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ASIAN BUSINESS NEWS

U.S. Expats Balk at Tax Law

American Citizen Renunciations Are Soaring

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By MARIKO SANCHANTA and JASON CHOW
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More U.S. citizens are giving up their American passports as the government cracks down on tax evaders. The WSJ's Deborah Kan speaks to lawyer Eugene Chow about the main reason why many don't want to be American anymore.

HONG KONG—The U.S.'s crackdown on global tax evaders is prompting some Americans in Asia to rethink their citizenship, attorneys there say, in part amid an increasing burden of paperwork required by U.S. tax law.

"When I became an immigration lawyer 30 years ago, people really were excited about going to America. Now, more than half of my clients are people thinking of other alternatives rather than people seeking to immigrate to America," said Eugene Chow, the principal of Chow King & Associates in Hong Kong. "My mentor, who is in his early 80s, said to me, 'You became an immigration lawyer to fulfill the American dream, and now you are helping people leave.'"



Enlarge Image

A growing number of Americans are exploring whether to renounce their U.S. citizenship or give up their green cards to avoid onerous tax obligations. *Bloomberg News*

While the numbers of those renouncing their U.S. citizenship are small—more than 1,000 people in the second quarter of 2013, out of more than six million Americans estimated to be living abroad—the numbers have climbed this year, according to recently released figures.

The main trigger for cutting ties with U.S., several lawyers say, is the Foreign Account Tax Compliance Act, or Fatca, which requires foreign institutions to

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disclose the overseas assets of U.S. green-card holders and citizens to the U.S. government. The main objective of Fatca is to identify people who may be evading taxes through offshore investment vehicles.

A growing number of wealthy Americans in Asia—and others with green cards—are exploring whether to renounce their U.S. citizenship or give up their green cards to avoid onerous tax obligations.

Some U.S. citizens say they are exasperated by a growing raft of paperwork that forces U.S. citizens living abroad to declare the minutiae of their financial holdings and other assets. That has increased the attraction of becoming a citizen in places such as Hong Kong, where the individual tax rate is capped at 15%.

"My decision was less about the actual amount of taxes I had to pay, and more about the system," said one investment banker, who renounced his U.S. citizenship and is now a Hong Kong citizen. "I'm not an ultrawealthy dude. It was the hassle with all the paperwork."

The U.S., for its part, estimates that tax evasion by U.S. citizens results in losses of as much as \$100 billion a year, according to figures from Congress.

Jay Krause, head of the wealth-planning group in Asia for law firm Withers, says his lawyers in Hong Kong and Singapore are busy processing voluntary U.S. tax returns under the IRS's offshore voluntary disclosure program, which is also designed to weed out tax evaders and people who haven't filed their taxes in years.

Many of his clients are citizens or green-card holders who haven't lived in the U.S. for years but kept the green card or passport for travel purposes.

"They stuck it away in a drawer and didn't think about it," he said.

Rather than pay a hefty exit tax in exchange for renouncing U.S. citizenship, many wealthy Asian families are simply paying up their missed taxes, paying penalties of 27.5% on the value of previously undeclared assets.

Scott Michel, a tax and estate lawyer based in Washington, D.C., with Caplin & Drysdale, said he has filed taxes of as much as \$60 million on behalf of one family.

"Some clients, many of the wealthier ones, decide to bite the bullet," he said. "That's a lot of money to pay for peace of mind, but people do it."

But Withers, in Hong Kong, says that many of its clients are giving up their green cards and U.S. citizenship after filing their taxes, deeming the tax liability to be too onerous.

Among them are American expatriates who see their Singaporean and Hong Kong peers paying a far-lower income tax and aren't subject to capital-gains taxes, Mr. Krause said.

Globally, more Americans appear to be making similar decisions. A total of 1,130 names appeared on the Internal Revenue Service's list of those who renounced their citizenship in the second quarter, according to Andrew Mitchel, a tax lawyer who tracks the data.

That is far above the previous high of 679, set in the first quarter, and more than were reported in all of 2012.

Some wealthy families with U.S. citizenship—many of whom haven't lived on U.S. soil in years—are finding ways to work around Fatca regulations. Many are opting to set up special "foreign grantor trusts" to escape paying taxes while maintaining citizenship.

In that scenario, one family member who doesn't have U.S. citizenship is designated as the settlor—typically, the head of a family business—and places assets in a designated trust for the benefit of the children who do have U.S. citizenship.

The income generated from those assets isn't subject to U.S. taxes. But there is a caveat: The trust must be fully revocable, which means the settlor has the right to withdraw the assets from the trust whenever he or she pleases.

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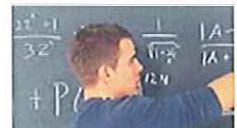
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The foreign grantor trust is becoming a favored method for passing on wealth, said Mr. Krause of Withers. Such trusts are "highly advantageous" to families living abroad, he said.

Still, many long-term U.S. expats are grappling with the new regulations and the longer-term implications it could have for the U.S. in general.

"The U.S. system does not incentivize anyone to go overseas anymore," said the banker in Hong Kong who renounced his citizenship. "As a country, your sphere of influence is impacted."

Write to Mariko Sanchanta at mariko.sanchanta@wsj.com and Jason Chow at jason.chow@wsj.com

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