FEATURE:
INTERNATIONAL PRACTICE

By **Melvin A. Warshaw** & **David Lesperance**

A Possible Silver Lining for Green Card Holders?

Mitigation of exit and inheritance tax

In our last article,[1] we laid out the reasons why green card holders should comply with their U.S. tax filing obligations while still residing in the United States. Green card holders have certain pre-expatriation planning opportunities available to them if they can plan ahead to enable them to mitigate or possibly eliminate exit tax and inheritance tax. We previously explained the long reach of the U.S. government into foreign countries to recover unpaid penalties and debts due to the U.S. government.

We'll now focus on long-term residents (LTRs). LTRs are green card holders who have been found to be tax resident in United States for eight of the last 15 years. LTRs may be able to use the dichotomy between the objective tests for U.S. income tax residency (that is, holding a green card regardless of where they live) and the highly subjective test for domicile that controls for U.S. transfer-tax purposes, to mitigate exit and inheritance tax.

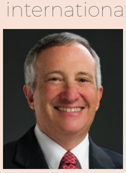
The HEART Act

The Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 created Internal Revenue Code Section 877A, which sets out new exit tax rules for those renouncing their U.S. citizenship or relinquishing their LTR status after June 16, 2008 and who were deemed to be a covered expatriate. It also added a draconian inheritance tax in IRC Section 2801 that's applicable to U.S. heirs or gift beneficiaries of a covered expatriate. An expatriate after June 16, 2008 can now expose other U.S. individuals to potential inheritance tax in later years[2] if an LTR is a covered expatriate on the day before their expatriation date and is non-compliant with any of their U.S. tax reporting obligations for such year because, for example, they never filed Form 8854 for the year of expatriation.

Here's what can (and can't) happen under Section 877A:[3]

No delay of start of statute of limitations. IRC Section 6501 imposes a 3- or 6-year statute of limitations on the ability of the Internal Revenue Service to sue for unpaid taxes. For LTRs whose U.S. tax for the year of expatriation increased under Section 877A, once the 3- or 6-year limitation periods have ended, and assuming no civil or criminal fraud, it's likely that the IRS wouldn't impose any additional (exit) tax due for the year of expatriation. Although Section 6501 keeps the statute of limitations open in the case of failure to file certain IRS international information returns, Form 8854 isn't covered by that rule. Accordingly, failure to file Form 8854 for the year of expatriation, by itself, shouldn't keep open the statute of limitations.

Subsequent sales are exempt from U.S. capital gains tax under Section 877A. If the LTR owns personal or investment assets that are sold at some time after the LTR's expatriation date, the LTR's non-resident alien (NRA) status for U.S. income tax purposes will result in an exemption from U.S. tax on the gains (except as to U.S. real estate). If the LTR owns publicly traded U.S. stocks and sells them after the

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expatriation date, in most cases, the gains will be exempt from Section 871(a). The gains may include appreciation that took place after the expatriation date, as well as appreciation that took place prior to the expatriation date and that may have been subject to exit tax under Section 877A as of that date. While the LTR is subject to tax on the pre-expatriation appreciation under Section 877A and may remain liable for U.S. exit tax on the date of actual sale if the statute of limitations for the year of expatriation hasn't expired, any appreciation after the expatriation date in most cases will be exempt from U.S. tax despite the LTR's noncompliance with Section 877A for the year of expatriation.

Tax-qualified retirement plans and individual retirement accounts. Under Section 877A, an LTR can make an election to continue to defer U.S. tax on "eligible deferred compensation items" (that is, employer-sponsored retirement plan accounts); however, to make the election, the LTR must be aware of the deadline to timely file Form W-CE to defer the tax until retirement as withdrawals are received. A covered expatriate who has a deferred compensation item must file Form W-8CE with the relevant payor on the "earlier of": (1) the day prior to the first distribution on or after the expatriation date; or (2) 30 days after the covered expatriate's expatriation date as defined in Section 877A(g)(3).[4] The first deadline means that an IRC Section 401(k) distribution occurs within 30 days of the expatriation date. This is never the case in the real world, so it's the second deadline that's the earlier of the two. There's nothing in the law or the current IRS procedures that cuts the LTR any slack. If an LTR misses the deadline, the LTR must pay the lump sum tax.

Many times, clients ask us to assist with tax planning months after they relinquish their LTR status. By then it's too late. If the individual is a covered expatriate, they have blown the deadline for notifying the Section 401(k) plan administrator with Form W-8CE.

Collection of delinquent U.S. tax. If the IRS finds out about the LTR's situation within the statutory limitation period and attempts to collect tax from the LTR, whether the IRS is successful will often depend on whether the LTR still owns property in the United States that's subject to attachment or has deferred compensation rights with a U.S. employer or a U.S. retirement plan on which a levy may be made. However, if the LTR has no remaining property in the United States, it may be impossible for the IRS to collect from the expatriate, because most foreign countries don't attempt to enforce and collect the tax claims or tax judgments of the United States or other countries. However, if the LTR anticipates that someday, they may make gifts or bequests to family members or friends who are U.S. persons, transferee liability could possibly be imposed on those persons in addition to the possible imposition of the Section IRC 2801 tax.

Possible compliance in a later year. If in a later year, the LTR decides to comply with the Section 877A rules for the year of expatriation, the LTR may avoid the $10,000 penalty for not filing Form 8854 if the LTR can demonstrate reasonable cause and a lack of willful neglect. Presumably, however, the LTR would be subject to tax under Section 877A plus interest on all relevant property, and it would be too late to elect to defer tax on any assets, including employer-sponsored U.S. retirement plan account balances. In our view, if the LTR anticipates that they'll someday make any gifts or bequests to family members or friends who are U.S. persons, the potential tax liability under Section 2801 to such U.S. persons could be a significant consideration in complying with Form 8854 filing after the fact. We've advised a non-compliant LTR who abandoned green card status years ago with unfiled tax reporting obligations and who didn't file a Form 8854 for the year of abandonment to enter the Streamlined Foreign Offshore Procedure program to become U.S. tax compliant for the five years prior to expatriation and then file a late Form 8854

because the LTR contemplated moving back to the United States in the future. It's unknown whether the LTR would eventually become a U.S. citizen or again leave the United States.

Potential effect of Section 2801 inheritance tax. Always consider the potential long-term implications of the Section 2801 inheritance tax imposed on U.S. persons. If all heirs live outside the United States and none of them are U.S. citizens or residents, then Section 2801 inheritance tax considerations are irrelevant. LTRs who are about to depart the United States often overlook three aspects of the Section 2801 inheritance tax that are especially harsh. First, the Section 2801 inheritance tax is imposed without the recipient U.S. person being able to apply their own lifetime gift tax exemption amount to the receipt of such gift or bequest from a covered expatriate. Second, the amount of assets subject to the Section 2801 inheritance tax may vastly exceed the LTR's personal net worth as of the expatriation date and could include after-acquired inherited assets or self-created assets of the LTR. Third, the Section 2801 inheritance tax may be imposed even though there was no unrealized appreciation in worldwide assets of the covered expatriate as of the date of expatriation. This means that if an LTR only owns $2.5 million in bank or money market accounts on the date of expatriation, such LTR is classified as a covered expatriate as of their expatriation date even though no exit tax is due. If the LTR inherits or creates $100 million of asset value following their expatriation date, to the extent any portion of the $102.5 million asset value is gifted or bequeathed to U.S. persons, they'll be forced to report such receipt of property to the IRS on Form 708. Such U.S. persons would owe a 40% tax on the value of such gifts or bequests in excess of the annual exclusion amount for the year of receipt ($17,000 for 2023).

Even if the LTR's net worth was below $2 million on the expatriation date, the failure to file a Form 8854 and comply with the certification test would make the LTR a covered expatriate. The result would be a nearly 40% inheritance tax due by the LTR's U.S.-based relatives and friends who receive gifts or bequests from the LTR. Because the Section 2801 inheritance tax isn't limited to the LTR's net worth on the expatriation date but includes all after-departure net worth that's used to make large gifts or bequest to U.S. heirs or friends, the recipients will be subject to Section 2801 inheritance tax on receipt of such gifts or bequest. An LTR might legitimately question how the IRS will know about the individual's status as a covered expatriate if no Form 8854 was ever filed, and there's no other red flag during post-expatriation years to alert the IRS to the individual's status. However, the burden is on the U.S. heirs or friends of the LTR to prove the LTR wasn't a covered expatriate when they receive the gifts or bequests from the LTR. Due to the potential magnitude of the inheritance tax liability of U.S. heirs or friends, practitioners should consider the potentially materially adverse tax effects of Section 2801 on receipt of such gifts or bequests if an expatriate hasn't complied with Section 877A for the year of expatriation.

Mitigation of Taxes

A unique feature of the current exit tax rules under Section 877A and the expatriation tax rules under Section 2801 is that they're triggered for LTRs who either voluntarily abandon their green card status or involuntarily have their green card terminated by the U.S. Citizen and Immigration Services (CIS), so they become a nonresident for U.S. transfer-tax purposes. This would occur if the LTR's domicile changes from the United States to a foreign country. If so, the LTR will no longer be subject to U.S. transfer tax on worldwide assets and instead is subject to U.S. transfer tax only on certain U.S. situs assets (for example, real estate).

The determination of "domicile" for federal transfer-tax purposes is quite subjective with guidance coming mainly from a few court decisions. This is in contrast with the very mechanical rules that determine whether a non-citizen is a "resident alien" for U.S. federal income tax purposes under IRC Section 7701(b).

Let's assume that an LTR moves out of the United

States and is willing to surrender their green card by filing a Form I-407 with the U.S. CIS but chooses not to do so because they have a personal net worth of $2 million or above and wish to avoid being classified as a covered expatriate. Also assume that if the LTR did surrender their green card, the LTR wouldn't be classified in any subsequent year as a resident alien under the "substantial presence test" of Section 7701(b)(3). Any visits back to the United States would be of very short duration. Nevertheless, because the LTR wishes to avoid becoming a covered expatriate, they hold their green card while living abroad, and they're potentially subject to U.S. tax on their worldwide income. If possible, such green card holder might want to consider making a treaty election for the year so they're treated as a non-resident of the United States in computing income and would only be subject to U.S. tax on U.S. source income for the year. However, if the green card holder is already an LTR, it's generally too late to file a treaty election as filing a treaty election will likely be considered an act of expatriation for exit tax purposes.

If the LTR is still a U.S. domiciliary, the 2023 $12.92 million lifetime exclusion amount offers a substantial cushion to avoid U.S. transfer tax for many LTRs.

There are two main reason why an LTR wouldn't want to be classified as a covered expatriate: (1) the LTR would avoid the exit tax under Section 877A and its mark-to-market tax on the unrealized appreciation in worldwide assets, as well as the exit tax on retirement plan assets including immediate tax on IRAs; and (2) the LTR's U.S. family members would avoid the inheritance tax under Section 2801 that would be imposed on their receipt of any gifts or bequests from the LTR.

Would there be any U.S. transfer-tax savings if the LTR living abroad claims that they've become a non-domiciliary of the United States for transfer-tax purposes? If the LTR is still a U.S. domiciliary, the 2023 $12.92 million lifetime exclusion amount offers a substantial cushion to avoid U.S. transfer tax for many LTRs.

Unlike the federal income tax provisions of Section 7701(b) applicable to all LTRs wherever they reside, there are no provisions in the U.S. Tax Code that automatically classify an LTR living permanently outside the United States and thus as a non-domiciliary of the United States for transfer-tax purposes. For purposes of the expatriation rules in Sections 877A and 2801, this has several critically important consequences for a very wealthy LTR. First, an LTR living outside the United States may change their domicile from the United States to a foreign country (assuming the facts support such position) even though the individual remains classified as an LTR who continues to be subject to U.S. income tax on worldwide income. Second, there's nothing in the U.S. Tax Code that provides that an LTR who successfully contends that their domicile has shifted abroad will be classified as a "covered expatriate" (for purposes of Sections 877A and 2801) as a result of taking such position, because the rules that determine who's a "covered expatriate" are found exclusively in the income tax rules of Section 877A. Third, not only can the LTR shift their domicile from the United States to a foreign country without U.S. tax consequences, but also there's no requirement to notify the IRS of the LTR's change in domicile.

In contrast, all LTRs who surrender their permanent residency status in the United States (that is, abandon their green card by filing Form I-407), must provide detailed financial and other information to the IRS on Form 8854, even if their facts indicate they're not a "covered expatriate."

The question then becomes whether there might be any U.S. transfer-tax savings if the LTR living abroad claims that they've become a non-U.S. domiciliary for transfer-tax purposes. If the LTR remains a U.S domiciliary, they have available the aforementioned substantial lifetime gift tax exclusion amount from U.S. transfer tax. Nevertheless, the lifetime gift tax exclusion threshold amount has been volatile in recent years, and under present law, it's scheduled to revert to roughly $6 million (as inflation-indexed)

in 2026. If the LTR's net worth is already more than $12.92 million, then the importance of claiming non-domiciled status may be more immediate.

Considerations Before Moving

Before claiming non-U.S. domiciliary status by moving permanently to a foreign country, an LTR should bear in mind a number of tax and non-tax considerations:

Gifts of foreign situs and U.S. property. If the LTR is no longer a U.S. domiciliary, there's no federal gift tax on any gifts of foreign situs property (whether tangible or intangible) or any intangible property regardless of situs (such as U.S. stocks or bonds) to other persons, regardless of the amount. Moreover, there's no gift tax reporting obligation. However, under IRC Section 1015, the recipient would take a carryover basis in the property for U.S. income tax purposes. This would be of significant concern if the recipient is a U.S. citizen or resident alien, because U.S. capital gains tax could eventually be imposed on the unrealized appreciation in the property unless the recipient holds the property until death. Gifts of *tangible* property (that is, real estate, art or jewelry located in the United States) would be subject to U.S. gift tax (although any gift tax treaty with a foreign country might avoid such outcome; however, there are very few such treaties).

Gifts from non-U.S. domiciled donor to non-U.S. citizen spouse. If a non-U.S. domiciled donor is married to a non-U.S. citizen, the non-domiciled donor can make a gift of non-U.S. situs property other than real estate, art or jewelry in any amount to their spouse, and there's no U.S. gift tax return reporting. In contrast, if the donor were still U.S. domiciled, such a gift to a non-U.S. citizen spouse would be limited to the gift tax marital exclusion amount ($175,000 in 2023) under IRC Section 2523(i), and the excess would be charged against the donor's remaining lifetime gift tax exclusion amount.

Assuming that the non-U.S. citizen spouse also wasn't domiciled in the United States, such a gift might help reduce the non-domiciled donor's net worth to below $2 million.

Estate tax on non-domiciled U.S. resident alien. If the LTR dies and, at the date of death, is classified as a non-domiciled alien for U.S. transfer-tax purposes, but is still considered a resident alien of the U.S. for income tax purposes, U.S. estate tax would be imposed on U.S. situs property on the value in excess of $60,000. If the LTR were resident at their death in a country that had an estate tax treaty with the United States, there might be an enhanced lifetime tax exemption amount. Such an enhanced treaty exemption in excess of $60,000 might typically be no more than if the decedent was still U.S. domiciled on the date of death. It's also possible that the deceased LTR might be domiciled in one of the six foreign countries that provides for an estate tax exemption on all U.S. situs property (excluding U.S. real estate and effectively connected business property). It's conceivable that such treaty provision could result in a lower amount of U.S. estate tax than having remained U.S. domiciled.

Property bequeathed to U.S. citizens or residents. Most or all of the property an LTR bequeaths to U.S. citizens or residents would be stepped-up to its date-of-death value under IRC Section 1014. Based on Revenue Ruling 84-139, this outcome would occur whether or not the property had been included in the decedent's gross estate for U.S. estate tax purposes. The implications of according basis step-up on all property owned by a decedent, including property not subject to U.S. estate tax, is that an LTR who isn't domiciled in the United States at death could leave unlimited amounts of foreign situs property or U.S. stocks to U.S. heirs without U.S. estate tax, and the U.S. heirs would take a stepped-up basis in the property received by them regardless of location of the property. The step-up in basis under Section 1014 is an obvious advantage for U.S. heirs over IRC Section 1015 carryover basis that would apply if the U.S. heirs received U.S. or foreign situs property as a lifetime gift.

Estate tax on U.S. stocks and real estate. If the LTR wishes to claim non-U.S. domiciled status and owns substantial U.S. situs property, it may be difficult to restructure the ownership of that property during their lifetime so as to avoid U.S. estate tax on the LTR's death. The most common way for a non-U.S. domiciled alien to avoid U.S. estate tax on U.S. stocks is to contribute these intangibles to a non-U.S. corporation. If the LTR wishes to claim non-U.S. domiciled status at death and plans to acquire significant U.S. real estate, the most common way for a non-domiciled alien to avoid U.S. estate tax on the LTR's death is to contribute enough cash to a non-U.S. foreign corporation and have such foreign corporation acquire the U.S. real estate. If the LTR owns multiple rental properties in the United States, and limited liability protection is desired, the difficulty with using a separate U.S. limited liability company to own each U.S. property is exposure to the second level U.S. 30% branch profits tax when the earnings are repatriated abroad. It may also be possible to create a two-tier partnership ownership arrangement in which a foreign partnership owns 99% of the bottom tier U.S. domestic partnership, which owns the underlying U.S. real estate. The two-tier partnership arrangement should avoid the branch profits tax but raises U.S. estate tax concerns.

Gift tax treaties. If the LTR resides in a country having a gift tax treaty with the United States that includes a "tie-breaker" clause, and if it's clear under the tie-breaker rules that the individual is classified as a domiciliary of the treaty country rather than of the United States, they might wish to file Form 8833 with the IRS with respect to any gifts that might be subject to federal gift tax. This would substantially strengthen the argument that the individual is non-U.S. domiciled for federal gift tax purposes. Some caveats are in order, however. There are only five such countries in the U.S. gift tax treaty network—Austria, Denmark, France, Germany and the United Kingdom—and all of them except the United Kingdom impose their own gift taxes, possibly at higher rates and with lower thresholds than does the United States (although the exemption rules for gifts to a spouse or to other family members may be more liberal than the U.S. gift tax rules).

U.S. estate tax exemption. If the LTR dies and their estate claims successfully that they were non-U.S. domiciled on the date of death—under either the U.S. domicile rules or the tie-breaker rules of certain U.S. estate tax treaties (with the same five countries noted above plus Canada and the Netherlands)—there could be favorable U.S. transfer-tax consequences. Under the so-called "broad" estate tax treaties (those with the five countries plus the Netherlands), there would be a U.S. estate tax exemption not only on all non-U.S. situs assets but also on all U.S. situs assets other than U.S. real estate and assets that are effectively connected with an unincorporated U.S. business (such as a partnership or sole proprietorship). Although the other U.S. estate tax treaties don't contain such broad exemptions for U.S. situs assets, most of them do provide for an enhanced lifetime exemption (as does the U.K. estate and gift tax treaty)—a situation that would place the decedent on par with a U.S. domiciled decedent, but probably in no better position. In both cases, presumably the estate would need to file Form 8833 with the IRS. Again, however, if the estate claimed that the decedent was non-U.S. domiciled by reason of a U.S. estate tax treaty, the IRS might argue that the decedent had made a de facto election to be classified as an NRA under the treaty tie-breaker provisions in that country's *income* tax treaty with the United States while they were alive. If that argument were successful, the estate could have a delinquent liability for the exit tax, and any U.S. heirs could be subject to the inheritance tax.

LTRs claiming non-U.S. domiciled status. Finally, an LTR who wishes to claim non-U.S. domiciled status for U.S. gift tax purposes should first consult with a knowledgeable attorney who's fully conversant with the U.S. immigration rules. In some cases, taking

this position could put the individual at risk of having their green card revoked by the U.S. Department of Homeland Security—a situation that would typically result in deemed expatriation for purposes of Section 877A. The United States doesn't currently search for resident aliens who may have moved out of the United States and de facto abandoned their status. Rather, the U.S. border patrol only raises the issue of abandonment of a green card when the individual presents themself to a U.S. border official when attempting to seek entry into the United States. This situation then presents some planning opportunities to avoid being labeled a covered expatriate or even an LTR.

A non-U.S. citizen LTR may use foreign domicile transfer-tax planning before expatriating.

Reducing Net Worth

It's crucial to determine whether the gifting spouse reduced their net worth below $2 million to see if there are gift tax implications. If one spouse will continue to work after the couple leaves the United States and if the foreign tax on the salary and bonus is substantially lower than the U.S. income tax liability on the same compensation, it may be important for the other spouse to pay living expenses from their net worth to reduce it below $2 million on the date of expatriation.

As discussed, a non-U.S. citizen LTR may use foreign domicile transfer-tax planning before expatriating. While maintaining U.S. income tax residency, the LTR would establish domicile outside the United States. Transfers of non-U.S. assets are then not subject to U.S. transfer tax. This would cover all foreign situs property. Moreover, the transfer by foreign domiciliaries of certain U.S. situs intangible assets (for example, U.S. stocks and mutual funds) avoids U.S. gift tax and reporting. For an LTR with substantial foreign situs assets and U.S. situs intangibles, U.S. gift and estate tax can be avoided altogether. This strategy might also permit the potential expatriating LTR to completely avoid the exit tax if the transferred property brings their net worth below $2 million. The general U.S. estate tax inclusion rules relating to transfers within three years of a grantor's death and transfers of property in which the grantor retains an interest in or power over trust property, can apply to non-U.S. domiciliaries who have U.S. situs property at the time of death or at the time of transfer.[5] The practical result of this provision is that a non-U.S domiciliary shouldn't make transfers during life of any U.S. situs property, for estate tax purposes, to a trust (or similar entity) in which they retain an interest as a beneficiary (IRC Section 2036), the ability to control beneficial enjoyment (IRC Section 2037) or the power to revoke or amend (IRC Section 2038). If the non-U.S. domiciliary has done so, they should terminate the trust, if possible, and recreate the trust and fund the new trust with only non-U.S. situs property.

Abandonment of Status

Holding a green card while living in the United States allows LTRs to build a life in the United States with some sense of security, clarity and continuity. However, a green card holder can easily lose their "permanent legal residence" status in the United States if the U.S. CIS officials conclude the individual has abandoned that status. The U.S. CIS may revoke a green card for a variety of reasons.

Travel abroad is the most common reason permanent residents find themselves scrutinized for possible abandonment of their U.S. residency status. Green card holders are free to travel outside the United States on short or temporary trips without raising suspicions of the U.S. CIS. The problem arises when those trips and absences become lengthy or frequent especially when return trips to the United States are for brief periods. A green card holder must actually make and keep the United States as their home to maintain status as a permanent resident.

U.S. CIS officials may conclude that a green card holder has abandoned lawful permanent residence in the United States if they've moved to another country, intending to live there permanently or if they remain outside the United States for an extended

period, unless the individual can justify their absence as temporary by demonstrating the reason for the trip, its length and whether any events beyond the individual's control may have prolonged the absence from the United States. However, for the question to arise, the individual must be seeking entry into the United States.

When the green card holder re-enters the United States, U.S. Customs and Border Protection will try to determine if they've abandoned such status by looking at several indicators of intent, including whether the individual maintained their U.S. family and community ties during their absence, sustained U.S.-based employment, filed U.S. income tax returns as a resident, held U.S. bank accounts, held a valid U.S. driver's license and owned property or operated a business in the United States.

If your client wishes to enter the United States and doesn't wish to be challenged for abandonment, we recommend that each trip abroad be no longer than six months and have a set return date. Also, the client should make sure return stays in the United States are proportional to the duration of their absence, keep ties to the home or other foreign country to a minimum and obtain a re-entry permit from the U.S. CIS before leaving the United States or a returning resident visa (SB-1) from a U.S. consulate while abroad.

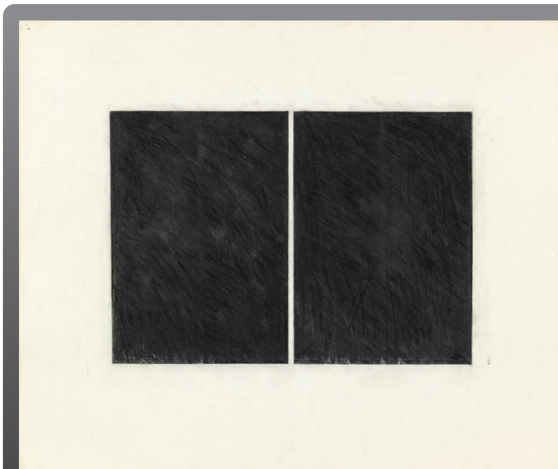
Disruptions and government restrictions on travel due to COVID-19 have made it difficult for many green card holders to return to the United States or kept them abroad longer than they had planned. U.S. CIS officials haven't issued any blanket policy statement as to how they'll treat returning permanent residents whose absence from the United States has been caused to some extent or wholly by pandemic-related issues. However, vigilant green card holders must remain aware of the acts that can raise U.S. CIS suspicions and ultimately result in a determination that such individual has abandoned their resident status.

Green card holders who've permanently moved abroad but haven't formally abandoned their green card have the potential tax planning opportunity to make large tax-free gifts that aren't reported for U.S. gift tax purposes. No doubt there's significant risk that before the gift program is complete, the U.S. CIS may identify the green card holder as having permanently left the United States, involuntarily revoking their green card, which might trigger the exit tax before all the planning is completed. However, avoiding attempted re-entry into the United States eliminates this threat.

It may be worth the effort, as getting this strategy right can save an LTR a lot of exit tax and may be used to mitigate the exit tax costs when they eventually file the Form I-407 with the U.S. CIS.

Endnotes

1. Melvin A. Warshaw and David Lesperance, "Trouble Ahead for Certain Green Card Holders: Part 1," *Trusts & Estates* (November 2022).
2. Internal Revenue Code Section 2801.
3. Many of the concepts laid out in this article were previously discussed by Thomas Bissell, CPA of Celebration, Florida in 2019. *See* Thomas Bissell, "Green Card Aliens Living Abroad Who Claim They Are No Longer U.S. Domiciled," *International Journal* (Aug. 9, 2019).
4. IRS Notice 2009-85, Section 8(D).
5. IRC Section 2104(b).



SPOT LIGHT

Not Everything is Black and White
Untitled by Brice Marden sold for $138,600 at Phillips 20th Century Contemporary Art Day Sale, Morning Session on Nov. 16, 2022 in New York City. Finding inspiration from his personal experiences and global travels, Marden's work conveys emotion through the power of color. He's particularly recognized for his use of a monochromatic color palette.