

FBAR/FATCA TASK FORCE APRIL UPDATE

Tax Season

Tax season is surely upon us. While we cannot, do not and will not offer advice on tax filing, we do suggest that you look to these resources for help.

1. The IRS now has a page with numerous links that you might find useful: <http://www.irs.gov/Individuals/International-Taxpayers>
2. American Citizens Abroad has compiled a list of US tax return preparers in many nations around the world: <http://www.acareturnpreparerdirectory.com>
3. The IRS also has a list of US tax return preparers: <http://irs.treasury.gov/rpo/rpo.jsf>
4. If you have not been filing tax returns and want to become compliant with US tax filing obligations this program for “non-wilful non-filers” may be right for you: <http://www.irs.gov/Individuals/International-Taxpayers/Streamlined-Filing-Compliance-Procedures>

IRS National Taxpayer Advocate announces support for the FATCA Safe Harbor

We start off this update on the work of Democrats Abroad to reform FATCA with some great news from IRS [Taxpayer Advocate Services](#) (“*your voice at the IRS*”). Democrats Abroad and other organisations of Americans abroad have been speaking to the Taxpayer Advocate Services, headed by national Taxpayer Advocate Nina Olson, for many years about areas of the US tax code that treat Americans abroad unfairly. Today, on the eve of her testimony at Congressional hearings (House Oversight Subcommittee on Government Operations) into the recommendations in her 2014 Annual Report to Congress published in January 2015, we were surprised to see Advocate Olson augment the Report’s recommendations with a statement indicating support for -

- 1) the exclusion from FATCA reporting for Americans abroad for accounts in their country of bonafide residence;
- 2) the exclusion from FATCA reporting for foreign financial institutions for accounts of Americans in their country of bonifide residence; and
- 3) the elimination of duplicative reporting of accounts on the FATCA Form 8938 if they are already reported on the FBAR report FinCEN Form 114.

These recommendations taken together are, in substance, the FATCA Safe Harbor for Americans abroad. This is great news and due reward for the hard work Democrats Abroad and our fellow organisations representing Americans abroad have done to persuade Advocate Olson of the importance and urgent need for this reform.

The statement summarises the three recommendations as follows:

“The IRS can significantly alleviate reporting burden for U.S. persons who are *bona fide* residents in foreign countries and facilitate their legitimate need for local banking services in their countries of residence by revising regulations under [IRC section 6038D](#) and 1471 to eliminate the requirement to report specified foreign financial assets on the Form 8938 if such persons timely report the assets on the FinCEN Report 114 (FBAR), and to exclude financial accounts maintained by a financial institution organized under the laws of

the country of which the U.S persons are *bona fide* residents from FATCA reporting.

¹⁰ Proposed regulatory changes will not inhibit the IRS's ability to obtain information about financial accounts maintained by foreign financial institutions outside of the U.S person's country of *bona fide* residency."

The full announcement of 13 April 2015 is attached to this posting.

House Oversight Subcommittee on Government Operations hearing on the 2014 Annual Report of the National Taxpayer Advocate.

Democrats Abroad and our colleague organisations advocating on behalf of Americans Abroad were invited by Co-Chair of the Americans Abroad Caucus Congresswoman Carolyn Maloney (D-NY) to submit questions to be put to Advocate Olson at a hearing on Wednesday 15 April 2015 entitled "The Taxpayer Advocate Annual Report". The questions, attached below, represent a broad range of important and urgent tax issues facing Americans living outside the US. (JOE, I HAVE THIS INFORMATION BUT I HAVE NOT AS YET BEEN GIVEN PERMISSION FROM ACA AND AARO TO PUBLISH THEIR EXCELLENT QUESTIONS THEY SENT TO ELIZ DARNALL.)

Next Steps in our Advocacy for the Safe Harbor

We continue to seek your support with the [research projects discussed in our last update](#) - one seeking bank documents tying account closures to FATCA and one seeking feedback from foreign financial institutions on whether the Safe Harbor would motivate them to end their "lockout" of US customers. **We will be collecting bank documents only til the end of April, so if you have an email, letter or policy statement from a Foreign Financial Institution that demonstrates it is denying financial services to Americans because of FATCA please send it to FATCA@democratsabroad.org no later than 30 April 2015.**

If you can provide support with either of these projects please contact us on FATCA@democratsabroad.org.

In the meantime, we are now getting final comments on our "sign on" letters - one for members of the House and one for members of the Senate – in support of the FATCA Safe Harbor for Americans abroad. We have four members of the House and four members of the Senate who have agreed to "champion" the Safe Harbor Sign-On letter with their colleagues and we expect to attract support from members of the Americans Abroad Caucus and Women's Caucus. More updates on this important initiative soon.

Senate Finance Committee Tax Reform Working Group – public inquiry

Further to advice posted on the [FBAR/FATCA page of the DA website](#), the Senate Finance Committee has undertaken a bi-partisan project to collect ideas and input from citizens on reforming the US tax system. Please see [the submission Democrats Abroad has made to the inquiry](#) posted on the website about the FATCA Safe Harbor.

Liaising with US tax justice NGOs about reforming FATCA

During the February 2015 FATCA Door Knock we received advice recommending we liaise with several US non-government organisations (NGOs) who have long been FATCA's strong advocates. These groups, Jubilee USA, Center for Tax Justice (CTJ) and Global Financial Integrity (GFI) are members of the [FACT \(Financial Accountability and Corporate Transparency\) Coalition](#) and strong proponents of the need to crack down on tax cheats, individuals and corporations. It was suggested

to us that winning their endorsement of the FATCA Safe Harbor for Americans abroad would be important to progressives in Congress.

Last week Democrats Abroad, along with representatives of American Citizens Abroad, Association of Americans Resident Overseas, Federation of Women's Clubs Overseas and Republicans Overseas, had a discussion with Jubilee, CTJ and GFI to outline FATCA's unintended adverse consequences for Americans abroad and our proposals to reform FATCA. The NGOs asked excellent questions and listened carefully to our views. We believe it was a very productive exchange and we believe we will secure their endorsement for the Safe Harbor on the basis that the Safe Harbor will strengthen FATCA while also relieving we who it was never intended to impact of its onerous burden.

Next Month

Next month we hope to share with you the results of our joint investigation (in collaboration with American Citizens Abroad and Association of Americans Resident Overseas) into financial account closures and service denials. REMINDER: We are collecting bank emails, letters or policy statements that tie the denial of services to Americans to FATCA compliance requirements only until the end of April. If you are in possession of such a bank document, please remove from it any customer details or references and send it to FATCA@democratsabroad.org by the end of April.

Democrats Abroad FBAR/FATCA Task Force

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