passage of the Foreign Account Tax Compliance Act (FATCA) on March 18, 2010, foreign financial institutions are required to determine whether their customers are U.S. citizens and, if so, report certain information about the customer’s account. U.S. citizens are still required to “*self-report*” their financial accounts via the FinCEN Form 114 (Report of Foreign Bank and Financial Accounts (FBAR)).

Individuals who seek to renounce or relinquish U.S. citizenship should be aware that expatriating may have U.S. tax consequences. To comply with existing tax law and to avoid significant tax liability under the U.S. Internal Revenue Code, U.S. citizens who renounce or otherwise relinquish their citizenship must comply with Federal tax requirements for the year of expatriation and for the five tax years *prior* to their expatriation, which includes using their SSN as their identification number on Federal Tax Returns.

Relinquishing U.S. citizenship and the tax impacts of surrendering U.S. citizenship are severe complications that involve irrevocable results. Persons should consider conferring legal counsel before making any decisions about relinquishing U.S. citizenship.

With the announcement of the Relief Procedures for Certain Former Citizens, the IRS is providing an alternative method to satisfy the tax compliance certification process for citizens who expatriate *after* March 18, 2010. However, these procedures are only available to U.S. citizens with a net worth of *less* than \$2 million (at the time of expatriation and at the time of making their request under these procedures), and an



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aggregate tax liability of \$25,000 or less for the taxable year of expatriation *and* the five prior years. If these individuals present the information and meet the requirements of these procedures, they will not be “covered expatriates” under IRC 877A, nor will they be liable for any unpaid taxes and penalties for these years, or any previous years. Individuals seeking to enact under these procedures may file their reports without a social security number.

These procedures may only be used by taxpayers whose failure to file required tax returns (including income tax returns, applicable gift tax returns, information returns (including Form 8938, Statement of Foreign Financial Assets), and FBAR, and pay taxes and penalties for the years at issue was due to *non-willful* conduct. Non-willful conduct is conduct that is due to negligence, carelessness, or error or behavior that is the consequence of a good faith misinterpretation of the requirements of the law.

Additional information as well as access to the IRS FAQ, please visit the IRS website [here](#). Any questions can be addressed to us as well [here](#). Read about the FBAR to determine the requirements for filing [here](#). If considering to relinquish U.S. citizenship, additional information can be obtained [here](#) on the U.S. government website.

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