

From T.S. Eliot to BoJo: Why the List of Britons Giving Up US Status Continues to Grow

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Oscar Wilde's characters quipped in multiple instances that "*when good Americans die they go to Paris,*" while bad Americans stay in America. Wilde commented elsewhere about taxes, but he probably did not contemplate the irony that even the supposedly good Americans who make it to the City of Light are followed there—during life and after death—by the IRS.

Unlike almost every other nation, the United States imposes an elaborate tax and information-reporting system on its citizens and permanent resident status holders no matter where in the world they live. The continued implementation of the US *Foreign Account Tax Compliance Act* (FATCA) by non-US banks has made it much easier for the IRS to locate US persons living outside the United States and penalize them for noncompliance. This is increasingly driving Britons and other nationals with dual US citizenship or permanent resident status to give that up.

But renouncing is not as simple as just showing up at the US Embassy and declaring that one no longer wants to be an American or handing in a passport or green card. In fact, renunciation or green card termination without considering the US tax implications can result in an unexpected and very large bill from the IRS, along with an inability to re-enter the United States. Thoughtful planning is required instead.

Our firm annually represents about 1 in 10 US citizens and green card holders worldwide who choose to renounce their citizenship or terminate their green cards each year. Most of the UK individuals who we see giving up US status do not do so out of any particular antipathy toward the United States or even fear about owing money to the tax collector across the Pond. Indeed, many enjoy vacationing or visiting family and friends in the United States and continue to do so after they renounce. Often they do not end up owing US taxes because they can claim credit for UK taxes paid on their US returns though it is quite possible, for example, for a Briton with US status to be discovered by the IRS and owe tens of thousands of dollars in penalties simply for failing to file US information returns on which no tax was ever due. This could be true even if the individual has never been to the United States.

Our UK clients tend to be people who are well-settled in the United Kingdom and consider themselves more British than American. Some find themselves in the same position as Boris Johnson (BoJo), "accidental Americans" who happened to be born in the United States or to an American parent abroad. Others are more like T.S. Eliot: they have ended up spending most of their lives in the United Kingdom or Europe and now feel more at home there than in the United States. Many green card holders worked in the United States and simply need to exit the US tax system upon returning home.

Regardless of how an individual acquired US status, what we see time and again is that eventually complex US information-reporting laws, potential for double taxation, stiff noncompliance penalties, increased enforcement actions through non-US banks, and the legal requirement to file annual US tax returns even when no tax is owed become enough of a headache to recommend giving up the right to live and work indefinitely in the United States. While some US expat groups have been lobbying for

years to change the taxation regime for US citizens abroad and [appear to be making some headway](#), it is anyone's guess whether this gift to US citizens living abroad will ever become law. Our role as lawyers is to help these individuals shed US status with the most favorable tax and immigration outcomes possible including analysis of the current landscape.

Oscar Wilde also wrote that "*all excess, as well as renunciation, brings its own punishment.*" Giving up US citizenship was almost certainly far from his mind when he penned that, but the notion nevertheless unwittingly underscores the fact that US renunciation alone is not an antidote. A Briton who gives up his or her US citizenship or green card can easily find himself or herself subject to the US exit tax — treated as if he or she sold all assets before renouncing and taxed on the built-in gain. US federal law could also bar that person from re-entering the United States even as tourist because he or she "*renounced for tax avoidance purposes.*" Failing to come forward promptly and get the problem addressed generally results in IRS penalties and higher legal bills. Careful, proactive tax planning thus must accompany any decision to renounce.

Our firm will be hosting a [complimentary seminar in London on Saturday, November 18](#) for those who would like to find out more about the pros and cons of renouncing, and whether or not it may be the right decision for them.