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Subject: "How best to overhaul the nations's [United States of America's] broken tax code to make it simpler, fairer, and more efficient."

Reference: In Response to media release dated March 11, 2015 entitled "Hatch, Wyden Launch New Effort to Seek Input on Bipartisan Tax Reform".

Source: From the website of "The United States Senate Committee on Finance – Orrin G. Hatch, Chairman, Ron Wyden, Ranking Member"

Website Address: http://www.finance.senate.gov/newsroom/chairman/release/?id=3bcf1fcf-9dd8-47d4-9202-21a0870cd8d6

Dear Sir:

The basic premise of this letter is that the US Tax Code is outdated and harshly punitive towards US citizens living outside the US. The US Code taxes monies which are earned, invested and utilised outside of the United States (ie with no US connection other than the person involved has US citizenship) in USD, to the detriment of the individual earner and, in the long run, the US government. This will eventually lead to a declining US tax base and the decline of US citizens within influential positions globally.

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1. I thank you for this opportunity to make my voice heard, an average American citizen living abroad.
2. Global Tax Perspective: I believe 99.9% of the countries of the world operate according to the principles of:
    a. Income is taxed based on the 'tax residency status' of the individual earning the income. 'Tax Residency' is determined by the physical location of the individual.
    b. Capital is taxed based on a combination of the location of asset and the country of 'tax residency status' of the owner of the capital as adjusted by the terms of the relevant tax treaties.
3. Exceptions to #2 above: As far as I can tell, the United States is the **only** major developed country which taxes their citizens based simply on their citizenship and not Tax Residency.

4. Tax Treaties: It is true that the US government has entered into tax treaties with a number of countries. Please note, while helpful, this does not alleviate the significant burden created by the United States Citizenship Tax.
5. Personal examples of hardships brought to bear on US Citizens as a result of the United States' unique approach to Citizenship Taxation:
    a. Assumptions:
        i. I am an individual, a US Citizen, living, working, earning income and accumulating assets in Australia – and have been for the previous eighteen years.
        ii. Assume that, in general, Australian tax rates are higher than US tax rates.
    b. Tax Preparation Fees:
        i. It costs me between USD$1,000 and USD$2,000, and a lot of time, to complete a US tax return each year. This is because the US tax code is very complicated and I must pay for someone who understands both the Australian and US tax codes to calculate all the required information (eg: foreign tax credits, alternative minimum taxes . . .etc.). It is a specialised and expensive field and the US and Australian tax calendars are offset by six months – creating accounting issues.
        ii. Please note these US tax preparation fees are in addition to my Australian tax preparation fees.
        iii. This is an unfair and punitive burden on US citizens.
    c. Retirement Funds:
        i. The US government does not grant 'proper tax status' to the Australian superannuation industry.
        ii. While at the same time, because my earnings are earned / taxed in Australia I do not have access to US based retirement accounts (such as the US based 401K accounts).
        iii. The result of this, for me, is that any money I put into an Australian recognized retirement fund has 'unclear status' according to the US tax code.
        iv. So . . . how do I save for retirement? The US insists on taxing all my earnings globally yet the US government refuses to recognize any non-US retirement schemes.
        v. This is an unfair and punitive burden on US citizens.
    d. Owning Assets:
        i. Stock Trading: It is not viable to invest my savings in equities / stocks. By way of explanation consider the following example:
            1. I earn / save Australian dollars – working in Australia.
            2. I buy an Australian stock.
            3. I lose money on the stock trade (for example AUD$3,000) – a poor trade.
            4. Because the Australian dollar went up in value, relative to the US dollar over the period I owned the stock, I ended up PAYING US taxes on my "gain".
            5. End result: I lose AUD3,000 on the stock and pay AN ADDITIONAL USD500 in US taxes.
            6. This was money earned in Australia, invested in Australia, to be used to pay for my child's education here in Australia, but the US government insisted on making my loss worse. . . . because the exchange rate moved? I certainly don't get money back from the US government if the exchange rate moves the other way. Recall that Australian tax rates are greater than US tax rates – so I can only lose.

7. Note: Trying to account for any stock trades further complicates my US tax return and increases my US tax preparation fees.
8. This is an unfair and punitive burden on US citizens.

ii. Owning a Home: The US Tax Code makes purchasing a family home very difficult as the US government insists on taxing gains on my Australian home, but in USD.
1. Fifteen years ago I, along with my Australian wife, purchased a home in which we, and our children, live.
2. When we wanted to sell our home we could not because:
    I. The value had risen modestly in Australian dollars.
    II. This is because the entire Australian housing market increased in value slightly (in Australian dollar terms).
    III. We would have used our sales proceeds to buy another house in Australia for our family to live in (including paying Australian taxes).
    IV. However, the US dollar price of our home more than doubled because of exchange rate movements.
    V. If we had sold, I would have been forced to pay a huge US tax bill and would not have had enough money to purchase a new home in Australia.
    VI. Again – this money had nothing to do with the US government – our home had nothing to do with the US government - yet because of The Tax Code it meant we could not move.
    VII. This is an unfair and punitive burden on US citizens.

iii. Tax efficient investments: I am not able to take advantage of any tax efficient investments. Consider the following scenario:
1. Using Australian earned funds I invest in an Australian government bond which is tax exempt for Australian purposes.
2. The US Tax Code does not consider this investment to be tax exempt and will tax me on the income with no deductions.
3. This is an unfair and punitive burden on US citizens.
4. Please note, if the reverse of this were true (ie other countries taxed their citizens living in the US in the same manner this could destroy the entire US municipal bond market

e. Charitable Contributions:

i. I am prevented from making contributions to charities. Consider the following example:
1. I donate money to the Australian Red Cross (not the American Red Cross).
2. The US government does not recognize this as a legitimate charity.
3. The US government taxes this income without the benefit of the charitable deduction.
4. Please note, if I were to donate to the American Red Cross then this would not be recognized by the Australian government. So I am disincentivized to donate to charities either way.
5. This is an unfair and punitive burden on US citizens.

f. Risk of Fines:

i. The laws are so complicated that even though I try very hard to complete all required forms – there are horrendous fines imposed if you make a mistake. An example of this is FBAR where fines can be 50% of account balance <u>per year</u>. Again – these accounts, in my instance, involve completely non-US

monies, yet if one day, at one point, if I make a mistake and forget to include an account – I could face huge penalties.
    ii. This is unfair and punitive against US citizens.

g. FATCA
    i. This law is making it very hard, and expensive, for US citizens to gain access to a bank account if you live outside the US because of the increased compliance costs imposed on foreign banks.
    ii. How is this helping America?
    iii. This is an unfair and punitive burden on US citizens.

h. Giving up US Citizenship
    i. As stated above, it appears the effect of these draconian terms is to force people to give up their US citizenship.
    ii. I then note that the US government has recently increased the fee to relinquish their citizenship to around USD3,000.
    iii. I understand this is in addition to an 'exit tax' of marking all assets to market.
    iv. Again – I fail to understand the magnitude of the $3,000 fee as well as why I would need to pay tax on a USD mark-to-market valuation of my Australian assets.
    v. This is an unfair and punitive burden on US citizens.

Please note the common themes in all of these examples:

1. Value (income, or capital) has been created outside of US borders using non-US capital.
2. The work to create this income / gain has been outside of US borders.
3. The money is to be used to fund a lifestyle outside of the US.
4. This money has no connection with the US other than the worker involved has US citizenship.
5. This value is taxed, and the compliance cost for the taxation borne by the US citizen simply by virture of his/her citizenship.
6. The tax imposed by the US government is based on a US dollar valuation – which has no practical relevance to the income, assets or people in question.
7. Clearly this creates an unfair and unjustified burden on the US citizen.
8. Clearly this will continue to drive people to give up their US citizenship.
9. Clearly this will decrease the power and influence of the US outside of the US's domestic borders.
10. Clearly this approach to taxation is not commensurate with the approach taken by the rest of the World's major governments.

Again, I would like to thank you for allowing me the opportunity to share some of my views and would look forward to speaking in the future if it would be helpful.

Regards,

Jonathan Schwarz

(Currently) An American Abroad