



Considerations Before You Renounce Your U.S. Citizenship

As your U.S. tax attorney or advisor may have explained, the United States requires U.S. citizens to pay taxes on their worldwide income regardless of where they live. As long as you remain a U.S. citizen, you will be taxed on your worldwide income even if you are living abroad. This tax treatment has caused some high net worth U.S. citizens to inquire about the renunciation of their U.S. citizenship.

Section 349(a)(5) of the Immigration and Nationality Act ("INA") governs the right of a United States citizen to renounce his or her citizenship.

What It Means to Renounce U.S. Citizenship

Someone who seeks to renounce his or her U.S. citizenship must renounce all rights and privileges associated with U.S. citizenship. Simply put, if you renounce your U.S. citizenship, you will no longer have any rights or privileges associated with being a citizen of the United States such as the right to enter the U.S. freely for business or travel or the right to work in the U.S. without first having to apply for work authorization.

Renunciation of U.S. citizenship is extremely serious. This act is irrevocable (with a few very limited exceptions) and there are possible ramifications related to renunciation. Below are some areas to consider as you determine whether to renounce your U.S. citizenship.

Living in the U.S.

If you seek to renounce your U.S. citizenship, you must be prepared to live outside the U.S. and any of its territories or possessions. If after renouncing your U.S. citizenship, you would like to live in the United States, you will be subject to the same immigration laws applicable to foreign nationals.

Travel to the U.S.

Travel to the U.S. as a non-U.S. citizen may require you to obtain a visitor or other visa. This means that anytime you want to travel to the U.S. to visit family members or to attend business meetings, for example, you would have to complete a visa application form, submit your photograph and biometrics, schedule an interview, and bring supporting



documentation with you to a visa interview at a U.S. Embassy or Consulate abroad to explain to a consular officer how you qualify for the temporary visa. You may or may not be granted a visa. Consular officers have a significant amount of discretion in determining whether or not someone qualifies for a visa.

Employment in the U.S.

To work in the United States, you would require employment authorization by obtaining either a visa that permits employment or an employment authorization document (EAD card). You may even require an employer to sponsor you. If you require a work visa, you may be subject to annual limitations on visas (if applicable) and may only be permitted to work for the single employer who sponsors you. Changes in immigration law could potentially affect your ability to work in the U.S.

Criminal History Considerations

If you are no longer a U.S. citizen, you may be barred from entering the U.S. due to a past criminal conviction. Criminal history of U.S. citizens is not examined when a U.S. citizen seeks re-entry to the U.S. from travel abroad. However, non-U.S. citizens with a criminal history may require a waiver to enter the U.S. or may be barred from re-entry.

NOTE: If you have even a single criminal conviction and are considering renunciation of your U.S. citizenship (and may want to re-enter the U.S. at some point), you should consult with an immigration attorney prior to renunciation since some seemingly less serious crimes can be cause for a bar to re-entry or may require a waiver.

Renouncing U.S. citizenship does not affect your liability, if any, to prosecution for any crimes in violation of U.S. law that you may have already committed or that you may commit in the future.

Statelessness

Unless you already possess a foreign nationality (for example, you hold dual citizenship with another country prior to renouncing your U.S. citizenship), you may be rendered stateless and therefore lack the protection of any country's government upon renunciation of your U.S. citizenship. If you are stateless, you may not qualify for a passport from



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another country and therefore would be unable to travel internationally.

Someone who is stateless may also face extreme difficulty entering or maintaining a residence in most countries.

Tax Bills/Exit Tax

If you renounce your U.S. citizenship, you may be subject to a substantial exit tax. Furthermore, renunciation may not exempt you from U.S. income taxation. The U.S. Internal Revenue Service (IRS) makes decisions regarding U.S. income taxes owed. Someone deciding whether to renounce U.S. citizenship should seek counsel from a qualified tax attorney or tax advisor who can help determine what amount(s) the U.S. Internal Revenue Service may determine you owe.

Additionally, if the United States Attorney General determines that you renounced your U.S. citizenship for the purpose of avoiding taxation by the U.S. (after September 30, 1996), you will be deemed inadmissible to the U.S. pursuant to §212(a)(10)(E) of the INA, as amended.

Transmission of U.S. Citizenship

Upon renouncing U.S. citizenship, a person is no longer able to transmit U.S. citizenship to children born after the renunciation.

Military Service Obligations

Renunciation of your U.S. citizenship may not affect your military or selective service status, if any. Any problems relating to military service obligations would have to be resolved by the appropriate agencies.

For Those With Minor Children or Individuals Mentally Incompetent in their Family

Citizenship is a status that is personal to the U.S. citizen. Therefore, parents may not renounce the citizenship of their minor children. Similarly, parents/legal guardians may not renounce the U.S. citizenship of individuals who are mentally incompetent. Minors seeking to renounce their U.S. citizenship must demonstrate to a consular officer that they are acting voluntarily and that they fully understand the implications and consequences attendant to the renunciation of U.S. citizenship.



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Elements Required for Renunciation

If you wish to renounce your U.S. citizenship, you must voluntarily and with intent to relinquish U.S. citizenship:

- Appear in person before a U.S. consular or diplomatic officer;
- In a foreign country (typically at a U.S. Embassy or Consulate); and
- Sign an oath of renunciation.

NOTE: It is also possible to lose U.S. citizenship by performing an expatriating act. However, there may be criminal or other consequences if you perform an expatriating act.

Conclusion

We hope that you have found this information helpful. This information is not to be construed as legal advice, but is instead a broad overview of issues that may or may not apply to your individual set of circumstances.

Contact Information

For further information regarding U.S. immigration law or how to renounce U.S. citizenship and the related consequences of doing so such as your ability to work or travel in the United States, you may contact one of the U.S. immigration attorneys listed below. They can be reached at info@ornero'Brien.com or directly as follows:

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Lynn O'Brien is one of the founding partners of Orner & O'Brien, LLC. The firm is located in Bethesda, Maryland just outside of Washington, DC. Lynn began working in the field of US immigration in 1997. She was also the founder and Past Chair of the Immigration Section of the Maryland State Bar Association and has worked as a contractor for the United States Citizenship & Immigration Services (USCIS). For more information about her or the firm, please visit the firm's website at <http://www.ornero'Brien.com>