



March 15, 2022

The Honorable Bill Pascrell Jr.
Chair - Oversight Subcommittee of Ways and Means
U.S. House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Rice
Ranking Member - Oversight Subcommittee of Ways and Means
U.S. House of Representatives
460 Cannon House Office Building
Washington, DC 20515

Re: Hearing with IRS Commissioner Rettig on the 2022 Filing Season on March 17, 2022

Dear Chairman Pascrell, Ranking Member Rice, and Members of the Subcommittee:

In light of the enormous challenges facing the Internal Revenue Service (IRS), Democrats Abroad greatly appreciates your holding this important hearing. There are an estimated nine million American citizens residing outside the United States,¹ the overwhelming majority of whom are working or middle class.² **Our recommendations below would alleviate unintended tax-filing and financial-access problems Americans abroad face as a result of the current system of extraterritorial taxation (i.e., Citizenship-Based Taxation).** The U.S., Eritrea, and North Korea are the only countries using such a system.

We urge the House Ways and Means Committee to hold a hearing to consider changing this system. We would welcome engagement with individual Committee Members to discuss opportunities to introduce reforms.

¹ The U.S. Department of State's Bureau of Consular Affairs. (2020, January). Consular Affairs By The Numbers. Retrieved February 6, 2022, from <https://travel.state.gov/content/dam/travel/CA-By-the-Number-2020.pdf>

² Democrats Abroad. (2019, March 1). *Tax filing from abroad - 2019 Research on Non-Residents and US Taxation*. Page 4. Retrieved February 7, 2022, from <https://democratsabroad.atlassian.net/wiki/download/attachments/4257416635/Tax%20filing%20from%20abroad%20-%202019%20Research%20on%20Non-Residents%20and%20US%20Taxation.pdf?api=v2>

We would like to bring to your attention that so far in this tax season, Democrats Abroad have received early reports from Americans abroad on the following top issues:

- American families abroad receiving letters from the IRS requesting return of the extended Child Tax Credit - money which these families desperately need and do not know how they will return the funds.
- Americans abroad having still not received the first, second, or third economic stimulus payments - funds which are required on an urgent basis.

Americans filing from abroad face greater complexity and more ambiguity than U.S. residents due to at least twenty-three provisions in the current tax code³ which violate the widely-accepted Taxpayer Bill of Rights.

Americans living abroad are subject to potentially devastating penalties for failure to file a variety of documents accurately, even for inadvertent non-compliance. Preparing an average tax return filed from abroad costs from \$500 to \$1000,⁴ often far exceeding any taxes owed. In fact, most filers – and probably most who neglect to file – owe no tax at all.

The inability of the IRS to address filers' questions makes it more likely that they will get something wrong. The low rate of filing compared to domestic residents is a direct result.

For years the National Taxpayer Advocate has recommended common-sense solutions to many of these problems, and many of the proposed solutions would likely be revenue-neutral or even revenue-positive.

We strongly support the *National Taxpayer Advocate's 2022 Purple Book* recommendations, which also have the support of the Government Accountability Office and the IRS Taxpayer Advocacy Panel:

Legislative Recommendation #8

Harmonize Reporting Requirements for Taxpayers Subject to Both the Report of Foreign Bank and Financial Accounts [FBAR] and the Foreign Account Tax Compliance Act [FATCA / Form 8938] by Eliminating Duplication and Excluding Accounts Maintained by U.S. Persons in the Countries Where They Are Bona Fide Residents.

Legislative Recommendation #14

Allow Additional Time for Taxpayers to Request Abatement of a Math Error Assessment Equal to the Additional Time Allowed to Respond to a

³ Democrats Abroad. (2020, May 27). *How to fix 23 tax problems for Americans abroad with three solutions*. Retrieved February 16, 2022, from <https://democratsabroad.atlassian.net/wiki/download/attachments/4271082033/23%20Problems%20%20Solutions%202020.pdf?version=1&modificationDate=1590588973000&cacheVersion=1&api=v2&download=true>

⁴ Ibid.

Notice of Deficiency When the Math Error Notice Is Addressed to a Person Outside the United States.

Legislative Recommendation #15

Amend IRC § 6212 to Provide That the Assessment of Foreign Information Reporting Penalties Under IRC §§ 6038, 6038A, 6038B, 6038C, and 6038D Is Subject to Deficiency Procedures.

Legislative Recommendation #38

Modify the Definition of "Willful" for Purposes of Finding Report of Foreign Bank and Financial Accounts Violations and Reduce the Maximum Penalty Amounts.

These initial recommendations would improve taxpayer rights while respecting the intentions of the tax code. More fundamental reforms will also be necessary to address underlying issues facing Americans abroad, such as:

1. Double taxation — due to misalignment of tax systems — that cannot be mitigated using the Foreign Earned Income Exclusion (FEIE), Foreign Tax Credit (FTC), or existing Tax Treaties.
2. Phantom gains, caused by the requirement to use the U.S. dollar as the functional currency, even for taxpayers who have no financial connection to the United States.
3. Disproportionately high tax-preparation costs and excessive compliance risks associated with information-reporting required for financial assets held in a U.S. citizen's country of residence, which harms ordinary Americans who are unable to afford sophisticated tax preparers, which (as noted) are prohibitively expensive even if no tax is owed.
4. Americans abroad with a non-U.S. citizen spouse face discriminatory treatment in the tax code and greater difficulty in meeting filing obligations due to the lack of a Social Security Number.
5. Corporate tax rules intended to apply to overseas subsidiaries of multinational corporations are applied to small businesses owned by Americans residing abroad, resulting in unreasonably high compliance costs and punitive taxation of undistributed income.
6. Refusal of services by local banking and financial services providers resulting from conflicts between U.S. laws and the laws of the countries that Americans reside in.

Americans residing abroad have been effectively barred from saving for retirement, starting a small business, taking title to real estate, or sharing finances with their spouse. The devastating consequences result in inability to retire, forced closure of small businesses, divorce from non-American spouses, and even suicide. This is on top of the inordinate stress, cost, and time involved just in understanding and meeting the complex reporting requirements of the U.S. tax code.

The current IRS definition of "tax residency" includes the obligation to report worldwide income (including non-U.S. source income), even of Americans who

are tax residents of other countries. This requires the IRS to do the impossible: to administer both a domestic tax system for U.S. residents (including source taxation for non-resident aliens) and also an extraterritorial system interacting uniquely with the tax codes of other countries.

Administering this extraterritorial tax system has become an overwhelming task, both procedurally and substantively. The IRS cannot remotely serve Americans in the more than 100 foreign countries where they live, let alone in the languages they speak. Nor can the IRS know how U.S. laws apply to the local financial services, small business structures, and retirement savings plans that are common in those countries.

The IRS itself has identified “international taxpayers” as an underserved community.⁵ The level of service currently provided by the IRS to Americans inside and outside the country is highly unequal. For those abroad, IRS agents are insufficiently trained to respond to the common issues faced. In addition, there is no in-person assistance; toll-free telephone services are not available; access to online portals is severely limited; postal mail delivery is often delayed; and there is limited documentation in languages other than English. Moreover, even making payments to the IRS is often time-consuming, complicated, and costly for non-residents, while it can be difficult or impossible to deposit any refund or stimulus check received from the IRS.

The IRS’s inability to provide Americans abroad with essential services violates several aspects of the Taxpayer Bill of Rights,⁶ including:

- the right to be clearly informed about tax laws, including knowing how to comply;
- the right to prompt quality service, including clear and easily understandable communications from the IRS;
- the right to pay no more than the correct amount of tax, including having the IRS properly apply all tax payments; and
- the right to a fair and just tax system, including consideration of facts and circumstances that affect filers’ liabilities and ability to provide timely information

The IRS has significantly reduced its targeted taxpayer services while increasing filing obligations. Services have been strained by the termination of tax help at consulates and online. There were over a dozen IRS offices abroad in 1993, but now none remain. Telephone callers from abroad may face significant expense from waiting on hold, then not be able to reach an IRS representative with sufficient knowledge of the unique issues facing non-resident filers. The Electronic Tax Law Assistance Program has been terminated, as has R-mail, which allowed customer service representatives to refer questions to employees with specific expertise.

⁵ IRS. (2021, January). Taxpayer First Act Report to Congress. Retrieved February 16, 2022, from [https://www.irs.gov/pub/irs-pdf/p5426.pdf?mc_cid=95523e3176&mc_eid=\[942e2d2064\]](https://www.irs.gov/pub/irs-pdf/p5426.pdf?mc_cid=95523e3176&mc_eid=[942e2d2064])

⁶ IRS. (2021, December 21). Taxpayer Bill of Rights. Retrieved February 16, 2022, from <https://www.irs.gov/taxpayer-bill-of-rights>

Americans abroad have pleaded for relief for over a decade, with no meaningful response from Congress or the Treasury Department. **It is time for Congress to cease the imposition of filing requirements for the non-U.S. source income of non-residents.**

Cost/benefit analysis of such a transition from citizenship-based to residence-based taxation should include consideration of what would be required for the IRS to provide fair and equitable support to non-resident filers under the current system. We believe that transitioning to such a system of residence-based taxation would:

- Substantially improve the well-being of Americans abroad;
- Improve the administrability of the Internal Revenue Code and facilitate greater tax compliance;
- Reduce strain on an Internal Revenue Service that has expressed that the burden associated with servicing Americans abroad is disproportionate to the miniscule tax revenue raised.

We plan to release updated research on Americans abroad and their tax situations this summer. We will share our results and analysis with the Committee and encourage you to review it then.

Thank you for the opportunity to provide this testimony.

Please do not hesitate to contact Rebecca Lammers of our Taxation Task Force on taxadvocacy@democratsabroad.org with any questions about the information and recommendations provided.

Sincerely,

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