



AMERICAN CITIZENS ABROAD

THE VOICE OF AMERICANS OVERSEAS

Press Release from American Citizens Abroad, Inc.
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American Citizens Abroad, Inc. (ACA) Urges Congress to Apply Tax Fairness on Obamacare and allow foreign tax credits against the additional Medicare tax.

The Affordable Care Act includes an additional Medicare tax in the form of a 3.8% Net Investment Income Tax (NIIT) on some net investment income of individuals, estates, and trusts that have income above the statutory threshold amounts. This new tax leads to pure double taxation of those Americans resident abroad since foreign tax credits cannot be applied against this tax due to a simple drafting technicality. The NIIT is written under Section 1411 of the Internal Revenue Code (IRC) which appears under a new Chapter 2a of the IRC. The IRS confirmed in its final regulations this week (T.D. 9644) that under section 1411 on the 3.8 percent tax that foreign tax credits cannot be applied against the tax. "Under the express language of sections 27(a) and 901(a), foreign income taxes are not creditable against United States taxes other than those imposed by chapter 1 of the Code."

ACA, Inc. requests Members of Congress and representatives of the Americans Abroad Caucus to introduce legislation to correct this harmful oversight which results in the pure double taxation of Americans resident abroad. See ACA's letter here: <http://americansabroad.org/files/3613/8075/8449/treasury-letter-2.pdf>

"It is absurd that simply because a law is written under a new chapter number of the Code that foreign tax credits are not applicable against the new U.S. tax." says Jackie Bugnion, ACA Tax Team Director. "It is all the more problematic since the Affordable Care Act specifically carves out bona fide overseas residents from the law, considering them to be covered by health plans in the country where they reside and exempting them from the penalty fee for not registering with the U.S. system."

"It is inconsistent that Congress exclude Americans abroad on coverage of the program and yet double tax them to help finance it," added Marylouise Serrato, Executive Director of ACA. "This ignores the internationally accepted norm of allowing foreign tax credits to mitigate double taxation."

The 3.8% NIIT is intended to help finance Medicare under the Affordable Care Act. Yet Medicare is not available to Americans residing abroad unless: 1) they have contributed 40 quarters and have paid into the system upon retirement overseas (most have not) and, 2) they return to the United States for medical care. If there is a governmental service which is essentially local, it is medical care. In case of a heart attack or medical emergency, a sick American will not be able to just hop on a plane to the United States in order to obtain treatment.

ACA appeals to members of Congress to exercise common sense and fundamental fairness by allowing foreign tax credits to be against the additional Medicare tax.

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