

Good Bye U.S.A. Emigration and Expatriation of U.S. Persons and Dual Nationals

International Wealth Planners

December 8, 2011

London

US citizens and lawful permanent residents

- US citizen
 - At birth
 - Born in the US*
 - Born outside the US
 - Through naturalization
- Lawful permanent resident (LPR) (green card holder)
 - Immigrant through family or employment based sponsorship, diversity lottery, refugee or asylee

Loss of US citizenship

- *Act and* voluntary intention
 - Presumption against expatriation when
 - Naturalized in a foreign state
 - Routine oath of allegiance
 - Non-policy level employment with a foreign government
 - Presumption not applicable when
 - Formally renounce US citizenship before a consular officer
 - Take a policy level position in a foreign state
 - Convicted of treason
 - Perform an act inconsistent with the retention of US citizenship

Loss of US citizenship

- Renunciation
- Relinquishment
- Why expatriate
 - “Accidental” US citizen
 - Center of gravity no longer in the US
 - Simplifying matters

Loss of citizenship

- Renounce all rights and privileges
- Mental capacity
- Dual nationality
- Irrevocable

Loss of citizenship

- Formal renunciation
 - Must be outside the US
 - Complete a questionnaire – examines potential loss of citizenship
 - Interview/meet with consular officer
 - Take the oath of renunciation
 - Case reviewed and approved by the Department of State
 - Certificate of Loss of Nationality issued

Loss of citizenship

- Formal relinquishment
 - Was there an expatriating act?
 - Was it voluntary?
 - Was it intentional?
 - Did the person relinquish all rights and privileges of US citizenship?
 - Formal relinquishment and interview
 - Apply for CLN from DOS

Loss of US citizenship

- Entering the US after expatriation
 - Dual national – visa national/ESTA (electronic system for travel authorization)
 - Prior to CLN issued
 - After CLN issued
 - All grounds of excludability apply
 - Intending immigrant
 - Criminal grounds
 - Reed Amendment

Loss of citizenship

- Reed amendment – excludable from the US if the reason for expatriation was tax motivated
 - Never been used as a ground of excludability but would not recommend expatriating
 - If the reason is to avoid US taxes
 - With a tax attorney as counsel
 - If there are close ties to the US in terms of proximity and timing and a potentially forthcoming financial windfall

Pre-expatriation planning

- Second nationality
 - If not already a dual national, options for acquiring another nationality
 - St. Kitts and Nevis investment (citizenship)
 - Commonwealth of Dominica (citizenship)
 - UK investor programme (residence)
 - Visa/inadmissibility issues
- Spouse and children
- Tax advice!

Abandonment of LPR status

- Minimum requirements to retain LPR status
- Advised steps to maintain LPR status
 - Maintain ties to the US
 - Physical presence in the US
 - Reentry permit
 - File US tax returns...as a resident
 - Maintain memberships, drivers' licenses, bank accounts, credit cards, etc.

Abandonment of LPR status

- IRS vs Department of Homeland Security (DHS)
 - Abandoning residence for IRS
 - I-407
 - File with DHS abroad
 - File with Customs and Border Protection on entry to the US
 - Abandoning residence for DHS
 - Maintaining LPR status?

Abandoning LPR status

- Entering the US after abandonment
 - Visa issues
 - Spouse/children
 - Green card in future?

Heroes Earnings Assistance and Relief Act of 2008 (Heroes Act)

- Applies to US citizens and long term LPRs
- Makes act and intention for loss of citizenship important
- Makes formal abandonment of LPR status on I-407 important

Good Bye U.S.A. Emigration and Expatriation of U.S. Persons and Dual Nationals

International Wealth Planners

London

December 8, 2011