Wealth Management

the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

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Are you thinking of leaving the U.S. tax system?

An overview of the U.S. exit tax laws and related tax issues

This article assumes you're a U.S. citizen or a U.S. green card holder living in Canada.

From a tax perspective, even though you currently reside outside of the U.S., you continue to be subject to the U.S. tax system. Depending on your circumstances, this may result in certain U.S. income tax obligations, even if you don't earn U.S. source income. For example, you're required to file a U.S. income tax return and other information returns and you may be subject to U.S. transfer taxes.

If you are someone who's thinking about potentially exiting the U.S. tax system, this article provides some general information regarding the U.S. tax rules that apply when you exit after June 17, 2008, and some of the non-tax considerations as well.

U.S. exit tax rules

The U.S. tax rules governing the exit from the U.S. tax system changed on June 17, 2008. The exit tax rules apply when a U.S. citizen renounces U.S. citizenship or when an individual who is a long-term U.S. green card holder (i.e. U.S. green card holder for 8 out of the past 15 years) relinquishes their U.S. green card. The exit tax rules may also apply to a long-term U.S. green card holder if they claim U.S. non-residence status under the Canada-U.S. income tax treaty (Treaty). The exit tax rules don't apply to persons who are not U.S. citizens or long-term U.S. green card holders.

Currently, if a U.S. citizen or long-term U.S. green card holder qualifies as a "covered expatriate" (described in more detail below) on the date they exit the U.S. tax system, they may be subject to various exit taxes such as:

- Mark-to-market exit tax and the inclusion of other amounts subject to U.S. income tax;
- U.S. withholding tax on certain types of income; and

- U.S. transfer tax imposed on the transferee when gifts or bequests are made to individuals who are U.S. persons for U.S. transfer tax purposes[1].

If you're not a covered expatriate, the impact of renouncing your U.S. citizenship or relinquishing your U.S. green card may not be as significant.

Covered expatriate status

You are considered a covered expatriate if you're a U.S. citizen or a U.S. green card holder for at least 8 of the past 15 years on the date you exit the U.S. tax system and you meet any of the following three tests on the exit date:

1. Your average annual net income tax in the U.S. was more than US$211,000 (for 2026, indexed annually) in the previous five years;
2. Your net worth is at least US$2 million; or
3. You are not compliant with your U.S. federal tax filing obligations and payment of tax in the last five years.

If you do not meet any of these tests, you will not be a covered expatriate and therefore are not subject to any of the exit taxes when you renounce.

Are there any exceptions?

If you are a U.S. citizen and meet either the first or the second test, but is up-to-date with your U.S. tax filings and payments for the five previous years, you may fall into one of the two exceptions to being a covered expatriate. The first exception applies to dual citizens at birth who live in the other country they hold citizenship with, provided they have not lived in the U.S. for more than 10 of the past 15 years. The second exception is for U.S. citizens who have not yet reached 18½ years old and have not lived in the U.S. for more than 10 years.

If you meet only the third test, you must get up-to-date with your U.S. federal tax filing obligation and pay any tax liabilities for the last five years before you can exit the U.S. tax system without having covered expatriate status.

Application of U.S. exit tax

If you are a covered expatriate, the U.S. exit tax system requires a "mark-to-market" tax (described in more detail below) on virtually all of the property you own with unrealized gains. However, property such as deferred compensation plans, specified tax-deferred accounts, and interests in non-grantor trusts, are not subject to the mark-to-market tax. Instead, this property may be subject to an acceleration of U.S. taxation. The following sections provide general information on the U.S. tax treatment for different types of property.

1 Please ask an RBC advisor for a separate article that discusses the topic of whether you are a U.S. person for U.S. transfer tax purposes.

In order to determine the mark-to-market exit tax, you're deemed to have sold certain property you hold for proceeds equal to its fair market value (FMV) on the day immediately prior to your expatriation date.

Mark-to-market exit tax

In order to determine the mark-to-market exit tax, you're deemed to have sold certain property you hold for proceeds equal to its fair market value (FMV) on the day immediately prior to your expatriation date. If you have net gains in excess of US$910,000 (for 2026, indexed annually) as a result of this deemed sale, you will need to include the excess on your U.S. income tax return. The excess amount is taxed as capital gains. The deemed proceeds of your property become the new adjusted cost base (ACB) of the property for U.S. income tax purposes.

There are other rules to consider in calculating the exit tax, which include:

- For gains realized on the deemed disposition of your personal residence, you can't claim the US$250,000 per person exclusion;
- Annuities and life insurance policies are generally valued at their replacement cost;
- Assets in a grantor trust (whether a foreign trust or a U.S. domestic trust) will be treated as though the trust did not exist and are therefore subject to the deemed disposition rules;
- The U.S. "wash sale" rules (which are similar to the Canadian superficial loss rules) will not apply to losses arising as a result of the deemed disposition from the exit tax. This means you'll be able to claim the loss even though you still own the property;
- Gains you've previously deferred for U.S. tax purposes, on transactions such as like-kind exchanges (which are, in concept, similar to the Canadian replacement property rules), must be realized for purposes of the exit tax; and
- If you were not born a U.S. citizen and later obtained U.S. citizenship or a U.S. green card, there are special rules with respect to property you owned before this time. Any accrued gains on that property (other than U.S. real estate and certain other U.S. property) that you owned immediately before becoming a U.S. citizen or obtaining a U.S. green card is exempt from the exit tax. The property is deemed to have an ACB equal to the FMV immediately before this time. It is possible to make an irrevocable election to use the original ACB, which you may want to consider if the original ACB of the property is higher than the deemed one.

Keep in mind that it's important to keep track of the new ACB for certain types of U.S. tangible property, such as U.S. real estate, even after you renounce. This is because you'll be required to file a U.S. income tax return when you eventually sell the property and will be subject to U.S. income tax on the gains realized on the appreciation of the property.

Gains realized from the appreciation of other types of U.S. property, generally intangible property such as shares of a U.S. corporation, are not subject to U.S. income tax when they're sold after you renounce. However, dividends received from a U.S. corporation will be subject to U.S. withholding tax.

Deferred compensation plans

Deferred compensation plans include pensions, annuities, simplified employee pension plans, simple retirement accounts, stock options, stock appreciated options, restricted stock units and other deferred retirement arrangements. The timing for U.S. tax on deferred compensation plans depend on whether the particular plan is classified as "eligible" or "ineligible". Eligible deferred compensation plans are subject to a 30% withholding tax that applies only when taxable distributions are received in the future. The 30% withholding tax rate that applies to taxable distributions can't be reduced by an income tax treaty because these rights are waived under the exit tax rules. However, penalties that would normally result in the case of early distributions from a U.S. plan are waived.

To be classified as an eligible deferred compensation plan, the following conditions must be met:

- The amounts are payable by a U.S. payer or a person who elects to be treated as a U.S. payer for purposes of withholding tax;
- You must notify the U.S. payer of your status as a covered expatriate; and
- You must waive reduced withholding rates provided by any treaty.

Ineligible deferred compensation plans — which apply to most Canadian plans that qualify as deferred compensation plans — are taxable immediately at regular U.S. income tax rates as if you received the taxable distributions on the day before the expatriation date.

Note that any portion of deferred compensation that's attributable to services performed outside the U.S. while the covered expatriate was not a U.S. citizen or U.S. green card holder is not subject to exit tax.

Deferred compensation plans include pensions, annuities, simplified employee pension plans, simple retirement accounts, stock options, stock appreciated options, restricted stock units and other deferred retirement arrangements.

Specified tax-deferred accounts

Specified tax-deferred accounts include U.S. individual retirement plans, U.S. qualified tuition plans, U.S. education savings accounts, U.S. health savings accounts, U.S. medical savings accounts and other similar arrangements. These accounts are taxable immediately at regular U.S. income tax rates as if your entire interest in the account is received as a distribution on the day before the expatriation date. Penalties that would normally result in the case of early distributions from a U.S. plan are waived. When actual distributions from these U.S. plans are received, any taxable amount for U.S. income tax purposes will be reduced by amounts previously taxed under the exit tax rules.

Interests in non-grantor trusts

The mark-to-market exit tax rules do not apply to non-grantor trusts like they do to grantor trusts. A non-grantor trust may be a U.S. domestic trust or a foreign non-grantor trust and under the exit tax rules, the taxable portion of a distribution received by a covered expatriate who was a beneficiary of the trust before their expatriation date is subject to a 30% withholding tax for the remainder of their lifetime. The taxable portion is the amount of the distribution that would have been includible in the covered expatriate's gross income if the covered expatriate had continued to be subject to tax as a U.S. citizen or U.S. green card holder. Also, if the non-grantor trust is a U.S. trust, it must recognize and pay tax on the accrued capital gains on any appreciated property distributed to a beneficiary who is a covered expatriate, as if the property was sold to the beneficiary at its FMV. Where the trust is a foreign non-grantor trust, the capital gain is taxable to the covered expatriate and is subject to a 30% withholding tax.

Keep in mind that the rules for non-grantor trusts don't apply to distributions from a trust forming part of a plan that's treated as either a deferred compensation plan or a specified tax-deferred account. Additional information regarding non-grantor trusts and the treatment under the exit tax rules is beyond the scope of this article. Please talk to a qualified cross-border tax advisor for more information.

Canadian RRSPs, RRIFs, locked-in retirement plans and annuities

Canadian registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), locked-in retirement plans and annuities (into which these registered plans may be converted) are treated as foreign grantor trusts for U.S. income tax purposes.

If you elected under the Treaty to defer U.S. income tax until distributions are made from these plans and you're a U.S. citizen at birth, you may be subject to exit tax on the FMV of the plan less your contributions when you exit the U.S. tax system. The taxable amount may be considered annuity income and subject to U.S. tax at graduated tax rates.

If you did not elect under the Treaty to defer tax and have been reporting the income and capital gains and losses realized in the plan annually, you may be subject to tax on any accrued gains on the property held in the plan as if you owned those securities directly. The taxable amount may be considered capital gains and included in the mark-to-market tax.

Application of U.S. gift and estate tax

The U.S. tax system includes a U.S. transfer tax (U.S. gift and U.S. estate tax) on certain gifts made during your lifetime or on the value of certain property you own on death. If you're a U.S. person (i.e. U.S. citizen or U.S. domiciliary), U.S. transfer tax applies to gifts or bequests on all types of property (with certain exceptions). Keep in mind that a U.S. green card holder may be considered a U.S. domiciliary. More detailed information about the U.S. transfer tax laws is provided in a separate article that you may obtain from an RBC advisor.

The impact of U.S. transfer taxes when gifts or bequests are made by a covered expatriate after expatriation can be summarized as follows:

- Generally, any U.S. person (including a U.S citizen or U.S. domiciliary) for U.S transfer tax purposes who is the recipient of a gift or an inheritance is subject to U.S. transfer tax at the highest U.S. marginal federal gift/estate tax rate in the year (this rate is 40% under the current transfer tax laws) unless the covered expatriate is already subject to U.S. gift tax or U.S. estate tax on the property transferred;
- U.S. gift tax and estate tax does not apply to gifts made to a U.S. citizen spouse or a qualified charity;
- U.S. gift tax does not apply to gifts that do not exceed the annual gift tax exclusions;
- Payments of medical and educational expenses by a covered expatriate (which are ordinarily exempt from U.S. gift tax) will be subject to U.S. transfer tax when the payments are made on behalf of a U.S. person for U.S. transfer tax purposes;
- For gifts or bequests made to a U.S. trust, U.S. transfer tax is imposed immediately on the U.S. trust, as if the trust is a U.S. person for U.S. transfer tax purposes. Future growth of the assets in the U.S. trust may not be subject to U.S. transfer taxes if the trust is structured to provide this protection;
- For transfers to a foreign trust with a beneficiary who is a U.S. person for U.S. transfer tax purposes, U.S. transfer tax is not imposed on the trust; it is imposed on the U.S. beneficiary, as distributions are received from the trust. The transfer tax applies to the extent that the distribution is attributable to the gift or bequest from the covered expatriate and since future growth may be considered to be attributable to the gift or bequest initially made, it will be taxed and it may not be possible to structure the non-U.S. trust to avoid U.S. transfer tax for a U.S. beneficiary. However, a non-U.S. trust may elect to be treated as a U.S. domestic trust, in which case, the tax treatment for U.S. trusts described above applies; and
- U.S. transfer tax will not be imposed on gifts or bequests made by a covered expatriate to an individual who is not a U.S. person for U.S. transfer tax purposes if the property is not U.S. situs property. When U.S. situs property is transferred to such persons (by gift or bequest), the covered expatriate may be subject to U.S. transfer taxes.

There are various filing requirements for U.S. citizens and long-term U.S. green card holders who leave the U.S. tax system. These requirements apply whether or not you're classified as a covered expatriate.

What are the filing requirements?

There are various filing requirements for U.S. citizens and long-term U.S. green card holders who leave the U.S. tax system. These requirements apply whether or not you're classified as a covered expatriate. There are also filing requirements for U.S. beneficiaries who receive gifts and bequests from a covered expatriate. The following provides some general information regarding many of the common types of filings required.

U.S. citizen or long-term green card holder

- IRS Form 8854 — *Expatriation Information Statement* will need to be filed and a copy is included with your individual U.S. income tax return filing (if you have to file one) in the year you exit the U.S. tax system.

- You may be required to file a dual-status individual income tax return (unless your expatriation date happens to be January 1). Your filing requirements may include IRS Form 1040NR — *U.S. Non-resident Income Tax Return* (to report U.S. source income earned after the date of expatriation) and Form 1040 — *U.S. Individual Income Tax Return* as a schedule (to report worldwide income earned prior to the date of expatriation).
- IRS forms, 1040NR and 8854 must be filed for each subsequent year, for as long as any deferred tax remains to be paid.
- If you have deferred compensation plans, specified tax-deferred accounts and interests in non-grantor trusts, you are required to file W-8CE — *Notice of Expatriation and Waiver of Treaty Benefits* with each financial institution holding the account or plan.
- There is also an administrative fee charged to expatriating U.S. citizens and long-term green card holders to process the paperwork to exit the U.S. tax system. Once your application to exit is processed, you will receive a certificate of loss of nationality.

Tax on U.S. beneficiary who receives a gift or bequest from a covered expatriate

The U.S. also imposes a tax on U.S. citizens and residents that directly or indirectly receive gifts or bequest from covered expatriates on or after January 1, 2025. This also includes distributions from foreign trusts that are attributable to covered gifts or covered bequests. The applicable tax rate is equal to the highest estate tax rate at the time of receipt, which is currently 40%, on the value of the gift or bequest. Different from the gift tax regime, which is imposed on the donor, this regime taxes the recipient of the gift.

Form 708 would also need to be filed by the recipient when a "covered" gift or bequest is received. At time of print, the form is available in draft.

You should ask a qualified cross-border tax advisor for more details regarding the filing requirements for you, as a covered expatriate, and those for your U.S. beneficiaries.

Is it possible to defer exit tax?

It may be possible to elect to post security in order to defer payment of the exit tax, but keep in mind you will be subject to an interest charge. The deferral election can be made on a property-by-property basis and is irrevocable. The tax deferral ends when the property is considered to be disposed of (for example, when it's sold). If the property is not sold or disposed of during your lifetime, the exit tax is due on or before the due date for the tax return for the year in which you pass away.

The U.S. also imposes a tax on U.S. citizens and residents that directly or indirectly receive gifts or bequest from covered expatriates on or after January 1, 2025.

What about double taxation?

There may be double taxation triggered when you exit the U.S. tax system. You may not be able to claim foreign tax credits to minimize or eliminate the potential of double tax if the timing of the taxation in the U.S. and in Canada occurs in different tax years. For example, property subject to the exit tax in the year of expatriation may not be subject to Canadian tax until the property is sold. Under the Treaty, when a Canadian resident is required to recognize accrued gains on their property for U.S. tax purposes, due to the exit tax, they may be able to (in some cases) elect to recognize the accrued gains for Canadian tax purposes without having to actually dispose of the property. However, for deferred compensation plans and property in certain plans such as RRSPs, unless you're required for Canadian tax purposes to recognize the deemed distribution that occurs for U.S. tax purposes, there may be no mechanism to adjust the timing of Canadian taxation to be aligned with the timing for U.S. taxation.

For Canadian tax purposes, upon your death, there is a deemed disposition of your assets, except if the assets are left to your spouse. If the assets are not left to your spouse, this deemed disposition creates a Canadian income tax liability for your estate. In addition, if the property is left to a U.S. beneficiary (who is not a U.S. citizen spouse) your beneficiary may be subject to U.S. transfer tax. For Canadian tax purposes, you may not be able to claim a foreign tax credit on U.S. situs assets for which U.S. transfer tax was imposed on your beneficiary. It may be possible under the Treaty to claim a deduction for Canadian income taxes to offset the U.S. transfer tax imposed on your U.S. beneficiary on non-U.S. situs assets.

To minimize the exposure to double taxation, you may consider whether it makes sense to sell assets and deregister certain plans to trigger income and gains for both U.S. and Canadian tax purposes prior to expatriation and, where possible, prior to your death. This will accelerate tax but may help to ensure that taxes paid in one country are available for credit in the other. You should consult with a qualified cross-border tax advisor on the best course of action tailored to your specific situation and the property affected.

Possible strategies to not have covered expatriate status

If you decide to exit the U.S. tax system and you'll be considered a covered expatriate, there are strategies

you may consider implementing prior to exiting the U.S. tax system, so that you're not considered a covered expatriate. If you're not a covered expatriate, the impact of renouncing your U.S. citizenship or relinquishing your U.S. green card may be minimal.

If you are up-to-date with your U.S. tax filings, the two main ways to not be a covered expatriate are:

- If you find that your average annual net income tax in the U.S. in the previous five years will be above the threshold, wait to exit the U.S. tax system and look at ways to reduce your income until it falls below the threshold; and
- If your net worth exceeds the US$2 million threshold, you may consider gifting assets to your beneficiaries, such as a non-U.S. spouse prior to expatriation, in order to lower your net worth to an amount below the threshold.

Gifting property to reduce your net worth

One particular asset you can consider gifting is your Canadian principal residence as there may be no Canadian income tax on the gift and you may be able to use your lifetime U.S. gift tax exemption to shelter the gift from U.S. gift tax. A U.S. citizen is subject to U.S. gift tax on any asset gifted, regardless of where they live. However, U.S. citizen married couples may be able to take advantage of their ability to gift an unlimited amount of assets to each other on a tax-free basis to bring each spouse's net worth below the US$2 million threshold.

A U.S. green card holder is subject to U.S. gift tax like a U.S. citizen if they are domiciled in the U.S. However, if a U.S. green card holder physically moves from the U.S. to Canada with the intention of permanently residing in Canada, they may no longer be domiciled in the U.S. and therefore only subject to U.S. gift tax on tangible U.S. property. In this case, the U.S. green card holder could gift as many non-U.S. tangible assets as necessary to bring their net worth below the US$2 million threshold without triggering U.S. gift tax.

In every case, prior to gifting assets, you should review your financial situation, as well as the Canadian income tax consequences of the gift. You should seek advice from a qualified cross-border tax advisor regarding the appropriate strategies you may use to help minimize your tax burden.

Non-tax considerations for U.S. citizens

In addition to all of the tax considerations associated with renouncing U.S. citizenship, there are a number of general benefits that U.S. citizens are entitled to, no matter where in the world they reside, which will not be available if you renounce your U.S. citizenship:

- *Consular services*: U.S. citizens living abroad may receive assistance in situations of detainment by foreign governments, passport issues and cross-border legal affairs;
- *Right to vote*: U.S. citizens have a right to vote in U.S. elections;
- *Right to work*: U.S. citizens are legally able to work anywhere in the U.S. without the need to obtain visas and work permits;
- *Unlimited travel*: U.S. citizens are able to travel into and out of the U.S. at their leisure. The U.S. government is allowed to deny entry into the U.S. to someone who has renounced U.S. citizenship for tax reasons. For example, if you use a foreign passport to travel to the U.S., the passport may identify a U.S. birthplace. A U.S. birthplace is a sign of U.S. citizenship and because a U.S. citizen is required under U.S. law to enter the U.S. with a U.S. passport, the border agents may question your U.S. citizenship status. You should speak to a qualified immigration lawyer regarding the risk of being denied entry and how to be prepared for questions at the border;
- *Protection while abroad*: While living or travelling abroad, U.S. citizens have protection under the armed forces of the U.S. This can be important for U.S. citizens who often travel abroad; and
- The Reed Amendment is a provision in U.S. law that can impose an entry ban to former U.S. citizens based on their reason for relinquishing U.S. citizenship. It is important to note, however, that this law has been rarely enforced in the past.

Seek tax and immigration advice from qualified professionals

The exit tax rules are very complex and may result in large U.S. tax liabilities. Both U.S. income tax and non-tax matters must be considered when deciding whether to exit the U.S. tax system. And, as a resident of Canada, the Canadian income tax rules must also be considered. With these aspects in mind, it's important to seek advice from a qualified cross-border tax advisor and immigration lawyer to discuss your particular situation and circumstances.

This article may contain strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal and/or insurance advisor before acting on any of the information in this article.



Wealth Management

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