

the AMERICAN MAGAZINE



Cruising the Douro

Expat Stories From An Italian Village

Brits Who Fought In The American Civil War

Corporate Immigration

Renouncing US Citizenship

American Sports:
Caitlin Clark
LeBron James

Marilu Henner



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Welcome

Join Americans in Edinburgh and London!

Scotland's capital has been called the world's most beautiful city, with the best culture and quality of life. It also has a reputation as 'Festival City' through the summer months. July has a Jazz & Blues Festival, then a packed August boasts the Royal Edinburgh Military Tattoo (display teams and bands from around the world in a spectacular castle) and Art, Book and Film Festivals. The big two are the International Festival (the 'serious' one!) and the Festival Fringe (the 'fun' one!). The Edinburgh Fringe is the biggest arts festival in the world, offering tens of thousands of performances, of thousands of shows, in hundreds of venues.

You can find our selection of the best American shows in our Edinburgh Fringe special digital publication. It's free to read. Simply go to www.theamerican.co.uk and click on 'The American's Edinburgh Fringe Special 2024' in the Library or Articles pages.

We're also inviting you to a special event to mark two momentous events. The US Presidential election is approaching. And in September we publish the 800th issue of *The American*! Join us to celebrate American democracy – and our anniversary – at ElectionFest, a party just for expats and their friends and families, where you can enjoy the company of fellow Americans and be entertained by US comedians and musicians. As a bonus, if you haven't already registered to vote in the most important US election in living memory – who said 'ever'? – you can do so with expert help from unbiased, non-partisan experts. We look forward to partying with you.

It's invite-only. How can you get yours? Subscribers to our free newsletter receive a priority earlybird invitation, so make sure you're signed up – go to www.theamerican.co.uk and click on 'Newsletter'.

Enjoy your magazine, and Happy 4th of July!

Michael Burland, Content Director
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Meet some of our contributors . . .



Bruce Joffe

A long-term expat living in Spain and Portugal, Bruce decided on a French company to take a river cruise on the Douro!



Tom Arms

The American journalist, author, broadcaster, lecturer - and expat - explains his 'hip thigh bone theory of the world'!



Nomaan Ilyas

If you're considering revoking your US citizenship, you'd better take a look at Nomaan's advice - it could have huge implications.



Mike Carlson

LeBron James has a dream this summer, while Caitlin Clark's WNBA honeymoon has turned into a nightmare. Iron Mike explains.

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Considering Renouncing Your US Citizenship?

It's a massive decision that can have big financial implications. By Nomaan Ilyas.

PHOTO: ANNIKA GORDON

In recent years the number of American expats wanting to renounce their US citizenship has risen due to the burden of managing and filing their US taxes. Recent evidence suggests that around one third of US expats question their citizenship and seriously consider giving this up.

As Americans are taxed on their worldwide earnings no matter where they are living in the world, taxes have become an onerous task for those living outside the US. This is due to the strict filing requirements that the US imposes on its citizens, not to mention the high penalties involved in not complying. Although there may be some leeway in avoiding double-taxation by applying foreign tax credits as well as claiming a foreign income exclusion, expats generally spend more money and time to file taxes in two countries every year.

The Report of Foreign Bank and Financial Accounts (FBAR) may be another factor that encourages expats to renounce their US citizenship. Expats need to file FBAR forms if the combined account values of their non-US bank accounts exceed \$10,000 any time during the tax year – failing to report this can trigger a hefty penalty.

Many have called for the tax regime to be streamlined and simplified so that it is easier to navigate and keep up with their tax filings – this would minimize the stress caused to

expats and would make tax filing more manageable. A more simplistic route for filing for expats would probably be a more viable option for them, as opposed to completely renouncing their citizenship, as this cannot be easily reversed.

US Expatriation and Exit Tax

Those looking to renounce their US citizenship and expatriate should be aware that they may be subject to an exit tax liability. This depends on whether they are a 'covered' or 'non-covered' expatriate, as this type of tax is only applicable to 'covered' expatriates. Both US citizens and long term residents would need to determine whether this tax applies to them. A long-term resident is an individual who has held a green card for at least 8 out of the last 15 years preceding expatriation.

The requirements of a covered expatriate

There are a number of tests that determine whether an individual would be considered a 'covered' expatriate. If one or more of the following tests are satisfied, the exit tax calculations will be required:

1) Income Tax Test

The income tax test focuses on the individual's US tax liabilities over the 5 calendar

years prior to the year of expatriation.

If their average annual net income tax for the 5 years ending before the date of expatriation or termination of residency is more than a specified amount they are then classified as a covered expatriate.

The specified amount is adjusted for inflation annually and for the previous years have been set as below:

Tax Year	Annual Net Income Tax Threshold
2019	\$168,000
2020	\$171,000
2021	\$172,000
2022	\$178,000
2023	\$190,000

2) Asset Test

An individual would be considered a covered expatriate if their net worth is \$2 million or more on the date of their expatriation or termination of residency. Net assets for this purpose include but are not limited to real estate, pensions, investment accounts.

3) Compliance Test

If the individual fails to certify that they have complied with all US federal tax obligations for the 5 years preceding the date of

their expatriation or termination of residency they will be considered a covered expatriate. This includes filing all required US tax returns as well as FBARs and other informational reporting forms, as required.

In the year of expatriation, they will need to certify on Form 8854 (Expatriation Statement) that all US tax obligations have been complied with for the 5 years preceding the year of expatriation, otherwise they will be classed as a covered expatriate and subject to the exit tax.

Exception

An exception to the rule above is where the taxpayer can demonstrate the dual citizen exemption and has also satisfied the compliance test as detailed above.

For the exception to apply, the following three factors must be met:

- The individual is born a dual citizen and is therefore considered a citizen of the US and one other country
- The individual continues to be a citizen of the other country and remains resident there
- The individual has not been a resident of the US for more than 10 taxable years during the 15 taxable years prior to and including the expatriation year. US residency is determined by the US substantial presence test, which is based on the number of days you are physically present in the US.

The second exception is available for minors who choose to expatriate before they turn 18 ½. A minor would qualify for this exception if they have not been a resident of the US for more than 10 years before the expatriation year.

Exit tax for covered expatriates

A covered expatriate must pay exit tax on their worldwide assets in the year they expatriate, to ensure that they have paid taxes on all their assets before leaving the US tax system. This is calculated by assuming a deemed sale of all assets takes place the day before expatriation. This is done by using the fair market value of the assets on the day before expatriation.

A point to be noted is that although all covered expatriates are subject to exit tax and must determine their deemed gain on all assets they own, many will not actually owe any exit tax as all individuals are allowed an exclusion on their gain of \$821,000, as per IRC Section 877A (a)(3)(A).

The exemption figure of \$866,000 is applicable for the 2024 tax year, however,

this is regularly adjusted for inflation.

Generally, the “deemed sale” of worldwide assets includes all local and foreign assets owned by the US citizen, however certain assets are excluded from the deemed sale calculation such as eligible deferred compensation items, specified tax-deferred accounts, and interests in non-grantor trusts. Please note in general foreign retirement plans will not fit the criteria for exclusion although there are ways for such a plan to become effectively eligible. Each situation needs to be assessed individually.

Depending on your circumstances excluded items may have US filing requirements for many years after you renounce, however, there are solutions to avoid this in certain circumstances.

It is important to ensure that tax implications have been considered before proceeding with renouncing one's US citizenship, and more so, the significant penalties for not complying with exit tax filings as the IRS have been sending notices to expatriates who have not complied with the exit tax requirements, including the imposition of the \$10,000 penalty where appropriate.

Potential Estate or Gift taxes

In addition to exit tax, there is also the possibility of estate or gift tax on certain bequests or gifts from covered expatriates. A US citizen who receives a gift from a covered expatriate will find that the gift is subject to the highest rate of gift tax at the time of the gift (this is currently at 40%). It should be noted that estate or gift tax is payable by the recipient not the expatriate, therefore, those US citizens contemplating on renouncing their citizenship should consider this aspect beforehand in order to minimize potential tax liabilities for family members who remain US citizens.

Under Internal Revenue Code 2801, there is no expiration to the applicability of this tax, thus, a gift made by a covered expatriate several years, or longer, after expatriation could potentially trigger the tax at any time.

Compliance of Accidental Americans who want to renounce citizenship

Popularly known as ‘accidental Americans’ are individuals who were previously unaware that they had, and continue to have, a US tax filing obligation. For example, an individual who was born in the US but has never lived there since is still classified as a US citizen, therefore, unbeknownst to them, they have an obligation to comply with IRS tax report-

ing requirements by filing US tax returns annually.

However, there are certain procedures which can be used to address the compliance of an accidental American, a common one being the Streamlined Filing Procedure, as this method allows the individual to bring their tax affairs up to date without being penalized for late filings.

Streamlined Filing Procedure as part of renunciation process

The Streamlined Filing Procedure is an efficient method to bring US tax filings up to date as this program allows the ‘accidental American’ or any other US citizens to file the last 3 tax years and become fully compliant, even if they have not filed for more than 3 years.

This program is applicable to ‘accidental Americans’ as well as a standard US taxpayer as long as they are eligible and satisfy the criteria set by the IRS to use this program. To be able to utilize the Streamlined Filing Procedure, one must be able to prove that they are a foreign resident and being non-compliant was ‘non-willful’ conduct.

This procedure is a very efficient way to address US tax compliance issues, as it allows one to address their US tax affairs without being subject to penalties be it failure-to-file/failure-to-pay penalties, FBAR penalties as well as others. Therefore, we would encourage those who are late on tax filings to utilize this program to ensure that they are up to date. However please note this only allows one to go back 3 years. When renouncing citizenship one must be compliant for the last 5 years at least. You can address this by filing two additional years either pre or post the streamlined years, depending on your circumstances.

Once compliant, the process to renounce citizenship can take place if that is what you have decided to do.

Equally, for those that actually want to keep their citizenship, the Streamlined procedure is a great way for many non-compliant Americans to get up to date without excessive penalties. ★

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