



## *flash* International Executive Alert

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### **U.S. IRS ISSUES ADDITIONAL GUIDANCE ON EXPATRIATION REPORTING RULES**

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National Tax practice,  
Washington, D.C. (KPMG LLP in  
the United States is a KPMG  
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On April 22, 2005, the U.S. Treasury and Internal Revenue Service (IRS) announced the release of Notice 2005-36, which provides guidance on the reporting requirements for individuals who renounce their U.S. citizenship or greencards and may be subject to the expatriation tax rules.<sup>1</sup>

For the recent KPMG LLP TaxWatch Today Webcast on this topic (approximately two minutes in duration), visit the following link:

<http://www.kpmgtax.com/video/default.asp?source=u&channel=International&ContentID=30335950>

### **Background**

The American Jobs Creation Act of 2004 (the "AJCA") introduced substantial changes to the expatriation tax. These changes apply to all individuals who expatriate after June 3, 2004, by either renouncing their U.S. citizenship or relinquishing their greencards after holding their greencards in eight of the previous 15 years. Such individuals are subject to significant information reporting requirements and are also potentially subject to expatriation tax for the 10-year period following their expatriation. (For prior coverage, see [Flash International Executive Alert 2004-181](#), October 12, 2004 and [Flash International Executive Alert 2005-046](#), March 16, 2005.)

Under the AJCA, U.S. citizens or residents who intend to expatriate will continue to be taxed as U.S. citizens or residents until such time as they (1) give notice of their expatriating act or residency termination to the Department of State or Department of Homeland Security and (2) provide an initial expatriation information statement to the IRS on Form 8854.

### **Notice 2005-36**

Notice 2005-36 provides a special rule for individuals who expatriated after June 3, 2004, but who did not know how to comply with the notification and information reporting requirements until the revised Form 8854 (*Initial and Annual Expatriation Information Statement*) was released in March 2005.

**Provided such individuals file the revised Form 8854 on or before June 15, 2005**, the IRS will treat the form as having been filed on the date on which the individual provided the requisite notice of expatriation or notice of termination of residency to the Department of State or Department of Homeland Security. Thus, such individuals will be treated as having expatriated on the date they either provided notice of their expatriating act **or** notice of their termination of residency.

**For individuals who expatriate after June 3, 2004, but who do not file Form 8854 on or before June 15, 2005**, the individual's date of expatriation will be the later of the following dates:

- when the requisite notice is given to the Department of State or Department of Homeland Security **or**
- when Form 8854 is filed with the IRS.

This special rule applies only to individuals who file Form 8854 as an initial information statement. The due date for filing Form 8854 as an annual information statement is not affected.

*Footnote:*

1 "IRS, Treasury Release Guidance on Expatriation Reporting Requirements," IR-2005-49, April 22, 2005, United States Internal Revenue Service, IRS Newswire.

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