



---

CLIENT BRIEFING • INTERNATIONAL TAX

# The U.S. Expatriation Tax

*What Covered Expatriates Owe the IRS on the Way Out*

---

Renouncing U.S. citizenship or handing back a long-held green card does not end your relationship with the IRS on the spot. Section 877A treats the departure itself as a taxable event, and for the wrong client, that one day can generate a larger tax bill than several years of ordinary filing ever did.

This briefing walks through who is affected, how the exit tax is actually calculated, the special categories of assets that get worse treatment, and the filing steps that keep a client from becoming a covered expatriate by accident.

## What the Expatriation Tax Is

---

The expatriation tax, sometimes called the “exit tax,” applies to two groups: U.S. citizens who formally give up citizenship, and long-term residents (green card holders) who end their U.S. residency. It does not apply to every person who leaves. It applies only to a defined subset the Code calls “covered expatriates,” and the rules in force depend on the date of expatriation, with the current mark-to-market regime governing expatriations on or after June 17, 2008.

The idea behind the rule is straightforward even though the mechanics are not: if leaving the U.S. tax system permanently would otherwise let a high-net-worth or high-income individual walk away from built-in gains untaxed, Congress wants the IRS paid first. In practice that means treating the expatriate as if every asset they own were sold the day before they left.



---

## Who Counts as a “Covered Expatriate”

---

An individual who expatriates on or after June 17, 2008 is a covered expatriate if any one of three tests is met. Only one test needs to be triggered; there is no need to fail all three.

1. Net income tax test. Average annual U.S. net income tax liability for the five tax years ending before expatriation exceeds an inflation-adjusted threshold. The threshold has risen from \$600,000 as a 2008 baseline and stands at \$206,000 for expatriations occurring in 2025.
2. Net worth test. Net worth of \$2,000,000 or more, measured worldwide, as of the date of expatriation. Unlike the income test, this threshold is fixed by statute and is not indexed for inflation.
3. Certification test. Failure to certify, on Form 8854, compliance with all federal tax obligations for the five years preceding expatriation. This is the test clients trip over most often, usually from incomplete filing history rather than any actual tax owed.

| Expatriation Year | Average Annual Net Income Tax Threshold |
|-------------------|-----------------------------------------|
| 2017              | \$162,000                               |
| 2018              | \$165,000                               |
| 2019              | \$168,000                               |
| 2020              | \$171,000                               |
| 2021              | \$172,000                               |
| 2022              | \$178,000                               |
| 2023              | \$190,000                               |
| 2024              | \$201,000                               |
| 2025              | \$206,000                               |

*A narrow set of exceptions can exempt certain dual citizens from birth and certain minors from covered expatriate status even if the net worth or income test is met, provided specific residency and filing conditions are satisfied. These exceptions do not excuse the Form 8854 certification requirement.*



---

## The Mark-to-Market Exit Tax

---

Once someone is a covered expatriate, IRC §877A applies a mark-to-market regime: all property the individual owns, worldwide, is treated as sold for fair market value on the day before the expatriation date. Any resulting gain is includible in income for that year; any loss is deductible under the normal rules, though the wash sale rules are turned off for this purpose.

The deemed gain is not taxed dollar for dollar. It is reduced first by an exclusion amount, adjusted annually for inflation, which stood at \$600,000 for the 2008 baseline year and has grown to \$890,000 for 2025 expatriations. Only the gain above the exclusion is taxed, generally at ordinary capital gains rates depending on the character and holding period of each asset.

### ILLUSTRATIVE EXAMPLE — 2025 EXPATRIATION

Worldwide built-in gain across all assets: \$5,000,000

Less: exclusion amount (2025): (\$890,000)

Taxable deemed gain: \$4,110,000

Approximate federal tax at long-term capital gain rates: \$978,000

Figures are illustrative only. Actual liability depends on asset mix, holding periods, the net investment income tax, and state tax exposure.

---

## Assets That Do Not Get the Favorable Treatment

---

Several categories of property fall outside the ordinary mark-to-market rule and are taxed under separate, generally less forgiving provisions. The \$890,000 exclusion does not apply to any of them.

- Deferred compensation items — including many nonqualified deferred compensation arrangements — are treated as though a lump-sum payment were received on the day before expatriation, or subjected to a 30% withholding tax, depending on whether the payor is willing to be treated as reporting the arrangement.



- 
- Specified tax-deferred accounts — IRAs, certain qualified retirement plans, and similar vehicles — are treated as fully distributed on the day before expatriation, with the resulting income taxed immediately, even though no funds actually change hands.
  - Interests in non-grantor trusts are not marked to market at all. Instead, taxable distributions from the trust to the former citizen or resident are subject to 30% withholding going forward, indefinitely.

## **The Deferred Payment Election**

---

A covered expatriate who cannot or would rather not pay the exit tax immediately may elect to defer payment of the tax attributable to the deemed sale, asset by asset. The election requires posting adequate security with the IRS, generally a bond, and it requires the taxpayer to irrevocably waive any treaty right that would otherwise reduce or eliminate the tax. Interest accrues on the deferred amount, and the full deferred balance becomes due, with interest, no later than when the underlying asset is actually sold, gifted, or upon the taxpayer's death. This election is not available for the deferred compensation and retirement account items described above.

## **Section 2801: The Tax That Follows You Home**

---

Congress did not stop at taxing the expatriate. Under Section 2801, any U.S. citizen or resident who later receives a gift or bequest from a covered expatriate owes a separate transfer tax of 40%, the highest marginal estate and gift tax rate, on the value received above the annual gift tax exclusion amount. The tax is owed by the U.S. recipient, not the expatriate, and it applies regardless of how long ago the expatriation occurred or where the expatriate is now tax resident.

This provision is easy to overlook because the people it affects, the U.S. relatives left behind, are rarely part of the original expatriation planning conversation. Family gifting and estate plans that route assets to a covered expatriate's U.S. beneficiaries need to



---

be built with Section 2801 in view from the start, not discovered by the beneficiary when a check arrives.

## **Form 8854 and the Filing Requirement**

---

Every individual who expatriates must file Form 8854, Initial and Annual Expatriation Statement, to notify the IRS of the expatriating act, to make the required certification of five years of tax compliance, and, where applicable, to compute the mark-to-market tax itself. Form 8854 also satisfies the annual information reporting obligation under IRC §6039G for covered expatriates who owe continuing obligations, such as those making the deferred payment election.

Failure to file Form 8854 when required carries a \$10,000 penalty, separate from and in addition to any tax due. Because the certification test above turns on this same form, a late or incomplete Form 8854 can retroactively convert a client who would otherwise have escaped covered expatriate status into one who has not.

## **When Expatriation Actually Occurs**

---

The expatriation date controls which year's thresholds and exclusion amounts apply, so pinning it down precisely matters. For a U.S. citizen, the relinquishment date is the earliest of: the date the individual renounces citizenship before a diplomatic or consular officer, provided a Certificate of Loss of Nationality is later issued; the date the individual furnishes a signed statement of voluntary relinquishment to the State Department, again provided a certificate later issues; the date the State Department actually issues the Certificate of Loss of Nationality; or the date a U.S. court cancels a naturalized citizen's certificate of naturalization.

For a long-term resident, residency ends on the date the individual's status as a lawful permanent resident is revoked or administratively or judicially determined to be abandoned, or the date the individual, holding a green card, begins to be treated as a resident of a foreign country under an applicable tax treaty, ceases to waive treaty benefits, and notifies the IRS of the treaty position on Forms 8833 and 8854. "Long-



---

term resident” itself is a defined term: a green card held during at least 8 of the 15 tax years ending with the year residency ends, and that eight-year clock arrives sooner than most clients expect, particularly when an early green card was allowed to lapse and later renewed.

## Where Crossbridge Comes In

---

The clients who come out of an expatriation cleanly are almost always the ones who started planning 12 to 24 months before the decision was made, not after the paperwork was filed. We model exit-tax exposure well in advance, look for legitimate ways to bring net worth or income under the covered expatriate thresholds where that fits the client's broader goals, coordinate the treatment of deferred compensation and retirement accounts, and prepare the Form 8854 filing package so the certification test is never the reason a client becomes a covered expatriate.

If citizenship renunciation or the return of a green card is on the table for you or a client, the right time to call is before the appointment with the consulate or USCIS is scheduled, not after.

---

*This briefing is general information only and does not constitute legal or tax advice. Sections 877A and 2801 and their related thresholds change periodically. Individual circumstances vary, and no action should be taken based solely on this document. Engagements with Crossbridge Global Tax Advisory are governed by a written engagement letter.*