



# Instructions for Form 8854

## Initial and Annual Expatriation Statement

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

### Future Developments

For the latest information about developments related to Form 8854 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8854](https://www.irs.gov/Form8854).

### What's New

**Increase in average annual net income tax liability.** The average annual net income tax liability for the 5 tax years ending before your expatriation date, which is used to determine whether an individual is a covered expatriate, has increased to \$190,000. For more information, see [Covered expatriate](#), later.

**Increase in threshold for net unrealized gain on property.** For 2023, if you are a covered expatriate, the net gain that you must otherwise include in your income is reduced by \$821,000. For more information, see [Taxation Under Section 877A](#), later.

## General Instructions

### Purpose of Form

Section 877A applies to U.S. citizens who have relinquished their citizenship and long-term residents who have ended their residency (expatriated) on or after June 17, 2008.

Form 8854 is used by expatriates to certify compliance with tax obligations in the 5 years before expatriation and to comply with their initial and annual information reporting obligations under section 6039G.

**Note.** Individuals who expatriated for immigration purposes after June 3, 2004, and before June 17, 2008, but who have not previously filed a Form 8854, continue to be treated as U.S. citizens or U.S. lawful permanent residents for U.S. income tax purposes until they file a Form 8854. See section 7701(n), as in effect before June 17, 2008.

Individuals in this category are subject to section 877 once they file the Form 8854. These individuals should use the [2018 Form 8854](#) and the [Instructions for Form 8854](#) (but modify the year on the form by crossing out 2018 and entering the year of actual filing) for purposes of filing their initial and/or annual expatriation statements pursuant to section 877 going forward.

Individuals who expatriated before June 17, 2008, who have previously filed a Form 8854, but who still have an annual reporting requirement in 2023 under section 877, should also use the 2018 Form 8854 but modify the year on the form by crossing out 2018 and entering 2023.

### Who Must File

You must file your initial Form 8854 (Parts I and II) if you relinquished your U.S. citizenship in 2023 or you are a

long-term resident (LTR), defined below, and terminated your residency in 2023.

You must file your annual Form 8854 (Parts I and III) if you expatriated before 2023 and you:

1. Deferred the payment of tax,
2. Have an item of eligible deferred compensation, or
3. Are a beneficiary of a nongrantor trust.

**Expatriation.** Expatriation includes the acts of relinquishing U.S. citizenship and terminating long-term residency.

**Date of relinquishment of U.S. citizenship.** You are considered to have relinquished your U.S. citizenship (and consequently, have an expatriation date) on the earliest of the following dates.

1. The date you renounced your U.S. citizenship before a diplomatic or consular officer of the United States (provided that the voluntary renouncement was later confirmed by the issuance of a certificate of loss of nationality).
2. The date you furnished to the State Department a signed statement of your voluntary relinquishment of a U.S. nationality confirming the performance of an expatriating act (provided that the voluntary relinquishment was later confirmed by the issuance of a certificate of loss of nationality).
3. The date the State Department issued a certificate of loss of nationality.
4. The date a U.S. court canceled your certificate of naturalization.

**Long-term resident (LTR) defined.** You are an LTR if you were a lawful permanent resident of the United States in at least 8 of the last 15 tax years ending with the year you are no longer treated as a lawful permanent resident. In determining if you meet the 8-year requirement, don't count any year if in that year you were treated as a resident of a foreign country under a tax treaty and did not waive treaty benefits applicable to residents of that country.

**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 you have been issued an alien registration card, also known as a green card, and your green card hasn't been revoked or judicially or administratively determined to have been abandoned. However, you are also no longer treated as a lawful permanent resident if you (1) commenced to be treated as a resident of a foreign country under the provisions of a tax treaty, (2) did not waive the benefits of such treaty, and (3) notified the IRS of the commencement of such treatment. See Regulations section 301.7701(b)-7 for information on related filing requirements.

**Date of termination of long-term residency.** If you were an LTR, you terminated your lawful permanent residency (and consequently, have an expatriation date) on the earliest of the following dates.

1. The date you voluntarily abandoned your lawful permanent resident status by filing Department of Homeland Security Form I-407 with a U.S. consular or immigration officer.

2. The date you became subject to a final administrative order that you abandoned your lawful permanent resident status (or, if such order has been appealed, the date of a final judicial order issued in connection with such administrative order).

3. The date you became subject to a final administrative or judicial order for your removal from the United States under the Immigration and Nationality Act.

4. If you were a dual resident of the United States and a country with which the United States has an income tax treaty, the date on which you commenced to be treated as a resident of that country under the treaty, did not waive the benefits of the treaty, and gave notice to the IRS of the commencement of such treatment. See Regulations section 301.7701(b)-7 for information on related filing requirements.

**Covered expatriate.** You are a covered expatriate if you expatriated after June 16, 2008, and any of the following statements apply.

1. Your average annual net income tax liability for the 5 tax years ending before the date of expatriation is more than \$190,000.

2. Your net worth was \$2 million or more on the date of your expatriation.

3. You fail to certify on Form 8854 that you have complied with all federal tax obligations for the 5 tax years preceding the date of your expatriation.

**Exception for dual-citizens and certain minors.** Dual-citizens and certain minors (defined next) won't be treated as covered expatriates (and therefore won't be subject to the expatriation tax) solely because one or both of the statements in paragraph (1) or (2) under [Covered expatriate](#), earlier, applies. However, these individuals will still be treated as covered expatriates unless they file Form 8854 and certify that they have complied with all federal tax obligations for the 5 tax years preceding the date of expatriation as required in paragraph (3) (under [Covered expatriate](#), earlier).

**Certain dual-citizens.** You can qualify for the exception described above if you meet both of the following requirements.

- You became at birth a U.S. citizen and a citizen of another country and, as of your expatriation date, you continue to be a citizen of, and are taxed as a resident of, that other country.
- You were a resident of the United States for not more than 10 years during the 15-tax-year period ending with the tax year during which you expatriated. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1 of Pub. 519.

**Certain minors.** You can qualify for the exception described above if you meet both of the following requirements.

- You expatriated before you were 18<sup>1/2</sup>.
- You were a resident of the United States for not more than 10 tax years before you expatriated. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1 of Pub. 519.

**Note.** If you have relinquished or intend to relinquish your U.S. citizenship, and you wish to come into compliance with

your U.S. income tax and reporting requirements in order to avoid being treated as a covered expatriate under section 877A, you may qualify for certain relief procedures. See [IRS.gov/Individuals/International-Taxpayers/Relief-Procedures-for-Certain-Former-Citizens](https://www.irs.gov/Individuals/International-Taxpayers/Relief-Procedures-for-Certain-Former-Citizens).

**Penalties.** If you are subject to section 877A and required to file Form 8854 for any tax year, and you fail to file or do not include all the information required by the form, or the form includes incorrect information, you will owe a penalty of \$10,000 for that year, unless it is shown that such failure is due to reasonable cause and not willful neglect.

## Taxation Under Section 877A

If you are a covered expatriate in the year you expatriate, you are subject to income tax on the net unrealized gain in your property as if the property had been sold for its fair market value (FMV) on the day before your expatriation date ("mark-to-market tax"). This applies to most types of property interests you held on the date of your expatriation. But see [Exceptions](#), later.

Gains from deemed sales are taken into account without regard to other rules under the Code. Losses from deemed sales are taken into account to the extent otherwise allowed under the Code. However, section 1091 (relating to the disallowance of losses on wash sales of stock and securities) doesn't apply. For 2023, the net gain that you must otherwise include in your income is reduced (but not below zero) by \$821,000.

**Exceptions.** The mark-to-market tax does not apply to the following.

1. Eligible deferred compensation items.
2. Ineligible deferred compensation items.
3. Specified tax deferred accounts.
4. Interests in nongrantor trusts.

Instead, item (1) is subject to withholding provided that you (i) properly make an irrevocable waiver on your initial filing of this form of any right to claim any reduction in withholding under an applicable treaty between the United States and your country of residence (see [Line 1a](#) under *Part II, Section C*, later); and (ii) timely notify the payor on Form W-8CE. To timely notify the payor on Form W-8CE, you must file the Form W-8CE with the payor on the earlier of:

- The day before the first distribution on or after your expatriation date, or
- 30 days after your expatriation date.

In the case of item (2), you are treated as receiving the present value of your accrued benefit as of the day before your expatriation date and you should include this amount on your Form 1040 or 1040-SR for the year that includes your expatriation date. In the case of item (3), you are treated as receiving a distribution of your entire interest in the account on the day before your expatriation date and you should include this amount on your Form 1040 or 1040-SR for the year that includes your expatriation date. See paragraphs (d), (e), and (f) of section 877A.

Item (4) is subject to withholding, and you are treated as having waived any right to claim any reduction in withholding under an applicable treaty between the United States and your country of residence, unless you elect to be treated as having received the value of your entire interest in the trust by obtaining a ruling from the IRS to that effect. See [Section C](#) under *Part II*, later.

**Deferral of the payment of mark-to-market tax.** You can make an irrevocable election to defer the payment of the mark-to-market tax imposed on the deemed sale of property. If you make this election, the following rules apply.

1. You make the election on a property-by-property basis.
2. The deferred tax on a particular property is due on the return for the tax year in which you dispose of the property.
3. Interest is charged for the period the tax is deferred.
4. The due date for the payment of the deferred tax cannot be extended beyond the earlier of the following dates.
  - a. The due date of the return required for the year of death.
  - b. The time that the security provided for the property fails to be adequate. See item (6) below.
5. You make the election in Part II, [Section D](#).
6. You must provide adequate security (such as a bond).
7. You must make an irrevocable waiver of any right under any treaty of the United States that would preclude assessment or collection of any tax imposed by section 877A.

### When To File

Attach your initial Form 8854 to your income tax return (Form 1040, 1040-SR, or 1040-NR) for the year that includes your expatriation date, and file your return by the due date of your tax return (including extensions). Also send a copy of your Form 8854, marked "Copy," to the address under [Where To File](#), later. If you are not required to file an income tax return, send your Form 8854 to the address under [Where To File](#), later, by the date your Form 1040-NR (or Form 1040 or 1040-SR) would have been due (including extensions) if you had been required to file. (See *Resident Alien or Nonresident Alien* in the Instructions for Form 1040-NR.)

File your annual Form 8854 if you expatriated before 2023 and you:

1. Deferred the payment of tax on any property on a Form 8854 filed in a previous year,
2. Reported an eligible deferred compensation item on a Form 8854 filed in a previous year, or
3. Reported an interest in a nongrantor trust on a Form 8854 filed in a previous year.

See [Part III](#), later.

For each year that you are required to file a Form 1040-NR (or Form 1040 or 1040-SR), attach your annual Form 8854 to your Form 1040-NR (or Form 1040 or 1040-SR) and send a copy, marked "Copy," to the address under [Where To File](#), later. For each year that you are not required to file Form 1040-NR (or Form 1040 or 1040-SR), send your Form 8854 to the address under [Where To File](#), later, by the date your Form 1040-NR (or Form 1040 or 1040-SR) would have been due (including extensions) if you had been required to file a Form 1040-NR (or Form 1040 or 1040-SR).

### Where To File

1. Send your original initial or annual Form 8854 to the address listed below.
2. If you are required to attach the original Form 8854 to a Form 1040-NR, 1040, or 1040-SR, send a copy of your initial or annual Form 8854, marked "Copy," to the address listed below.

3. If you elected to defer the payment of any tax due, see the instructions under *Part II, Section D, Line 5*, later, and send your tax deferral agreement request to the address listed below.

Internal Revenue Service  
3651 S IH35  
MS 4301AUSC  
Austin, TX 78741

**Note.** If you were a U.S. person for any portion of 2023, you may be required to file Financial Crimes Enforcement Network (FinCEN) Form 114, Report of Foreign Bank and Financial Accounts (FBAR). In addition, you may be required to file Form 8938, Statement of Specified Foreign Financial Assets. For more information, go to [IRS.gov/FBAR](#).

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## Specific Instructions

**Identifying number.** Generally, this number is your U.S. social security number. If you were never issued a social security number, attach a statement explaining the reason.

### Part I—General Information

This section is to be completed by all filers.

#### Line 1

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.

#### Line 2

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. Don't abbreviate the country name.

#### Line 3

Enter the country of which you are considered a resident for tax purposes if it is different from the country in which your principal foreign residence is located.

#### Line 4

Check the appropriate box to indicate whether you expatriated in 2023 and are filing your initial expatriation statement, or if you expatriated before 2023 (but after June 16, 2008) and are filing an annual statement.

#### Line 5

Your expatriation date is the date you relinquish citizenship (in the case of a former citizen) or terminate your long-term residency (in the case of a former U.S. resident). See [Date of relinquishment of U.S. citizenship](#) or [Date of termination of long-term residency](#), earlier.

#### Line 6

List all countries (including the United States) of which you are a citizen and the date, including by birth, on which you became a citizen.

#### Line 7

If you are a former U.S. citizen, check the appropriate box to indicate how you became a U.S. citizen.

## Line 8a

If you are or were a U.S. lawful permanent resident, enter the date on which you became a U.S. lawful permanent resident. This is the date you were issued your green card.

## Line 8b

Enter the date you either:

1. Became subject to a final administrative order that you abandoned your lawful permanent resident status (or, if such order has been appealed, the date of a final judicial order issued in connection with such administrative order); or
2. Became subject to a final administrative or judicial order for your removal from the United States under the Immigration and Nationality Act.

## Line 8c

Enter the date you voluntarily abandoned your lawful permanent resident status by filing Department of Homeland Security Form I-407 with a U.S. consular or immigration officer.

# Part II—Initial Expatriation Statement for Persons Who Expatriated in 2023

## Section A—Expatriation Information

This section must be completed by all individuals who expatriated in 2023.

### Line 1

For each of the 5 tax years ending before the date of your expatriation, determine your total tax less any foreign tax credit. For 2022, use the amount shown on the 2022 Form 1040, line 24, less any amount reported on Schedule 3 (Form 1040), line 1.

### Line 2

You can use the Part II, Section B, balance sheet to determine your net worth.

### Line 3

Check the “Yes” box if you became at birth a U.S. citizen and a citizen of another country and, **as of your expatriation date**, you continue to be a citizen of, and are taxed as a resident of, that other country.

### Line 5

Check the “Yes” box if:

- You expatriated before you were 18<sup>1/2</sup>, and
- You have been a resident of the United States for not more than 10 tax years before you expatriated. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1 of Pub. 519.

### Line 6

Check the “Yes” box if you have complied with your tax obligations for the 5 tax years ending before the date on which you expatriated, including but not limited to, your obligations to file income tax, employment tax, gift tax, and

information returns, if applicable, and your obligation to pay all relevant tax liabilities, interest, and penalties.



*You will be subject to tax under section 877A if you have not certified your compliance with these obligations, regardless of whether your average annual income tax liability or net worth exceeds the applicable threshold amounts.*

## Section B—Balance Sheet

The financial information in this balance sheet is required under section 6039G. The balance sheet can be used to arrive at your net worth.

For purposes of determining your net worth, you are considered to own any interest in property that would be taxable as a gift under chapter 12 of subtitle B of the Code had you transferred it immediately prior to expatriation, but without regard to sections 2503(b) through (g), 2513, 2522, 2523, and 2524. To determine the value of your interests in property, use the valuation principles of section 2512 and the regulations thereunder.

**Note.** If there have been significant changes in your assets and liabilities for the period that began 5 years before your expatriation and ended on the date that you first filed Form 8854, you **must** attach a statement explaining the changes.

### Columns (a) and (b)

List in U.S. dollars the FMV (column (a)) and the U.S. adjusted basis (column (b)) of your assets and liabilities as of your expatriation date.

You can use good faith estimates of FMV and basis. Formal appraisals are not required.

### Line 5a

List the appropriate amount in each column for all nonmarketable stock and securities issued by foreign corporations that would be controlled foreign corporations if you were still a U.S. citizen or resident. Note that these amounts are already included on line 5. **Don't** include amounts on this line in the total on line 20.

### Line 6

List in U.S. dollars the present value of your U.S. and foreign pensions or similar retirement arrangements as of your expatriation date.

### Line 7

List in U.S. dollars the present value of your deferred compensation, including any stock options, as of your expatriation date. The present value should include all deferred compensation, regardless of where you performed services.

### 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 (using the categories on this balance sheet) from your interest in each partnership.

### Line 9

For purposes of determining your net worth, you are considered to own assets held in trusts that would be subject to U.S. gift tax if you had transferred your interests in the trusts by gift immediately before your expatriation date, but without regard to sections 2503(b) through (g), 2513, 2522, 2523, and 2524. List the total FMV and basis of such property on line 9. Attach a statement to Form 8854 describing each asset. Include the EIN (if any) for the trust in which the asset is held.

### Line 10

List the total value of all of your beneficial interests in trusts to the extent not included on line 9. 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 (using the categories on this balance sheet) from your interest in each trust of which you have a beneficial interest.

**Note.** To determine the value of your beneficial interest, use the two-step process described in section III of Notice 97-19 which is on page 40 of Internal Revenue Bulletin 1997-10 at [IRS.gov/pub/irs-irbs/irb97-10.pdf](https://www.irs.gov/pub/irs-irbs/irb97-10.pdf).

### 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 aren't included on lines 1 through 18.

### Line 20

Combine lines 1 through 5 and 6 through 19, not including any amounts on line 5a. The amounts on line 5a are included in determining the amounts on line 5.

### Line 23

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

## Section C—Property Owned on Date of Expatriation

Complete Section C only if you are a covered expatriate (see [Covered expatriate](#), earlier). If you need additional space for the description of property, or if you need additional entry lines, attach a statement.

### Line 1

None of the amounts checked on line 1 are subject to the mark-to-market tax. **Don't** include them on line 2. Instead, you must attach a statement to the form that separately identifies each amount checked on line 1 as of the day before your expatriation date.



*Some of these amounts may otherwise be taxable or subject to income tax withholding at source. You must provide Form W-8CE to the payor of the relevant items. See paragraphs (d), (e), and (f) of section 877A for more information.*

**Line 1a.** Generally, a deferred compensation item is one of the following.

1. Any interest in a plan or arrangement described in section 219(g)(5). This includes a qualified pension, profit-sharing (including 401(k)), annuity, SEP, and SIMPLE plan.
2. Any interest in a foreign pension plan or similar retirement arrangement or program.
3. Any item of deferred compensation, whether or not substantially vested. This is any amount of compensation if, under the terms of the plan, contract, or other arrangement providing for such compensation, the following conditions were met.

- a. You had a legally binding right on your expatriation date to such compensation.
- b. The compensation has not been actually or constructively received on or before your expatriation date.
- c. The compensation is payable on or after your expatriation date.

Examples of items of deferred compensation include a cash-settled stock appreciation right, a phantom stock arrangement, a cash-settled restricted stock unit, an unfunded and unsecured promise to pay money or other compensation in the future (other than such a promise to transfer property in the future), and an interest in a trust described in section 402(b)(1) or (4) (commonly referred to as a “secular trust”).

4. Any property, or right to property, that you are entitled to receive in connection with the performance of services (whether or not such property or right to property is substantially vested) to the extent not previously taken into account under section 83 or in accordance with section 83. Examples of these items include, but are not limited to, restricted stock, stock-settled stock appreciation rights, and stock-settled restricted stock units.

**Note.** A deferred compensation item does not include the portion of an item that is attributable to services performed outside the United States while you were not a citizen or resident of the United States. For more information, see section 5 of [Notice 2009-85, 2009-45 I.R.B. 598](#), available at [IRS.gov/irb/2009-45\\_IRB#NOT-2009-85](https://www.irs.gov/irb/2009-45_IRB#NOT-2009-85).

Eligible deferred compensation item means any deferred compensation item with respect to which:

- The payor is either a U.S. person or a non-U.S. person who elects to be treated as a U.S. person for purposes of section 877A(d)(1),
- The covered expatriate notifies the payor of their status as a covered expatriate on Form W-8CE, and
- The covered expatriate irrevocably waives any right to claim any withholding reduction on such item under any treaty with the United States on Form 8854.

The Secretary may provide separate guidance providing a procedure for a payor who is a non-U.S. person and wishes to elect to be treated as a U.S. person for purposes of section 877A(d)(1).



*You must file Form 8854 annually to certify that no distributions have been received from your eligible deferred compensation item(s) or to report the distributions you received.*

**Note.** If you have one or more eligible deferred compensation items, you must attach a statement to the form that separately identifies each eligible deferred compensation item and includes the following language for each item: “I irrevocably waive any right to claim any reduction in withholding for this eligible deferred compensation item under any treaty with the United States.”

**Line 1b.** Ineligible deferred compensation item means any deferred compensation item that is not an eligible deferred compensation item. The amount of this deferred compensation item (the present value of the accrued benefit) must be included on your Form 1040 or 1040-SR, or other schedule, for the portion of your tax year that includes your expatriation date. For more information, see section 5D of Notice 2009-85, 2009-45 I.R.B. 598, available at [IRS.gov/irb/2009-45\\_IRB#NOT-2009-85](https://www.irs.gov/irb/2009-45_IRB#NOT-2009-85).

**Note.** If you have one or more ineligible deferred compensation items, you must attach a statement to the form that separately identifies each ineligible deferred compensation item and provides the present value of such ineligible deferred compensation item as of the day before your expatriation date.

**Line 1c.** A specified tax deferred account includes:

1. An individual retirement plan (except those described in section 408(k) or 408(p)),
2. A Coverdell education savings account, or
3. A health savings account or an Archer medical savings account.

The amount of your entire interest in your specified tax deferred account on the day before your expatriation date must be included on your Form 1040 or 1040-SR, or other schedule, for the portion of your tax year that includes your expatriation date. For more information, see section 6 of Notice 2009-85, 2009-45 I.R.B. 598, available at [IRS.gov/irb/2009-45\\_IRB#NOT-2009-85](https://www.irs.gov/irb/2009-45_IRB#NOT-2009-85).

**Note.** If you have one or more specified tax deferred accounts, you must attach a statement to the form that separately identifies each specified tax deferred account and provides the entire account balance of each specified tax deferred account on the day before your expatriation date.

**Line 1d.** A nongrantor trust is the part of any trust, whether domestic or foreign, of which you were not considered the

owner under sections 671 through 679 on the day before your expatriation date. You are considered a beneficiary of such trust if:

1. You are entitled or permitted, under the terms of the trust instrument or applicable local law, to receive a direct or indirect distribution of trust income or corpus (including, for example, a distribution in discharge of an obligation);
2. You have the power to apply trust income or corpus for your own benefit; or
3. You could be paid from the trust income or corpus if the trust or the current interests in the trust were terminated.

Unless you elect to be treated as having received the value of your interest in the trust, as determined for purposes of section 877A, as of the day before your expatriation date, you **cannot** claim a reduction in withholding on any distribution from the trust under any treaty with the United States. Before you can make the election, you must get a letter ruling from the IRS as to the value, if ascertainable, of your interest in the trust as of the day before your expatriation date by following the procedures set forth in Rev. Proc. 2020-1, 2020-1 I.R.B. 1, available at [IRS.gov/irb/2020-01\\_IRB#RP-2020-01](https://www.irs.gov/irb/2020-01_IRB#RP-2020-01). You must make this election by checking the box under line 1d of this form and attaching a copy of the letter ruling both to this form and to your timely filed tax return (including extensions) for the 2023 tax year. Until you obtain the valuation letter ruling and provide a copy of such letter ruling to the trustee of the nongrantor trust together with certification, under penalties of perjury, that you have paid all tax due as a result of your election, any taxable distributions that you receive from the trust will be subject to 30% withholding.



*If you are a beneficiary of a nongrantor trust, you must file Form 8854 annually to certify that no distributions have been received or to report the distributions you received.*

**Note.** If you are a beneficiary of one or more nongrantor trusts, you must attach a statement to the form that separately identifies each trust and includes one of the following statements for each trust.

1. “I waive any right to claim any reduction in withholding on any distribution from such trust under any treaty with the United States.”
2. “I elect under section 877A(f)(4)(B) to be treated as having received the value of my entire interest in the trust (as determined for purposes of section 877A) as of the day before my expatriation date. I attach a copy of my valuation letter ruling issued by the IRS.”

## Line 2

**Column (a).** An interest in property includes money or other property, regardless of whether it produces any income or gain. In addition, an interest in the right to use property will be treated as an interest in such property. However, do not list the following.

1. Deferred compensation items.
2. Specified tax deferred accounts.
3. Interests in nongrantor trusts.

You are considered to own any interest in property that would be included in your gross estate for federal estate tax purposes under chapter 11 of subtitle B of the Code if you

died on the day before your expatriation date as a citizen or resident of the United States. Whether property would be included in your gross estate will be determined without regard to sections 2010 through 2016. For this purpose, you are considered to own your beneficial interest(s) in each trust (or part of a trust), other than a nongrantor trust subject to section 877A(f), that would not be included in your gross estate as described in the preceding sentences. Your beneficial interest(s) in such a trust shall be determined under the special rules set forth in section III of Notice 97-19, which is on page 40 of Internal Revenue Bulletin 1997-10 at [IRS.gov/pub/irs-irbs/irb97-10.pdf](https://www.irs.gov/pub/irs-irbs/irb97-10.pdf).

**Column (b).** Use the FMV on the day before your expatriation date. FMV is the price at which the property would change hands between a buyer and a seller when both have reasonable knowledge of all the necessary facts and neither has to buy or sell. If parties with adverse interests place a value on property in an arm's-length transaction, that is strong evidence of the FMV.

**Column (c).** Generally, the cost or other basis in this column cannot be less than the FMV of the property on the date you first became a U.S. resident. However, if you are a naturalized citizen or an LTR at the time you expatriated, you can make an irrevocable election under section 877A(h)(2) to determine basis without regard to this restriction. Print "(h)(2)" after any entry for which you make this election.

**Column (e).** Before you complete column (e), you must allocate the exclusion amount to the gain properties on a separate schedule. Attach a copy of the separate schedule to this form. To allocate the exclusion amount, determine the gain of each gain property listed in column (a) and enter that gain in column (d). If the total gain of all the gain properties exceeds the exclusion amount (\$821,000 for 2023), then allocate the entire exclusion amount to the gain properties by multiplying the exclusion amount by the ratio of the gain determined for each gain property in column (d) over the total gain of all gain properties listed in column (d). After you have allocated the exclusion amount to the gain properties, subtract the exclusion amount allocated to each gain property from the gain reported for that property in column (d), and enter the resulting amount of gain in column (e). If the total gain of the gain properties in column (d) is less than the exclusion amount (but greater than -0-), then you must use the total gain amount as the exclusion amount, and you must allocate the exclusion amount, as adjusted, to the gain properties under the method described above. The exclusion amount allocated to each gain property cannot exceed the amount of that gain property's built-in gain.

See [Notice 2009-85](#), section 3B, for more information.

**Example.** Xavier, a covered expatriate, renounced his citizenship on Date 2. On Date 1, the day before Xavier's renunciation of his citizenship, he owned three assets, which he had owned for more than 1 year. Asset A is business property and Assets B and C are personal property. As of Date 1, Asset A had an FMV of \$2,000,000 and a basis of \$200,000; Asset B had an FMV of \$1,000,000 and a basis of \$800,000; and Asset C had an FMV of \$500,000 and a basis of \$800,000. Xavier must allocate the exclusion amount as follows.

Step 1: Determine the built-in gain or loss of each asset by subtracting the basis from the FMV of the asset on Date 1.

	Basis	FMV	Built-in Gain/Loss
Asset A	200,000	2,000,000	1,800,000
Asset B	800,000	1,000,000	200,000
Asset C	800,000	500,000	(300,000)

Step 2: Allocate the exclusion amount to each of the gain properties by multiplying the exclusion amount (\$821,000) by a ratio of the deemed gain attributable to each gain property over the total gain of all the gain properties deemed sold.

**Asset A**

$$\frac{1,800,000}{2,000,000} \times 821,000 = 738,900$$

**Asset B**

$$\frac{200,000}{2,000,000} \times 821,000 = 82,100$$

Step 3: Figure the final amount of deemed gain on each asset by subtracting the exclusion amount allocated to each asset.

Asset A:  $1,800,000 - 738,900 = 1,061,100$   
 Asset B:  $200,000 - 82,100 = 117,900$

**Column (f).** Complete this column in order to list the schedule or form on which you reported the deemed sale of each property listed in column (a) (for example, Form 4797 or Form 8949).

**Column (g).** Complete this column only for those properties for which you are electing to defer the payment of tax. First, complete Section D to line 4. On a separate attachment, allocate the amount of tax eligible for deferral among all gain properties listed on line 2. The tax attributable to a particular property is determined by multiplying the amount on Section D, line 4, by the ratio of the gain for that property entered in line 2, column (e), over the total amount of gain of all gain properties in line 4, column (e). In line 2, column (g), enter the tax attributable to each property for which you are electing to defer tax. Then, enter the total deferred tax for those properties from line 4, column (g), on Section D, line 5.

**Example.** Line 2 lists four assets, each resulting in a deemed gain in column (d). The amount of tax eligible for deferral on Section D, line 4, is \$575,000. You must go back to line 2, column (g), to allocate the deferred tax among the individual properties.



You must attach a computation to show how you figured the tax attributable to each property.

See [Section D](#), later, and [Notice 2009-85](#), section 3E, for more information on deferring the payment of tax.

**Note.** The address listed in section 3E of Notice 2009-85 for mailing your tax deferral agreement is no longer valid. See [Procedure for requesting a deferral of the payment of tax](#), later, for the correct address.

**Reporting gain or loss.** You must report and recognize the gain (or loss) of each property reported in Section C, line 2,

column (a), on the relevant form or schedule of your Form 1040 or 1040-SR for the part of the year that includes the day before your expatriation date. The return to which you attach your form or schedule will depend on your status at the end of the year. See chapter 1 of Pub. 519 to determine which form you should file. The gain from column (e) or loss from column (d) attributable to each property is reported in the same manner as if the property had actually been sold. For example, gain recognized from the deemed sale of a rental property that has been depreciated is reported on Form 4797 as if it had been sold. Gain recognized from the deemed sale of personal property (such as stock or a personal residence) is reported on Form 8949 as if it had been sold. Capital gain retains its character as capital gain; ordinary gain retains its character as ordinary income.

## Section D—Deferral of Tax

If you expatriated in 2023, and you chose to enter into a tax deferral agreement with the IRS with respect to assets subject to the mark-to-market rules of section 877A, use lines 2 through 5 of Section D to figure the amount of tax you can defer. Before completing lines 2 through 5 of Section D, you must fill out two hypothetical individual income tax returns using Form 1040 or 1040-SR. The first return includes all income, including the section 877A(a) gain and loss. The second return includes all income except the section 877A(a) gain and loss. Attach both hypothetical returns to this Form 8854.

### Line 1

If you aren't electing to defer the payment of tax on the gain reported in Section C, line 2, column (e), report on the appropriate income tax return schedule or form the gain amount attributable to each particular property as listed in Section C, line 2, column (e), and report the loss amount attributable to each particular property as listed in Section C, line 2, column (d).

If you are electing to defer tax, go to line 2.

### Line 2

Enter on line 2 the amount of tax on line 24 of the first return, which includes all income, including the section 877A(a) gain and loss.

### Line 3

Enter on line 3 the amount of tax on line 24 of the second return, which includes all income except the section 877A(a) gain and loss.

### Line 5

This is the amount of tax you elect to defer. If you are deferring tax on all properties, enter the amount from line 4. If you are electing deferral on only certain properties, go to Section C, line 2, column (g), to show how much deferred tax is allocated to each property. Attach a computation.

**Procedure for requesting a deferral of the payment of tax.** In order to defer any part of the mark-to-market tax, you must enter into a tax deferral agreement with the IRS and provide adequate security. [Notice 2009-85](#) contains a sample agreement (Appendix A). Adequate security can be either:

1. A bond that is furnished to, and accepted by, the IRS, that is conditioned on the payment of tax (and interest thereon), and that meets the requirements of section 6325; or
2. Another form of security (including letters of credit) that is acceptable to the IRS.

You must contact the following office in order to make the appropriate arrangements for providing security.

Internal Revenue Service  
SBSE Advisory Office  
7850 SW 6th Court  
Mail Stop 5780  
Plantation, FL 33324-3202  
Telephone: 954-991-4455

You must send your original tax deferral agreement request, marked "Original," with your Form 8854 for the year that includes your expatriation date to:

Internal Revenue Service  
3651 S IH35  
MS 4301AUSC  
Austin, TX 78741

If you are required to file a Form 1040, 1040-SR, or 1040-NR for the year that includes your expatriation date, also attach a copy of the tax deferral agreement request, marked "Copy," to the Form 8854 that you include with your tax return.

**Note.** The address listed in section 3E of Notice 2009-85 is no longer valid.

If the IRS deems your collateral sufficient, and agrees to enter into a tax deferral agreement, you can pay any tax deferred, together with interest, at any time. However, the time for the payment of tax attributable to a particular deferral asset can be extended only until (a) the year the asset is ultimately disposed of, or (b) the year of death.



*You must file Form 8854 annually for years up to and including the year in which the full amount of deferred tax and interest is paid.*

**Waiver of treaty benefits.** As a further condition to making the election to defer the payment of tax on a particular asset, you must waive any right under any U.S. tax treaty that would preclude the assessment or collection of the tax.

**Satisfying your deferred tax liability.** If you entered into an agreement for the deferral of tax with the IRS Advisory Office and dispose of one or more assets for which you elected to defer tax, you must contact that office to make arrangements to satisfy your tax liability. The address for the Advisory Office is shown above.

## Part III—Annual Expatriation Statement for Persons Who Expatriated Before 2023

You must file Part III if you:

1. Deferred the payment of tax on any property on a Form 8854 filed in a previous year,
2. Reported an eligible deferred compensation item on a Form 8854 filed in a previous year, or




3. Reported an interest in a nongrantor trust on a Form 8854 filed in a previous year.

### Line 1

If you deferred the payment of tax in an earlier year, refer to the Form 8854 you filed for that earlier year to complete columns (a), (b), and (c). If you expatriated in 2019 or later, use the information from Part II, Section C, line 2. If you expatriated in 2018 or earlier, use the information from Part III, line 1, of the earlier year's Form 8854.

If you disposed of any property in 2023 on which you deferred the payment of tax on a previous return, also complete column (d). You must report the gain or loss from the property disposed of on the appropriate line (or schedule) of your income tax return.


 You must pay the deferred tax, plus interest, on any property you disposed of, no later than the due date (without extensions) of your 2023 income tax return. See [Satisfying your deferred tax liability](#), earlier, for information on arranging payment.

See [Section D](#) under *Part II*, earlier, and section 3E of [Notice 2009-85](#) for more information on deferring the tax.

**Note.** The address listed in section 3E of Notice 2009-85 for mailing your tax deferral agreement is no longer valid. See [Procedure for requesting a deferral of the payment of tax](#) under *Section D*, earlier, for the correct address.

### Line 2

Check the “Yes” box if you received any distributions of eligible deferred compensation items in 2023. Enter the part of the distribution that you would include in gross income if you continued to be subject to tax as a U.S. citizen or resident. Also enter the total amount of tax withheld by the payor(s) of any eligible deferred compensation items.

 Don't enter the part of any payment that is attributable to services performed outside the United States before or after your expatriation date while you weren't a citizen or resident of the United States.

### Line 3

Unless the exception at the end of this section applies, check the “Yes” box if you received any direct or indirect

distributions of property (including money) from a nongrantor trust in 2023. Enter the part of the distribution that you would include in gross income if you continued to be subject to tax as a U.S. citizen or resident. Also enter the total amount of tax withheld by the payor(s) of any distribution.



Don't include any distribution from a trust if your interest in the trust was treated in an earlier year as a deferred compensation item or part of a specified tax deferred account.

**Exception.** Don't check the “Yes” box if you elected on a previously filed Form 8854 to be treated as having received the value of your entire interest in the trust as of the day before your expatriation date.

### 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 and include a preparer tax identification number (PTIN) 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.

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**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 average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

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