

Senate Press Release: Schumer, Casey Announce Plan to Stop Facebook Co-Founder from Dodging Taxes by Dropping U.S. Citizenship

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Contact: Brian Fallon (Schumer): 202-224-2939

April Mellody (Casey): 202-228-6367

SCHUMER, CASEY ANNOUNCE PLAN TO STOP FACEBOOK CO-FOUNDER FROM DODGING TAXES BY DROPPING U.S. CITIZENSHIP

Just Ahead of Windfall From Facebook IPO, Former Company Mogul Eduardo Saverin Is Disowning USA To Duck Reported \$67 Million In Potential Taxes

Senators Unveil Ex-PATRIOT Act To Crack Down on Anyone Who Renounces Citizenship To Avoid Taxes

Proposal Would Bar Ex-Pats Like Saverin From Returning to U.S. and Re-impose Capital Gains Taxes

WASHINGTON, D.C. - U.S. Senators Charles E. Schumer (D-NY) and Bob Casey (D-PA) unveiled a comprehensive plan to respond to those like Facebook co-founder Eduardo Saverin, who recently unleashed a scheme to renounce his U.S. citizenship in order to dodge taxes on profits he is expected to collect when the social-networking company goes public.

Saverin, a partial owner of Facebook, has lived in Singapore since 2009 and renounced his U.S. citizenship in September. The avoidance scheme could help him duck a reported \$67 million in taxes since Singapore, unlike the U.S., has no capital gains tax. That amount could increase even further as Facebook's stock price rises.

The senators called Saverin's move an outrage and described a plan to re-impose taxes on expatriates like Saverin even after they flee the United States and take up residence in a foreign country. Their plan would also bar individuals like Saverin from reentering the country so long as they continued to avoid paying their taxes in full.

"Mr. Saverin has decided to 'defriend' the United States of America just to avoid paying his taxes. We aren't going to let him get away with it so easily," Schumer said. "It's infuriating to see someone sell out the country that welcomed him and kept him safe, educated him and helped him become a billionaire. This is a great American success story gone horribly wrong. We plan to put a stop to this tax avoidance scheme. There should be no financial gain from renouncing your country."

"We simply cannot allow the ultra-wealthy to write their own rules," said Senator Casey. "Mr. Saverin has benefited greatly from being a citizen of the United States but he has chosen to cast it aside and leave U.S. taxpayers with the bill. Renouncing citizenship to simply avoid paying your fair share is an insult to middle class Americans and we will not accept it."

Schumer and Casey's proposal is called the Ex-PATRIOT Act ("Expatriation Prevention by Abolishing Tax-Related Incentives for Offshore Tenancy" Act).

Under the proposal, any expatriate with either a net worth of \$2 million or an average income tax liability of at least \$148,000 over the last five years will be presumed to have renounced their citizenship for tax avoidance purposes. The individual will then have an opportunity to demonstrate otherwise to the IRS by meeting specific IRS requirements. If the individual has a legitimate reason for renouncing his

or her citizenship, no penalties will apply. But if the IRS finds that an individual gave up their passport for substantial tax purposes, then it will prospectively impose a tax on the individual's future investment gains, no matter where he or she resides. This would eliminate any tax benefit and financial incentive from renouncing one's citizenship. The rate of this capital gains tax will be 30 percent, in keeping with the rate that is already applied on non-resident aliens for dividends and interest earnings.

So long as the individual avoids these taxes, they would be inadmissible to the United States forever. The Ex-PATRIOT Act would improve current law to ensure such an individual cannot reenter the United States after renouncing his or her citizenship. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was intended to bar any such individual from reentering the U.S. However, this statute was written in a manner that inhibits its enforcement.

In 2011, a record number of 1,780 people gave up their US passports—a dramatic rise from the 235 persons who did so in 2008. Yet no individual has ever been barred from returning to the United States based upon a finding of renunciation of citizenship for tax purposes. Without an immigration bar of re-entry, those thousands of individuals who renounce their US citizenship can simply return to the United States for 60 days per year, without any tax responsibility. The Ex-PATRIOT Act would end this loophole, and close the doors of the U.S. forever to individuals like Mr. Saverin if they continue to avoid paying their taxes.

A full summary of the Ex-PATRIOT Act appears below.

Summary of the “Ex-PATRIOT” Act

“Expatriation Prevention by Abolishing Tax-Related Incentives for Offshore Tenancy” Act

Sponsored by Senators Charles E. Schumer & Bob Casey

I. Current law (Section 877A of the Internal Revenue Code) already provides that any individual who either has:

(a) A net worth of \$2 million or more; OR

(b) An average income tax liability of at least \$148,000 over the last five years;

and who renounces their citizenship has to pay an exit tax based on the value all property and assets owned by that individual.

The Ex-PATRIOT Act provides that when an individual expatriates for a substantial tax purpose—as judged by the Internal Revenue Service—that individual will be subject to a 30% capital gains tax on future investment gains. Section 871 of the Internal Revenue Code already taxes non-resident aliens for dividends, interest and other items at the 30% rate. The Ex-PATRIOT Act adds capital gains to this mix of taxable earnings. The tax will apply to anyone who gave up his citizenship in the last ten years but only taxes capital gains earned in the USA following the date of enactment.

II. The Ex-PATRIOT Act also provides that if the IRS finds that avoidance of taxes was a substantial purpose of expatriation, the individual who renounced citizenship will be barred from any type of re-entry into the United States. This section requires the IRS commissioner to make a decision regarding tax-avoidance intent for every individual subject to Section 877A who renounces citizenship. It is retroactive and will encompass individuals who have renounced citizenship for the 10-year period prior to enactment of the statute.