

Request for Elimination of citizenship-based taxation

April 14, 2015

Dear Representatives,

I am writing to you as an American Citizen living abroad in the hope that you will consider impacts that Citizenship Based Taxation (CBT) and Foreign Account Tax Compliance Act (FATCA) are having upon us.

I am what you would class an “Accidental American”, I was born in the US to British parents, but 4 weeks after my birth I left when my parents returned to the UK. These 4 weeks of my life unbeknownst to me at the time would enslave me for life to the US tax system.

Until 2 years ago I was still blissfully unaware of my servitude to the US taxation and the IRS, until a work colleague of mine informed me of the US taxation of non-residents. I immediately started researching and was bombarded with acronyms FBAR, FATCA, IRS, CBT and horror stories of people being fined half a million dollars in non-compliance fines.

I am a very law abiding person, I get cold sweats from going 5 minutes over parking in a 1 hour bay; and immediately brought myself into compliance with the IRS. However despite being compliant, for all intents and purposes as an American that does not live in the US, I feel that I am in the eyes of the law being treated as a criminal, where I must report ALL my accounts (via FBAR) to the Financial **Crimes** Enforcement Network (FinCen).

I am not rich and I do not live in a tax haven, but in the eyes of the US “homelanders” I must be, as I choose not to live in the US. In fact my German taxes are significantly higher than those of the US, yet every year I must prove my innocence at great cost of time and money. I hold two degrees in Engineering, but the number and complexity of the forms I must file, coupled the harsh penalties even for an honest mistake means I do not risk preparing them myself, and therefore must use the services of a tax preparer.

This yearly drudgery is only getting worse and more expensive, where I must spend between \$400 to 500 dollars each year to prove I owe nothing to the IRS. It almost makes me envious of the Eritrean system (the only other country in the world to tax it’s non-resident citizens) which imposes only a 2% income tax, as that would be cheaper! Yet the US enforces its entire tax code upon us which is wholly incompatible with the tax system of our host country, meaning we get the worst of both systems.

Now with FATCA now in force, foreign banks are refusing accounts to American customers. The Post Office Bank in the UK specifically states: “*Fixed Rate Cash ISA is not available to US persons. This includes US citizens or those resident in the US for tax purposes*”. This is blatant discrimination on grounds of citizenship and has forced me to open accounts for my children under my wife’s name. The irony is FATCA is designed to catch “Fatcats” yet many foreign banks will now only open accounts to those who can deposit large sums of money to cover compliance costs. Hence FATCA attempts to catch the rich with accounts overseas, and now you can only open an account overseas if you are rich!

I understand the reasons for catching tax cheats hiding their money abroad in offshore accounts, however my bank is not offshore, it is in the country that I live! I can walk to it from my house in 10 minutes. I did not open this “foreign” account to hide money, I opened it so I could pay my rent, buy groceries, pay for my childrens daycare, etc... I need a bank account in my home country to pay for services in the country that I live!

FATCA should be about reducing the number of US Residents hiding money in overseas accounts, not reducing the number of Americans living overseas. It is extremely heavy-handed legislation that is punishing the law-abiding Americans living abroad to catch a small number of tax cheats, who have most likely have already found different financial vehicles to avoid FATCA anyway.

This coupled with the US policy of taxing its non-residents has made Americans overseas financial lepers, and yet every year we are subjected to increasing complexity for US tax compliance, many of which are incompatible with our host country tax system(Investing in Mutual funds/Pensions/Capital Gains etc.. for example).

A high profile case is that of the Mayor of London (Boris Johnson) owed US tax on a property he sold in London (UK), in his home city and country! Could you imagine President Obama reporting all his financial affairs and paying taxes to Kenya? No, (I imagine the answer to be) yet the passing of FATCA combined with Citizenship-based-taxation has bypassed many privacy laws of foreign governments.

However I must commend the IRS, as they have forced us into compliance through fear. Fear of punitive fines for honest mistakes, fear of civil and/or criminal punishment, fear of losing our savings for retirement or our children’s savings accounts, etc... However this fear of making a mistake, is forcing me weigh up whether to keep my US citizenship or not (and I imagine many others), as the tax system is so complex that I’m afraid if I make even the smallest of mistakes I’ll be fined many thousands of dollars, or lose my pension or worse.

Even with the renunciation fee increasing to \$2,350 (the most expensive in the world), the numbers of Americans renouncing are still increasing, as we must balance this fee against protecting ourselves from the US tax regime with its draconian penalties and its incompatibilities with our resident country’s tax system.

FATCA has received lots of press recently, but it is not the main reason for the misery of Americans living abroad; taxation based on citizenship is. FATCA is simply the enforcement mechanism of CBT, which in todays Globalised world, worldwide taxation is antiquated system incompatible with those living cross border lives. Especially those in the European Union, who enjoy the EU’s freedom of moment and can live and work in multiple countries and have bank accounts in many of them.

There is a lot of speculation for the US to move towards a territorial tax system for corporations and I hope that you will also consider the same for individuals, in considering a resident based taxation model. I hope that you think about the 7 million of us living outside the US borders, when designing a simpler, fairer and more competitive tax system and bringing the US into the 21st century.