



AMERICAN CITIZENS ABROAD  
EDUCATE, ADVOCATE AND INFORM  
AMERICAN CITIZENS ABROAD  
*global foundation* FOR EDUCATION AND RESEARCH

July 26, 2023

Erin M. Collins  
National Taxpayer Advocate Office of the Taxpayer Advocate  
Internal Revenue Service Building  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

RE: American Citizens Abroad response to the "[National Taxpayer Advocate Objectives Report to Congress, Fiscal Year 2024](#)"

Dear Ms. Collins,

American Citizens Abroad, Inc., and its sister organization, American Citizens Abroad Global Foundation, are delighted to submit this response to the National Taxpayer Advocate's Objective Report to Congress, Fiscal Year 2024.

American Citizens Abroad, Inc. ([ACA](#)) is a leading advocacy organization bringing to the attention of the Congress and Administration the issues of U.S. citizens living and working overseas. Headquartered in Washington, DC, ACA is nonpartisan, non-profit (section 501(c)(4)), with a 45-year history of advocating on behalf of the community of U.S. citizens living and working overseas. Alongside ACA is its sister charitable (section 501(c)(3)) research and educational organization, American Citizens Abroad Global Foundation ([ACAGF](#)). ACA is pleased to see that the Objective Report to Congress includes three recommendations that have direct implications for U.S. citizens living and working abroad.

1. Reduce the Burden on Taxpayers Applying for an Individual Taxpayer Identification Number. Some citizens residing abroad may have non-U.S. citizen spouses involved in U.S. based investments requiring the non-U.S. citizen spouse to obtain an Individual Taxpayer Identification Number (ITIN). The Report's attention to international taxpayers impacted by the IRS' outdated system for assigning ITINs is encouraging.
2. Eliminate Systemic Assessments and Offer a First Time Abatement Waiver for International Information Return Penalties. Many citizens residing abroad find compliance with FATCA reporting and the IRS' demanding regime requiring reporting non-U.S. trusts, corporations, partnerships, disregarded entities, and more overly complex and difficult to navigate. At times tax advisors have failed to identify required international information returns, and later citizens residing abroad learn of the reporting requirements and file international information returns late although with reasonable cause. Your report points out stark statistics concerning the IRS' harmful and anti-taxpayer policies of systemic penalty assessments. We applaud the National Taxpayer Advocate's proposals to end systemic penalty assessments for international information returns and implement first time abatement for penalties for international information returns.



3. Reduce Compliance Barriers for Overseas Taxpayers. We applaud the report's candor concerning the "numerous and significant challenges complying with their U.S. tax obligations" for taxpayers residing outside of the United States. Among other activities, the Report states the National Taxpayer Advocate will "[m]eet with representatives and stakeholders for international taxpayers to better understand the challenges they face in complying with their U.S. tax obligations and make administrative recommendations to reduce such compliance burdens." ACA looks forward to a dialogue with the National Taxpayer Advocate and her excellent staff to champion the real-world issues tax compliance issues faced by citizens residing abroad however we would like to outline several areas where the IRS can begin to consider investing funding recently approved by Congress with the [Inflation Reduction Act](#) to address some of the issues with filing from overseas.

### **ACA suggestions for use of IRS funding for U.S. citizens overseas.**

#### **Notifications for overseas filers:**

Mailing delays for IRS notifications, due to increased delivery time for overseas postal services or postal services that are unreliable in certain countries, can lead to taxpayers receiving notifications for taxes due - which may or may not be correct, after the deadline for action. Assessment of penalties normally accrue by the deadline date and taxpayers must communicate with the IRS via hard copy mail or via phone long distance at a cost to the taxpayer. This delays resolution further increasing penalties and fees.

The process for resolution via mail, phone many times results in the taxpayer having to hire a professional representative in the United States who will work directly with the IRS, this at the taxpayer's expense and often solely because they cannot manage communications from overseas. Unlike US citizens living in the United States, overseas taxpayers cannot deal in "real time" with the IRS which assists in quick case resolution.

This is complicated by the passport revocation provision that allows the IRS to instruct the State Department to revoke or deny a passport for a seriously delinquent tax debt. ACA maintains that loss or denial of a US passport for US citizens overseas holds serious and unparalleled consequences compared to those faced by US citizens living in the United States, in particular for US citizens living in politically unstable and dangerous countries.

1. IRS funding should be dedicated to creating a robust online system of communication between overseas taxpayers and the IRS for case resolutions. Online access for taxpayers where they can upload documents, view notifications, and communicate directly with the IRS.
2. Funding for a system that allows taxpayers to resolve outstanding tax debts on a timely basis and without forcing US citizens overseas to have to either return to the United States or hire professional services to have their cases adjudicated. Given the importance of a US passport for these citizens there should be no question that delays in the resolution of these cases need to be handled with as little delay as possible and with ease.



### Creation of online accounts with the IRS

Currently due to foreign address and foreign phone number formatting, and concerns of fraud, many overseas taxpayers are unable to create online accounts or use two factor verification to manage their taxes; view balances, view historical payment information, review current tax return, etc. These taxpayers must incur costly wire transfer fees to pay their tax bill if they are using a foreign bank account. Conversely, the IRS is unable to deposit tax refunds into a foreign bank account, resulting in the IRS mailing US checks (which not all foreign banks may be able to accept) to foreign addresses where again given postal services significant delay times may ensue:

1. IRS funding should be dedicated to creating a robust system for the creation of online accounts that can accept foreign address/phone indicia so that overseas taxpayers can have the same level of online servicing as US citizens living in the United States.
2. IRS funding should create a payment platform that reduces the cost to overseas taxpayers who are using foreign bank accounts for payment of their taxes and adopt a system, similar perhaps to the Social Security Administration, to provide for depositing tax rebates into foreign bank accounts.
3. IRS portals established for those claiming Child Tax Credits should fully accommodate parent beneficiaries who reside abroad. Past and proposed legislation include a U.S. residency eligibility requirement for beneficiaries to claim full refundability and advance payments. The residency requirement likely cascades from geo-blocking or other access deficiencies in the portal. Low to middle income families, who are the target of the refundable and advance CTC, are no less deserving of U.S. government assistance if they live abroad.

### IRS phone and onsite support

There is no toll-free number for overseas taxpayers into the IRS to obtain general filing information or ask specific filing questions. Wait times for the one non-toll-free IRS phone service experiences long delay times – sometimes upwards to one to two hours. Often the agents responding are ill equipped to respond to many of the questions. For example: given the complexity of filing from overseas and the differences in income and investments, specific questions on what financial accounts are reportable on an FATCA form 8938 and FBAR form Fincen-114 may differ country to country.

1. IRS funding should be dedicated to creating toll free number(s) where overseas filers can telephone during real-time from their residence countries.
2. IRS should invest in training agents to provide them with a greater knowledge on overseas taxpayers filing requirements, both for individuals and small businesses. The IRS should consider hiring agents that can handle different “regions” of the world as questions and filing requirements may vary –how you may need to report a Canadian pension plan may differ from how you report an Australian one.



3. IRS should consider reestablishing attaché offices overseas and/or hold regular clinics- either onsite or virtual - where overseas taxpayers can ask questions and obtain information on their tax filing obligations. Again, ideally these should be region specific.

### IRS websites

Although improvements have been made on the IRS websites where overseas taxpayers find information, there is no central website dedicated specifically to overseas taxpayers whether they are individuals working overseas or owners of small businesses. Some information located in a section for individuals for example, will feed out to other websites where the topics are more appropriate to corporate international tax.

1. IRS should invest in creating a website specific for overseas taxpayers. Not only information for individual filers but also information related to small businesses and consultancies overseas.
2. Funding for better outreach to U.S. citizens living and working overseas, before, during and after, tax filing season. Unlike the U.S. where outreach from the IRS through notifications, media coverage and consumer targeted advertising informing about the upcoming tax filing season, overseas taxpayers do not receive similar outreach. The IRS can work with organizations like ACA and other organizations, with U.S. Embassies and Consulates, to help disseminate information.
3. Most of the existing FreeFile system providers are not available to taxpayers filing from abroad and those that claim to accommodate non-resident filers often fail to offer the full range of forms needed by those reporting non-U.S. income. The new IRS electronic free-file tax return system scheduled to be piloted in 2024 should be provisioned to accommodate the filing requirements of non-resident taxpayers, including Forms 2555, 1116, 3520 and 5471 (and 6038? may not be a TYPICAL form for individual filers...)
4. Further, taxpayers filing from abroad are commonly unable to use the FreeFile systems due to the inability to attach supplementary schedules and statements essential for reporting non-U.S. source income. Scanning technology or an upload function in the IRS free-file system would make free efilng fully accessible to Americans abroad (and finally eliminate paper filing by those who do not hire a professional to prepare and file their returns.)

### Taxpayer First Act recommendations and implementation

In 2021 the Taxpayer First Act identified U.S. citizens overseas as an underserved community and it was understood that the IRS would be working towards creating systems and support for this community. ACA provided testimony and information to the team tasked with investigating the issues of overseas taxpayers. ACA reported on various filing issues; the general complexity and costly process to file, lack of professional service advisors overseas, duplicate reporting regime for the Foreign Account Tax Compliance Act (FATCA) Form 8938 and the Financial Bank Account Report (FBAR) Fincen-114, inability to find many of the filing forms on the DIY tax filing software (Form 5471 and others), onerous taxation of foreign investments considered



Passive Foreign Investment Companies (PFICs), filing requirements for small business run by U.S. citizens overseas - TCJA and GILTI regimes, etc. as well as the issues highlighted above. ACA understands and appreciates that the IRS and the teams working on these issues have a lengthy list to address, however, we have yet to see many of the issues highlighted implemented. Along with the suggestions highlighted above, ACA has over time also made the following suggestions:

1. Adoption of **[Same Country Exemption \(SCE\) for FATCA filing](#)**. Same Country Exemption would exclude the reporting of accounts owned by Americans abroad where the account is with a Foreign Financial Institution in the same country where the individual is a resident.
2. **Simplify filing for FBAR FinCen-114 and FATCA Form 8938 purposes**. While we appreciate that FBAR reporting is a result of bank secrecy rules, while Form 8938 reporting fits within the IRS matrix of tax rules, the existence of these two sets of rules, which differ only slightly as to many details, is very confusing. The Treasury Department and the IRS with their forms and instructions could allow for the importation of data from an individual's FBAR filing to their Form 8938. This might be done with hardcopy workbooks inserted into the Form 1040 or Form 8938 or simply an online program.
3. **Recategorize foreign pension plans as a U.S. equivalent** for tax purposes. Some pension plans which invest in foreign mutual funds are considered PFICs and therefore subject to onerous U.S. taxation, while others are taxed by the U.S. when employers and employees make initial tax-free contributions. There is Treaty language that allows the U.S. Treasury to consider foreign pensions to be treated in the same way as U.S. domestic pensions for tax purposes which could be more broadly adopted.
4. **Allow the use of foreign currency as overseas taxpayer's functional currency**. U.S. citizens living overseas must use the U.S. dollar as their functional currency even when they have not sourced U.S. dollars. Currency fluctuation is virtually impossible for expats to plan around. The volatility can cause taxable events for U.S. citizens overseas even when no actual gain has been realized.

### Residence-based taxation

ACA has long advocated that the real solution to the problems of overseas taxpayers is the adoption of Residence-based taxation (RBT) which would tax U.S. citizens overseas on the basis of where income is earned, therefore excluding foreign earned income from U.S. taxation and only taxing U.S. sourced income. ACA was the first organization to develop a [side-by-side analysis](#) that indicates where in the current tax code changes could be made in a move to a system of taxation based on residence. ACA has fielded [two research projects](#) on the subject with District Economics Group (DEG), Washington, DC-based economic consulting firm – one in 2017 and one in 2022 - that provide valuable information on the income, asset and taxation of U.S. citizens living and working overseas. This data, one of a kind, supports our position that RBT can be adopted and be revenue neutral and tight against abuse.

ACA's research studies provide invaluable data on the community of U.S. citizens living and working overseas and most importantly, gives Congress an accurate number for the size of the





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community of U.S. citizens living and working overseas, which ACA estimates at approximately 4 million (excluding US military). Unfortunately, many in Congress continue to source the U.S. State Department figure of 9 million which ACA, through the FOIA, has requested the methodology in calculating (request made 2 years ago with an expected delivery in 2025). The 9 million estimate severely distorts not only government estimates for a change in tax policy but also the very nature of the community, putting in question why there are so many citizens overseas and so few tax returns, further cementing the optic that U.S. citizens overseas are tax evaders.

#### Congressional Hearing on taxation and U.S. citizens abroad

ACA believes that the time has come for the Congress to hold hearings on the issues that affect this very important group of U.S. citizens. ACA has presented our research and data to all the Tax Writing Committees on Capitol Hill, but the time has come for our data and knowledge, and that of other organizations and individuals, to be put on official record with Congress. Recently Congresswoman Titus introduced [H. R. 2729 \(The Commission on Americans Living Abroad Act\)](#) which would call for the creation of a commission to begin investigating the concerns of this community. This Commission would be an excellent start to the process of holding hearings. The IRS and U.S. Treasury should support the call for hearings as it would provide invaluable information and data which can help them in crafting regulations and addressing some of the problems highlighted in our letter today.

As always, ACA thanks the National Taxpayer Advocate for her continued support of our community. ACA is ready to help with the suggestions we have outlined, in particular with regard to customer service and outreach to the 4 million U.S. citizens living and working overseas. ACA can assist with getting information out to the community, help with organizing virtual/onsite education events, develop FAQs and content for overseas taxpayers for IRS websites. These are just a few of the ways we can assist.

Personally, I look forward to meeting again later this year to review ACA's advocacy efforts and update you on what we are hearing from the community.

Best,

Marylouise Serrato  
Executive Director  
American Citizens Abroad