
Tax Cuts & Jobs Act of 2017 - Repatriation Tax and GILTI Tax

The 2017 tax act had great benefits for corporations and the rich, but it dealt a nasty blow to Americans abroad who own small to medium sized businesses registered abroad. The Repatriation Tax forces them to recognize profits from such companies from 1986 through 2017 on their personal tax return, paying tax at their marginal rate, without the benefit of the offsets, deductions or 21% corporate tax rate afforded U.S. corporations that own companies registered abroad. They can spread the payments over 8 years. Many who use companies as their self-managed retirement fund now have nowhere near as much put aside as they thought. Also, meeting the Repatriation Payment often requires the declaration of a special dividend which can have considerable local tax implications.

The GILTI Tax forces Americans who own small to medium sized companies registered abroad to recognize future business profits on their personal tax return - despite those profits already being taxed locally, and with no credit for foreign tax already paid.

It's difficult to imagine that Congress intended for these small to medium sized business owners to be so seriously hurt by the 2017 tax act, but they have not lifted a finger to help. Congress has left it in the hands of the U.S. Treasury which has demonstrated little to no interest in providing relief.

FATCA causes serious problems for Americans abroad but it hasn't caused anywhere near the financial harm of the Tax Cuts and Jobs Act of 2017; many companies will collapse under the strain.

Commission on Americans Living Overseas

For the fourth consecutive Congressional session Rep. Carolyn Maloney (D-NY12) has introduced a bill to establish a Commission on Americans Living Abroad. The Commission would examine existing and proposed laws for the impact on Americans abroad and recommend reforms. The 2017 tax act was passed with such haste that a Commission may not have made any difference in preventing Americans abroad from being impacted by FATCA or the Repatriation and GILTI taxes, but the Commission will give Americans abroad a body that specifically looks after our interests. When we are on Capitol Hill Democrats Abroad asks members of Congress to support the bill.

Americans Abroad Caucus

Democrats Abroad uses our meetings with Congress to build awareness of our issues and membership in the Americans Abroad Caucus. The Caucus currently has two co-chairs, Rep. Carolyn Maloney (D-NY12) and Rep. Mark Meadows (R-NC11), both busy with serious leadership roles. We are working to add two additional co-chairs to the caucus and will ensure they are from amongst the members who we know support our tax reform recommendations.

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Democrats Abroad Tax Advocacy

**Advocating for reforms to tax laws and
regulations that discriminate against
Americans living abroad**

Nine million Americans live abroad

Evidence shows Americans abroad are overwhelmingly ordinary, working- and middle-class citizens who have made their lives outside the U.S. predominantly because love, work or education took them there. They are not wealthy or high-earning tax dodgers using offshore residency to game the international tax system. In fact, most live in jurisdictions with an overall tax burden that is higher than the U.S.

The U.S. system of Citizenship Based Taxation causes enormous personal and financial hardship for Americans living abroad. There are at least 23 separate areas of the tax code that discriminate against Americans abroad.

Americans abroad advocacy groups have been speaking to Congress for many years about remedies for these tax code and other injustices. Implementing Residency Based Taxation would sweep all these problems away with minimal effort required by Congress. Americans abroad strongly favor a switch from Citizenship Based Taxation to Residency Based Taxation to remedy the problems caused by a range of tax, banking, securities and other laws and regulations enacted without due consideration for how they would impact Americans living abroad.

Decades of activism

Democrats Abroad has been advocating for reforms to improve the lives of Americans abroad for over 50 years. Our first legislative achievement, the Overseas and Uniformed Citizens Access to Voting Act (UOCAVA) of 1986, guaranteed Americans abroad the right to vote in U.S. elections. We have secured enhancements to UOCAVA in the Help America Vote Act (HAVA) of 2002 and the Military and Overseas Voter Empowerment (MOVE) Act of 2010.

Our members make regular “door knocking” trips to Capitol Hill to speak to Congress about a range of legislative and regulatory matters impacting our lives.

Our tax advocacy work is a special initiative and it functions under the guidance of the Democrats Abroad Executive Committee, the elected officers who run the day to day operations of Democrats Abroad. Tax advocacy projects and campaigns are established and implemented by the Democrats Abroad Taxation Task Force, whose members have skills and expertise in law, taxation, banking, politics, policy-making and social media. All serve on a voluntary basis and self-fund their participation in this important work, including trips to Washington DC to appeal directly to Congress.

The Tax Task Force runs regular grassroots Congressional outreach campaigns and has published four major research studies into the experience of Americans abroad with the U.S. tax system. The most recent report, entitled “Tax Filing From Abroad: Research on Non-Resident Americans and U.S. Taxation,” was published in March 2019. It can be downloaded at democratsabroad.org/taxation and it underscores the importance to ordinary American families and small business owners living outside the U.S. of expat tax reform, including a switch Residency Based Taxation.

It's time for Residency Based Taxation.

Residency Based taxation (RBT) is a system in which you pay taxes according to the country where you live rather than the one of which you are a citizen. It's the alternative to the Citizenship Based Taxation system we have now.

Every advanced nation uses an RBT system, with one notable exception: The United States of America! The U.S. taxation system puts an enormous burden on Americans living abroad that gets more complex each year. Most pay expensive professional tax consultants to prepare their filings to ensure compliance with complex and ever-changing laws and regulations. A cost that's especially egregious because often they owe no U.S. tax.

Saving and investing efficiently for the future is especially difficult. **It's time for change.**

This is a non-partisan issue. It has attracted the engagement and advocacy of all the groups that represent Americans living outside the U.S. For years we have been raising our voices in unison, asking Congress for a switch from Citizenship Based Taxation to Residency Based Taxation.

Over the last few years our coalition has built a legislative model that would exempt Americans from U.S. tax filing. Critically, it would be able to generate Congressional support as well because it does not open tax avoidance loopholes. It includes a “transition fee” on very High Net Worth Americans abroad. If you have not had a six figure tax bill the last three years or assets of \$10m+ then the “transition fee” will not apply you.

Foreign Account Reports reform

Americans abroad also suffer because of the foreign account reporting requirements in the Bank Secrecy Act of 1970 (the FBAR report) and the Foreign Account Tax Compliance Act (FATCA).

All Americans with more than \$10k in foreign accounts are required to report them on the Report of Foreign Bank and Financial Accounts (FBAR). Electronic reporting is mandatory, which discriminates against those without access to or skills for online filing. Also, penalties for non-compliance are highly punitive (fines of 50pc of the account balance) despite years of neglect by the IRS in informing Americans abroad of this reporting requirement. We advocate for reforms to the FBAR implementation rules that would simplify compliance and focus reporting on truly troubling accounts.

FATCA financial accounts reports have a much higher reporting threshold but have still negatively affected most Americans abroad. FATCA requires both the U.S. citizen and their bank to report accounts. Foreign banks which do not comply with FATCA face enormously punitive consequences - a 30% withholding on all payments made from U.S. sources. Many banks have elected not expose themselves to such penalties by not servicing U.S. citizens or those U.S. citizens who hold only modest accounts. The bank lockout has resulted in many Americans abroad being denied even basic banking services.

FATCA was enacted to discourage and apprehend “fatcat” tax cheats who use accounts to hide assessable income from the IRS. That's a laudable goal that would not be impeded if the accounts of Americans abroad in their countries of residence were exempted from disclosure - as no one hides money in a place they're already paying tax. We support the Overseas Financial Access Act which embodies this reform.