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Washington, DC

American Citizens Abroad (ACA) submits comments on Department of Treasury proposed Transition Tax regulations

Today ACA submitted its comments to the recent proposed regulations issued by the US Department of Treasury on August 9, 2018. (<https://www.americansabroad.org/media/files/files/6ed55928/submission-treasury-transition-tax-regs-181008-1-final-002-.pdf>) These regulations, appearing as 62 pages in the Federal Register, spell out in detail Treasury's view of the workings of the new Transition Tax, enacted as part of the recent Tax Cuts and Jobs Act. ACA is requesting that the Treasury Department provide a *de minimis* rule, which removes from the requirements of Section 965, sometimes referred to as "Transition Tax" or "Repatriation Tax", all small taxpayers living abroad.

In the proposed regulations issued on August 8, Treasury acknowledged the receipt of numerous letters and commentary from both organizations and individuals, citing the serious consequences that Section 965 has for small American business owners overseas. While acknowledging the problems, Treasury did not provide any specific relief in the regulations.

In ACA's detailed commentary on the proposed regulations, it outlines the serious issues Section 965 will have on Americans overseas. Notable is that many of these businesses, although considered Controlled Foreign Corporations for US tax purposes, were created as foreign law as foreign businesses and most are small "Mom and Pop" operations. Owners of these businesses were never "socking away" income offshore to avoid US taxation.

ACA states that for many, the cost of calculating the tax implications and preparing the returns may exceed the actual tax liability. In addition, many will not have the funds to pay the taxes due and some will have to liquidate their businesses because the cost to calculate, and pay, the tax will bankrupt them.

"A '*de minimis*' rule to exempt small taxpayers overseas is any easy fix." said Charles Bruce, ACA Legal Counsel, "This is the same approach that Treasury applied to Form 8938, (which resulted from enactment of the Foreign Account Tax Compliance Act (FATCA) in 2010), given the understanding that certain US citizens, by the very nature of their living overseas, would have good reason to have foreign investment accounts above the threshold of individuals living in the United States. Americans overseas create foreign corporations to run their businesses – often little businesses – for the same reason; they live abroad and



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sensibly are not going to create a Delaware or other US entity to own a restaurant in Norway.”

ACA has received a flood of emails and letters from individuals who are affected. “These are small entrepreneurs, individuals running restaurants or small family businesses that have been compliant with their US taxes. Many were simply saving for future investments in their businesses or for retirement. Treasury must correct this oversight to insure that individuals are not financially ruined by the current application of Section 965.” added Jonathan Lachowitz, ACA Vice Executive Director.

For more information please contact: info@americansabroad.org or (202) 322 8441.

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Alongside is American Citizens Abroad Global Foundation, a publicly-supported charity under section 501(c)(3).