

Instructions for Form 8854

(Rev. February 2004)

Expatriation Initial Information Statement



Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Use Form 8854, if you expatriate, to provide the information required by section 6039G. These reporting requirements are explained in further detail in Section IX of Notice 97-19, 1997-1 C.B. 394. You can find Notice 97-19 on page 40 of Internal Revenue Bulletin 1997-10 at www.irs.gov/pub/irs-irbs/irb97-10.pdf.



Form 8854 serves only to satisfy the **initial** information reporting requirement of section 6039G. A former U.S. citizen or a former U.S. long-term resident is still required to:

- Compute any tax due under section 877 (including the recognition of gain in the circumstances described in Section V of Notice 97-19).
- Provide an annual information reporting (Section VII of Notice 97-19).

Expatriation

For purposes of this form, **expatriation** is ceasing to be a U.S. citizen or U.S. long-term resident.

Generally, you must continue to pay U.S. income tax, as if expatriation did not occur, for 10 years after expatriation unless tax avoidance was not one of your principal purposes of expatriating. You **will** generally be treated as having a principal purpose of tax avoidance if the answer to the question on line 8 or line 9 in Part I is "Yes". However, you **will not** be presumed to have a principal purpose of tax avoidance if you submit a ruling request to the IRS to determine whether tax avoidance is a principal purpose of your expatriation. See the instructions for Part I, line 10, to find out if you are eligible to submit a ruling request.

Who Must File

Former U.S. Citizens

You must file Form 8854 if **any** of the following occurs.

1. You renounce your U.S. citizenship before a diplomatic or consular officer of the United States.
2. You furnish to the U.S. Department of State a signed statement of voluntary relinquishment of U.S. nationality confirming an act of expatriation.
3. The U.S. Department of State issues you a certificate of loss of U.S. nationality.
4. A U.S. Federal court cancels your certificate of naturalization.

Former U.S. Long-Term Residents (LTRs)

You must file Form 8854 if you become a former U.S. LTR. You are a **former U.S. LTR** if you were not a U.S. citizen but were a lawful permanent resident of the United States (defined on this page) for at least 8 of the 15 consecutive tax years ending with the year you ceased to be a U.S. resident. Do not count as a year of residence any year that you were

treated as a resident of another country under a tax treaty and did not waive treaty benefits.

Lawful permanent resident. You are a lawful permanent resident of the United States if you have been given the privilege, according to U.S. Immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the Immigration and Naturalization Service has issued you an alien registration card, also known as a "green card."

When To File

Note: File Form 8854 only once.

Former U.S. Citizens

File Form 8854 no later than the earliest date that any of the events listed under **Who Must File** occurs.

Former U.S. LTRs

File Form 8854 by the due date (including extensions) of your dual-status income tax return for the year you expatriate.

Where To File

Former U.S. Citizens

File Form 8854 with the American Citizens Services Unit, Consular Section, of the nearest American Embassy or consulate. However, if you are filing Form 8854 because a U.S. Federal court canceled your certificate of naturalization, file Form 8854 with that court.

Former U.S. LTRs

Attach Form 8854 to your dual-status income tax return for the year in which you ceased to be a U.S. resident. If you have already filed that return, file Form 8854 by itself at the address where you filed the return. For details on dual-status returns, see the Instructions for Form 1040NR.

Penalty for Failure To File

You may be assessed a penalty for each year of the 10-year period beginning on the date of expatriation that you have not yet filed Form 8854. For each of those years, the penalty is the **greater** of:

- \$1,000 or
- Five percent of the tax required to be paid under section 877 for that year.

If you can show that your failure to file was due to reasonable cause and not willful neglect, the penalty will not be imposed.

Specific Instructions

Telephone Number

Enter the complete telephone number, including the country and area codes, at which you can be reached.

Identifying Number

Generally, this number is your U.S. social security number. An incorrect or missing identifying number may result in additional correspondence.

Part I—General Information

Line 1

Former U.S. Citizens

The date of your expatriation is either the date that your certificate of naturalization was canceled by a Federal court or the date that you, with the intention of relinquishing your citizenship, voluntarily took one of several actions. These actions include:

- Obtaining naturalization in a foreign state,
- Taking an oath, affirmation, or other formal declaration of allegiance to a foreign state,
- Entering or serving in the armed forces of a foreign state engaged in hostilities against the United States, or serving as a commissioned or noncommissioned officer in the armed forces of a foreign state,
- Accepting employment with a foreign government if a declaration of allegiance is required in accepting the position or if you have the nationality of that foreign state, or
- Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state.

For more details about voluntarily relinquishing U.S. citizenship, see 8 United States Code section 1481.

Former U.S. LTRs

The date of your expatriation is the earliest of the following:

1. The date your green card was rescinded by the U.S. Citizenship and Immigration Services (USCIS) or the Immigration and Naturalization Service (INS).
2. The date your green card was administratively or judicially determined to have been abandoned. If you filed **Form I-407**, Abandonment of Lawful Permanent Resident Status, with the INS, the date of the abandonment of your green card is on line 6(c) of that form.
3. The first day of the tax year for which you began to be treated as a foreign resident under the provisions of an income tax treaty and do not waive the benefits of the treaty.

Lines 3 Through 5

P.O. Box

If you have a P.O. box, enter your box number instead of your street address only if your post office does not deliver mail to the street address.

Foreign Address

Enter the information in the following order: street address, city, province or state, and country. Follow the country's practice for entering the postal code. Do not abbreviate the country name.

Line 6, Column (b)

Show how you became a citizen. For example, if you acquired citizenship at birth, write "At Birth." If you acquired citizenship through naturalization, write "Naturalized Citizen."

Line 7

List the number of days you were physically present in the United States (including vacation and nonworkdays) in the tax year you expatriated and in each of the 2 tax years prior to expatriation.

Line 8

The applicable threshold amounts are as follows:

Year of Expatriation	Amount
2004	\$124,000
2003	\$122,000
2002	\$120,000
2001	\$116,000
2000	\$112,000
1999	\$110,000
1998	\$109,000
1997	\$106,000
02/06/1995–12/31/1996	\$100,000

Line 9

The applicable threshold amounts are as follows:

Year of Expatriation	Amount
2004	\$622,000
2003	\$608,000
2002	\$599,000
2001	\$580,000
2000	\$562,000
1999	\$552,000
1998	\$543,000
1997	\$528,000
02/06/1995–12/31/1996	\$500,000

Line 10

Certain former U.S. citizens and former U.S. LTRs can request a ruling that the avoidance of U.S. taxes was not a principal purpose of their expatriation.

If you are a former U.S. citizen, you are generally eligible to request a ruling (within 1 year after the loss of U.S. citizenship) if:

- You were a citizen of both the United States and a foreign country at birth and you maintained the foreign country citizenship after you expatriated or
- You are (or become) a **citizen** of the country where (a) you were born, (b) one of your parents was born, or (c) your spouse was born.

If you are a former U.S. LTR, you are generally eligible to request a ruling if you are (or become) a **resident fully liable for income tax** in the country where (a) you were born, (b) one of your parents was born, or (c) your spouse was born. For this purpose, a resident who is not domiciled in a country is not considered a resident fully liable for income tax in that country if his or her income is subject to tax in a different manner than the income of a resident who is domiciled in the country.

In addition, a former U.S. citizen or former U.S. LTR who spent no more than 30 days in the United States during each year of the 10-year period prior to expatriation or expatriated before reaching age 18½ is also generally eligible to request a ruling. For more details, see section 877, section IV of Notice 97-19, and section IV of Notice 98-34, 1998-2 C.B. 29. You can find Notice 98-34 on page 30 of Internal Revenue Bulletin 1998-27 at www.irs.gov/pub/irs-irbs/irb98-27.pdf.

Signature

Form 8854 is not considered valid unless you sign it. If you have someone else prepare Form 8854, you are still responsible for its correctness.

Paid preparers. Generally, anyone you pay to prepare Form 8854 must sign it in the space provided. The preparer must give you a copy for your records. Someone who prepares Form 8854 but does not charge you a fee should not sign it.

Part II—Balance Sheet

If you answered “Yes” to the question on line 11 on the front of Form 8854, you must list your assets and liabilities (in U.S. dollars) immediately prior to your expatriation.

Note: *If there have been significant changes in your assets and liabilities for the period that began 5 years prior to expatriation and ended on the date that you file Form 8854, you must attach a statement explaining the changes. Also, attach a similar statement if you expect significant changes in the 10-year period after expatriation.*

Columns (a) and (b)

List the fair market value of each class of assets and your U.S. adjusted basis in the class of assets. You may use good faith estimates of fair market value and basis (formal appraisals are not required).

Column (c)

Subtract the amounts in column (b) from the amounts in column (a) and show the gain or (loss) in column (c). Enter negative amounts in parentheses.

Column (d)

If you are a former U.S. LTR, it may benefit you to complete column (d). For more details, see section 877(e)(3)(B). **Only** former U.S. LTRs should complete column (d).

Enter in column (d) the fair market value of each asset on the date you first became a U.S. resident for tax purposes.

Note: *The date you first became a U.S. resident for tax purposes is **not always** the same as the date you first became a U.S. lawful permanent resident. For details on U.S. residency (including the substantial presence test), see **Pub. 519, U.S. Tax Guide for Aliens.***

Line 8

List the total value of all your partnership interests. If you hold an interest in one or more partnerships, you must attach a statement to Form 8854 that lists each partnership separately. Include the employer identification number (EIN), if any, for each partnership. Describe the assets and liabilities of each partnership (using the categories on the balance sheet on page 2 of Form 8854) attributable to your interest in the partnership.

Line 9

List the total value of all assets held by trusts that, you are considered to own for tax purposes. You must attach a statement to Form 8854 that lists each trust separately. Include the EIN (if any) for each trust. Describe the assets and liabilities of each trust (using the categories on the balance sheet on page 2 of Form 8854) attributable to your interest in the trust.

Note: *To determine if you are an owner of a trust, see sections 671 through 679.*

Line 10

List the total value of all assets held by nongrantor trusts in which you are considered to have a beneficial interest. You must attach a statement to Form 8854 that lists each trust separately. Include the EIN (if any) for each trust. Describe the assets and liabilities of each trust (using the categories on the balance sheet on page 2 of Form 8854) attributable to your interest in the trust.

Note: *To determine if you are a beneficiary of a nongrantor trust, you must allocate the property interests of the trust*

based on all relevant facts and circumstances. To determine the value of your beneficial interest, use the valuation principles under section 2512. See section III of Notice 97-19 for examples of how the property interests of a nongrantor trust should be allocated to the beneficiaries of the trust.

Lines 11 and 12

Intangible property includes any of the following items that have substantial value independent of the services of any individual.

- Patent, invention, formula, process, design, pattern, or know-how.
- Copyright, literary, musical, or artistic composition.
- Trademark, trade name, or brand name.
- Franchise, license, or contract.
- Method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data.
- Any similar item.

Line 19

Attach a statement describing and listing the total value of any other assets you have that are not included on lines 1 through 18.

Line 23

Attach a statement describing and listing the total value of any other liabilities you have that are not included on lines 21 and 22.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average times are:

	<u>Part I</u>	<u>Parts I and II</u>
Recordkeeping	33 min.	2 hr., 57 min.
Learning about the law or the form	13 min.	25 min.
Preparing the form	37 min.	1 hr., 22 min.
Copying, assembling, and sending the form to the IRS	20 min.	34 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **Where To File** on page 1.
