

Proposal to enhance implementation, enforcement of exit tax

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This report, as originally published in the November 13, 2017 issue of Tax Notes, offers proposals to enhance the implementation and enforcement of section 877A, including methods for putting individuals on notice of the requirements under section 877A; coordinating communication between Treasury, the State Department, and the Department of Homeland Security; and providing for continued jurisdiction over expatriating individuals even after they renounce their US citizenship or terminate their long-term US-residency status.

Section 877A sets forth the current expatriation tax regime for US citizens and long-term residents who relinquish their US citizenship or terminate their long-term US residency status. Although individuals expatriate for different reasons, some of which could be construed as tax-motivated, the purpose of section 877A is to provide an objective system for collecting what is colloquially called an “exit tax” for those wanting to cut ties with the United States.

The current regime imposes a one-time tax liability on expatriating individuals who meet specific income, asset, or reporting requirements. These individuals, who are considered “covered expatriates” under the law, are subject to a mark-to-market tax when they relinquish their citizenship or long-term residency status. In effect, a covered expatriate is treated as having sold all his worldwide assets as of the date of expatriation and is subject to tax on the deemed gain. Further, any gift or bequest from the covered expatriate to a US person is considered a “covered” gift or bequest, and the US transferee must pay transfer tax on this covered gift or bequest at the highest gift or estate tax marginal rate.

There are major challenges in implementing and enforcing the provisions of section 877A because the expatriating individual is required to affirmatively file a Form 8854, “Initial and Annual Expatriation Statement,” and fully disclose worldwide assets. If an expatriating individual does not comply with this requirement, the IRS might not even know about the expatriation. Even if it were aware, enforcement is nearly impossible once the expatriate leaves the United States.

[Click here](#) for the full article, as originally published in the November 13, 2017 issue of *Tax Notes*.

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