



DEMOCRATS ABROAD

Office of Associate Chief Counsel (International)
Attention: Leni C. Perkins
Internal Revenue Service, IR-4579
1111 Constitution Avenue, NW
Washington, DC 20224.

Notice.comments@irscounsel.treas.gov

13 April 2018

Dear Ms Perkins,

re: *Guidance Notice 2018-26- Transition Tax on Foreign Earnings*

Democrats Abroad is grateful to the Department of Treasury and the Internal Revenue Service for publishing the above captioned Guidance Notice and for inviting comment on it from taxpayers and taxpayer groups. Democrats Abroad joins other organizations representing Americans abroad in our serious concern about the impact that new taxes in the Tax Cuts and Jobs Act will have on non-resident Americans who own businesses abroad.

In 2017 the U.S. Congress included Territorial Taxation for Corporations (TTC) in the group of tax reforms built into the Tax Cuts and Jobs Act (TCJA). We understand that TTC was implemented in order to capture tax on corporate profits long kept out of reach of the U.S. Treasury and to help level the international tax playing field for U.S. multinational corporations. These TCJA provisions are our concern:

The 15.5% Repatriation Tax - imposed on undistributed (and therefore untaxed by the U.S.) business profits from 1986 through 2017. Business owners declare those undistributed business profits on their 2017 personal tax filing. It is a retroactive imposition of tax that is not related to the realization of revenue that might be use to pay the tax.

GILTI Tax regime – mandatory declaration of undistributed business profits on personal tax filings of business owners abroad, taxed at the highest personal marginal tax rate and without access to two critical offsets afforded corporate owners of businesses abroad: 1) a 50% deduction and 2) credits for taxes already paid on the profits to the business's jurisdiction of incorporation. As with the Repatriation Tax, the GILTI tax is imposed on profits where there may be no realization of revenue to use to pay the tax.

Clearly, TTC was enacted to strengthen U.S. multinational corporations. TTC's "transition tax" provisions were never meant to beleaguer ordinary, hard-working Americans living and owning companies abroad. In fact, the Repatriation Tax and the GILTI tax regime will have an enormously harmful financial impact on non-resident Americans who own businesses abroad.¹

Many of these business owners fear that this additional tax burden will force them to close their businesses. In addition to the new transition tax burden American business owners abroad will bear, they will also be subjected to even greater tax filing/compliance costs. The new rules for calculating the "transition taxes" are exceedingly technical and organizing accurate filings will be very time-consuming and complex. U.S. expat tax professionals hired to prepare these filings will be passing on to American business

¹ In 2014 research published by Democrats Abroad approximately 20% of respondents identified themselves as "Self-employed/Business Owner." Given Department of State estimates that 6.5 million voting age Americans live abroad, we estimate that perhaps a million American citizens are impacted by the "transition taxes" in the Tax Cuts and Jobs Act.



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owners abroad the additional cost of their time and labor, enlarging the financial burden the new TCJA taxes place on the taxpayer.

Further, while U.S. corporations establish subsidiary businesses abroad in order to expand the operations and profitability of the U.S.-based parent company, U.S. citizens abroad establish businesses in their countries of residence in order to build a life and future abroad. We believe strongly that a remedy is needed to exempt these taxpayers from a potentially crushing new tax liability - one that Congress never intended.

We believe Americans overseas with interests in foreign corporations should be exempt from the Repatriation Tax and from the GILTI Tax regime for any given year so long as:

- (1) they meet the conditions required for exemption under IRC Section 911, and
- (2) they are individual U.S. Shareholders.

This solution both achieves the U.S. Congress's goal of capturing corporate tax it has been long-denied, and recognizes that the profits of businesses owned by Americans living abroad were never meant to be repatriated to the U.S. because they are needed to sustain the underlying business entities and the American expatriate families who rely upon them.

We will work, in concert with our colleague organizations representing Americans living abroad, to persuade Congress that American business owners abroad should be exempted from these transition taxes. Revision of the policy for implementing the TCJA "transition taxes" is necessary to ensure that Americans abroad remain positioned to manage and grow their businesses and take care of their families.

We thank you for this opportunity to provide comment and we thank the men and women of the U.S. Treasury and IRS for their honorable service to the nation.

Sincerely,
Julia Bryan
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Democrats Abroad is the branch of the U.S. Democratic Party for Americans living outside the U.S. Democrats Abroad has members in over 190 countries and official country committees in 53 nations on six continents. Democrats Abroad's main activity is helping overseas Americans register to vote in U.S. elections. We host our own voter assistance website to aid Americans in that process - www.votefromabroad.org. We often cooperate with U.S. Embassies and Consulates in our countries to encourage voter participation on a non-partisan basis. You can find out more information about us at www.democratsabroad.org or our Democrats Abroad and Democrats Abroad country committee Facebook pages.

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