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Part III - Administrative, Procedural, and Miscellaneous

Guidance for Expatriates and Recipients of Foreign Source Gifts and Bequests Under Sections 877A, 2801, and 6039G

Notice ~~[XXXX-XX]~~

PURPOSE

~~Section 301 of the~~ Heroes Earnings Assistance and Relief Tax Act of 2008 (the "Act") enacted ~~sed~~ new sections 877A and 2801 of the Internal Revenue Code ("~~Code~~"), amended ~~eds~~ sections 6039G and 7701(a), ~~provides~~ ~~made~~ conforming amendments to sections 877(e) and 7701(b), and repealed ~~sed~~ section 7701(n). This notice provides guidance regarding certain federal tax consequences under these sections for individuals who renounce U.S. citizenship or cease to be taxed as lawful permanent residents of the United States.

This notice has _____ sections. Section I provides . . .

SECTION 1. GENERAL APPLICATION OF SECTIONS 877A AND 2801

~~Section 877A imposes a mark-to-market tax regime on certain U.S. citizens who-~~

relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residency (“expatriate”). New section 877A generally provides that all property of a covered expatriate will be treated as sold on the day before the expatriation date for its fair market value (“mark-to-market tax”). Section 877A(g)(1) defines a “covered expatriate” as an expatriate who meets the requirements of subparagraph (A), (B), or (C) of section 877(a)(2). This includes U.S. citizens who relinquish their U.S. citizenship and long-term U.S. residents who cease to be lawful permanent U.S. residents, whose average net income tax liability for the five years preceding expatriation exceeds \$124,000 (indexed for inflation) or whose net worth on the expatriation date equals or exceeds \$2 million. Section 877A(g)(1)(B) provides that certain individuals are not treated as meeting the requirements of subparagraph (A) or (B) of section 877(a)(2). They include (1) an individual who became at birth a U.S. citizen and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and who has been a U.S. resident for not more than 10 taxable years during the 15 taxable year period ending with the taxable year during which the expatriation date occurs; and (2) an individual who relinquishes U.S. citizenship before the age of 18 ½ and who has been a U.S. resident for not more than 10 taxable years before the date of relinquishment. Section 877A(g)(3) defines “expatriation date” as the date an individual relinquishes U.S. citizenship or, in the case of a long-term U.S. resident, the date on which the individual ceases to be a lawful permanent U.S. resident.

†Section 877A(a)(2) provides that these individuals are subject to [U.S.?

~~Federal?] income tax on any the net unrealized gain arising from any deemed sale of property under section 877A, and in their property as if the property had been sold for its fair market value on the day before the day of expatriation or residency termination. -~~
~~[The gain from the deemed such sale is taken into account for the taxable year of the sale on that date at that time without regard to other sections of the Code. Any losses from any deemed sale of property under section 877A are is taken into account for the taxable year of the sale to the extent otherwise provided in the Code, except that the wash sale rules of section 1091 do not apply.] Section 877A(a)(3) provides that Net gain on any deemed sale which would otherwise be includible in the gross income of a covered expatriate is recognized only to the extent it exceeds \$600,000. The ~~\$600,000-~~ dollar amount of the exclusion will be increased by a cost of living adjustment factor for taxable years beginning in a ~~for~~ calendar years after 2008. Section 877A(a) provides that ~~[Any gains or losses~~ subsequently realized ~~are to~~ will be adjusted for ~~gains and or~~ losses taken into account under the deemed sale rules, without regard to the \$600,000 ~~[exemption]~~ [exclusion? I think this is the statutory term].]~~

Section 877A(b) provides that a taxpayer can make an irrevocable election, with respect to any property deemed sold by reason of section 877A(a), to defer the payment of the additional tax attributable to such property until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe). In order to make the election with respect to any property, the taxpayer must provide adequate security and

irrevocably waive any right under any U.S. tax treaty which would preclude assessment or collection of the tax. The due date for payment of tax may not be extended later than the due date for the return for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided fails to meet the requirements of section 877A(b)(4), unless the taxpayer corrects such failure within the time specified by the Secretary).

The mark-to-market tax ~~described above~~ applies to ~~most types of~~ all property interests held by ~~the individual a~~ covered expatriate on the ~~expatriation date of~~ relinquishment of citizenship or termination of residency, with certain exceptions. The mark-to-market tax does not apply to ~~D~~ deferred compensation items, interests in nongrantor trusts, and specified tax deferred accounts, which are excepted from the mark-to-market tax regime but are subject to the special rules described below.

The Act ~~includes an additional provision, also amended~~ Subtitle B (relating to estate and gift taxes) by adding new Chapter 15 (Gifts and Bequests from Expatriates) of the Code, which includes new section 2801, ~~which~~. Section 2801 imposes a transfer tax on certain ~~transfers~~ gifts and bequests to U.S. persons from ~~certain U.S. citizens who relinquished their U.S. citizenship and certain long-term U.S. residents who terminated their U.S. residency~~ an individual who, in the case of a gift, is a covered expatriate at the time of the acquisition or who, in the case of a bequest, was a covered expatriate immediately before death, ~~or from their estates.~~

The Treasury Department and the Service Internal Revenue Service (IRS) expect

to issue regulations to incorporate the guidance set forth in this notice. Until such regulations are issued, taxpayers may rely on the guidance set forth in this notice.

SECTION ____ . ALLOCATION OF EXEMPTION AMOUNT

Section 877A(a)(3)(A) provides that~~As noted above, any net gain on the~~any deemed sale under section 877A which would otherwise be includible in the gross income of a covered expatriate is recognized only to the extent it exceeds \$600,000. ~~Section 877A(a)(3)(B) provides that the \$600,000-dollar amount of the [exclusion] [exemption] will be~~ increased by a cost of living adjustment factor for taxable years beginning in a calendar years after 2008. ~~Section 877A(a) provides that any gains or losses subsequently realized are to~~will be adjusted for ~~gains and or losses~~ taken into account under the deemed sale rules, without regard to the \$600,000 ~~[exemption] [exclusion]~~.

The ~~[exemption] [exclusion]~~ amount must be allocated pro-rata to all ~~[of the assets] [property]~~ owned by the ~~taxpayer~~covered expatriate on the day before the expatriation date. Specifically, the [exemption/exclusion] amount allocated to each property is preceding the taxpayer's expatriation based on the ratio that the ~~unrealized gain taken into account under section 877A(a) with respect to such property in each asset~~ bears to the total [net?] gain taken into account under section 877A(a) with respect to all of the covered expatriate's property to which section 877A(a) applies~~unrealized gain of all of the taxpayer's assets on such date~~. ~~[What about assets that are short-term capital gain assets that would~~

generate OI if sold?] Property to which a portion of the exclusion amount is allocated includes property ~~The exemption amount will be allocated to all of the assets owned by a taxpayer on the day before the taxpayer expatriates, including those assets~~ with respect to which the taxpayer makes an election to defer the mark-to-market tax ~~is made~~ pursuant to section 877A(b), but does not include any deferred compensation item, specified tax deferred account, or interest in a nongrantor trust.

Example 1. A renounced his citizenship on Date 2. On Date 1, the day before A's renunciation of his citizenship, A's net worth exceeded \$2,000,000. On Date 1, A owned three assets, Asset A, Asset B and Asset C. Asset A had a fair market value of \$2,000,000 and a basis of \$500,000 on Date 1. As of Date 1, A has owned Asset A for more than one year. Asset B had a fair market value of \$300,000 and a basis of \$100,000 on Date 1. As of Date 1, A has owned Asset B for more than one year. Asset C had a fair market value of \$500,000 and a basis of \$150,000 on Date 1. As of Date 1, A has owned Asset C for more than one year. The \$600,000 exemption amount will be allocated among A's three assets as follows.

$$\text{Asset A: } \frac{\$1,500,000}{\$2,050,000} \times \$600,000 = \$439,024$$

$$\text{Asset B: } \frac{\$200,000}{\$2,050,000} \times \$600,000 = \$58,536$$

$$\text{Asset C: } \frac{\$350,000}{\$2,050,000} \times \$600,000 = \$102,439$$

Assuming A does not make the election under 877A(b) to defer the mark-to-

market tax, A will be deemed to have sold Assets A, B and C, realizing gain on each asset as follows.

Asset A:	\$1,500,000
	<u>(\$439,024)</u>
	\$1,060,976
 Asset B:	 \$200,000
	<u>(\$58,536)</u>
	\$141,464
 Asset C:	 \$350,000
	<u>(\$102,439)</u>
	\$247,561

SECTION ____ . ALLOCATION OF TAX ~~TO DEFERRED ASSETS~~ WHEN TAXPAYER ELECTS TO DEFER PAYMENT OF TAX

Section 877A(b)(1) provides that a taxpayer can make an election, with respect to any property deemed sold by reason of section 877A(a), to defer the payment of the additional tax attributable to such property until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

If a taxpayer makes such an election ~~to defer the mark-to-market tax is made~~ pursuant to section 877A(b) and Section ____ of this notice, the total amount of tax that would have been paid absent the election is imposed by reason of section 877A(a) -must be allocated among all of the property ~~to each asset~~ owned by the taxpayer on the day before the expatriation date. ~~The tax will be~~ Specifically, the amount of the tax allocated to each property is based on the ratio that the ~~unrealized~~ gain taken into account under section 877A(a) with respect to

such property in each asset bears to the total unrealized[net?] gain taken into account under section 877A(a) with respect to of all of the taxpayer's assets on the day before taxpayer's expatriation property to which section 877A(a) applies.
See section 877A(b)(2).

Example 2. The facts are the same as in Example 1 except that A decides to defer the mark-to-market tax on Asset A by making the election under section 877A(b) and Section ___ of this notice. A would have had a total tax liability of \$85,000 with respect to all of his income, including the gain that would be subject to tax as a result of the deemed sale of all of his assets on the day before expatriation. A must allocate the tax that would have been paid on a deemed sale of Asset A as follows.

Amount of tax attributable to Asset A:

$$\frac{\$1,060,976}{\$2,040,001} \times \$85,000 = \$44,207$$

This amount will be entered on line ___ of Form 8854 and will be the amount of U.S. tax that will have to be paid upon the earlier of the subsequent disposition of Asset A or A's death.

Assume that A sells Asset A five years after expatriating for \$2,000,000. A must pay \$44,207 in U.S. Federal Income Taxes in the year of disposition. A must pay \$44,207 in U.S. Federal Income Taxes even if A incurs a loss on the sale of Asset A. A must pay \$44,207 in U.S. Federal Income Taxes if A gifts the property to someone else or if A dies.

HERE IS ANOTHER EXAMPLE BUT I DON'T HAVE A PLACE FOR IT YET

Example: A owns two assets, Property B and Property C, at the time of expatriation. On the day before A's expatriation, Property B has a FMV of \$1,000,000 and a basis of \$0, and Property C has a FMV of \$500,000 and a basis of \$0. A elects with respect to each property to defer the tax imposed by section 877A. The exemption amount is allocated as follows:

$$\begin{array}{l} \text{Property B:} \quad \text{Gain } \$1,000,000 \times \$600,000 = \$400,000. \\ \text{Total Gain } \$1,500,000 \end{array}$$

Property C: Gain \$500,000 X \$600,000 = \$200,000.
 Total Gain \$1,500,000

Five years following his expatriation, A sells both properties. A sells Property B for \$2,000,000 realizing a gain of \$1,600,000:

FMV at time of sale \$2,000,000
 Basis \$400,000
 \$1,600,000

A sells Property C for \$100,000 realizing a loss of \$100,000:

FMV at time of sale \$100,000
 Basis \$200,000
 (100,000)

SECTION ____ . PROCEDURES FOR ELECTING TO DEFER PAYMENT DEFERRAL
 OF TAX

In general. Pursuant to section 877A(b)(1), an individual may elect to defer payment of the mark-to-market tax imposed by section 877A(a). Interest on the amount of the deferred tax will be charged for the period that payment of the tax is deferred (in other words, from the last date for the payment of the tax, determined without regard to the election, to the date on which payment of such tax is received) at the rate normally established under section 6621 that is applicable to individual underpayments. The election is irrevocable and is made on a property-by-property basis, applies only to property treated as sold by reason of section 877A(a), and, once made, is irrevocable. The deferred tax attributable to a particular property is due no later than the due date of when the

~~return is due for~~ the taxable year in which the property is disposed [(or, if the property is disposed of in a transaction in which gain is not recognized in whole or in part, at such other time as the Secretary may prescribe)]. Under section 877A(b)(2), the deferred tax attributable to a particular property is an amount which bears the same ratio to the total mark-to-market tax as the gain taken into account under section 877A(a) with respect to such property bears to the total gain taken into account under section 877A(a) with respect to all property to which for the mark-to-market tax applies. Section 877A(b)(3) provides that Tthe deferral~~due date for payment~~ of the mark-to-market tax may not be extended beyond the due date of the return for the taxable year which includes the individual's death (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of section 877A(b)(4), unless the taxpayer corrects such failure within the time specified by the Secretary).

Election procedure. Section 877A(b)(4)(A) provides that, in order to make the election with respect to any property, adequate security must be provided with respect to such property. Section 877A(b)(4)(B) defines the term “adequate security” as (1) a bond which is furnished to, and accepted by, the Secretary, which is conditioned on the payment of tax (and interest thereon), and which meets the requirements of section 6325, and (2) another form of security for such payment (including letters of credit) that meets such requirements as the Secretary may prescribe.

~~An individual~~Under section 877A(b)(4), individuals wishing to make the election to defer payment of the mark-to-market tax must contact the office listed below in order to make the appropriate arrangements for providing security as required by section 877A(b)(4) for payment of the tax and interest thereon~~that would otherwise be due.~~ (See also Section xx of this notice, describing additional requirements for individuals wishing to make the election.)

SBSE ADVISORY OFFICE

In general, an individual~~s making wishing to make~~ the election to defer payment of the mark-to-market tax must furnish to the Secretary a bond ~~to which~~ the Secretary accepts. The bond must be conditioned upon payment of the amount of tax due, plus interest thereon, and must satisfy the requirements of section 6325 and~~be in accordance with~~ such requirements relating to terms, conditions, form of the bond, and sureties, as may be specified by SBSE ADVISORY OFFICE. Other forms of security ~~mechanisms~~, including letters of credit may be permitted~~furnished and accepted~~, provided that they meet such requirements as prescribed by SBSE ADVISORY OFFICE. In the event that the security provided with respect to a particular property subsequently fails to meet the requirements of section 877A(b)(4) and these rules described in this notice, the individual must correct such failure. ~~If the individual does not and the individual fails to~~ correct such failure in accordance with [the rules described in this notice?], the deferred tax and ~~the~~ interest thereon with respect to such property will become due.

Waiver of treaty benefits. As a further condition to making the election, the individual ~~is required to consent to the~~ must make an irrevocable waiver of any ~~treaty rights~~ right under any U.S. tax treaty that would preclude the assessment or collection of the deferred mark-to-market tax. See section 877A(b)(5). The waiver shall be in such form as prescribed by SBSE ADVISORY OFFICE and will be filed with SBSE ADVISORY OFFICE with all documents required to provide security for the mark-to-market tax that is the subject of the deferral election.

SECTION ____ . REPORTING REQUIREMENTS

Background. [Consider describing the relevant statutes that authorize us to require reporting, recordkeeping, etc. -- see Section VII of Notice 97-19. Shouldn't we also add a general intro similar to the following (also see Section VII of Notice 97-19)?]
Because an individual who is liable for U.S. taxes is generally required to file a return and other such statements as the Secretary may prescribe, the Treasury Department and the IRS intend to issue regulations under section 877A that will require covered expatriates who are liable to tax to report certain information in connection with their expatriation. Until the issuance of such regulations, taxpayers must report information in compliance with the rules set forth in this notice and any other information that the Secretary may require at a later date. The rules described below apply to individuals who are subject to section 877A.

Form 8854 general reporting requirements. All U.S. citizens who renounce their U.S. citizenship and all long term residents who relinquish their green cards or elect to

be treated as a resident of a foreign country under an income tax treaty between the United States and the foreign country must file a Form 8854 in order to certify under penalties of perjury that the individual has been in compliance with all federal income tax laws during the five years preceding the year of expatriation. Individuals who fail to make such certification will be treated as covered expatriates within the meaning of section 877A(g) and 877(a)(2)(C) whether or not the individual is otherwise subject to section 877A under either the net worth test of section 877(a)(2)(A) or the average annual income tax liability tests of section 877(a)(2)(B).

Where and when Form 8854 should be filed. An individual must file Form 8854 ~~must be filed with~~with the individual's Form 1040NR or Form 1040, whichever is applicable, for the individual's taxable year which includes the day before the expatriation date. An individual who is required to file Form 8854 for such taxable year will be considered to have timely filed Form 8854 if it is filed by ~~on or before~~ the due date (with extensions) of the original Form 1040NR or Form 1040 for such taxable year~~for the form, including extensions~~. Individuals who are U.S. citizens or long term residents for only part of the year of expatriation must file a dual status return. See IRS Publication 519 for the requirements for filing a dual status return.

[Clarify -- when person expatriates on Jan. 1 of a year to which 877A applies, the deemed sale occurs on Dec. 31 of prior year, so gain must be reported on the return for the prior year.]

[Describe what happens to an expat who fails to furnish a complete F8854 in the

time and manner prescribed by this notice?]

Individuals electing to defer the tax imposed by section 877A. An individual
who makes-making the election under section 877A(b) with respect to any property to
 defer payment of the tax imposed by reason of section 877A must annually file Form
 8854, which provides for the listing of all of the assets for which the election is being-
made, with such individual's Form 1040NR or Form 1040, as the case may be, on an-
annual basis and provide information with respect to such property, until all of the
 assets for which the election has been made have been sold or otherwise disposed of,
 or until the death of the individual, whichever event occurs first. The An individual who
is required to file Form 8854 for any such taxable year will be considered to have timely
filed Form 8854 if it is filed must be filed with the individual's Form 1040NR on or-
beforeby the due date (with extensions) of the original Form 1040NR or Form 1040 for
such taxable year for the form, including extensions.

Upon the actual disposition of the any property that with respect to which the
 covered expatriate previously elected to defer the payment of tax on under 877A(b),
 whether by sale or other disposition, or upon the death of the individual, the covered
 expatriate, or his estate, must file Form 1040NR [and not also F8854?] on or before the
 due date for the form, including extensions.

[Describe what happens to an expat who fails to furnish a complete F8854 in the
time and manner prescribed by this notice?]

SECTION ____ . FORM W-8EXPAT FILING REQUIREMENTS

[Background. \[Consider summarizing the various 877A rules that impose withholding obligations. Need to discuss \(perhaps in separate section elsewhere in notice\) payor liability, application of regular W/H rules and penalties in 877A context, etc.\]](#)

[\[In general\]](#) [\[Time and manner of filing Form W-8EXPAT?\]](#). Form W-8EXPAT must be filed with a withholding agent or trustee by a covered expatriate (within the meaning of section 877A(g)(1)) who has a deferred compensation item (within the meaning of section 877A(d)(4)) or specified tax deferred account (within the meaning of section 877A(e)(2)) or is a beneficiary of a nongrantor trust *[other than a trust forming part of a deferred compensation item or a specified tax deferred account]*. Form W-8EXPAT must be filed with a withholding agent within *[30]* days after the covered expatriate's expatriation date as defined in section 877A(g)(3)).

[\[Is W-8EXPAT going to include a treaty waiver checkbox?\]](#)

SECTION ____ . TRANSITION PROVISIONS

Treatment of individuals who expatriate on or after June 17, 2008. U.S. citizens who renounce their citizenship and individuals who cease to be treated as lawful permanent residents on or after June 17, 2008, will be subject to the rules of sections 877A and U.S. persons receiving gifts or bequests from covered expatriates will be subject to the rules of section 2801.

Treatment of individuals who expatriated prior to June 17, 2008. U.S. citizens who renounced their citizenship and individuals who ceased to be treated as lawful permanent residents under sections 877 and 7701(n), as in effect prior to June 17, 2008, and who are subject to the alternative tax regime of section 877(b) will continue to be subject to the rules of section 877, ~~including and~~ the annual reporting requirements of section 6039G. U.S. citizens and lawful permanent residents who have begun the process of expatriation [what is considered enough to have begun the process?] under sections 877 and 7701(n) as in effect prior to June 17, 2008, will continue to be treated as U.S. citizens and lawful permanent residents until all of the requirements of sections 877 and 7701(n) have been satisfied, even if their expatriation [is not complete] ~~[had not been completed?]~~ ~~as of prior to~~ June 17, 2008. U.S. citizens and lawful permanent residents who do not complete their expatriations ~~until after~~ ~~before~~ June 17, 2008, and who are subject to the alternative tax regime of section 877(b) will continue to be subject to section 877, ~~including and~~ the annual reporting requirements of section 6039G, in the same manner as if their expatriations had been completed before June 17, 2008.

Treatment of lawful permanent residents who commence to be treated as a resident of a foreign country under the provisions of an income tax treaty for tax year 2008. If a lawful permanent resident elects to be treated as a resident of a foreign country under the provisions of an income tax treaty between the United States and the foreign country, does not waive the benefits of such treaty applicable to residents of the foreign country, and notifies the Secretary of such election by filing a Form 1040NR,

then the individual shall be treated as having expatriated on January 1 of tax year 2008.

Such a lawful permanent resident will be subject to the rules of sections [877](#), [6039G](#), and [7701\(n\)](#) as in effect prior to ~~the enactment of section 877A~~ [June 17, 2008](#).

Treatment of former U.S. citizens and long term residents who return to the United States for more than 30 days [on or after June 17, 2008](#). Individuals who are former U.S. citizens or long term residents subject to the alternative tax regime of section 877 and who return to the United States for more than 30 days [on or after June 17, 2008](#), remain subject to the rules of section 877(g). However, if such individuals once again leave the United States, they will not be treated as having expatriated under section 877A or as having expatriated again under section 877.

[REQUEST FOR COMMENTS](#)

[The Treasury Department and the IRS invite public comments on the guidance provided in this notice. Written comments may be submitted by \[month, date, year\] to....](#)

[DRAFTING INFORMATION](#)

The principal author of this notice is [Willard W. Yates](#) of the Office of Associate Chief Counsel ([International](#)). For further information regarding this notice contact [Willard W. Yates](#) on [\(202\) 622-3880](#) (not a toll-free call).

[PAPERWORK REDUCTION ACT](#)

**SUGGESTION FOR INSTRUCTIONS FOR W-8CE (COVERED EXPATRIATE
CERTIFICATION)**

Who must file this form.

All former citizens and former long term residents of the United States must file Form W-8CE with a withholding agent (as defined in) with respect to an interest in—

- i) an eligible deferred compensation item that will be subject to a 30% withholding tax under section 877A(d)(1)(A) when he receives taxable payments (within the meaning of section 877A(d)(1)(B)), ¹
- ii) a non-eligible deferred compensation item that the individual was treated as having received on the day before his expatriation date under section 877A(d)(2) and with respect to which the individual should be treated as having basis (investment in the contract) when he receives distributions,
- iii) a specified tax deferred account that the individual was treated as having received on the day before his expatriation date under section 877A(e)(1) and

¹ The individual would need to certify on the form that he makes an irrevocable waiver of any right to claim treaty benefits with respect to the eligible deferred compensation item. Note that the covered expatriate would not necessarily know whether the payor of the item is a person described in section 877A(d)(3).

with respect to which he should be treated as having basis when he receives distributions, or

- iv) was on the day before the expatriation date a beneficiary of a nongrantor trust *[other than a trust forming part of a deferred compensation item or a specified tax deferred account]* distributions from which will be subject to tax under section 877A(f)(1).²

[In the case of ii) or iii), the form might also serve as notice to the withholding agent that it must tell the covered expatriate what the fair market value of his non-eligible deferred compensation item or amount of his specified tax deferred account was on the day before his expatriation date. GF] [Since the bottom half of Phil's draft will be blank, we could put it there. BY]

END OF SUGGETION FOR INSTRUCTIONS FOR W-8CE

² The individual would need to certify on the form that he either waives any right to claim treaty benefits with respect to any distribution from the trust or agrees to such other treatment as we have deemed appropriate. Note that there may be issues about whether someone should be treated as a beneficiary of a trust if he isn't specifically named and about what happens if someone didn't know that he was a beneficiary of a trust at the time he expatriated.