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Senate Committee on Finance
Attn. Editorial and Document Section
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The Honorable Sheldon Whitehouse
Chairman
Subcommittee on Taxation and IRS Oversight
Committee on Finance
United States Senate

The Honorable John Thune
Ranking Member
Subcommittee on Taxation and IRS Oversight
Committee on Finance
United States Senate

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CLOSING THE TAX GAP: LOST REVENUE FROM NONCOMPLIANCE
AND THE ROLE OF OFFSHORE TAX EVASION

Statement of American Citizens Abroad, Inc.

American Citizens Abroad, Inc. appreciates the opportunity to submit this statement for the “Closing the Tax Gap: Lost Revenue from Noncompliance and the Role of Offshore Tax Evasion” Hearing held on May 11, 2021.

American Citizens Abroad, Inc. (ACA) appreciates the opportunity to submit this statement to the Committee. This statement benefits from our having listened to the hearing before the Subcommittee on Taxation and IRS Oversight on April 11 and reading the written statements of witnesses, as well as the opening statements of Chairman of the Subcommittee Sen. Whitehouse and Ranking Member Sen. Thune. We have also reviewed the statements submitted by others to the Committee.



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By way of introduction, ACA is a qualified section 501(c)(4) non-profit membership organization, which advocates on behalf of Americans abroad. Its sister organization, American Citizens Abroad Global Foundation (ACAGF), is a qualified section 501(c)(3) tax-exempt public charity, which identifies subjects that affect Americans abroad, develops information about these subjects and provides this information to Congress, Treasury Department and other relevant persons.

ACA and ACAGF (collectively, ACA) favor a balanced approach to subjects, supporting efforts that can provide tangible results and practical solutions. ACA is the premier thought-leader on issues affecting Americans abroad. It is the largest Washington, DC-based organization of its type. Its membership base is overwhelmingly long-term American residents overseas. Members live in approximately 70 countries around the world. The profiles of these individuals are very similar to those of individuals of the same economic stratum and age living full-time in the US.

Among other things, ACA maintains the ACA Expat Tax Services Directory, which lists expat tax preparers (including firms focusing on FATCA compliance, streamlined procedures, and exempt organizations, charities and foundations), expat financial services providers (including those working in the fields of estate planning and pension and deferred compensation plan), and expat legal services providers (including firms specializing in voluntary disclosures and whistleblower cases).

ACA, together with the State Department Federal Credit Union, facilitates the quick and easy opening of US bank accounts for its members around the world. These accounts are the same as the accounts owned and operated by individuals working at US embassies and consulates. They are federal credit union accounts very much like the federal credit union accounts enjoyed by individuals working on Capitol Hill and at the Treasury Department and IRS. These accounts make it easier for expat Americans to pay taxes, receive tax refunds, receive special payments, like the Economic Impact Payments (variously called Cares Act or COVID-19 payments), and receive Social Security payments.

On the subject of closing the tax gap as it relates to individuals and activities outside the United States and revenue lost due to noncompliance and “offshore tax evasion”, ACA has two big points to make.

First, good data and other information are critical. When attacking the problem of tax noncompliance involving individual US citizens, their entities and their activities and assets associated with these persons and activities, which assets are secreted outside the United States, great care must be taken in first uncovering all the facts. No one doubts that there is a significant amount of noncompliance and hiding of assets. It is remarkable, however, that Treasury Department and the Internal Revenue Service do not have complete or near complete information on the subject. If we do not know the facts and we start making changes, it is likely that we will miss things and, of great concern to ACA, that we will do harm to regular, compliant, well-meaning Americans abroad. We know these people because they are our members. We communicate with them every day. We help them with their everyday problems, including such things as dealing with the IRS electronically, getting a tax ID number (Social Security number), opening and maintaining a bank account where they live – outside the US, keeping a US bank or other financial account with a US institution, and finding a competent tax return preparer.



It is remarkable that the US government does not have reliable figures for the size and shape of the “offshore” element of the tax gap. Also, and this is of particular interest to ACA, it does not know the number of non-filers, and those otherwise out of compliance, who are resident abroad. All of us would like to know how much of the problem, which we are focusing on here, is traceable to individuals truly residing abroad, as opposed to individuals living in the US and doing all manner of things to evade tax.

The problem at hand cannot be dealt with until we have complete information. Americans abroad should not be made to suffer because some bad actors are, frankly, cheating “like all get out”.

ACA and ACAGF, it should be noted, undoubtedly have the best, most complete sets of private baseline data relevant to the taxation of Americans abroad, outside those in the files of the Joint Committee on Taxation and the Office of Tax Analysis. With District Economics Group, over an 8-month period in 2017, developed an analysis of a basic Residence-Based Taxation (RBT) proposal. ACA/DEG do not have access to tax return data other than what is published. We do, however, have information and insights not available to others, due to the fact that we and our members are immersed in the real-world experiences that yield the data. For example, what is the situation with Americans in the border communities between the US and Mexico and US and Canada? Also, we are very aware of the issues and practices arising with US taxpayers using the services of tax preparers and other advisors listed in our Directory. For example, how many people discover they are out of compliance and, for whatever reason, do not make a disclosure? How many people renounce US citizenship and, apparently, from all appearances, do not “catch up” and pay taxes owed either willfully or because they were unaware?

Incidentally, the aforementioned [ACA-funded DEG analysis](#) of revenue effects of enactment of a “vanilla” version of RBT did not account for additional federal income taxes that might be paid by the nearly 2 million persons who are resident overseas who currently do not file income tax returns.

If the Committee or others have questions, just call us. We are happy to try to help. We have already had a large number of meetings on this subject and look forward to having more.

Secondly, while at first glance this might seem to be counterintuitive, the key to cleaning up the “offshore” element of the tax gap is enactment of Residence-Based Taxation as a replacement for the current Citizenship-Based Taxation.

With RBT, Americans truly resident outside the US would no longer be taxed on foreign, i.e., non-US, income. This approach is the same used by every other country in the world with the exception, generally speaking, of Eritrea. It is the corollary of the approach, referred to as territorial taxation, applied to US companies. Big changes were made in the taxation of US companies on their foreign income in 2017, in the Tax Cuts and Jobs Tax Act. The Administration and Congress may, to some extent, make additional adjustments very soon. The treatment of individuals was completely – 100% – ignored at the time of passage of TCJA. ACA begs Congress not to repeat this very unfair treatment.

Moving to RBT can help narrow the tax gap attached to individuals’ activities and presence abroad. It can throw light on the size and nature of assets belonging to Americans and located outside the US, including in zero tax and low tax jurisdictions. Having RBT in place could help separate out compliant,



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regular Americans residing abroad from non-filers and nervy – some would say foolish – people who simply walk away from the US self-assessment system, without looking back. Regular American expats who bring themselves within the RBT system would no longer pay US tax on foreign income. They would remain in the system and still file a greatly simplified form. Of course, they would remain US citizens. RBT is a significant benefit which essentially is aimed at “Long-Termers” living abroad. To get the benefit, you would have to be, or get, compliant. New-to-foreign-residence (“Newbies”) might be subject to special rules to avoid large revenue losses. People wanting to pay no tax anywhere would be cut off; no “zero tax” outcomes would be allowed under RBT. People resident in zero or low tax countries would not qualify; and these countries would be incentivized, in a bunch of ways, to exchange information. RBT can be made revenue neutral – no harm to the US fisc – and tight, tight, tight against abuse.

RBT fits within the global system of taxing individuals. It would help the adoption by other countries and international organizations of measures facilitating the taxation of offshore accounts.

It would be the single most helpful step to relieve Americans abroad from double taxation and ridiculously complex and expensive reporting. All of the FATCA-related paperwork could be eliminated. Americans living normal lives outside the United States would no longer be viewed as financial lepers.

We want to emphasize that RBT can be made revenue neutral, tight against abuse and such that no one is worse off than they are under the current rules.

The drafting of amendments to the Internal Revenue Code to effect RBT is not especially difficult or tricky. Because the population of qualifying American citizens abroad would be treated similar to nonresident alien individuals under existing law, most of the statutory language is already in the Internal Revenue Code. For a “leg up” on statutory amendments, see [“Side-By-Side Analysis: Current Law; Residency-Based Taxation”](#).

Thank you for your attention to this important subject.

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