



VIA EMAIL

The Honorable Erin M. Collins
United States National Taxpayer Advocate
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

July 8, 2021

Dear Advocate Collins,

RE: Issues relevant to Non-Resident Filers for the National Taxpayer Advocate 2022 Purple Book

Democrats Abroad extends belated congratulations on your appointment and acknowledges long-standing efforts by the IRS National Taxpayer Advocate to include in reports to Congress U.S. taxation issues experienced by U.S. citizens living abroad.

We are grateful to have the continued support of the National Taxpayer Advocate for our request that Congress 1) eliminate the duplication of reporting requirements in the Report of Foreign Bank and Financial Accounts and Foreign Account Tax Compliance Act, and 2) exclude from foreign financial account reporting the accounts a U.S. citizen has in a country where they are a tax resident. Further, we are pleased that your June 30, 2021 Mid-Year Report includes remarks on the need to improve IRS online account authentication, which is a serious obstacle to Americans abroad accessing essential personal taxation information and filing advice.

Technical obstacles like this are just the tip of the iceberg. Americans abroad are chronically, astonishingly underserved by the IRS. We have a range of issues to report that we believe merit inclusion in the 2022 Purple Book.

ACCESS TO IRS INFORMATION

Further to your recommendation that the IRS develop accessible, robust online accounts for taxpayers, we would add the development of accessible, robust online registration tools. In research on Americans Abroad and the CARES Act published in November 2020, 3 out of 4 respondents who attempted to use the IRS's *Non-Filer: Enter Information Here* and *Get Your Payment* tools had problems accessing it.¹ As a result, stimulus payments they might have received by direct deposit to their U.S. bank accounts² were instead received via a U.S. government check. Responses indicate that checks took on average 78.5 days to arrive, plus, for most, at least another week to clear, for an average total wait of at least 85.5 days or 12.2 weeks for recipients to have access to the funds³.

¹ "Americans Abroad and the Coronavirus Aid, Relief and Economic Security (CARES) Act", November 2020, bit.ly/CARESActandAmericansAbroad.

² In 2019 research 60.7% of respondents indicated they hold a U.S. bank account. "Tax filing From Abroad: Research on Non-Resident Americans and U.S. Taxation", March 2019, bit.ly/FilingFromAbroad.

³ "Americans Abroad and the Coronavirus Aid, Relief and Economic Security (CARES) Act", November 2020, bit.ly/CARESActandAmericansAbroad.

Our further advice to the IRS is that they should emulate the practices of the Social Security Administration, Veterans Administration and Railroad Retirement Board in making payments to taxpayers abroad via direct deposit into their non-U.S. bank accounts using International Bank Account Numbers (IBANs).⁴

We ask that you seek advice from the IRS on the number of pandemic aid checks mailed to non-U.S. addresses that remain not redeemed for cash and returned due to non-delivery. We suggest an intolerable number of payments sent abroad were lost to the recipients due to chronic or pandemic-related failure of local postal services, or out-of-date taxpayer postal addresses. Updates to IRS practices such as allowing payments into IBANs could be one of the positive outcomes of the pandemic.

ACCESS TO IRS SUPPORT

Curtailed Congressional funding to the IRS has resulted in the withdrawal of taxpayer resources in places outside the U.S. Without access to taxpayer assistance abroad, non-resident taxpayers have had to rely on IRS helplines or hire U.S. tax return preparers with specialist knowledge of both the U.S. and their local tax systems and how the systems converge. Specialist advice is expensive - 2017 research suggests U.S. taxpayers abroad pay 2-3 times what other U.S. taxpayers pay for tax preparation⁵ - which undermines the ability of U.S. citizens abroad to remain compliant. Tax preparation services for non-resident filers with a high price tag have no guarantee of high quality. We hope that the IRS gives special consideration to the minimum standard for tax return preparers who service Americans abroad when they introduce qualifying criteria for the profession.

U.S. citizens abroad are excluded from the IRS-funded programs facilitating free basic tax return preparation to low income and elderly filers. The IRS locator for those seeking support from the *Volunteer Income Tax Assistance* and *Tax Counseling for the Elderly* programs requires the taxpayer to enter a U.S. zip code. Perhaps the complexity of filing from abroad is a factor in the reluctance of the IRS to seek funding applications from program providers willing to offer free help to eligible Americans abroad. But this is another example of inequitable services standards for the Americans abroad community.

A further example: IRS toll-free phone numbers are frequently not accessible from outside the United States and are rarely free of charge, as intended. Long, expensive wait times are common, erecting a further economic barrier to remaining tax compliant when living abroad. In the absence of either affordable, accessible assistance or the return of Taxpayer Assistance Centers in places outside the United States, taxpayers abroad need dedicated IRS helplines, operated by agents with specialist knowledge of overseas filing and available at times convenient to those in non-U.S. time zones.

We note 2021 Purple Book recommendations that the IRS implement customer call-back technology and video conferencing support to taxpayers. Of all taxpayers, non-resident taxpayers would surely be the most in need of such services. We ask that you draw attention to that in the 2022 Purple Book, and emphasize the importance of ensuring filers living abroad are accommodated in these systems when they are being developed and introduced.

⁴ Letter from Democrats Abroad to U.S. Treasury and the IRS *"Improving IRS Service to Americans Abroad"*, March 3, 2021, bit.ly/IRSImprovements

⁵ *"Can We Please Stop Paying Twice? Reforming the U.S. Tax Code for Americans Abroad,"* October 2017, bit.ly/CanWePleaseStopPayingTwice.

ELIMINATING E-FILING BARRIERS FOR U.S. TAXPAYERS ABROAD

We are delighted that the 2021 Purple book notes the need to overcome e-filing barriers for low-income filers. Taxpayers filing from abroad are commonly unable to use the FreeFile systems due to the inability to attach supplementary statements essential to their filings with non-U.S. source income. The mandatory addition of scanning technology would finally eliminate paper filing by Americans abroad who do not hire a professional to prepare and file their returns. We hope the FreeFile contractors are able to meet the 2025 deadline for system upgrades, and we support the recommendation that the IRS take over the provision of free e-filing systems should they fail to do so.

SPECIAL PROBLEMS FOR AMERICAN FAMILIES ABROAD

American parents abroad were very pleased to be included in the 2020 pandemic aid programs with per child refundable rebates. They received a real shock, however, to be excluded from the fully refundable rebate of the American Rescue Plan (ARP) Act's enhanced Child Tax Credit (CTC) and the Advance CTC. Our discussions with Congress suggest the ARP Act was not meant to exclude parents abroad from access to the 50% advance payments made in 6 monthly installments from July to December 2021. The language of the Act that applies the 6-month U.S. residency provision is indeed vague on the advance payments, but the IRS implementation is clear; eligible American parents abroad will not be receiving them. The language of the ARP Act residency requirement is broader than Congress intended and we seek your call for this drafting glitch to be fixed.

A further challenge to Americans abroad in qualifying for CTCs this year was the inability to obtain SSNs for newborn children abroad. U.S. consulates and embassies closed due to COVID have been unable to process Consular Report of Birth Abroad applications, which are essential for parents to apply for a SSN. The IRS is no longer providing administrative relief to allow the CTC if the qualifying child lacks an SSN. We ask that you add to your recommendations for an Adoption Taxpayer ID# for parents awaiting a SSN for an adopted child, a request that the IRS establish an emergency Birth Abroad Taxpayer ID#. In emergency situations it would enable parents to claim the CTC while waiting for the child to receive a SSN.

IRS SYSTEMIC ASSESSMENT ABUSES

We note with special interest your calls for an end to systemic assessment of IRS penalties as they apply to the international information reporting Form 6038/6038A. Americans abroad are vulnerable to automatic penalty notices with out-of-proportion fees in relation to not only the Form 6038/6038A but also Form 3520/3520A.

The Form 3520/3520A is filed by parents to disclose trusts that parents use to hold tax free savings accounts on behalf of their children. The filing date is awkwardly out of alignment with any of the usual filing deadlines - April 15, June 15 or October 15. Delinquent filings are therefore not uncommon and have resulted in minors abroad having their first engagement with the IRS involve a \$10,000 penalty notice. We ask for your support for an immediate cessation of systemic assessment of Form 3520/3520A IRS penalty notices, realignment of the Form 3520/3520A filing deadline, updates to the IRS guidance on Form 3520/3520A to improve taxpayer comprehension and reforms to the IRS due process practices for Americans abroad. We seek the expansion of the 60-day response period to 120 days, at least until the IRS can implement improvements to support resources for Americans abroad.

TAX ADMINISTRATION

Filers abroad suffer many of the same challenges as other U.S. taxpayers in understanding IRS guidance that can seem written with the intention of foiling those intent on comprehending the advice in them. Filers abroad have the added challenge of navigating the provisions of the U.S. tax treaty with the country they live in. This is an exercise that no ordinary citizen, living, working, raising a family or retiring abroad should have to undertake. The fact that middle class Americans abroad must endure this task only to produce a tax return that shows they owe no U.S. tax is farcical.

We note the commentary you provided in the 2021 Purple Book regarding the TCJA \$5 income filing threshold which places a filing burden on taxpayers who do not earn enough income to have a tax liability. You note this filing requirement also imposes a burden on the IRS, which must process the \$0 tax liability returns. You recommend establishing a filing threshold equal to the amount of the personal exemption to reduce the burden for both taxpayers and the IRS.

We, therefore, ask that you consider the reform recommendation that we have placed before Congress this year that would modify the filing requirement for Americans abroad whose income indicates they would owe no U.S. tax. In making the case for this reform we offer the following:

- Preparing returns declaring non-U.S. income is inordinately difficult, for reasons outlined herein;
- IRS online accounts, helplines, FreeFile and free filing support are inaccessible;
- Even working class Americans abroad are forced to hire preparers with knowledge of both the U.S. tax system and the residence country tax system;
- Tax return preparation costs on average 2-3 times what it costs a U.S. based taxpayer, and sometimes much more;
- Middle class Americans abroad are paying preparers on average \$US500+ to demonstrate that they OWE NO U.S. TAX;
- A filing modification will improve tax compliance;
- This reform has no federal revenue impact;
- IRS already has categories of taxpayers excused from annual filing altogether;
- This proposal is to modify the filing requirement for those whose income is below the tax-free threshold;
- Eligible non-resident taxpayers can prepare an IRS declaration to disclose earned income, foreign tax paid and foreign tax file number and to certify that no tax is due.

Thank you for your consideration of these tax matters that present consequential personal and financial problems for Americans abroad. Americans abroad have been working for many years to demonstrate to Congress that we are not so-called “fatcats” living abroad to game the international tax system. On the contrary, the vast majority of us are ordinary, middle class Americans living, working, raising families and retiring in countries with a higher overall tax burden than the United States. We are proud Americans, we value our U.S. citizenship and we care about the country as much as all other Americans.

We are grateful that you have used your voice to advocate on our behalf and hope you find that the matters raised herein also merit your support. Please contact Carmelan Polce of our Taxation Task Force (+61 404 767 088 or carmelan@democratsabroad.org) or the undersigned with any questions about the information and recommendations provided herein.

Sincerely,

/S/

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