IX. SUMMARY OF OTHER COUNTRIES' TAXATION OF CITIZENSHIP RELIQUISHMENT, RESIDENCY TERMINATION, AND IMMIGRATION, AND ESTATES, INHERITANCES, AND GIFTS

A. Summary of Other Countries' Taxation of Citizenship Relinquishment, Residency Termination, and Immigration

Overview

The Joint Committee staff surveyed other countries' taxation of citizens and residents.[466] While not an exhaustive survey, this survey reveals that most nations generally tax the worldwide income of their residents, whether citizens or noncitizens, but only the domestic source income of their nonresidents, whether citizens or noncitizens. Hence, unlike in the United States, the criterion of residence rather than citizenship is central to the liability to tax in most countries.

In general, it appears that a limited number of countries attempt to tax former residents and that a smaller group impose a tax on expatriation (an exit tax). Several European countries impose income tax on their former citizens or residents for some period of time after they become nonresidents. In some cases, the country in which the former resident chooses to claim residency determines whether the individual retains an income tax liability in his or her former country of residence. Australia, Canada, and Denmark impose an exit tax when a resident permanently leaves the country. The Danish departure tax generally is less expansive than those of Australia or Canada. Also, it is generally the case that among those countries that tax capital gains, the gain is taxed upon realization by a resident taxpayer, regardless of whether some part of that gain may have accrued to the individual prior to his or her immigration to such country. Australia, Canada, Denmark, and Israel are exceptions to this general rule.

The relevant provisions relating to taxation of former residents, exit taxes, and the taxation of immigrants' accrued gains are described below.[467]

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[466] The Joint Committee staff conducted this survey with the assistance of the staff of the Law Librarian of the Library of Congress. The Joint Committee staff also consulted primary sources, secondary sources, and outside practitioners. The results reported should not be interpreted as an authoritative representation of foreign laws, but rather as an overview of foreign tax statutes.

[467] Except where noted, all foreign currency conversions into U.S. dollars were made at the exchange rate prevailing on September 30, 2002, as reported by the International Monetary Fund in International Monetary Fund, *International Financial Statistics*, November, 2002.

Taxation of former residents

Finland

Generally a person who has his permanent residence in Finland is subject to taxation on his worldwide income and wealth.[468] For three years subsequent to departing Finland, a Finnish citizen is liable for Finnish income and wealth taxes on his worldwide income and wealth unless he can establish that no "essential ties" with Finland are maintained. The three-year "essential ties" rule is interpreted by the individual's facts and circumstances. Among circumstances that create essential ties are the individual's family residing in Finland; the individual carries on business activities in Finland; the individual owns real estate in Finland; and the individual is not permanently staying abroad perhaps for reasons of pursuing studies or a limited employment assignment. After three years, the individual is taxed as a nonresident unless the tax authorities can establish otherwise. The three-year rule does not apply for the purpose of inheritance taxation.

In practice bilateral tax treaties for the mitigation of double taxation of the individual often may override the three-year rule.[469] Even if a tax treaty overrides the three-year rule, the Finnish citizen still is required to file an annual tax return.

France

As provided by the France-Monaco income tax treaty, France can tax as a French resident any French citizen who resides in Monaco regardless of whether they resided in France or in another country prior to establishing residence in Monaco.[470] Cooperation between the tax authorities of France and Monaco provides enforcement of this arrangement. Treaty arrangements between France and Monaco regarding inheritance taxes are not as stringent as those governing income taxes. Non-French sited property of a French citizen residing in Monaco is exempt from French inheritance taxation if the individual had resided in Monaco for more than five years prior to death.

Aside from the unique agreements with Monaco, emigration from France generally creates no French tax liability under either the income or inheritance taxes, except in two circumstances. First, French citizens and other nonresidents are liable for income tax on French-source income. A distinction is made depending on whether or not the nonresident has one or more dwellings at his or her permanent disposal in France. If the nonresident does not have a

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[468] Finland is one of a number of European countries that imposes an annual net wealth tax.

[469] Finland's treaty with the United States eliminates the three-year rule to preclude double taxation.

[470] An exception to this rule arises in the case of an individual holding dual citizenship. If such an individual moved to Monaco from a country other than France he may claim the nationality of the other country to avoid taxation as a French citizen.

dwelling, he or she will be taxed exclusively on the basis of his or her French-source income. If the nonresident has one or more dwellings at his or her permanent disposal, whether held directly or indirectly, and the nonresident resides in a tax haven or nontreaty country, he or she is subject to tax based on a deemed income equal to three times the fair market rent of the dwellings. However, if his or her French-source income exceeds this deemed income, tax is assessed based on actual income.[471] In practice, such tax is infrequently collected.

Second, for certain French residents who emigrate from France on or after September 9, 1998, France imposes a tax on the net accrued, but unrealized, capital gains on the shares of companies[472] in which the émigré and his family hold more than 25 percent of the vote or value. To be subject to this tax, the individual must have been resident in France for at least six of the preceding 10 years. The taxpayer need not pay the liability immediately. Deferral is permitted if the taxpayer provides the name of a representative in France who is authorized to receive any correspondence from the tax administration on the taxpayer's behalf. The representative must agree to fulfill all obligations and the taxpayer must provide acceptable guarantees to the tax administration to secure payment of the deferred liability. In addition, the taxpayer must file an income tax return annually during the deferral period on which the taxpayer reports the deferred tax. The deferral period ends if, within five years from the date of departure from France, the taxpayer transfers, sells, or redeems the shares. Credit may be made for taxes paid to a foreign country on this subsequent transfer, sale, or redemption. The taxpayer is exempt from the deferred tax liability if the taxpayer reestablishes residence in France or if the taxpayer holds the shares for five years measured from the date of departure from France.[473]

Germany

Germany imposes a so-called "extended limited tax liability" on German citizens who emigrate to a tax-haven country[474] or do not assume residence in any country and who maintain substantial economic ties with Germany as measured in terms of the individual's German-source income or assets. The regime applies to both the German income tax and inheritance tax. This tax applies to an individual who was both a German citizen and a tax resident of Germany for at least five years during the 10-year period immediately prior to the cessation of his or her residence. The individual need not be a German citizen at the time of emigration. A qualifying individual is subject to the extended limited tax liability for 10 years after termination of

[471] Former French citizens are exempt from this tax for their first two years of residence in a tax haven or nontreaty country.

[472] The provision applies to the ownership of any company, French or foreign, that was subject to French corporate income tax.

[473] The taxpayer is entitled to reimbursement of the costs associated with the establishment of the guarantees required to obtain deferral.

[474] For this purpose, a country is a tax haven if it does not impose an income tax or if the income tax liability that would arise for a single person with an income of €77,000 ($75,922) is less than two thirds of the corresponding German income tax liability.

residency, except that no such tax is due in years when the individual has German-source income of no more than €16,500 ($16,269).

Under extended limited tax liability, the individual is taxed on all income that does not qualify as foreign income in the hands of a resident. This includes German-source income that creates a tax liability for nonresidents in general, as well as German-source income for which other non-residents are not liable to taxation, as well as income that is not German-source income yet is not deemed to be foreign-source income. Examples of such income are interest income from deposits held in German banks or income from international consulting not attributable to a particular country, and passive income from foreign controlled companies. In the case of relocation to countries with which Germany maintains tax treaties, the tax treaties generally take precedence over the extended limited tax liability, with the effect that any issues of double taxation are dealt with by treaty. This German tax regime is similar to that imposed by section 877 under U.S. Federal tax law.

To avoid circumvention of the extended tax liability regime, Germany extends to individuals who are subject to the extended limited tax liability the taxation of base company income from foreign controlled corporations that is imposed on German resident shareholders.[475] Income from a foreign controlled corporation is attributed to a German extended limited tax liability taxpayer, if the taxpayer, alone or with other residents, owns more than 50 percent of the voting shares of the controlled corporation, and if, in addition, the controlled corporation resides in a low-tax country and the corporation's income is primarily passive income.

Another tax liability is imposed on emigrating taxpayers who own, or have owned, a certain percentage of shares in a German corporation by treating the taxpayers' change in residence as a deemed sale of the shares. As of January 2002, the disposition of shares in a German corporation qualifies as the disposition of a business asset that leads to income taxation on the realized gain, if the individual disposing of the shares has owned at least one percent of the company's shares at any time during the preceding five years, and these criteria are applied to resident or non-resident taxpayers who actually sell the shares, as well as to emigrating taxpayers who are deemed to have sold the shares when they leave the country. Before January 2002, the threshold value for taxing the capital gains of substantial share ownership was 10 percent of the share capital.

The above described taxation of capital gains realized from the sale of shares is an exception from the general principle that individuals are not taxed on long-term capital gains on shares. The taxation of the realized gains and deemed realized gains described above is based on the principle that holding one percent of the share capital, or more, amount to the ownership of a business asset and in Germany the general principle for business assets is that gains realized on the sale of a business asset are taxable income.

For emigrating taxpayers, the gain from the deemed sale is calculated by determining the fair market value at the time of relinquishing German residence less the taxpayer's basis. If the taxpayer had already owned the corporate holding at the time he or she became a German

[475] This provision is similar to rules under Subpart F of the U.S. Internal Revenue Code.

resident, the taxpayer may use the fair market value of the holding at the time he or she became a resident in lieu of basis. For years after 2000, such deemed gains of emigrating taxpayers are taxed as ordinary income, whereas such realized gains of resident taxpayers are taxed at a preferential rate by exempting one-half of the gain from income.

These tax regimes for former citizens and former residents apparently were enacted in response to the termination of residency by certain wealthy individuals, many of whom were highly visible to the general public as athletic or artistic performers. The Joint Committee staff was unable to find any information regarding the extent of any revenue raised by these provisions. Enforcement of the deemed disposition provision may be difficult with respect to its application to substantial participation in foreign companies. The extended limited tax liability generally only applies to German-source income and, in principle, should be enforceable. Enforcement may be enhanced by the taxation of foreign base company holdings. However, these provisions can be avoided by relocating the taxpayer's property outside Germany.

Ireland

In general, Irish residents, and those ordinarily resident, are liable for tax on their worldwide income, unless the individual is domiciled outside of Ireland. In this circumstance, only income from Irish sources and income remitted to Ireland from sources outside of Ireland and the United Kingdom is subject to tax. An individual is said to be "ordinarily resident" in the current year if the individual was resident in the prior three years. An individual ceasing residence in Ireland will not cease to be ordinarily resident, and thereby subject to Irish income tax, until he or she has been non-resident for three continuous tax years.

Italy

Resident individuals are subject to income tax on their worldwide income. Residents of Italy are those persons, whether citizens or not, who for the majority of the tax year are registered in the Civil Registry or who are domiciled in Italy. Italian citizens who remove themselves from the residents' register and have moved to any one of 57 identified tax havens[476] are deemed residents of Italy, unless proof to the contrary is provided.

[476] The identified tax haven countries are: Andorra; Anguilla; Antigua and Barbuda; Aruba; the Bahamas; Bahrain; Barbados; Belize; Bermuda; the British Virgin Islands; Brunei; the Cayman Islands; Cyprus; the Cook Islands; Costa Rica; Djibouti; Dominica; Ecuador; French Polynesia; Gibraltar; Grenada; Guernsey; Hong Kong; the Isle of Man; Jersey; Lebanon; Liberia; Liechtenstein; Macao; Malaysia; Malta; the Marshall Islands; Mauritius; Montserrat; Nauru; the Netherlands Antilles; Niue; Oman; Panama; the Philippines; Monaco; San Marino; Sark; the Seychelles; Singapore; St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Switzerland; Taiwan; Tonga; the Turks and Caicos Islands; Tuvalu; Uruguay; Vanuatu; Samoa; and the United Arab Emirates.

The Netherlands

The Netherlands generally does not tax the capital gains realized by resident or nonresident taxpayers. However, a resident of the Netherlands is subject to tax on the sale of a "substantial interest" in a company, whether the company is a Dutch company or a foreign company. Generally a shareholding qualifies as a substantial interest in a company if the taxpayer, alone or with his or her spouse, holds directly or indirectly at least five percent of the total capital issued, or five percent of a particular class of shares in a resident or nonresident company.[477] A substantial shareholding also exists if a shareholder directly or indirectly owns at least five percent of the voting rights. If a taxpayer or spouse has a lineal ascendant or descendent who owns such an interest, all shares in the same company are deemed to be a substantial interest, but the two shareholdings are not aggregated for purposes of the five percent test.

Because the Netherlands taxes residents, rather than citizens, any tax that would be owed on the sale of a substantial interest in a foreign-sited business may be easily avoided by the owner emigrating, that is, becoming a nonresident and selling the interest in the business. The change in residency does not necessitate a change in citizenship. However, in the case of a business located in the Netherlands, the Netherlands asserts taxation authority on sales of substantial interests by nonresident owners. The ability to enforce such taxation may be precluded by income tax treaties. Substantial shareholders who emigrate are assessed provisionally. The tax is not collected if security for payment is provided to the Dutch tax administration. The tax becomes due if the substantial shareholding is sold within 10 years after emigration or if the company liquidates the enterprise or distributes its reserves. In some cases, the treaty provisions permit the Netherlands to tax former residents only if they are nationals of the Netherlands. Avoidance of these tax arrangements can be accomplished if the owner of a substantial interest is willing to relocate to a country with an income tax treaty that is less favorable to the Netherlands' tax authority. For example, a resident of the Netherlands could move to Belgium and wait five years prior to sale under the current income tax treaty between the two countries.

In addition to the sale of substantial interests, the Netherlands taxes the sale of business assets. The Netherlands has adopted certain provisions to prevent the emigration of a taxpayer to avoid payment of tax on the sale of business assets. A taxpayer who emigrated from the Netherlands and terminates his Netherlands business is subject to tax at the date of emigration. The gain subject to tax is calculated at the fair market value of the business assets and reserves less the adjusted basis of such assets. If the taxpayer were to emigrate, but not sell his business, there would be no tax liability as the business remains subject to Netherlands tax. If a resident or nonresident transfers a Netherlands business abroad, the transfer is subject to tax at the date of the transfer. Gain or loss is calculated as the difference between fair market value of the assets transferred and the taxpayer's adjusted basis.

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[477] Loans to the company also may constitute part of a "substantial holding." A person having a call option on five percent of the nominal issued equity capital also would qualify as a substantial shareholder.

The Netherlands also attempts to tax taxpayers who move pension fund assets out of the Netherlands. In the Netherlands, contributions to pension funds, which are often paid by the employer, generally are exempt from income tax and distributions are taxable. Under a provision effective January 1, 1995, a taxpayer is deemed to have received the fair market value of pension assets at the moment immediately preceding the transfer of such assets outside of the Netherlands. However, the tax does not apply if the pension distributions will be taxed in the foreign jurisdiction in which a former resident lives at the time of distribution. A similar provision applies to certain annuity payments. An émigré may obtain an extension of time to pay the tax on annuities and the taxpayer is not liable if the taxpayer does not redeem the annuity rights within five years of emigration.[478]

A Dutch citizen who emigrates continues to be treated as a resident of the Netherlands for 10 years following emigration for gift and inheritance tax purposes.[479]

Norway

Norway asserts tax liability on the worldwide income of individuals and businesses that reside in Norway. A former resident may still be considered resident for purposes of the income tax if he or she keeps a home in Norway, which is not let out, and he or she is unable to prove that he or she is considered resident for tax purposes in the country in which he or she is living. All remuneration (including pension distributions) derived from employment in Norway or paid to a manager or member of the Board of Directors of a company resident in Norway is liable for Norwegian income taxes regardless of the individual's country of residence.

If a business enterprise becomes nonresident, activity previously liable for income taxation is considered ceased and income tax is assessed as if the business or the assets were sold. If a limited liability company leaves Norway, the company has to be liquidated in Norway with whatever tax consequences may arise from liquidation. Individuals who terminate their residence, whether for tax purposes or not, and who dispose of shares in a Norwegian company or partnership within five years of the year in which residence is terminated are liable to Norway for tax on gains realized from such disposition. This rule also applies to dispositions of options and other equity derivative instruments. This rule does not apply to the disposal of bonds or certain other securities.

For income considered earned in Norway, Norway claims the primary right of taxation and makes no provision for relief from double taxation that might arise by another country. In practice, tax treaties may modify this outcome.

A business paying wages and salaries and distributing pension benefits is responsible for withholding taxes on such income regardless of the individual's country of residence. This ensures some enforcement of the provisions relating to the taxation of compensation paid to

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[478] Upon application and under certain conditions, a transfer of pension rights from the Netherlands to a foreign insurer may not be taxed if an employee is employed abroad.

[479] *See* Part IX.B., below, for a summary of inheritance taxation in the Netherlands.

former residents. A limited liability company, however, is not responsible for taxes derived from the sale of the company's shares. As this particular provision has only been in effect since 1992, there is limited experience regarding how this provision is enforced. As a general matter, Norway has concluded treaties regarding tax enforcement only with the other Nordic countries.[480]

Spain

Spain asserts tax liability on the worldwide income of individuals and businesses that reside in Spain. An individual is deemed to be a resident of Spain for income tax purposes if (1) the individual stays in Spain for more than 183 days (including temporary absences), (2) the individual's main center of business or professional activities or economic interests is in Spain, or (3) the individual's spouse and minor dependent children qualify as residents. In addition, Spanish citizens who remove themselves from Spain and establish residence in a country deemed a tax haven remain taxable on their worldwide income in the year of emigration and the four subsequent years. Spain has identified 48 countries as tax havens for this purpose.[481]

Sweden

A Swedish citizen or resident remains a resident for income tax purposes as long as he or she maintains essential ties with Sweden. If the individual was a resident of Sweden for at least 10 years, he or she is deemed a resident for five years following departure unless the individual can establish that he or she has not maintained essential ties with Sweden. If, after the initial five-year period, the Swedish government can establish that the individual has maintained essential ties with Sweden, or has created new essential ties, the individual will continue to be taxed as a Swedish resident. Through the creation of new essential ties, it is possible for an individual who had become a nonresident for tax purposes to be reinstated as a resident for tax purposes. "Essential ties" to Sweden can include a family present in Sweden, a home available for use in Sweden, and the extent of economic activity in Sweden.

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[480] The United States also has a tax treaty with Norway. It is beyond the scope of this review to compare the enforcement provisions of the U.S.-Norway treaty with Norway's other treaties.

[481] The identified tax haven countries are: in Europe, Andorra, Cyprus, Gibraltar, the Isle of Man, the Channel Islands, Liechtenstein, Luxembourg (but only with respect of income received by certain holding companies), Malta, Monaco, and San Marino; in the Americas, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Bermuda, the British Virgin Islands, the Cayman Islands, Dominica, the Falkland Islands, Grenada, Jamaica, Monserrat, the Netherlands Antilles, Panama, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, the Turks and Caicos Islands, and the U.S. Virgin Islands; in Africa and the Middle East, Bahrain, Jordan, Lebanon, Liberia, Mauritius, Oman, the Seychelles Republic, and the United Arab Emirates; and in Asia and the Pacific, Brunei, the Cook Islands, Fiji, Hong Kong, Macau, the Mariana Islands, Nauru, Singapore, the Solomon Islands, and Vanuatu.

In the case of an individual who leaves Sweden to take up residence in a country with which Sweden has a tax treaty, the effect of this deemed status as a Swedish resident is generally overridden. However, a number of Swedish tax treaties do not cover the Swedish net wealth tax. Hence an individual can be a resident of Sweden for net wealth tax purposes and a resident of another country for income tax purposes.[482] In the case of countries with which Sweden has no tax treaty in force, Sweden does not provide a credit or deduction for foreign taxes paid by the individual in his country of residence. This creates the potential for double taxation of income.

Imposition of exit tax on citizens or long-term residents

Australia

Australia imposes a tax on the income from capital gains when a "capital gains tax event occurs."[483] One capital gains tax event occurs when individuals, companies, or trusts stop being Australian residents. A former resident person is required to compute gain or loss for each qualifying asset owned just prior to the time of becoming nonresident, except for assets having a connection with Australia[484] or for assets acquired before September 20, 1985. For this purpose, gain or loss is determined as the fair market value of the asset at the time just prior to becoming nonresident, less the taxpayer's basis.

An election is available for a taxpayer to disregard the tax on gain on any asset by reason of becoming a nonresident until the earlier of another capital gains tax event (such as a subsequent sale of the asset) in relation to the asset or when the taxpayer again becomes an Australian resident. Electing individuals are expected to report voluntarily their gains and associated tax upon a subsequent disposition. No security is required to obtain the deferment of tax. Also, an individual is exempt from the capital gains tax if he or she was resident in Australia for less than five years during the 10 years before he or she stopped being a resident

[482] Similar provisions apply for inheritance tax purposes.

[483] Fifty percent of the income from realized capital gains is included in income subject to tax.

[484] Assets having a connection to Australia are those assets upon which nonresidents would be liable for capital gains tax. Nonresidents are subject to capital gains tax on taxable Australian assets including real property situated in Australia, stock holdings in non-publicly traded Australian companies, stock holdings in publicly traded companies where the nonresident shareholder (and related parties) hold 10 percent or more of the stock, interests in Australian partnerships, holdings in Australian unit trusts (i.e., mutual funds), an option or other right to acquire a capital gains tax asset, and certain shares or other security interests in a company that the taxpayer received as consideration for the disposal of another capital gains tax asset. Bilateral income tax treaties often preclude taxation by one treaty country of capital gains realized by residents of the other treaty country, except for gains from the disposition of real property situated in the first country. The U.S.-Australia income tax treaty, however, generally allows each country to tax capital gains from sources in that country realized by residents of the other country.

and he or she owned the assets prior to becoming an Australian resident or if he or she acquired the asset as an Australian resident as a bequest.

There may be significant potential for noncompliance with respect to such an exit tax. Assets that leave the country before the resident leaves are effectively beyond the reach of the Australian tax authorities.

Canada

A taxpayer is deemed to have disposed of certain capital gain property at its fair market value upon the occurrence of certain events, including death or relinquishment of residence. Real property, capital property, and inventory used in a business are exempt from tax upon relinquishing residence, as are investments in registered retirement savings plans. Like Australia, a departing individual may elect to defer the tax on the accrued gain on any asset until the asset is sold. However, the Canadian tax authorities generally require an electing taxpayer to provide security necessary to ensure that the deferred tax will be collected.

An individual who was not resident in Canada for more than five years during the 10-year period preceding departure is not subject to this deemed disposition rule with respect to property owned by such individual when he or she became resident or to property inherited since becoming a resident. Nonresidents who return to Canada after emigrating may elect to reverse the tax effects of the deemed dispositions regardless of how long they were nonresidents.

Denmark

Prior to January 1, 1995, if an individual left Denmark after having been a permanent resident for at least four years, the individual remained a resident for income tax purposes for up to an additional four years unless the individual could establish that he or she would be subject to a substantially equivalent income tax in the new country of residence. Effective January 1, 1995, a Danish citizen can achieve nonresident status immediately upon leaving Denmark if whole-year accommodations were no longer available to him or her in Denmark. Danish income tax generally applies to capital gains realized on shares in corporations and other financial instruments when realized and to pension income when distributed. However, nonresidents are not liable for Danish income tax on Danish-source capital gains on shares or bonds. Pension distributions received by nonresidents from Danish pension plans are liable for Danish income tax, but many tax treaties effectively override this provision of Danish law.

Since 1987, Denmark has imposed a departure tax on certain unrealized capital gains and certain pension assets. An individual who has been resident for at least five of the preceding 10 years and who becomes a nonresident under Danish law or who becomes a resident of another country as provided under treaty is deemed to have disposed of bonds,[485] certain holdings of stock, and certain other financial instruments. The deemed disposal of stock applies to stock

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[485] With respect to bonds and other debt instruments, the individual must have been resident for at least seven of the 10 years preceding cessation of residence for the provision to have effect.

owned by shareholders who hold at least 25 percent of the share capital in the company or who control more than 50 percent of the voting power. Shareholders of less substantial interests also are subject to the tax if the shares have been held for at least three years. For stock listed on exchanges, an exemption of Dkr121, 400 ($16,116) (Dkr242,800 ($32,232) for joint returns) applies to the aggregate of all the individual's exchange listed stock. In addition, for publicly traded financial instruments subject to the departure tax, losses are deemed to be realized so that only net gains are subject to the tax. For unlisted shares, the value for the purpose of determining gain is determined by a formula that in practice often may understate market value. The deemed disposition also applies to an individual's business assets for the purpose of depreciation recapture. If an individual ceases residency and by cessation of residency the individual is not taxable on his or her employment income in Denmark as a nonresident, stock options received as employment compensation are includible in income in the year in which the individual ceased residency. In addition, certain pension contributions made in the five years[486] prior to an individual's removal from Denmark are subject to tax.

Payment of the tax liability may be postponed (with security) until actual sale occurs or the shareholder dies. If the shares are sold at a lower price while the individual is a nonresident, the departure tax is recalculated. If the individual repatriates prior to sale of the assets, the departure tax liability is cancelled. In addition, there are provisions for double tax relief in the case in which the individual's new country of residence imposes a tax on the actual sale.

Apparently the departure tax was imposed in response to the relocation to other European countries of certain high net worth permanent resident individuals who held substantial interests in Danish businesses. While no statistics are available on the amount of revenue collected by the departure tax, the perception is that the provisions have had some effect on the relocation decision of such individuals.

Germany

As explained above, in addition to the extended limited tax liability applied to former residents of Germany, if an emigrating individual has owned at least one percent of a company's shares at any time during the preceding five years, the individual is deemed to have sold the shares when he or she leaves the country. The gain from the deemed sale is calculated by determining the fair market value at the time of relinquishing German residence less the taxpayer's basis.

Singapore

Effective with stock options granted on or after January 1, 2003, residents who leave Singapore must pay a tax based on the value of any stock options they hold at the time of departure. The tax, at a maximum rate of 22 percent, is to be imposed on the difference between the market price of the underlying stock, measured one month before the resident gives up his or her resident status, and the strike price of the option. If gains subsequently realized upon

[486] The lookback period is 10 years for pension contributions of individuals who are substantial shareholders in the corporation sponsoring the pension plan.

exercise of the options are lower than the deemed realization, the individual may seek a refund from the Inland Revenue Authority of Singapore.[487] Singapore generally does not tax income from capital gains, but does impose an income tax on residents on their wages and other sources of employment income at the time such compensation is paid and employer-provided stock options at the time of exercise.

Treatment of accrued gains of immigrants

If an individual emigrates from one country to another and if the former country either imposes a tax upon accrued gain at the time of exit or asserts tax liability on former residents, double taxation of income from capital gain may occur. This problem would be eliminated if the immigrant country were to forgo taxation of any gain accrued on property owned by an immigrant prior to his or her immigration. Both Australia and Canada, countries with an exit tax, forgo taxation of gain accrued prior to immigration. An individual who becomes an Australian resident is permitted to take a basis in his non-Australian assets equal to their fair market value at that time, for all purposes. The step-up is not a taxable event in Australia. An individual who becomes a Canadian resident also is permitted to take a basis in his non-Canadian assets equal to their market value at that time, for all purposes. The step-up is not a taxable event in Canada. In both Australia and Canada, the exemption for previously accrued gain is permanent regardless of whether the individual subsequently sells the asset or holds it until death. Since November 2, 1994, Denmark has provided a step up in value of assets held by an individual who becomes a tax resident of Denmark. Also as noted above, for purposes of the German deemed tax on the sale of certain substantial interests in German corporations, if the taxpayer held the interest in the German corporation when he first became a German resident, he may use the fair market of the stock (in lieu of the historical cost) at the time he became a resident in computing the gain.

Israel offers a limited exemption for gain accrued prior to immigration. Immigrants are exempt from tax on capital gains from the realization of assets that they possessed prior to immigrating to Israel and that are sold within seven years of immigration.[488] If such property is sold more than seven years after immigration, the entire gain is subject to Israeli tax. In the case of a corporation that transfers its business headquarters to Israel, gains realized from assets possessed prior to relocation and sold within seven years are subject to a reduced rate of tax.

Australia, Canada, Denmark, and Israel appear to be exceptions with respect to the treatment of accrued gains of immigrants. Most countries do not offer immigrants a step-up in basis on their assets (Australia, Canada, and Denmark) or a limited exemption (Israel). Several countries tax the realized capital gains of residents, including gain accrued by immigrants prior to immigration, while some others do not. Among the countries that impose taxes on former residents, Germany generally exempts from income taxation gains on assets held for longer than

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[487] Bureau of National Affairs, *Daily Tax Report*, September 5, 2002, p. G-2.

[488] The exemption appears to extend to any gain that accrues to the asset during the immigrant's first seven years in Israel. The exemption may be universal. At the discretion of the tax commissioner, otherwise exempt gains may be subject to a reduced rate of tax.

six months.[489] The Netherlands also generally exempts gain from tax except with respect to business assets and substantial interests in a Dutch company.

[489] Germany subjects to income taxation gains from the sale of certain "speculative" assets and gain from the sale of real estate held for less than two years. Also, as explained in the text above, gains from sales of shares by "substantial" shareholders are subject to tax.