

Internal Revenue Code Section 877(a)(2)(A)

Expatriation to avoid tax.

(a) Treatment of expatriates.

(1) In general.

Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section , is imposed pursuant to section 871 .

(2) Individuals subject to this section .

This section shall apply to any individual if-

(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than \$124,000,

(B) the net worth of the individual as of such date is \$2,000,000 or more, or

(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2004, such \$124,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting "2003" for "1992" in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of \$1,000.

(b) Alternative tax.

A nonresident alien individual described in subsection (a) shall be taxable for the taxable year as provided in section 1 or 55 , except that-

(1) the gross income shall include only the gross income described in section 872(a) (as modified by subsection (d) of this section), and

(2) the deductions shall be allowed if and to the extent that they are connected with the gross income included under this section , except that the capital loss carryover provided by section 1212(b) shall not be allowed; and the proper allocation and apportionment of the deductions for this purpose shall be determined as provided under regulations prescribed by the Secretary.

For purposes of paragraph (2) , the deductions allowed by section 873(b) shall be allowed; and the deduction (for losses not connected with the trade or business if incurred in transactions entered into for profit) allowed by section 165(c)(2) shall be allowed, but only if the profit, if such transaction had resulted in a profit, would be included in gross income under this section . The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section .

(c) Exceptions.

(1) In general.

Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3) .

(2) Dual citizens.

(A) In general. An individual is described in this paragraph if-

(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

(ii) the individual has had no substantial contacts with the United States.

(B) Substantial contacts. An individual shall be treated as having no substantial contacts with the United States only if the individual-

(i) was never a resident of the United States (as defined in section 7701(b)),

(ii) has never held a United States passport, and

(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

(3) Certain minors.

An individual is described in this paragraph if-

(A) the individual became at birth a citizen of the United States,

(B) neither parent of such individual was a citizen of the United States at the time of such birth,

(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

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