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by Marco Blanco

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The American Jobs Creation Act: The New Expatriation Provisions

by Marco Blanco

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The American Jobs Creation Act of 2004 (P.L. 108-357) (the Act), significantly amended the provisions of U.S. Internal Revenue Code section 877 and related provisions[1] affecting the U.S. taxation of United States citizens and long-term residents who relinquish their citizenship or residence (the expatriation provisions). Changes made by the Act include the following:

- **Change in Test for Persons Affected.** Under old law, individuals who expatriated with a principal purpose of tax avoidance were subject to the expatriation provisions.[2] That has been replaced by three bright-line tests regarding the individual's tax liability, net worth, and tax compliance.[3]
- **Addition of a Formal Renunciation Requirement.** Under the Act, U.S. citizens and permanent residents continue to be taxed on their worldwide income until they formally renounce their citizenship or green card before a representative of the State Department or the Department of Homeland Security.[4]
- **Addition of a Physical Presence in the U.S. Rule.** Under the Act, if a former citizen or long-term resident spends more than 30 days during a tax year in the United States during the 10-year postexpatriation period, he is taxed for the entire tax year as though he were a U.S. resident.[5]
- **Addition of New Gift Tax Provisions.** Gifts of stock of some closely held foreign corporations made by expatriates during the

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[1]Sections 877, 2501, 2107, 6039G, 7701.

[2]Section 877(a)(1) (before amendment by the Act).

[3]Section 877(a)(2) (as amended by the Act).

[4]Section 7701(n) (as amended by the Act).

[5]Section 877(g) (added by the Act) (with a limited exception if presence in the United States performing service for an unrelated employer).

10-year window are subject to U.S. gift tax, to the extent that the foreign corporation holds U.S.-situs property.[6]

- **Increased Filing Requirements.** The Act requires that expatriates comply with heightened filing requirements and increases penalties for failure to file.[7]

This article examines the effect that those changes will have on long-term residents who choose to expatriate. The first part of the article reviews the expatriation provisions as amended by the Act. The second part discusses the way in which the Act affects the decision tree facing a long-term resident who is considering expatriation. The third part discusses the interaction between the expatriation provisions and treaties.

I. The Expatriation Provisions

Generally, individuals who are U.S. citizens or residents are subject to net income tax on their worldwide income. U.S. nonresidents are subject to tax only on certain U.S.-source investment income and income effectively connected with a U.S. trade or business.[8] The expatriation provisions subject some former U.S. citizens and residents to an alternative tax regime. Under that regime, expatriates are subject to U.S. income, estate, and gift tax on some items in addition to items on which U.S. nonresidents are generally liable.[9] In determining the effect of the expatriation provisions on an individual, it is necessary first to determine whether the individual is covered by the expatriation provisions (that is, whether the individual is an affected individual), and second to determine the substantive effect of the expatriation provisions on the individual.

A. Individuals Affected

Before amendment by the Act, individuals who relinquished their citizenship with a principal purpose of tax avoidance were subject to the expatriation provisions. Individuals with a net worth or income tax liability of greater than a certain amount who relinquished their citizenship were presumed to have expatriated with a tax avoidance purpose.[10] Some individuals who failed either the net worth test or the tax liability test could apply for a ruling to the effect that their expatriation was not tax motivated.[11] The Act does away with the "principal purpose" requirement and replaces it with objective standards. Under section 877(a)(2) as amended by the Act, an individual is subject to the alternative tax if either (i) his average annual net income tax during the five previous tax years was greater than US $124,000 (indexed for inflation) (the tax liability test), (ii) the individual's net worth as of the date of expatriation was US $2 million or more (the net worth test), or (iii) the individual fails to certify under penalty of perjury that he has complied with applicable tax law for the previous five tax years (the tax compliance test), *regardless* of the taxpayer's motivation.[12]

Long-term permanent residents who give up their permanent resident status are subject to the expatriation provisions in the same way as citizens who renounce their citizenship.[13] For those purposes, a long-term permanent resident is a person who has been a lawful permanent resident of the United States during any part of at least 8 of the 15 tax years ending with the tax year during which expatriation occurs.[14] An individual is a lawful permanent resident if he has a green card or other permanent resident status.[15] A green card holder is not treated as a lawful permanent resident for any tax year during which he is treated as a resident of a foreign country for the tax year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of the treaty applicable to residents of the foreign country.[16] Because each tax year during any portion of which a taxpayer holds a green card or permanent resident status is counted toward the eight-year minimum, a taxpayer may be deemed to be a lawful permanent resident of the United States during three years if he holds a green card for as little as 367 days.

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[6]Section 2501(a)(5) (as amended by the Act).

[7]Section 6039G (as amended by the Act).

[8]Section 872(a).

[9]Section 877.

[10]Section 877(a)(2) (before amendment by the Act).

[11]Section 877(c)(1) (before amendment of the Act); Notice 97-19, 1997-1 C.B. 394, *97 TNI 38-27* or *Doc 97-5446*. In some cases, the IRS would conclude that the taxpayer was not presumed to have expatriated with a tax avoidance purpose even if it did not rule on the merits, as long as the ruling was complete and submitted in good faith. Notice 98-34, 1998-2 C.B. 29, *98 TNI 119-38* or *Doc 98-19697*.

[12]Section 877(a)(2) (as amended by the Act).

[13]Section 877(e)(1).

[14]Section 877(e)(2).

[15]Section 877(e)(1)(A) (referencing section 7701(b)(6)).

[16]Section 877(e)(2) (second sentence). The legislative history of this section does not discuss what it means to "waive the benefits" of a treaty, and no administrative guidance has been issued. Presumably, an individual waives the benefits of a treaty if he claims foreign residence under the treaty but waives any reductions in his U.S. tax liability resulting from his claiming foreign residence under the treaty. Practically speaking, if a taxpayer claims foreign residence under a treaty, it would be unlikely for him to waive any benefits thereof.

Example 1. X, a citizen of Belarus and a calendar-year taxpayer, obtains a green card on December 31, 2004. As of January 2, 2006, he formally renounces his residence and moves back to Belarus. Although he held the green card for only 368 days, he has held it during three tax years; that is, 2004, 2005, and 2006.

B. Income Tax Provisions

Individuals subject to the expatriation provisions are subject to tax on the following items of income in addition to items on which nonresidents are generally liable.

1. Re-sourcing

Certain income earned by an expatriate during the 10-year postexpatriation period is treated as U.S.-source (and thus subject to U.S. tax) even though it would ordinarily be foreign-source were it earned by a nonexpatriate foreigner (and thus not subject to U.S. tax).[17] Examples include gain from the sale of property located in the United States, gain from the sale of stock or debt obligations issued by a U.S. person, and income or gain owned by some majority-owned foreign corporations, to the extent of accumulated earnings and profits attributable to periods before the expatriation date.

2. Tax-free dispositions

Gain realized on some dispositions that otherwise would be tax-free to the transferer are taxable if realized by an expatriate during the 15-year period beginning five years before the date of expatriation. If property, gain and income from which is U.S.-source, is exchanged by an expatriate during that period for property, income from which would be foreign-source in a transaction that otherwise would be tax-free, the transferer must recognize gain from the transfer, unless he enters into a gain recognition agreement with the IRS.[18]

3. CFC

If an expatriate contributes property, income from which is from U.S. sources, to a foreign corporation during the 10-year period beginning on the date the expatriate lost his citizenship or residency and the foreign corporation would be a CFC, and the expatriate would be a U.S. shareholder thereof were the expatriate a U.S. citizen or legal resident, income or gain on the property received by the corporation is treated as received directly by the expatriate.[19] Furthermore, if the expatriate disposes of stock in the corporation during that period while the corporation holds property of this type, a pro rata share of the property will be treated as disposed of by the corporation immediately before disposition of the property.[20]

C. Estate and Gift Tax Provisions

The expatriation provisions additionally subject former citizens and long-term residents to estate and gift tax on the following items.

1. Gift tax provisions

Generally, gifts of tangible personal property and real estate by persons who are nonresidents for estate and gift tax purposes are subject to gift tax only if the property is located in the United States.[21] Gifts of intangible property (including shares of stock in corporations) by nonresident aliens who are not subject to the expatriation provisions are generally not subject to gift tax.[22] However, gifts of intangible property by nonresidents who are subject to the expatriation provisions during the 10 years following expatriation are subject to gift tax if such property is U.S. situs under section 877 (including shares of stock in domestic corporations).[23] Also, gifts by nonresidents subject to the expatriation provisions during the 10-year postexpatriation period of shares in certain foreign corporations (see below) are treated as gifts of U.S.-situs assets to the extent of the U.S.-asset value of the stock.[24] For those purposes, the U.S.-asset value of stock is the fair market value of the stock multiplied by a fraction, the numerator of which is the fair market value of all U.S.-situs assets owned by the corporation, and the denominator of which is the fair market value of all assets owned by the corporation.[25] This rule applies only if the donor owns (within the meaning of section 958(a)) at least 10 percent of the voting power of all classes of stock entitled to vote of the foreign corporation and also owns (directly or through the application of either section 958(a) or 958(b)) more than 50 percent of either (i) the total combined voting power of all classes of stock of the corporation entitled to vote or (ii) the total value of the stock of the corporation.[26]

2. Estate tax provisions

Non-U.S. citizens domiciled outside the United States are generally subject to U.S. estate tax only on their U.S.-situs property. For those purposes, shares in a foreign corporation are not U.S.-situs property, even if the corporation holds U.S.-situs

[17] Section 877(d)(1).

[18] Section 877(d)(2). The Service stated that it intends to increase the statutory 10-year period to 15 years in forthcoming regulations. Notice 97-19, *supra* note 11.

[19] Section 877(d)(4)(A).

[20] Section 877(d)(4)(C).

[21] Section 2511(a).

[22] Section 2501(a)(2).

[23] Section 2501(a)(3); 2511(b).

[24] Section 2501(a)(5)(C).

[25] Section 2501(a)(5)(A).

[26] Section 2501(a)(5)(B).

property. However, a "look-through" rule applies to former U.S. citizens and long-term permanent residents who are subject to the expatriation provisions if they die within 10 years of the loss of their citizenship or residence.[27] Under that rule, if a former long-term resident owns (directly or through the application of section 958(a)) 10 percent or more of the voting power in a foreign corporation and also owns (directly or through application of the attribution rules of section 958(a) and (b)) (directly or through the application of either section 958(a) or 958(b)) more than 50 percent of either the voting rights or value of the outstanding stock of the corporation, a pro rata portion of the fair market value of the stock of the corporation is treated as U.S.-situs assets includable in the decedent's gross estate.[28]

D. Restrictions on Loss of Residency

The Act also introduces two rules that cause some individuals who attempt to expatriate to be treated as U.S. residents despite their efforts to expatriate. First, the Act introduces a formal renunciation requirement.[29] Under that provision, a citizen or permanent resident will continue to be taxed as a citizen or permanent resident until he (i) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the State Department or the Department of Homeland Security and (ii) provides a statement to the IRS in accordance with section 6039G. Second, the Act treats an expatriate who returns to the United States for more than 30 days during a tax year during the 10-year window as a United States resident for that tax year.[30] That rule is subject to limited exceptions for an expatriate who is in the United States performing services for an unrelated employer for up to 30 days during a calendar year, if the expatriate has a closer tie to another country, and is fully liable to tax therein.[31]

If either of those rules apply for a given tax year, the alternative expatriate tax regime does not apply and the individual is simply taxed as a resident individual for that year.

E. Effective Date of the Act

The new provisions of the Act are effective for taxpayers who expatriate after June 3, 2004.[32]

[27]Section 2107.
[28]Section 2107(b).
[29]Section 7701(n) (as amended by the Act).
[30]Section 877(g) (added by the Act).
[31]*Id.*
[32]The Act section 804(f).

II. Effect on Long-Term Permanent Residents

The Act is likely to affect the decisionmaking process of long-term residents more severely than that of citizens who choose to expatriate. That is because the new formal renunciation requirement forces long-term permanent residents who expatriate after June 3, 2004, to give up their green card to avoid taxation as a U.S. resident. Effectively, that will force long-term permanent residents considering expatriation to weigh the relative benefit of holding a green card against the burden of U.S. taxation on their worldwide income.

Long-term residents who are currently eligible to claim foreign residency under a treaty may avoid that issue if they begin to claim foreign residence as late as the due date of their 2004 return. As discussed above, a long-term resident is treated as expatriating on the date on which he commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country, and does not waive the benefits of the treaty applicable to residents of the foreign country.[33] Treaties are generally applied on a tax-year basis to income taxes imposed other than by way of withholding. For example, the U.S. Model Treaty states that, for taxes other than withholding taxes, the provisions of the treaty will have effect *for tax periods* beginning on or after the first day of the January following the date on which the treaty enters into force; a similar formulation is used in the "entry into force" provision of most treaties currently in force.[34] Therefore, the day on which a taxpayer commences to be treated as a foreign resident under a treaty should be the first day of the first tax year for which the taxpayer claims foreign residence under the treaty. Because taxpayers who claim foreign residence under a treaty are deemed to expatriate as of the first day of the first tax year for which they claim foreign residence, calendar-year taxpayers who begin to claim foreign residence as late as the due date for their 2004 returns (including extensions) should not be subject to the provisions of the Act.

[33]Section 877(e)(1).
[34]U.S. Model Income Tax Convention, Sept. 20, 1996, art. 28(2)(b) (hereinafter U.S. Model Treaty). For examples of treaties in force that use similar language, see, *e.g.*, "The Convention Between the Government of the United States of America and the Government of Israel With Respect to Taxes on Income," Dec. 30, 1994, art. 31(b) (the Israel-U.S. Treaty); "The Convention Between the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income," Dec. 30, 1999, art. 29(2)(b) (the Latvia-U.S. Treaty).

> **Example 2.** X, a calendar-year taxpayer, is a citizen of Ireland who holds a green card and lives in the United States. Although he is a U.S. resident under domestic law, he qualifies as an Irish resident under the Ireland-U.S. Treaty.[35] He has filed U.S. tax returns as a United States resident for the past 20 years. If he files his 2004 tax return as a nonresident, he will not be subject to the new provisions of the Act. Most importantly, he will not be required to renounce his green card to claim nonresident status, and if he is present in the United States for more than 30 days during any tax year during the 10-year postexpatriation period, he will not be subject to U.S. income tax as a resident for the tax year.

In other words, anyone who can claim foreign residence under a treaty, but has not already done so, *should* do so by no later than the due date for their 2004 return.

If taxpayers miss the deadline for their 2004 return, they may be able to amend returns for open years to claim foreign residence under a treaty. Although that should lead to the same result as a timely filed return, an amended return could be more of a uphill battle than a timely filing. An amended return will entail a request for a refund, which may cause the IRS to take the position that the date on which the taxpayer commences to be treated as a nonresident under a treaty is the date on which he files an original or amended return taking that position, rather than on the first day of the applicable tax year. Also, if the taxpayer filed the original return jointly, the IRS might take the position that he may not amend his return to reflect separate filing status, because of the regulatory prohibition on taxpayers' changing filing status in amended returns.[36] However, we believe that that position is incorrect. Because the statute prohibits joint filing by nonresident aliens,[37] a strict application of the regulatory rule a nonresident alien who originally filed jointly would have the effect of preventing the taxpayer from amending his filing status to comply with the law as set forth in the statute. The IRS has admitted in internal correspondence that taxpayers who amend their returns to reflect nonresident status should be allowed to change their filing status to avoid that result.[38] Although the example that the IRS examined involved a taxpayer who mistakenly filed his original return as a U.S. resident rather than a dual resident who failed to affirmatively claim foreign residence under a treaty in year 1,[39] the result should not be different for a dual resident who amends his return in year 2 to claim foreign residence under a treaty in year 1, because a strict application of the regulatory rule in such a case would frustrate both the taxpayer's ability to comply with the statute, as well as the United States' ability to comply with its treaty obligations.

III. Interaction With Treaties

When Congress passed the 1996 amendments to section 877 (the 1996 Act),[40] it recognized that the alternative tax regime applicable to former citizens and long-term residents could conflict with the definition of residence in applicable treaties. Potential conflicts are even more jarring in the wake of the new Act. For example, under section 7701(n) as amended by the Act, a dual-resident taxpayer who is treated as a resident of a treaty jurisdiction under the tie-breaker provision of the applicable treaty will be taxed as a U.S. resident until he formally renounces his green card. Likewise, if a former citizen or long-term resident currently residing in a treaty jurisdiction returns to the United States for more than 30 days during a tax year, he will be taxed as a U.S. resident for that tax year even though he should be able to claim foreign residence under the treaty.

In the legislative history of the 1996 Act, the House committee said that it intended for section 877 (as amended by the 1996 Act) to take precedence over conflicting treaty provisions for the next 10 years, and for treaty provisions to take precedence thereafter:

> While it is believed that the expatriation tax provisions, as amended by the bill, are generally consistent with the underlying principles of income tax treaties to the extent the bill provides a foreign tax credit for items taxed by another country, it is intended that the purpose of the expatriation tax provisions, as amended, not be defeated by any treaty provision. The Treasury Department is expected to review all outstanding treaties to determine whether the expatriation tax provisions, as revised, potentially conflict with treaty provisions and to eliminate any such potential conflicts through

[35] "Convention Between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income and Capital Gains," Dec. 17, 1997, art. 4(3) (the Ireland-U.S. Treaty).

[36] Treas. reg. section 1.6013-1(a).

[37] Section 6013(a)(1).

[38] SCA 1998-035, *Doc 98-36973, 98 TNT 250-32*.

[39] *Id.*

[40] Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (Aug. 21, 1996) (hereinafter the 1996 Act).

> renegotiation of the affected treaties as necessary. Beginning on the tenth anniversary of the enactment of the bill, any conflicting treaty provisions that remain in force would take precedence over the expatriation tax provisions as revised.[41]

Although the committee's intent is clearly stated in the House report, it is most likely that the provisions of section 877 will override preexisting treaties past the 10th anniversary of the 1996 Act despite the legislative history. Generally, provisions of the code and tax treaties have equal force, but in the case of a conflict between a federal statute and a treaty, the later in time controls.[42] For a later statute to override a preexisting treaty, there must be a clear indication that Congress intended for the statute to override the treaty.[43] Congressional intent may be determined from the plain meaning of the text or, when the statutory language is ambiguous, from the presence of an affirmative statement in the legislative history.[44] If the statutory language is not clear, the absence of statement of intent to override in the legislative history may be evidence of the lack of congressional intent to override the statute, given extraneous evidence to the contrary.[45] However, when statutory language is *not* ambiguous, that is, when congressional intent to override a treaty is clear from the plain meaning of the statute, commentators are split as to whether a contrary statement in the legislative history should prevent the statute from overriding the treaty. Some commentators have stated that, because the legislative history merely serves an evidentiary function in cases of ambiguous statutory language, it is irrelevant when the statute is not ambiguous.[46] Other commentators (including the Joint Committee on Taxation) have taken the position that a clear statement of legislative intent in the legislative history may prevent statutory language that unambiguously conflicts with a treaty from overriding the treaty, because it is evidence of the lack of a congressional intent to override the treaty.[47] While both positions have attractive aspects, we believe that, if a statute is not ambiguous on its face, statements of congressional intent in the legislative history should not be relevant. That is because the contrary rule would effectively allow the drafter of a committee report to unilaterally prevent Congress from overriding a treaty even if the statutory language to which Congress agreed requires an override. Because the plain meaning of the expatriation provisions conflicts with preexisting treaties, section 877 and the related provisions should allow the United States to impose the alternative tax regime, as well as the restrictions on the loss of residency, on former U.S. citizens and long-term residents despite contrary provisions in preexisting treaties.

As directed by the House committee,[48] Treasury addressed the issue of conflict between the expatriation provisions and U.S. treaty obligations by inserting the current "savings clause" in the U.S. Model Treaty and attempting to insert it in newly negotiated treaties:

> Notwithstanding any provision of the Convention except Paragraph 5 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term "citizen" shall include a former citizens or long-term resident whose loss of such status had as one of its principal purposes the avoidance of tax . . . but only for a period of 10 years following such loss.[49]

Were the savings clause in all treaties in force *in toto*, there would be no conflicts between treaties and the expatriation provisions as amended by the 1996 Act. However, conflicts persist, for two reasons. First, many U.S. treaties currently in force do not include a savings clause, because treaty partners that do not have domestic-law provisions similar to the expatriation provisions view the savings clause

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[41]H.R. 104-496, House report on the 1996 Act.

[42]Section 7852(d); *Reid v. Covert*, 354 U.S. 1 (1956).

[43]*Cook v. United States,* 288 U.S. 102, 120 (1933). *See also* Richard L. Doernberg, "Overriding Tax Treaties: The U.S. Perspective," 9 *Emory Int'l L. Rev.* 71, 80 (1995); John I. Forry and Michael J.A. Karlin, "1986 Act: Overrides, Conflicts, and Interactions With U.S. Income Tax Treaties," *Tax Notes*, May 25, 1987, p. 793.

[44]Rev. Rul. 80-223, 1980-2 C.B. 217.

[45]*Cook v. United States, supra* note 39 at 120 (holding that the absence of a statement in the legislative history of the Tariff Act of 1930 that Congress intended to override a preexisting treaty with Great Britain, coupled with departmental practice consistent with the treaty both before and after the passage of the Tariff Act, should indicate that Congress did not intend to override the treaty when it passed the legislation).

[46]*See, e.g.,* Robert J. Misley Jr., "Simplifying International Jurisdiction for United States Transfer Taxes; Retain Citizenship and Replace Domicile With the Green Card Test," 76 *Marq. L. Rev.* 73, 81 (1992); David Brockway, "Override of Tax Treaties by Ordinary Legislation," 34 *Bull. for Int'l Fiscal Documentation* 553 (1980).

[47]Joint Committee on Taxation, "Review of the Present-law Tax and Immigration Treatment of Relinquishment of Citizenship and Termination of Long-Term Residency," JCS-2-03, 135, available at http://www.house.gov/jct/s-2-03.pdf (hereinafter Joint Tax Report) (stating that the House Committee's position regarding the conflict between the expatriation provisions as amended by the 1996 Act during the 10-year period immediately following the 1996 Act should be respected).

[48]H.R. 104-496, *supra* note 41.

[49]U.S. Model Treaty, art. 1(4).

as a concession. Also, the savings clause in many treaties in force that do contain a savings clause is incomplete, because it covers only former citizens and not former long-term residents.[50] Second, as currently drafted, the savings clause applies only to former citizens and long-term residents who have expatriated with the principal purpose of tax avoidance. Because the new Act has deleted the principal purpose requirement, the savings clause as currently drafted should not cover former citizens and long-term residents who expatriate after June 3, 2004. For the reasons discussed above, those conflicts should be resolved in favor of domestic law, but regulatory guidance would be helpful. ◆

[50]As of February 2003, there were 55 U.S. income tax treaties in force. Eight of those contained a saving clause that applied to former citizens and former long-term residents. Sixteen did not contain a saving clause. Thirty-one contained saving clauses that permitted the United States to tax former citizens but did not expressly mention long-term residents. Joint Tax Report, *supra* note 46 at 133-134.

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PRACTICE

Mr. Blanco, a partner in the Tax Department, has over twenty years of experience on a broad range of domestic and international tax matters including corporate reorganizations, joint ventures, structured finance, and capital market offerings. He has also assisted the Firm's financial institutions in developing cross-border structures for their international clients. In addition, Mr. Blanco has assisted the Firm's high net worth individual clients with respect to their international family tax planning.

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  - International Law and Practice Section, Committee on International Tax Aspects of Trade and Investment, chair (1995), co-chair (1996-present)
  - International Law and Practice Section, Fall Meeting, Program on Taxation of Cross Border Investments, co-chair (2002)
  - Tax Section, Committee on U.S. Activities of Foreigners
- Union Internationale Des Avocats (International Association Of Lawyers)
- Association of the Bar of the City of New York
- International Bar Association
- The International Fiscal Association
- American Bar Association, Tax Section
  - Committee on Foreign Activities of U.S. Taxpayers
  - Committee on U.S. Activities of Foreigners and Tax Treaties

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- *The American Jobs Creation Act: The New Expatriation Provisions* . Tax Notes International; January 24, 2005, p.315

- Co-written with John Kaufmann, ***The New Section 877: Everything You Ever Wanted To Know About The Expatriation Of Long-term Permanent Residents Under The New Act But Were Afraid To Ask The Government***. First published by Tax Analysts in Tax Notes, January 3, 2005, Volume 106, Number 1

- Co-written with Mark Barth, ***US Regulatory and Tax Considerations for Offshore Funds***. First published in THE CAPITAL GUIDE TO HEDGE FUNDS 2003, pp. 117-162 (ISI Publications, sponsored by Citco, eds. Sarah Barham and Ian Hallsworth) 2003.

- Co-written with Mark Barth, ***US Regulatory and Tax Considerations for Offshore Funds***. The Capital Guide to Offshore Funds 2001, pp. 15-61. (ISI Publications, sponsored by Citco, eds. Sarah Barham and Ian Hallsworth) 2001