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## **ACA Submits Statement To Senate Finance Committee Hearings On Early Impressions Of TCJA**

ACA has [submitted a statement to the Senate Finance Committee](#) in connection with hearings to be held today on “Early Impressions of the New Tax Law”.

Since passage of the Tax Cuts and Jobs Act (TCJA), ACA has been at the forefront in highlighting to Congress, Administrative offices and the public the aspects of the new tax law and their effects on Americans living and working overseas. Post passage of TCJA, ACA called on Congress to hold hearings on the subject of the taxation of Americans living and working overseas.

ACA’s statement to the Senate Finance Committee outlines Congress’s missed opportunity to address the tax treatment of Americans living overseas. “With the passage of territorial taxation for corporations, it should have been a natural for Congress to adopt a residency-based approach for Americans living and working overseas, essentially territorial taxation for individuals,” said Marylouise Serrato, ACA Executive Director.

The statement notes that not only was residency-based taxation not adopted, but there are serious problem areas due to the new participation exemption system, which adversely affects Americans overseas. The 100% corporate dividend received deduction is not available to individuals, nor is it available to foreign corporations which are owned by US individuals, including individuals living abroad. A US citizen residing abroad, who is a shareholder in a controlled foreign corporation (CFC), while not able to benefit from the new dividends received deduction, might be subject to the new repatriation tax. ACA notes that this individual might not have in hand the actual monies needed to pay this tax.

“There are some hyper-technical changes to already complex existing provisions, for example, the “downward attribution” rule, which will be a nightmare for small American business owners overseas to comply with. In some cases, the cost to comply will far outweigh the tax liability,” said Charles Bruce, ACA Legal Counsel.

Other problem areas highlighted in the statement are the inability of Americans overseas to use the new passthrough rate for partnerships and LLCs, the inability to deduct foreign real property taxes (\$10,000 cap) and the continued inability to apply foreign tax credits against the 3.8% net investment income tax to fund Medicare and the Affordable Care Act.

To solve these new problems resulting from TCJA and previously existing problems, like the net investment income tax and the “lockout” of Americans abroad by foreign institutions, ACA, as it has on prior occasions, strongly urges Congress to enact residency-based taxation. RBT is tantamount to territorial taxation for individuals and mimics the new participation exemption system for taxing foreign income of US corporations.

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