



**AMERICAN CITIZENS ABROAD**  
THE VOICE OF AMERICANS OVERSEAS

## **American Citizens Abroad Position Paper on Passport Revocation**

On two recent occasions<sup>i</sup>, Congressional Committees rejected riders permitting revocation of passports belonging to persons alleged to have over US\$ 50,000 in unpaid tax liabilities. Such a proposal could nevertheless be introduced in proposed legislation at any time. Taxes can be collected without imposition of undue and unwarranted hardship for traveling Americans and for those living overseas. For reasons grounded in principle, law, and equity, ACA strongly opposes the notion of revoking passports for the purpose of collecting tax debts.

### **1) Passport revocation is contrary to the values we espouse.**

Enactment of legislation permitting passport revocation on account of alleged unpaid debts would be contrary the notions of human liberty and freedom embodied in the Magna Carta, as well as numerous international human rights principles fully subscribed by the US, including the 1948 Universal Declaration of Human Rights. Freedom of movement has long been considered a fundamental human right, deserving of the utmost protection. In *Kent v. Dulles*, 357 US 116 (1958), the Supreme Court held that the federal government cannot restrict the right of travel without due process.

This extreme proposal has no place in the panoply of law enforcement measures wielded by a modern democracy respectful of due process and of the most fundamental notions of human rights and personal dignity.

### **2) Revocation of passports holds the potential for wreaking irreversible harm to the interests of the taxpayer.**

From an operational standpoint, it is impossible to predict the reaction of foreign immigration authorities when a US citizen's passport is revoked while he is transiting through that country. Most countries have laws against traveling without a valid travel document and American citizens have been arrested by foreign immigration officials while attempting to use a revoked passport for international travel. As a practical matter, immediate payment of outstanding debts may be extremely difficult to organize during detention by a foreign government. If the American citizen is traveling at the time of the revocation, he may never receive the notice and therefore could not exercise his right to appeal it.

If the passport holder is the sole adult accompanying traveling children, their physical and legal jeopardy would be placed in grave danger. Where American citizens are traveling to obtain medical care, to assist others seeking medical care, or are in need of specific medicines or treatment within defined time parameters, the passport revocation could have potentially life-threatening consequences.

Revocation can lead to a taxpayer entering a virtual debtor's prison, in which he is physically unable to generate the income alleged to be due on account of his inability to travel. In

cases where taxpayers have suffered financial reversals and lack the immediate means to pay, revocation increases the likelihood of having to declare personal bankruptcy. Moreover, tax liens are normally lifted only 30 days (or more) after full payment. This delay, taken together with the time required for notification to the State Department and subsequent administrative work, can add significantly to the length of time an affected individual would be without a passport.

**3) The issuance of liens and levies in the IRS collection process is not free of mistakes, and exorbitant fines and penalties can arise without culpability.**

Federal tax liens are normally issued in the absence of judicial oversight. Corrections to erroneous tax assessments sometimes have to be made and the actions of IRS collections officers are in many cases successfully challenged. Under the penalty provisions set forth in FBAR and FATCA legislation, one could easily surpass the US\$ 50,000 minimum for simply having failed to declare two accounts over a three-year period. Many American citizens, particularly those overseas, were innocent of any intent to break the law, and had been unaware of the FBAR filing requirement which was unenforced for many years.

**4) The proposal opens a Pandora's Box**

It is well established that the Secretary of State can revoke the passports of US citizens in cases where national security or foreign policy objectives are compromised by the passport holders' behavior. Invoking revocation for tax debts, however, puts us on a slippery slope, opening a Pandora's box to application of this tool in scenarios in which allegations of increasingly trivial offenses trigger government recourse to this most dramatic of sanctions.

**5) Passport revocation is an extreme measure wholly disproportionate to the objective of this proposal.**

Overdue taxes can be collected through less drastic means. US-situs assets are subject to seizure and forfeiture in execution of IRS tax liens. It is a fundamental tenet of law enforcement that the least prejudicial means which effectively accomplishes the objective of the law should be deployed. Administrative means should be wielded in a graduated fashion, and passport revocation in this context constitutes an unwarranted, exaggerated application of governmental power.

**Conclusion**

Tax collection can and must be done in a manner consistent with our most cherished and inalienable notions of due process and observance of legal notice formalities. It must accord with the ideals and principles enshrined in human rights conventions which the United States has not only ratified, but cites as constituting the legal and moral underpinning of both domestic and foreign policy.

ACA is confident that working with Congress we can contribute to shaping policies which reconcile the needs of tax collection with the imperatives of freedom and predictability for Americans traveling and living abroad. The Congress should ensure that passport revocation is only considered in the most compelling national security risk scenarios.

We urge all Congressional Committees and Subcommittees directly concerned to forego any consideration of proposed legislation linking passport revocation with outstanding tax liabilities.

November 13, 2014

---

<sup>i</sup> 112th Congress: S. 1813, the Senate version (MAP-21 Act) of the Highway Transportation Bill, a rider was introduced by Sen. Harry Reid, enabling the Treasury/IRS to order State Department to deny or revoke a passport to someone owing more than \$50,000 in "seriously delinquent" taxes. The amendment was dropped when the House and Senate versions of the Highway Bill were passed. 113th Congress: the Joint Committee on Taxation Chairman's Mark for the 2014 Highway Bill, the "Preserving America's Transit and Highways Act of 2014" contained the now-familiar wording, which was eliminated before the Bill was passed.

---

For further information, please contact Marylouise Serrato on +1 540 628 2426 or at [info@americansabroad.org](mailto:info@americansabroad.org).

Headquartered in Washington, D.C. and with offices in Geneva, American Citizens Abroad, Inc. is a non-profit, nonpartisan, volunteer organization, representing Americans living and working outside the US. ACA, Inc. is a registered 501(c)(4) tax-exempt organization with members resident worldwide. It complements the American Citizens Abroad Global Foundation, a publicly-supported charity formed under section 501(c)(3).

**American Citizens Abroad, Inc.  
11140 Rockville Pike, Suite 100-162  
Rockville, MD 20852**

[www.americansabroad.org](http://www.americansabroad.org)