

Renouncing US citizenship or giving up a green card in the Gulf: why and how to consider it

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US citizenship or permanent resident status allows access to the largest economy in the world. Why would an American citizen living in the United Arab Emirates, or a Saudi Arabian resident with a US “green card,” ever consider giving up US status? Increasingly, the answer is one word: tax.

Unique among global powers, the United States taxes the worldwide income of its citizens and green card holders no matter where they live. US citizens who do not call America home also face the spectre of estate and gift taxes following them outside US borders. Indeed, it is possible for a person who has never been to the United States to be subject to annual US income tax and information-reporting obligations, gift taxes on large gifts made during life, estate tax upon death, and hefty monetary penalties for noncompliance. For example, many children born abroad to US parents are automatically US citizens, and they must file US tax returns if they earn income or have non-US bank accounts.

Almost all individuals born in the United States are also US citizens and subject to US tax, even if they left as infants and have never returned. Swearing allegiance to another country by itself does not end US citizenship. Similarly, a green card must be formally relinquished for both tax and immigration purposes; simply giving the card to a US Customs official or waiting for it to expire is not sufficient to terminate US tax status.

For residents of Gulf Cooperation Council states—where there is no personal income tax and thus no credit to be claimed for non-US taxes paid—US status can mean a large tax bill. Additionally, no GCC states allow dual citizenship, so often US individuals living in the Gulf region must choose between US citizenship and citizenship in their country of residence.

None of this is new, but what is novel is increased and more sophisticated enforcement. The US *Foreign Account Tax Compliance Act* (FATCA) went into full effect on July 1, 2014, mandating international information-sharing on US individuals with non-US bank accounts. All GCC states except Oman currently participate in FATCA information exchanges with the US Internal Revenue Service (IRS). US individuals living in the Gulf region may be facing sleepless nights in anticipation of a notice from the IRS asking why they have not filed tax returns.

The solution to this predicament often comes in the form of renouncing US citizenship or turning in one’s green card. But doing so carries serious consequences, including tax and immigration traps. Any GCC resident considering renunciation must decide if it is the right choice and then get competent advice before going through the process.

Renouncing US citizenship is permanent: once the US Department of State issues a Certificate of Loss of Nationality (COLN), the only way to regain US status is through the long and difficult process of naturalization. Further, patriotism aside, US citizenship does provide certain benefits that can prove very valuable depending on an individual’s circumstances: protection and consular services abroad, the right to vote in US elections, access to the US job market, and an unquestionable right to travel to the United

States at any time. Renouncing provides relief from the US tax regime, but it is not for everyone.

If a GCC resident decides to renounce, he or she must take precautions to avoid the imposition of the US exit tax. Under a law in effect since 2008, a renouncer can become a “covered expatriate” by failing one of three key tests. If a renouncer is deemed a covered expatriate, he or she is treated as having sold all property for “fair market value” the day before renunciation and is taxed on the built-in gain in those assets (with the first \$713,000 USD of gain excluded as of 2018). Gifts that the covered expatriate later makes to US citizens or residents during life or after death also become taxable in the hands of the recipient at a rate of about 40%. A renouncer becomes a covered expatriate when he or she has a net worth of \$2 million USD or more at the time of renunciation; has an average annual US net income tax liability of more than \$165,000 in the five years ending before the date of expatriation; or fails to certify to the IRS that he or she complied with all US federal tax obligations for the five years preceding the date of expatriation.

There are limited exceptions to the US exit tax. The most important is that a renouncing individual who was born a dual citizen and who still lives in his or her country of dual citizenship is not subject to the net worth or tax liability tests. Individuals who have just turned 18 also enjoy some special exemptions as it is generally difficult to renounce as a minor and a parent or guardian cannot renounce on a child's behalf. Every renouncer will always be subject to the compliance test. Thus, avoiding the exit tax requires that a renouncing individual be US tax-compliant in all circumstances.

Assuming that a renouncer takes the tax compliance steps needed to avoid imposition of the exit tax, the actual process of renouncing one's US citizenship also has immigration issues of which to be wary. The US *Immigration and Nationality Act* includes a provision (known as the “Reed Amendment”) that denies a former citizen reentry to the United States if the US Attorney General determines that the individual renounced for the purpose of avoiding US tax. This is an example of why potential renouncers need qualified advisors: what a renouncer says during his or her exit interview at a US embassy or consulate is critical.

In the end, renouncing US citizenship requires careful consideration. US immigration and tax pitfalls are scattered throughout the process, so both understanding the repercussions of renouncing and proceeding carefully are imperative to a smooth departure from the US club and its membership fees.

Moodys Gartner Tax Law hosts complimentary seminars on US citizenship renunciation across the globe. If you're interested in where we'll be next, contact info@moodysgartner.com or sign up for our [mailing list](#).