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Americans Renouncing Citizenship Up 221%, All Aboard The FATCA Express

America is a great land and lures immigrants worldwide, yet record numbers of U.S. citizens and permanent residents are giving up their citizenship or residency. For all the immigrant arrivals the trickle the other direction is increasing. The number is still small, with the “published” expatriates for the quarter 630 for the last quarter of 2013.

That brings the total number to [2,999 for all of 2013](#). The previous record high for a year was 1,781 set in 2011. It’s a 221% increase over the 932 who left in 2012. You can call it a shaming or a public record, but the Treasury Department is required to publish a [quarterly list](#) of Americans who renounced their U.S. Citizenship or terminated their long-term U.S. residency. The public outing puts Americans on notice who relinquished their rights.



US Passport (Photo credit: Damian613)

Those seem like tiny numbers, yet the total thus far for 2013 is 2,369. See [Number of Taxpayers Who Renounced U.S. Citizenship Skyrockets to All-Time Record High](#), quoting Andrew Mitchel. Under U.S. tax law, it is not relevant *why* someone expatriates. Whether the expatriation was motivated by tax avoidance or something else *used* to matter, but the law was changed in 2004.

Since then, the tax and other consequences do not depend on why one leaves. Yet after [Facebook](#) co-founder [Eduardo Saverin](#) departed permanently for Singapore with his Facebook IPO riches, there was an angry backlash. Mr. Saverin's post-Facebook fly-away prompted such outrage that Senators [Chuck Schumer](#) and Bob Casey introduced a bill to double the exit tax to 30% for anyone leaving the U.S. for tax reasons.

So far, that bill remains unpassed. Meantime, are people following [Tina Turner's lead](#)? No, and not Eduardo Saverin's either. Most expatriations are probably motivated primarily by factors such as family and convenience. Many people like Ms. Turner have built a life somewhere else and may not plan to need a U.S. passport.

Complex or costly taxes can help sway a decision but are often only one factor. Although statistics are not available for why people say a final goodbye, many now find America's global income tax compliance and disclosure laws inconvenient and nettlesome. Some go so far as to say that the U.S. tax and disclosure laws are downright oppressive.

No group is more severely impacted than U.S. persons living abroad. For those living and working in foreign countries, it is almost a given that they must report and pay tax where they live. But they must also continue to file taxes in the U.S. What's more, U.S. reporting is based on their worldwide income, even though they are paying taxes in the country where they live.

Many can claim a foreign tax credit on their U.S. returns, but it generally does not eliminate all double taxes. These rules have long been in effect, but enforcement was historically less of a concern with expats. Today, enforcement fears are palpable.

Moreover, the annual foreign bank account reports known as [FBAR forms](#) carry civil and criminal penalties all out of proportion to tax violations. The penalties for failure to file these forms, civil and criminal, are severe. Even civil penalties can quickly consume the balance of an account.

The coup de grace is FATCA, which is [ramping up now worldwide](#). It [requires](#) an annual [Form 8938](#) to be filed with income tax returns for foreign assets meeting a threshold. And foreign banks are sufficiently worried about keeping the IRS happy that many simply **do not want** American account holders. Americans abroad can be pariahs shunned by banks for daily banking activities.

Even Canada has now agreed to turn over data to the U.S., though many in Canada are hopping mad about it. See [Canada Signs U.S. FATCA Deal, IRS To Get Data](#). Still, leaving America can have a special tax cost. To exit, you generally must prove 5 years of tax compliance in the U.S. Plus, if you have a net worth greater than \$2 million or have average annual net income tax for the 5 previous years of \$155,000 or more (that's tax, not income), you pay an [exit tax](#).

The theory of the exit tax is that is the last chance the U.S. has of taxing you. It is a capital gain tax as if you sold your property when you left. At least there's an exemption of \$668,000.

Citizens aren't the only ones to suffer. Long-term residents giving up a [Green Card](#) can be required to pay the tax too. See [High Cost To Go Green: Giving Up A Green Card](#). A decision to expatriate should never be taken lightly. Taxes or no, it can be a big step. And around the world, more people are talking about taking this giant leap.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.