

104TH CONGRESS  
2D SESSION

# S. 1637

To amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 21, 1996

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Expatriation Tax Reform Act of 1996”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. REVISION OF TAX RULES ON EXPATRIATION.**

4 (a) IN GENERAL.—Subpart A of part II of sub-  
5 chapter N of chapter 1 is amended by inserting after sec-  
6 tion 877 the following new section:

7 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

8 “(a) GENERAL RULES.—For purposes of this sub-  
9 title—

10 “(1) MARK TO MARKET.—Except as provided in  
11 subsection (f), all property of a covered expatriate to  
12 which this section applies shall be treated as sold on  
13 the expatriation date for its fair market value.

14 “(2) RECOGNITION OF GAIN OR LOSS.—In the  
15 case of any sale under paragraph (1)—

16 “(A) notwithstanding any other provision  
17 of this title, any gain arising from such sale  
18 shall be taken into account for the taxable year  
19 of the sale unless such gain is excluded from  
20 gross income under part III of subchapter B,  
21 and

22 “(B) any loss arising from such sale shall  
23 be taken into account for the taxable year of  
24 the sale to the extent otherwise provided by this

1 title, except that section 1091 shall not apply  
2 (and section 1092 shall apply) to any such loss.

3 “(3) EXCLUSION FOR CERTAIN GAIN.—The  
4 amount which would (but for this paragraph) be in-  
5 cludible in the gross income of any individual by rea-  
6 son of this section shall be reduced (but not below  
7 zero) by \$600,000. For purposes of this paragraph,  
8 allocable expatriation gain taken into account under  
9 subsection (f)(2) shall be treated in the same man-  
10 ner as an amount required to be includible in gross  
11 income.

12 “(4) ELECTION TO CONTINUE TO BE TAXED AS  
13 UNITED STATES CITIZEN.—

14 “(A) IN GENERAL.—If an expatriate elects  
15 the application of this paragraph—

16 “(i) this section (other than this para-  
17 graph) shall not apply to the expatriate,  
18 but

19 “(ii) the expatriate shall be subject to  
20 tax under this title, with respect to prop-  
21 erty to which this section would apply but  
22 for such election, in the same manner as if  
23 the individual were a United States citizen.

24 “(B) LIMITATION ON AMOUNT OF ESTATE,  
25 GIFT, AND GENERATION-SKIPPING TRANSFER

1 TAXES.—The aggregate amount of taxes im-  
2 posed under subtitle B with respect to any  
3 transfer of property by reason of an election  
4 under subparagraph (A) shall not exceed the  
5 amount of income tax which would be due if  
6 the property were sold for its fair market value  
7 immediately before the time of the transfer or  
8 death (taking into account the rules of para-  
9 graph (2)).

10 “(C) REQUIREMENTS.—Subparagraph (A)  
11 shall not apply to an individual unless the indi-  
12 vidual—

13 “(i) provides security for payment of  
14 tax in such form and manner, and in such  
15 amount, as the Secretary may require,

16 “(ii) consents to the waiver of any  
17 right of the individual under any treaty of  
18 the United States which would preclude as-  
19 sessment or collection of any tax which  
20 may be imposed by reason of this para-  
21 graph, and

22 “(iii) complies with such other re-  
23 quirements as the Secretary may prescribe.

24 “(D) ELECTION.—An election under sub-  
25 paragraph (A) shall apply to all property to

1           which this section would apply but for the elec-  
2           tion and, once made, shall be irrevocable. Such  
3           election shall also apply to property the basis of  
4           which is determined in whole or in part by ref-  
5           erence to the property with respect to which the  
6           election was made.

7           “(b) ELECTION TO DEFER TAX.—

8                 “(1) IN GENERAL.—If the taxpayer elects the  
9           application of this subsection with respect to any  
10          property—

11                     “(A) no amount shall be required to be in-  
12           cluded in gross income under subsection (a)(1)  
13           with respect to the gain from such property for  
14           the taxable year of the sale, but

15                     “(B) the taxpayer’s tax for the taxable  
16           year in which such property is disposed of shall  
17           be increased by the deferred tax amount with  
18           respect to the property.

19          Except to the extent provided in regulations, sub-  
20          paragraph (B) shall apply to a disposition whether  
21          or not gain or loss is recognized in whole or in part  
22          on the disposition.

23           “(2) DEFERRED TAX AMOUNT.—

24                     “(A) IN GENERAL.—For purposes of para-  
25          graph (1), the term ‘deferred tax amount’

1 means, with respect to any property, an amount  
2 equal to the sum of—

3 “(i) the difference between the  
4 amount of tax paid for the taxable year de-  
5 scribed in paragraph (1)(A) and the  
6 amount which would have been paid for  
7 such taxable year if the election under  
8 paragraph (1) had not applied to such  
9 property, plus

10 “(ii) an amount of interest on the  
11 amount described in clause (i) determined  
12 for the period—

13 “(I) beginning on the 91st day  
14 after the expatriation date, and

15 “(II) ending on the due date for  
16 the taxable year described in para-  
17 graph (1)(B),

18 by using the rates and method applicable  
19 under section 6621 for underpayments of  
20 tax for such period.

21 For purposes of clause (ii), the due date is the  
22 date prescribed by law (determined without re-  
23 gard to extension) for filing the return of the  
24 tax imposed by this chapter for the taxable  
25 year.

1           “(B) ALLOCATION OF LOSSES.—For pur-  
2           poses of subparagraph (A), any losses described  
3           in subsection (a)(2)(B) shall be allocated rat-  
4           ably among the gains described in subsection  
5           (a)(2)(A).

6           “(3) SECURITY.—

7           “(A) IN GENERAL.—No election may be  
8           made under paragraph (1) with respect to any  
9           property unless adequate security is provided  
10          with respect to such property.

11          “(B) ADEQUATE SECURITY.—For purposes  
12          of subparagraph (A), security with respect to  
13          any property shall be treated as adequate secu-  
14          rity if—

15                 “(i) it is a bond in an amount equal  
16                 to the deferred tax amount under para-  
17                 graph (2)(A) for the property, or

18                 “(ii) the taxpayer otherwise estab-  
19                 lishes to the satisfaction of the Secretary  
20                 that the security is adequate.

21          “(4) WAIVER OF CERTAIN RIGHTS.—No elec-  
22          tion may be made under paragraph (1) unless the  
23          taxpayer consents to the waiver of any right under  
24          any treaty of the United States which would pre-

1       clude assessment or collection of any tax imposed by  
2       reason of this section.

3           “(5) DISPOSITIONS.—For purposes of this sub-  
4       section, a taxpayer making an election under this  
5       subsection with respect to any property shall be  
6       treated as having disposed of such property—

7           “(A) immediately before death if such  
8       property is held at such time, and

9           “(B) at any time the security provided  
10      with respect to the property fails to meet the  
11      requirements of paragraph (3) and the taxpayer  
12      does not correct such failure within the time  
13      specified by the Secretary.

14          “(6) ELECTIONS.—An election under paragraph  
15      (1) shall only apply to property described in the elec-  
16      tion and, once made, is irrevocable. An election may  
17      be under paragraph (1) with respect to an interest  
18      in a trust with respect to which gain is required to  
19      be recognized under subsection (f)(1).

20          “(c) COVERED EXPATRIATE.—For purposes of this  
21      section—

22          “(1) IN GENERAL.—The term ‘covered expatri-  
23      ate’ means an expatriate—

24           “(A) whose average annual net income tax  
25      (as defined in section 38(c)(1)) for the period

1 of 5 taxable years ending before the expatria-  
2 tion date is greater than \$100,000, or

3 “(B) whose net worth as of such date is  
4 \$500,000 or more.

5 If the expatriation date is in a calendar year after  
6 1996, the \$100,000 and \$500,000 amounts shall  
7 each be increased by an amount equal to such dollar  
8 amount multiplied by the cost-of-living adjustment  
9 determined under section 1(f)(3) for such calendar  
10 year by substituting ‘1995’ for ‘1992’ in subpara-  
11 graph (B) thereof. Any increase under the preceding  
12 sentence shall be rounded to the nearest multiple of  
13 \$1,000.

14 “(2) EXCEPTIONS.—An individual shall not be  
15 treated as a covered expatriate if—

16 “(A) the individual—

17 “(i) became at birth a citizen of the  
18 United States and a citizen of another  
19 country and, as of the expatriation date,  
20 continues to be a citizen of, and is taxed  
21 as a resident of, such other country, and

22 “(ii) has been a resident of the United  
23 States (as defined in section  
24 7701(b)(1)(A)(ii)) for not more than 8 tax-  
25 able years during the 15-taxable year pe-

1           riod ending with the taxable year during  
2           which the expatriation date occurs, or

3           “(B)(i) the individual’s relinquishment of  
4           United States citizenship occurs before such in-  
5           dividual attains age 18½, and

6           “(ii) the individual has been a resident of  
7           the United States (as so defined) for not more  
8           than 5 taxable years before the date of relin-  
9           quishment.

10          “(d) PROPERTY TO WHICH SECTION APPLIES.—For  
11         purposes of this section—

12           “(1) IN GENERAL.—Except as otherwise pro-  
13         vided by the Secretary, this section shall apply to—

14           “(A) any interest in property held by a  
15         covered expatriate on the expatriation date the  
16         gain from which would be includible in the  
17         gross income of the expatriate if such interest  
18         had been sold for its fair market value on such  
19         date in a transaction in which gain is recog-  
20         nized in whole or in part, and

21           “(B) any other interest in a trust to which  
22         subsection (f) applies.

23           “(2) EXCEPTIONS.—This section shall not  
24         apply to the following property:

1           “(A) UNITED STATES REAL PROPERTY IN-  
2           TERESTS.—Any United States real property in-  
3           terest (as defined in section 897(c)(1)), other  
4           than stock of a United States real property  
5           holding corporation which does not, on the ex-  
6           patriation date, meet the requirements of sec-  
7           tion 897(c)(2).

8           “(B) INTEREST IN CERTAIN RETIREMENT  
9           PLANS.—

10           “(i) IN GENERAL.—Any interest in a  
11           qualified retirement plan (as defined in  
12           section 4974(c)), other than any interest  
13           attributable to contributions which are in  
14           excess of any limitation or which violate  
15           any condition for tax-favored treatment.

16           “(ii) FOREIGN PENSION PLANS.—

17           “(I) IN GENERAL.—Under regu-  
18           lations prescribed by the Secretary,  
19           interests in foreign pension plans or  
20           similar retirement arrangements or  
21           programs.

22           “(II) LIMITATION.—The value of  
23           property taken into account under  
24           subclause (I) shall not exceed  
25           \$500,000.

1 “(e) DEFINITIONS.—For purposes of this section—

2 “(1) EXPATRIATE.—The term ‘expatriate’  
3 means—

4 “(A) any United States citizen who relin-  
5 quishes his citizenship, or

6 “(B) any long-term resident of the United  
7 States who—

8 “(i) ceases to be a lawful permanent  
9 resident of the United States (within the  
10 meaning of section 7701(b)(6)), or

11 “(ii) commences to be treated as a  
12 resident of a foreign country under the  
13 provisions of a tax treaty between the  
14 United States and the foreign country and  
15 who does not waive the benefits of such  
16 treaty applicable to residents of the foreign  
17 country.

18 “(2) EXPATRIATION DATE.—The term ‘expa-  
19 triation date’ means—

20 “(A) the date an individual relinquishes  
21 United States citizenship, or

22 “(B) in the case of a long-term resident of  
23 the United States, the date of the event de-  
24 scribed in clause (i) or (ii) of paragraph (1)(B).

1           “(3) RELINQUISHMENT OF CITIZENSHIP.—A  
2 citizen shall be treated as relinquishing his United  
3 States citizenship on the earliest of—

4           “(A) the date the individual renounces his  
5 United States nationality before a diplomatic or  
6 consular officer of the United States pursuant  
7 to paragraph (5) of section 349(a) of the Immi-  
8 gration and Nationality Act (8 U.S.C.  
9 1481(a)(5)),

10           “(B) the date the individual furnishes to  
11 the United States Department of State a signed  
12 statement of voluntary relinquishment of Unit-  
13 ed States nationality confirming the perform-  
14 ance of an act of expatriation specified in para-  
15 graph (1), (2), (3), or (4) of section 349(a) of  
16 the Immigration and Nationality Act (8 U.S.C.  
17 1481(a)(1)–(4)),

18           “(C) the date the United States Depart-  
19 ment of State issues to the individual a certifi-  
20 cate of loss of nationality, or

21           “(D) the date a court of the United States  
22 cancels a naturalized citizen’s certificate of nat-  
23 uralization.

24           Subparagraph (A) or (B) shall not apply to any indi-  
25 vidual unless the renunciation or voluntary relin-

1       quishment is subsequently approved by the issuance  
2       to the individual of a certificate of loss of nationality  
3       by the United States Department of State.

4               “(4) LONG-TERM RESIDENT.—

5                       “(A) IN GENERAL.—The term ‘long-term  
6       resident’ means any individual (other than a  
7       citizen of the United States) who is a lawful  
8       permanent resident of the United States in at  
9       least 8 taxable years during the period of 15  
10      taxable years ending with the taxable year dur-  
11      ing which the expatriation date occurs. For pur-  
12      poses of the preceding sentence, an individual  
13      shall not be treated as a lawful permanent resi-  
14      dent for any taxable year if such individual is  
15      treated as a resident of a foreign country for  
16      the taxable year under the provisions of a tax  
17      treaty between the United States and the for-  
18      eign country and does not waive the benefits of  
19      such treaty applicable to residents of the for-  
20      eign country.

21                      “(B) SPECIAL RULE.—For purposes of  
22      subparagraph (A), there shall not be taken into  
23      account—

1                   “(i) any taxable year during which  
2                   any prior sale is treated under subsection  
3                   (a)(1) as occurring, or

4                   “(ii) any taxable year prior to the tax-  
5                   able year referred to in clause (i).

6           “(f) SPECIAL RULES APPLICABLE TO BENE-  
7 FICIARIES’ INTERESTS IN TRUST.—

8                   “(1) IN GENERAL.—Except as provided in para-  
9                   graph (2), if an individual is determined under para-  
10                  graph (3) to hold an interest in a trust—

11                  “(A) the individual shall not be treated as  
12                  having sold such interest,

13                  “(B) such interest shall be treated as a  
14                  separate share in the trust, and

15                  “(C)(i) such separate share shall be treat-  
16                  ed as a separate trust consisting of the assets  
17                  allocable to such share,

18                  “(ii) the separate trust shall be treated as  
19                  having sold its assets immediately before the ex-  
20                  patriation date for their fair market value and  
21                  as having distributed all of its assets to the in-  
22                  dividual as of such time, and

23                  “(iii) the individual shall be treated as hav-  
24                  ing recontributed the assets to the separate  
25                  trust.

1 Subsection (a)(2) shall apply to any income, gain, or  
2 loss of the individual arising from a distribution de-  
3 scribed in subparagraph (C)(ii).

4 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-  
5 FIED TRUSTS.—

6 “(A) IN GENERAL.—If the trust interest  
7 described in paragraph (1) is an interest in a  
8 qualified trust—

9 “(i) paragraph (1) and subsection (a)  
10 shall not apply, and

11 “(ii) in addition to any other tax im-  
12 posed by this title, there is hereby imposed  
13 on each distribution with respect to such  
14 interest a tax in the amount determined  
15 under subparagraph (B).

16 “(B) AMOUNT OF TAX.—The amount of  
17 tax under subparagraph (A)(ii) shall be equal to  
18 the lesser of—

19 “(i) the highest rate of tax imposed by  
20 section 1(e) for the taxable year in which  
21 the expatriation date occurs, multiplied by  
22 the amount of the distribution, or

23 “(ii) the balance in the deferred tax  
24 account immediately before the distribution  
25 determined without regard to any increases

1 under subparagraph (C)(ii) after the 30th  
2 day preceding the distribution.

3 “(C) DEFERRED TAX ACCOUNT.—For pur-  
4 poses of subparagraph (B)(ii)—

5 “(i) OPENING BALANCE.—The open-  
6 ing balance in a deferred tax account with  
7 respect to any trust interest is an amount  
8 equal to the tax which would have been im-  
9 posed on the allocable expatriation gain  
10 with respect to the trust interest if such  
11 gain had been included in gross income  
12 under subsection (a).

13 “(ii) INCREASE FOR INTEREST.—The  
14 balance in the deferred tax account shall  
15 be increased by the amount of interest de-  
16 termined (on the balance in the account at  
17 the time the interest accrues), for periods  
18 after the 90th day after the expatriation  
19 date, by using the rates and method appli-  
20 cable under section 6621 for underpay-  
21 ments of tax for such periods.

22 “(iii) DECREASE FOR TAXES PRE-  
23 VIOUSLY PAID.—The balance in the tax de-  
24 ferred account shall be reduced—

1                   “(I) by the amount of taxes im-  
2                   posed by subparagraph (A) on any  
3                   distribution to the person holding the  
4                   trust interest, and

5                   “(II) in the case of a person  
6                   holding a nonvested interest, to the  
7                   extent provided in regulations, by the  
8                   amount of taxes imposed by subpara-  
9                   graph (A) on distributions from the  
10                  trust with respect to nonvested inter-  
11                  ests not held by such person.

12                  “(D) ALLOCABLE EXPATRIATION GAIN.—  
13                  For purposes of this paragraph, the allocable  
14                  expatriation gain with respect to any bene-  
15                  ficiary’s interest in a trust is the amount of  
16                  gain which would be allocable to such bene-  
17                  ficiary’s vested and nonvested interests in the  
18                  trust if the beneficiary held directly all assets  
19                  allocable to such interests.

20                  “(E) TAX DEDUCTED AND WITHHELD.—

21                         “(i) IN GENERAL.—The tax imposed  
22                         by subparagraph (A)(ii) shall be deducted  
23                         and withheld by the trustees from the dis-  
24                         tribution to which it relates.

1           “(ii) EXCEPTION WHERE FAILURE TO  
2           WAIVE TREATY RIGHTS.—If an amount  
3           may not be deducted and withheld under  
4           clause (i) by reason of the distributee fail-  
5           ing to waive any treaty right with respect  
6           to such distribution—

7                   “(I) the tax imposed by subpara-  
8                   graph (A)(ii) shall be imposed on the  
9                   trust and each trustee shall be person-  
10                  ally liable for the amount of such tax,  
11                  and

12                   “(II) any other beneficiary of the  
13                   trust shall be entitled to recover from  
14                   the distributee the amount of such tax  
15                   imposed on the other beneficiary.

16           “(F) DISPOSITION.—If a trust ceases to be  
17           a qualified trust at any time, a covered expatri-  
18           ate disposes of an interest in a qualified trust,  
19           or a covered expatriate holding an interest in a  
20           qualified trust dies, then, in lieu of the tax im-  
21           posed by subparagraph (A)(ii), there is hereby  
22           imposed a tax equal to the lesser of—

23                   “(i) the tax determined under para-  
24                   graph (1) as if the expatriation date were

1 the date of such cessation, disposition, or  
2 death, whichever is applicable, or

3 “(ii) the balance in the tax deferred  
4 account immediately before such date.

5 Such tax shall be imposed on the trust and  
6 each trustee shall be personally liable for the  
7 amount of such tax and any other beneficiary  
8 of the trust shall be entitled to recover from the  
9 covered expatriate or the estate the amount of  
10 such tax imposed on the other beneficiary.

11 “(G) DEFINITIONS AND SPECIAL RULE.—

12 For purposes of this paragraph—

13 “(i) QUALIFIED TRUST.—The term  
14 ‘qualified trust’ means a trust—

15 “(I) which is organized under,  
16 and governed by, the laws of the  
17 United States or a State, and

18 “(II) with respect to which the  
19 trust instrument requires that at least  
20 1 trustee of the trust be an individual  
21 citizen of the United States or a do-  
22 mestic corporation.

23 “(ii) VESTED INTEREST.—The term  
24 ‘vested interest’ means any interest which,  
25 as of the expatriation date, is vested in the

1 beneficiary. Such interest shall be deter-  
2 mined by assuming the maximum exercise  
3 of discretion in favor of the beneficiary and  
4 the occurrence of all contingencies in favor  
5 of the beneficiary.

6 “(iii) NONVESTED INTEREST.—The  
7 term ‘nonvested interest’ means, with re-  
8 spect to any beneficiary, any interest in a  
9 trust which is not a vested interest.

10 “(iv) ADJUSTMENTS.—The Secretary  
11 may provide for such adjustments to the  
12 bases of assets in a trust or a deferred tax  
13 account, and the timing of such adjust-  
14 ments, in order to ensure that gain is  
15 taxed only once.

16 “(3) DETERMINATION OF BENEFICIARIES’ IN-  
17 TEREST IN TRUST.—

18 “(A) DETERMINATIONS UNDER PARA-  
19 GRAPH (1).—For purposes of paragraph (1), a  
20 beneficiary’s interest in a trust shall be based  
21 upon all relevant facts and circumstances, in-  
22 cluding the terms of the trust instrument and  
23 any letter of wishes or similar document, histor-  
24 ical patterns of trust distributions, and the ex-

1           istence of and functions performed by a trust  
2           protector or any similar advisor.

3           “(B) OTHER DETERMINATIONS.—For pur-  
4           poses of this section—

5                   “(i) CONSTRUCTIVE OWNERSHIP.—If  
6                   a beneficiary of a trust is a corporation,  
7                   partnership, trust, or estate, the sharehold-  
8                   ers, partners, or beneficiaries shall be  
9                   deemed to be the trust beneficiaries for  
10                  purposes of this section.

11                   “(ii) TAXPAYER RETURN POSITION.—  
12                  A taxpayer shall clearly indicate on its in-  
13                  come tax return—

14                           “(I) the methodology used to de-  
15                           termine that taxpayer’s trust interest  
16                           under this section, and

17                           “(II) if the taxpayer knows (or  
18                           has reason to know) that any other  
19                           beneficiary of such trust is using a  
20                           different methodology to determine  
21                           such beneficiary’s trust interest under  
22                           this section.

23           “(g) TERMINATION OF DEFERRALS, ETC.—On the  
24           date any property held by an individual is treated as sold

1 under subsection (a), notwithstanding any other provision  
2 of this title—

3 “(1) any period during which recognition of in-  
4 come or gain is deferred shall terminate, and

5 “(2) any extension of time for payment of tax  
6 shall cease to apply and the unpaid portion of such  
7 tax shall be due and payable at the time and in the  
8 manner prescribed by the Secretary.

9 “(h) IMPOSITION OF TENTATIVE TAX.—

10 “(1) IN GENERAL.—If an individual is required  
11 to include any amount in gross income under sub-  
12 section (a) for any taxable year, there is hereby im-  
13 posed, immediately before the expatriation date, a  
14 tax in an amount equal to the amount of tax which  
15 would be imposed if the taxable year were a short  
16 taxable year ending on the expatriation date.

17 “(2) DUE DATE.—The due date for any tax im-  
18 posed by paragraph (1) shall be the 90th day after  
19 the expatriation date.

20 “(3) TREATMENT OF TAX.—Any tax paid under  
21 paragraph (1) shall be treated as a payment of the  
22 tax imposed by this chapter for the taxable year to  
23 which subsection (a) applies.

24 “(4) DEFERRAL OF TAX.—The provisions of  
25 subsection (b) shall apply to the tax imposed by this

1 subsection to the extent attributable to gain includ-  
2 ible in gross income by reason of this section.

3 “(i) COORDINATION WITH ESTATE AND GIFT  
4 TAXES.—If subsection (a) applies to property held by an  
5 individual for any taxable year and—

6 “(1) such property is includible in the gross es-  
7 tate of such individual solely by reason of section  
8 2107, or

9 “(2) section 2501 applies to a transfer of such  
10 property by such individual solely by reason of sec-  
11 tion 2501(a)(3),

12 then there shall be allowed as a credit against the addi-  
13 tional tax imposed by section 2101 or 2501, whichever is  
14 applicable, solely by reason of section 2107 or 2501(a)(3)  
15 an amount equal to the increase in the tax imposed by  
16 this chapter for such taxable year by reason of this sec-  
17 tion.

18 “(j) REGULATIONS.—The Secretary shall prescribe  
19 such regulations as may be necessary or appropriate to  
20 carry out the purposes of this section, including regula-  
21 tions—

22 “(1) to prevent double taxation by ensuring  
23 that—

24 “(A) appropriate adjustments are made to  
25 basis to reflect gain recognized by reason of

1 subsection (a) and the exclusion provided by  
 2 subsection (a)(3), and

3 “(B) any gain by reason of a deemed sale  
 4 under subsection (a) of an interest in a corpora-  
 5 tion, partnership, trust, or estate is reduced to  
 6 reflect that portion of such gain which is attrib-  
 7 utable to an interest in a trust which a share-  
 8 holder, partner, or beneficiary is treated as  
 9 holding directly under subsection (f)(3)(B)(i),  
 10 and

11 “(2) which provide for the proper allocation of  
 12 the exclusion under subsection (a)(3) to property to  
 13 which this section applies.

14 “(k) CROSS REFERENCE.—

**“For income tax treatment of individuals who ter-  
 minate United States citizenship, see section  
 7701(a)(47).”**

15 (b) INCLUSION IN INCOME OF GIFTS AND INHERIT-  
 16 ANCES FROM COVERED EXPATRIATES.—Section 102 (re-  
 17 lating to gifts, etc. not included in gross income) is amend-  
 18 ed by adding at the end the following new subsection:

19 “(d) GIFTS AND INHERITANCES FROM COVERED EX-  
 20 PATRIATES.—Subsection (a) shall not exclude from gross  
 21 income the value of any property acquired by gift, bequest,  
 22 devise, or inheritance from a covered expatriate after the  
 23 expatriation date. For purposes of this subsection, any  
 24 term used in this subsection which is also used in section

1 877A shall have the same meaning as when used in section  
2 877A.”.

3 (c) DEFINITION OF TERMINATION OF UNITED  
4 STATES CITIZENSHIP.—Section 7701(a) is amended by  
5 adding at the end the following new paragraph:

6 “(47) TERMINATION OF UNITED STATES CITI-  
7 ZENSHIP.—An individual shall not cease to be treat-  
8 ed as a United States citizen before the date on  
9 which the individual’s citizenship is treated as relin-  
10 quished under section 877A(e)(3).”

11 (d) CONFORMING AMENDMENTS.—

12 (1) Section 877 is amended by adding at the  
13 end the following new subsection:

14 “(f) APPLICATION.—This section shall not apply to  
15 any individual who relinquishes (within the meaning of  
16 section 877A(e)(3)) United States citizenship on or after  
17 February 6, 1995.”

18 (2) Section 2107(c) is amended by adding at  
19 the end the following new paragraph:

20 “(3) CROSS REFERENCE.—For credit against  
21 the tax imposed by subsection (a) for expatriation  
22 tax, see section 877A(i).”

23 (3) Section 2501(a)(3) is amended by adding at  
24 the end the following new flush sentence:

1 “For credit against the tax imposed under this sec-  
 2 tion by reason of this paragraph, see section  
 3 877A(i).”

4 (4) Paragraph (10) of section 7701(b) is  
 5 amended by adding at the end the following new  
 6 sentence: “This paragraph shall not apply to any  
 7 long-term resident of the United States who is an  
 8 expatriate (as defined in section 877A(e)(1)).”

9 (e) CLERICAL AMENDMENT.—The table of sections  
 10 for subpart A of part II of subchapter N of chapter 1  
 11 is amended by inserting after the item relating to section  
 12 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”

13 (f) CITIZENS BECOMING COVERED EXPATRIATES TO  
 14 BE TAXED AS RESIDENTS UPON RETURN TO UNITED  
 15 STATES.—Paragraph (3) of section 7701(b) is amended  
 16 by adding at the end the following new subparagraph:

17 “(E) SPECIAL RULE FOR COVERED EXPA-  
 18 TRIATES.—Notwithstanding any other provision  
 19 of this paragraph, in the case of an individual  
 20 who is treated as a covered expatriate under  
 21 section 877A by reason of relinquishing the in-  
 22 dividual’s United States citizenship, such indi-  
 23 vidual shall be treated as meeting the substan-  
 24 tial presence test of this paragraph with respect  
 25 to any calendar year if the individual is present

1 in the United States for more than 30 days  
2 during the calendar year. The preceding sen-  
3 tence shall not apply to the extent that the Sec-  
4 retary determines its application would con-  
5 travene any treaty of the United States.”

6 (g) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided in this  
8 subsection, the amendments made by this section  
9 shall apply to expatriates (within the meaning of  
10 section 877A(e) of the Internal Revenue Code of  
11 1986, as added by this section) whose expatriation  
12 date (as so defined) occurs on or after February 6,  
13 1995.

14 (2) GIFTS AND BEQUESTS.—Section 102(d) of  
15 the Internal Revenue Code of 1986 (as added by  
16 subsection (b)) shall apply to amounts received from  
17 expatriates (as so defined) whose expatriation date  
18 (as so defined) occurs on and after February 6,  
19 1995.

20 (3) SPECIAL RULES RELATING TO CERTAIN  
21 ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In  
22 the case of an individual who took an act of expa-  
23 triation specified in paragraph (1), (2), (3), or (4)  
24 of section 349(a) of the Immigration and Nationality  
25 Act (8 U.S.C. 1481(a)(1)–(4)) before February 6,

1 1995, but whose expatriation date (as so defined)  
2 occurs after February 6, 1995—

3 (A) the amendment made by subsection (c)  
4 shall not apply,

5 (B) the amendment made by subsection  
6 (d)(1) shall not apply for any period prior to  
7 the expatriation date, and

8 (C) the other amendments made by this  
9 section shall apply as of the expatriation date.

10 (4) DUE DATE FOR TENTATIVE TAX.—The due  
11 date under section 877A(h)(2) of such Code shall in  
12 no event occur before the 90th day after the date of  
13 the enactment of this Act.

14 **SEC. 3. INFORMATION ON INDIVIDUALS EXPATRIATING.**

15 (a) IN GENERAL.—Subpart A of part III of sub-  
16 chapter A of chapter 61 is amended by inserting after sec-  
17 tion 6039E the following new section:

18 **“SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIAT-**  
19 **ING.**

20 **“(a) REQUIREMENT.—**

21 **“(1) IN GENERAL.—**Notwithstanding any other  
22 provision of law, any expatriate (within the meaning  
23 of section 877A(e)(1)) shall provide a statement  
24 which includes the information described in sub-  
25 section (b).

1           “(2) TIMING.—

2                   “(A) CITIZENS.—In the case of an expatri-  
3           ate described in section 877(e)(1)(A), such  
4           statement shall be—

5                           “(i) provided not later than the expa-  
6                           triation date (within the meaning of sec-  
7                           tion 877A(e)(2)), and

8                           “(ii) provided to the person or court  
9                           referred to in section 877A(e)(3).

10                   “(B) NONCITIZENS.—In the case of an ex-  
11           patriate described in section 877A(e)(1)(B),  
12           such statement shall be provided to the Sec-  
13           retary with the return of tax imposed by chap-  
14           ter 1 for the taxable year during which the  
15           event described in such section occurs.

16           “(b) INFORMATION TO BE PROVIDED.—Information  
17           required under subsection (a) shall include—

18                           “(1) the taxpayer’s TIN,

19                           “(2) the mailing address of such individual’s  
20           principal foreign residence,

21                           “(3) the foreign country in which such individ-  
22           ual is residing,

23                           “(4) the foreign country of which such individ-  
24           ual is a citizen,

1           “(5) in the case of an individual having a net  
2           worth of at least the dollar amount applicable under  
3           section 877A(c)(1)(B), information detailing the as-  
4           sets and liabilities of such individual, and

5           “(6) such other information as the Secretary  
6           may prescribe.

7           “(c) PENALTY.—Any individual failing to provide a  
8           statement required under subsection (a) shall be subject  
9           to a penalty for each year during any portion of which  
10          such failure continues in an amount equal to the greater  
11          of—

12           “(1) 5 percent of the additional tax required to  
13          be paid under section 877A for such year, or

14           “(2) \$1,000,  
15          unless it is shown that such failure is due to reasonable  
16          cause and not to willful neglect.

17          “(d) INFORMATION TO BE PROVIDED TO SEC-  
18          RETARY.—Notwithstanding any other provision of law—

19           “(1) any Federal agency or court which collects  
20          (or is required to collect) the statement under sub-  
21          section (a) shall provide to the Secretary—

22           “(A) a copy of any such statement, and

23           “(B) the name (and any other identifying  
24          information) of any individual refusing to com-  
25          ply with the provisions of subsection (a),

1           “(2) the Secretary of State shall provide to the  
2           Secretary a copy of each certificate as to the loss of  
3           American nationality under section 358 of the Immi-  
4           gration and Nationality Act which is approved by  
5           the Secretary of State, and

6           “(3) the Federal agency primarily responsible  
7           for administering the immigration laws shall provide  
8           to the Secretary the name of each lawful permanent  
9           resident of the United States (within the meaning of  
10          section 7701(b)(6)) whose status as such has been  
11          revoked or has been administratively or judicially de-  
12          termined to have been abandoned.

13          Notwithstanding any other provision of law, not later than  
14          30 days after the close of each calendar quarter, the Sec-  
15          retary shall publish in the Federal Register the name of  
16          each individual relinquishing United States citizenship  
17          (within the meaning of section 877A(e)(3)) with respect  
18          to whom the Secretary receives information under the pre-  
19          ceding sentence during such quarter.

20          “(e) EXEMPTION.—The Secretary may by regulations  
21          exempt any class of individuals from the requirements of  
22          this section if the Secretary determines that applying this  
23          section to such individuals is not necessary to carry out  
24          the purposes of this section.”

1           (b) CLERICAL AMENDMENT.—The table of sections  
2 for such subpart A is amended by inserting after the item  
3 relating to section 6039E the following new item:

                  “Sec. 6039F. Information on individuals expatriating.”

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to individuals to whom section  
6 877A of the Internal Revenue Code of 1986 applies and  
7 whose expatriation date (as defined in section 877A(e)(2))  
8 occurs on or after February 6, 1995, except that no state-  
9 ment shall be required by such amendments before the  
10 90th day after the date of the enactment of this Act.

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