

Exit Tax & Exit Tax Planning

When contemplating new family plans or business projects, a full understanding of their tax consequences in the short, medium and long term is vital to their control, planning and optimisation. The process of renouncement of U.S. citizenship or abandonment of US green card may end at the U.S. embassy or consulate, however, the obligation to pay US tax does not. If you meet the conditions of a “covered expatriate,” you are required to pay the exit tax unless an exception applies. The exit tax is built on a mark-to-market regime, under which the expatriate is deemed as (1) to have sold all his/her assets for its fair market value and realized a gain or loss and (2) to have distributed the funds in his tax-deferred accounts, such as health savings accounts as of the day right before the expatriation date. In order to assess whether you are subject to exit tax, you need to understand who is a “covered expatriate.” A covered expatriate can be a U.S. citizen or a green card holder who has been a green-card holder during eight of the previous 15 years prior to expatriation and meet the following any of the three following tests:

1. The Net Worth Test: The person has a net worth of \$2 million or more on the date of expatriation.
2. The Average Annual Income Liability Test: the person earns an average annual net income tax for the five years ending before the date of expatriation of more than a specified amount adjusted for inflation (\$172,000 for 2021; \$178,000 for 2022).
3. Failure to Certify Tax Compliance: The person who fails to certify satisfaction of federal tax compliance to the Secretary of Treasury for five preceding taxable years or fails to submit supporting evidence of compliance as “may be required.”

However, even if you meet one of the three tests, you may still not be subject to the exit tax if an exception applies, or your deemed sale gain is below a certain amount. There are many ways you can plan around your expatriation. A good strategy can make your expatriation smooth and efficient.



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