

Other Taxes – A Trap for the Unwary

Part IV of Form 8854 requires that you confirm under penalty of perjury that you are up to date on all US tax obligations from the last 5 years.

Part IV For Persons Who Expatriated During 2017					
Section A Expatriation Information					
1	Enter your U.S. income tax liability (after foreign tax credits) for the 5 tax years ending before the date of expatriation.				
	1st Year	2nd Year	3rd Year	4th Year	5th Year
	Before Expatriation	Before Expatriation	Before Expatriation	Before Expatriation	Before Expatriation
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
2	Enter your net worth on the date of your expatriation for tax purposes \$ _____				
3	Did you become at birth a U.S. citizen and a citizen of another country, and do you continue to be a citizen of, and taxed as a resident of, that other country? <input type="checkbox"/> Yes <input type="checkbox"/> No				
4	If you answered "Yes" to question 3, have you been a resident of the United States for not more than 10 of the last 15 tax years? <input type="checkbox"/> Yes <input type="checkbox"/> No				
5	Were you under age 18½ on the date you expatriated and have you been a U.S. resident for not more than 10 years? <input type="checkbox"/> Yes <input type="checkbox"/> No				
6	Do you certify under penalties of perjury that you have complied with all of your tax obligations for the 5 preceding tax years (see instructions)? <input type="checkbox"/> Yes <input type="checkbox"/> No				

Form 8854 (2017)

Generally, an individual will qualify as a so-called “covered expatriate” if he meets *any one* of the following conditions:

- The individual’s average annual net income *tax liability* (this means, tax paid) for the 5 years ending before the date of expatriation is more than a specified amount that is adjusted for inflation (for 2018, the amount is over \$165,000). Remember, this means his average income tax paid, not his income.
- The individual’s net worth is \$2 million or more on the date of expatriation. Remember this is based on the fair market value of WORLDWIDE assets; this amount is not indexed for inflation.
- The individual fails to certify on Form 8854 that he or she has complied with all US federal tax obligations for the 5 years preceding the date of expatriation.

Internal Revenue Code [Section 877A\(g\)](#) (referencing [Section 877](#)) makes clear that in order for an individual to be fully tax compliant for the 5 years preceding expatriation, it means the individual has met the requirements “of this title”. The “title” referred to is Title 26 of the United States Code. The United States Code is the official compilation and codification of the general and permanent federal statutes of the US. It has 53 “titles”. Title 26 is the part of the United States Code in which the US Internal Revenue Code is contained. For example, a taxpayer might be required to pay excise taxes in order to satisfy the requirements of title 26.

If you need more information how to navigate your expatriation, we are ready to help. [Contact us](#) for assistance or consultation for this and other potential “traps for the unwary” when expatriating.