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Ted Cruz, Birthers And Americans All: Is It Unpatriotic To Say Sayonara Uncle Sam?

Some say this question answers itself, and for many it may. But the surprising complications citizenship brings can be at odds with normal patriotism. It isn't just about saving money, and funnily enough, Senator Ted Cruz (R-TX)—a patriotic Texan, may be adding to the debate. As revealed by the [Dallas Morning News](#), it turns out Cruz is both Canadian *and* American, having been born in Canada. See [Ted Cruz's Canadian Citizenship — The Tax 'Story of the Century'](#).



U.S. Sen. Ted Cruz (R-TX) speaks during a hearing before the Senate Judiciary Committee June 19, 2013 on Capitol Hill in Washington, DC. (Image credit: Getty Images via @daylife)

Mr. Cruz will probably just hand it in—his Canadian status that is—but giving up U.S. status is often more involved. A few years ago it was only the über-wealthy opting to give up on U.S. citizenship. It used to be relevant *why* they were doing it (tax reasons were frowned upon). Although it's still not a decision to take lightly, it's becoming more and more common for plenty of regular folks.

One big category is Americans abroad who face a hostile tax regime and increasingly complex status of being Americans. Many foreign banks and

other financial institutions will not deal with Americans or do so begrudgingly, no matter how tax compliant Americans insist they are. See [Overseas Americans: Time to Say 'Bye' to Uncle Sam?](#) Who are the people giving up on Uncle Sam?

First, count increasingly disenfranchised Americans living overseas. Add in accidental citizens—think Senator Ted Cruz, who amazingly just discovered he was also Canadian. Accidental citizens don't need U.S. citizenship and may think it isn't worth the hassle of all the tax and financial account reporting. Sure, there may be others interested in giving up a passport or Green Card.

Some are even wealthy and doing it primarily to save on taxes. Many, however are not wealthy and not tax-motivated, not in the sense of picking lower tax rates. But whatever motivates them, the latest numbers show a marked uptick in leavings. See [Number of Americans Renouncing Citizenship Surges](#). The list of who's gone is published quarterly in the [Federal Register](#).

Among the more notable expatriations in 2012 was Facebook co-founder Eduardo Saverin. See [Senators Go After Eduardo Saverin, Facebook Co-Founder, For Dumping U.S. Passport, Avoiding Taxes](#). People also took note of wealthy socialite Denise Rich , whose husband was pardoned by President Clinton. See [Why Denise Rich Followed Eduardo Saverin's Expat Lead](#). Then there was music icon Tina Turner. See [Swiss Tina Turner Giving Up U.S. Passport](#).

America's controversial worldwide income tax is inflexible and unforgiving. It seems to invite greener pastures. See [Expats Lobby For Tax on Residence, Not Worldwide Income](#). Some other countries also provoke tax moves. Formerly French and now Russian actor [Gérard Depardieu](#) pays a 13% flat rate, even better than Eduardo Saverin's 18% in Singapore.

To leave America, you generally must prove 5 years of U.S. tax compliance. 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](#). You generally pay 15% on any gain, as if you sold your property when you left.

There's an exemption of approximately \$668,000. Still, citizens aren't the only ones to suffer. Giving up a Green Card can cost you too. See [High Cost To Go Green: Giving Up A Green Card](#).

If you are considering this, seek advice from an immigration lawyer and a tax adviser. You need to observe two sets of rules. Fortunately, you no longer have to come up with other reasons you're leaving. It's OK to leave for tax reasons.

Some people expatriate under the immigration rules and never file anything with the IRS. This is risky but can be appropriate in some cases. Consider the exit tax rules too. In fact, consider making gifts or transfers before you expatriate. Get some tax and estate planning advice as there is often legitimate spousal or family tax planning to consider before you act.

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.