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Wealthy Asians dash to ditch US passports

By Min Ho | 11 December 2014

A fast-rising number of Americans based in the region are disposing of their US citizenship, citing the increasing difficulty of managing their financial affairs due to growing regulatory demands.

Increasing US government scrutiny of the tax affairs of American citizens abroad has led to a jump in the number of individuals looking to ditch their citizenship.

So high is the demand that US law firm Butler Snow has been receiving at least a call on a day seeking information on expatriation and seeing record numbers proceeding to give up their US passport.

“[Our clients] are saying that it’s too difficult to manage their financial affairs as an American abroad,” said Brad Westerfield, London-based managing partner at Butler Snow.

Private bankers echo this view, with many saying their firms have given up dealing with US citizens as a result.

Indeed, it may cost those in high-tax jurisdictions several thousand dollars to prepare US tax returns, even though they may not owe any US tax. “With all the US reporting obligations, at the end of the day, it may cost more to prepare the returns than to pay the tax,” said Westerfield.

According to the US Department of the Treasury and Internal Revenue Service, 2,353 people renounced their citizenship in the third quarter of 2014, up from just 241 in the same period of 2009.

The number of those looking to give up their right of abode also comes amid speculation that the IRS may soon target regions with strong private banking networks such as Asia, as it follows the trail of money flowing out of Switzerland.

And with the implementation date of the US Foreign Account Tax Compliance Act (Fatca) looming – which will force financial institutions globally to report financial details of US clients on their books – the risk of detection for US tax evaders are increasing.

However, individuals wanting to dump their US passports but who meet the criteria of 'covered expatriates' – such as by having more than $2 million in assets – will have to pay an exit tax, noted Kurt Rademacher, director of Butler Snow’s international tax practice.

For example, covered expatriates that are the beneficiaries of trusts would be have to pay a withholding tax when distributions are made in the future. Gifts or bequests given to Americans by covered expatriates would also be hit with a 40% tax bill.

But while some are determined to dispose of their US status, others are increasingly keen to become compliant with rules such as Fatca so that they can retain it.

It may be that they want the flexibility to leave their country where they live if they need to get somewhere safe in a hurry, noted Rademacher. “Political instability is a driver for a lot of people to keep their US status.”

Some individuals are looking to achieve compliance by making “quiet disclosures” by trying to correct past income returns, as opposed to using the front-door method – by declaring their outstanding tax through the disclosure programme.

This is often the case for Asia-based US citizens, who may have tenuous connections with America and therefore believe they should not be subject to the tax. This could be because they may carry only a green card and therefore are not treated as full citizens, or that they have inherited a passport from their parents.

But Westerfield warns of the risk. "The IRS has said publicly if you do that by trying to go to the back door and if we detect you, then they are going to impose the maximum penalties that they can impose on you under law.”

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