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Why Denise Rich Followed Eduardo Saverin's Expat Lead

(Image credit: Getty Images for Clinton Foundation via @daylife)

A one-word answer explains why many consider leaving the U.S. for good: taxes. Wealthy socialite Denise Rich, born Denise Eisenberg, renounced her U.S. citizenship just like Facebook's Eduardo Saverin. The move is expected to save her tens of millions of dollars. See Socialite Denise Rich dumps U.S. passport.

She was married to billionaire commodities trader Marc Rich, controversially pardoned by Bill Clinton his last day in office. She has written songs for Aretha Franklin, Mary J. Blige and Jessica Simpson. Her ex-husband fled the U.S. in 1983 when indicted on charges of tax evasion, fraud, racketeering and illegal trading of oil with Iran.

Denise Rich divorced in 1996 but her role in the Presidential Pardon is legendary. Federal prosecutors and Congress investigated it. In 2002 a House of Representatives committee concluded Denise Rich had swayed the pardon through donations to the Clinton library and campaign. Why not, when she was dubbed "Lady Gatsby" by Yachting magazine?

Sure, Rich may pay some tax. Expatriates now face a U.S. exit tax on their worldwide property, computed at a fair market value the day before they leave. But the tax can be reduced or avoided in many cases. And tax motivated expatriations are perfectly legal. See Celebrity Leavings: Bidding Stars Adieu. It's one reason after Saverin, a bill was introduced to raise the exit tax materially.

The real savings come ***after*** leaving. Tax avoidance intent ***used*** to trigger tougher tax rules, but that changed in 2008. ***Tax motivation is no longer even relevant*** to the tax treatment of citizens or permanent residents who permanently depart the U.S. See Ten Facts About Tax Expatriation. U.S. citizens or long-term residents who expatriate after June 16, 2008 are treated as having sold all their worldwide property, but it is taxed as a capital gain.

Fortunately, only "covered expatriates" face the exit tax. Some people born with dual citizenship are exempt but must still file an IRS Form 8854, Initial and Annual Expatriation Statement. More generally, you can escape the exit tax if you have less than $651,000 of income from the deemed sale of your assets, adjusted for inflation.

As you might expect, appraisals of property are a good idea. See Fancy Appraisals Can Defeat IRS. Even if you owe the exit tax, you may apply to defer it by filing IRS Form 8854 (in some cases for ten years). Additional forms may be required if you have deferred compensation, tax deferred accounts, certain non-grantor trusts, etc. A good resource is Notice 2009-85.

In my experience as a tax lawyer for over 30 years, most people who consider expatriating don't actually do it. Still, we should expect more of the very wealthy and very mobile to do so.

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