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THE TAX LAWYER

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### Should We Renounce (The Expat Tax)?

Trying to assess what tax proposals make sense isn't easy. Our quest for revenue is understandable as is our quest for fairness. But we should avoid administrative nightmares like the proposed tax on those who renounce U.S. citizenship for tax reasons. See [New Taxes for 'Renouncers'?](#) We already have a 15% tax on those who renounce and who meet certain criteria.



Image via [swissinfo.ch](http://swissinfo.ch)

But the [proposed legislation](#) by Senators Charles Schumer (D-NY) and Bob Casey (D-PA) would 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](#). It would also bar re-entry to the U.S. The “**Expatriation Prevention by Abolishing Tax-Related Incentives for Offshore Tenancy**” goes by **Ex-Patriot** for short.

This idea may feel good after Eduardo Saverin did the deed well in advance of Facebook's IPO. See [Why Facebook's Co-Founder Just Defriended America](#). Under the bill, if you renounce with a \$2 million net worth or an average income-tax liability of \$148,000, tax avoidance is **presumed**. Yet when presumed tax avoidance was previously in the law (it was changed in 2004), expats usually showed family, political, geographic or other reasons to leave. According to an [announcement](#), 461 Americans renounced in the first quarter of 2012.

In 2004, Congress threw out the relevance of tax avoidance motives altogether, but there's currently an exit tax. If you expatriate now you are treated as having sold all your worldwide property for its fair market value. The gain is taxed as a capital gain. See [Rich Americans Voting With Their Feet To Escape Obama Tax Oppression](#). Fortunately only "covered expatriates" face the tax. See IRS [Form 8854](#), Expatriation Information Statement.

You can escape it if you have less than \$651,000 of income from the deemed sale of your assets. Appraisals of property are a good idea. See [Fancy Appraisals Can Defeat IRS](#). A good resource is [Notice 2009-85](#). Whatever you do, get some professional advice on these issues, both from a tax lawyer and an immigration lawyer.

Other highly controversial proposals would revoke or deny passports to those owing the IRS \$50,000 or more. See [Forget Travel if You Owe the IRS](#) and [Can IRS Prevent You From Traveling?](#) That seems far more likely to pass than the Ex-Patriot Bill. After all, a GAO study suggests the State Department is handing out passports to many Americans who have huge outstanding tax bills. See [Potential for Using Passport Issuance to Increase Collection of Unpaid Taxes](#).

As tempting as these ideas might be, we should be careful not to make our tax system more unworkable.

For more, see:

[Tax Expatriates: We'll Always Have Paris](#)

[Expats Lobby For Tax on Residence, Not Worldwide Income](#)

[Why Facebook's Co-Founder Just Defriended America](#)

[Would you leave the U.S. for lower taxes?](#)

[If IRS Is Like Kryptonite, What Would Superman Do?](#)

[Tax Expatriates: We'll Always Have Paris](#)

[Celebrity Leavings: Bidding Stars Adieu](#)

[Can IRS Prevent You From Traveling?](#)

## Ten Facts About Tax Expatriation

### [Apply For A Passport? IRS Will Know](#)

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