

[REDACTED]  
[REDACTED]  
15 March 2015

Members of the Tax Reform Working Group:

I am writing to ask you to ease the burden of US tax forms on Americans who live abroad. Nina Olson, the US Taxpayer Advocate, presented a very thorough description of the problem in her 2011 Report to Congress. Please read through the section of her report titled, "International Issues"; it is much more eloquent than I can be in a short letter.

However, I would like to share my personal experience. I am registered to vote in Washington, but I currently reside in Canada. I am not a rich tax evader; I have gone overseas to find meaningful work and adequate compensation. I try to be a law-abiding citizen. I don't object to paying my fair share of taxes.

What I do object to is the many confusing, intimidating, and time-consuming that the US demands I fill out every year. When I added up the IRS-estimated preparation times for all the forms I needed to file for 2011, it came to 178 hours. That's five and a half weeks of full-time labour. I don't think that's reasonable to ask a law-abiding citizen to spend five and a half weeks of full-time labour working on tax forms for a country where they don't live and didn't earn any money. I also think it's a huge waste of human resources; the time I spend working on my taxes doesn't contribute to anyone's GDP.

An example of the redundant paperwork is the new financial disclosure form 8938; it asks for exactly the same information as TDF-90.22-1. I really don't understand why I need to do both.

The paperwork is also extremely confusing and bullying. The IRS threatens large fines for any oversight, omission, or error, no matter how accidental. For instance, page 3 line 7 of 3520-A: "*Attach an explanation of the facts and law (including the section of the Internal Revenue code) that establishes that the foreign trust (or portion of the foreign trust) is treated for U.S. tax principles as owned by the U.S. person.*" I understand the Internal Revenue Code is now some 70,000 pages. Is it really reasonable to expect the average person to be able to answer this question? Yet if I get it wrong, I can be fined \$10,000.

As another example, the instructions for form 3520-A and 3520 include the following statement about reporting on non-US accounts: "*the fact that a foreign country would impose penalties for disclosing the required information is not reasonable cause*". This is so high-handed and arrogant that I don't even know what to say.

With the US tax policies as they are, I cannot have a normal financial life. In fact, I cannot have a normal life. Things that I or other US citizens who live outside the US cannot do include the following:

- Invest in mutual funds. I can't buy US mutual funds if I don't live in the US because of securities laws. I can't buy mutual funds in the country where I live because the US considers them "passive foreign investments" and imposes punitive tax paperwork (Form 8621) and penalties. I have to carefully investigate any corporations that I consider buying stock in to make sure they don't invest any of their money; if they do they might fit the IRS definition of "holding companies" and be "passive foreign investments" and also be subject to the punitive paperwork and penalties.
- Participate in any of the tax-deferred savings plans that the government of the country where I live makes available to its residents and taxpayers as a way of encouraging savings and investment. The US considers these plans as "foreign trusts" and imposes punitive tax paperwork (Forms 3520A and 3520) and penalties.
- Invest in US stocks. The brokerage will withhold tax to the US on all dividends, and I will be taxed again on the dividends when I fill out my 1040. Theoretically I could fill out a form W-9 and give it to the brokerage to prevent them from withholding taxes on my dividends, but then they would find out I was a "US Person" and might close my account. Banks and brokerages outside the US don't like holding accounts of "US Persons" because of all the FATCA paperwork they would be required to fill out.
- Having a bank account is problematic. As mentioned above, banks don't like holding accounts of "US Persons" because of FATCA.
- Start my own business. The amount of tax paperwork that would be required for the US would be extremely burdensome to the business.
- Hold an office in a social, charitable, or religious organization. If I held an office in such an organization, the organization would have to file with the IRS because a "US Person" has signing authority over its assets.
- Form a business partnership. Potential business partners outside the US do not want to form partnerships with "US Persons" because the entire business will become subject to IRS reporting laws.
- Hold an executive position in a firm. If I held an executive position, the firm would have to file with the IRS because a "US Person" has signing authority over its assets.
- Get married. People do it, but if the potential spouses were aware that all their personal assets (earned outside the US) would have to be declared to the IRS they would think twice about marrying a "US Person". Sometimes when the spouses find out about the US reporting requirements they get divorced.

How would the US respond if Iran or North Korea imposed these kind of reporting laws on people who had left those countries and become citizens of the US?

I am not completely naive, and I understand that the concerns of individual taxpayers are of a lot less interest to elected Congressmen than the concerns of the corporations that pay your campaign bills. So I will also tell you how the current tax laws for individuals affects American corporations: it lessens their competitive position. In my work I get quotes on several million dollars' worth of industrial equipment every year. I do not go out of my way to promote American-made products. Why should I? The

governments of Japan and Germany don't demand five and a half weeks of unpaid labour from me every year. I'm sure I'm not the only ex-pat who feels this way. If the US tax policy changed, my policy would change as well.

Please modify the US tax law to treat Americans who have gone abroad fairly and reduce the burden of paperwork that we currently face.

1. Repeal FATCA
2. Move the US to residency-based taxation, as practiced by every other civilized country in the world.

Andrea Tylczak

