

Dear Senate Committee,

Thank you for your interest in hearing from Americans about the effects of FATCA (and other aspects of Federal tax legislation) on American citizens living abroad. While the goal of catching tax evaders is a noble idea, which I support, regulations enacted in recent years have made life increasingly difficult for tax-compliant U.S. citizens who happen to live outside the United States

It's important to realize that the vast majority of Americans who move abroad do so not to evade taxes but for personal reasons (such as falling in love with a foreigner) or for professional development (to learn a foreign language, to teach or conduct research abroad, to manage a division of an international company, etc.). They already pay taxes to the foreign country in which they live and work. Although they are U.S. citizens, they do not use American infrastructure such as highways, schools, etc. during their years abroad, and they pay fees for the few U.S. embassy/consulate services that they do use (such as passport renewal). If they are long-term expatriates who do not maintain a U.S. residence, their foreign-born and foreign-resident children will be subject to U.S. taxes but might not be able to vote in U.S. Federal elections when they turn 18 -- a clear case of taxation without representation. [A few states do permit parents to pass their last U.S. voting precinct on to their foreign-born and foreign-resident children, but my last state of residence (California) is not one of them.] Furthermore, for dual-nationality couples, moving "back home" to the U.S. is not necessarily an option to avoid the double-taxation dilemma since the U.S. is not home for the foreign spouse. Differences in professional qualifications and/or language barriers can make such a move impractical for many mixed-nationality families.

The current filing requirements for U.S. citizens living abroad are onerous. We not only have to fill out the 1040 but also forms such as Form 8938 (which is triggered even by lower- and middle-class wage earners if they've been paying into foreign employer-based pension funds for decades) and the FBAR, which have no domestic equivalents but carry heavy penalties for inadvertent mistakes. Such mistakes are nearly unavoidable since foreign employer-based pension funds (often mandatory under foreign law) do not provide enough details about their workings to be able to properly report the gains in a U.S.-compliant manner (as these assets are tax-free until retirement in the foreign country in the same way that a 401(k) is in the U.S.). Accountants familiar with the complexities of expatriate tax filing are rare and thus expensive: their fees typically start at \$2,000, which is beyond the means of many middle-class tax payers who, like myself, earn below the FEIE threshold and therefore do not even owe U.S. taxes but are still subject to the filing and reporting requirements.

Most problematic for me personally is the difficulty of banking abroad and saving for retirement. I am fortunate enough to have established my foreign bank accounts prior to FATCA, but new arrivals have difficulties obtaining a bank account for their daily needs. A foreign bank account is not a luxury when you live in a foreign country and need a bank account to receive your local salary and pay your local bills. Although I have a bank account for day-to-day purposes, I struggle to find a way to save for retirement.

The country in which I live (Switzerland) has so-called "third pillar" retirement funds, which are analogous to U.S. IRA's. I would like to be able to save for my retirement with such a fund since, as a member of Generation X, I am well aware that I will be unlikely to be able to live off of the Swiss equivalent of Social Security when I retire. However, Swiss banks will not let me have such an investment-based fund (even though I'm perfectly willing to declare such an account on the tax returns of both countries) as they worry they would not be able to satisfy the U.S. FATCA-based reporting requirements. On the other hand, opening a U.S.-based IRA, while legal in principle, is extremely difficult for someone who no longer has a U.S.-based mailing address. Many major brokers such as Fidelity and Vanguard will no longer accept American citizens living abroad as customers, citing the "know your customer" provisions of the Patriot Act as the reason. Thus, it is nearly impossible for Americans who live abroad long-term to save for retirement by participating in a mutual fund or its equivalent.

Interestingly enough, when I enquired at my local (Swiss) bank about investment options that would be open to me as an American citizen, they told me I could only invest with them if I had \$1,000,000 or more to invest. In other words, FATCA is not stopping the ultra-rich from moving their money abroad at all. It is only ordinary working Americans living abroad who have to deal with the consequences.

Adopting the residency-based taxation approach advocated by American Citizens Abroad (and practiced by every country other than the United States and Eritrea) would go a long way towards making the U.S. tax system more equitable. At the very least, I ask you to reconsider the definition of "foreign" and exclude a U.S. person's foreign country of residence from the FATCA and FBAR reporting requirements as well as recognize foreign pension plans in a person's country of residence as being qualified retirement plans under U.S. tax law. This would permit Americans with foreign homes to live ordinary lives -- working, paying bills, and investing a portion of their wages for retirement.

Thank you for your consideration.

Sincerely,
Susan De Paul

March 22, 2015