

Bipartisan Bill Seeks to Simplify Returns For Taxpayers Abroad

by Andrew Velarde

Newly introduced bipartisan House legislation aims to simplify the return filing process for individuals living abroad by mandating that Treasury or the IRS create a new short filing form and expand the foreign earned income exclusion.

The Tax Simplification for Americans Abroad Act (H.R. 6057) was introduced by Ways and Means member Donald S. Beyer Jr., D-Va., on November 19. It is cosponsored by Reps. Dina Titus, D-Nev.; Carolyn B. Maloney, D-N.Y.; and Maria Elvira Salazar, R-Fla.

In calling for the replacement of other forms for disclosing income and deductions, the legislation dictates the new form “shall be as similar to Form 1040-EZ as it existed in 2017” with some exceptions.

The new form would allow individuals to demonstrate that they are nonresidents under the substantial presence test of section 7701(b)(3); declare section 911 foreign income; characterize various types of income based on source; claim the standard deduction, child tax credit, and earned income tax credit; declare foreign taxes paid; and declare relevant U.S. sources of income from retirement, pensions, and social security benefits as treaty income when taxes are paid on distribution.

In an explanation drafted for American Citizens Abroad, Charles Bruce, legal counsel for the organization, noted that taxpayers seeking to use the last provision and electing to apply a treaty to treat U.S.-source income as foreign source would compute a separate foreign tax credit limitation for any income they claim benefits on using Form 1116, “Foreign Tax Credit,” for each amount of treaty-country resourced income.

“This provision in the Beyer bill makes this favorable approach more widely available. While the new ‘short form’ may be short, the instructions explaining the workings of this rule may not be so short,” Bruce said in his explanation. “A Joint Committee on Taxation Technical Explanation of the Beyer bill would be

helpful. Likewise, Treasury regulations following enactment will be important and necessary.”

Individuals who make under \$400,000 per year and have zero tax liability would be eligible to use the form, and it would be available one year after the bill’s enactment.

An Important Step

Section 911 provides individuals with foreign-country tax homes an election to exclude an inflation-adjusted amount of foreign earned income and housing costs. But some income is excluded from foreign earned income, and the legislation would remove the exclusion for pension and annuity income. The definition of earned income is also expanded to include pensions and retirement distributions; scholarships; fellowship grants; interest and dividends; capital gains; and payments on disability, unemployment, family medical leave, and child care.

That provision of the bill would apply to tax years beginning after enactment.

Bruce said in his explanation that the definitional changes to foreign earned income and earned income could affect other provisions of the code and that the IRS and Treasury “will no doubt pay close attention to this.”

Bruce also told *Tax Notes* that the bill is an important step in changing taxation rules for Americans abroad, following up on legislation introduced by former Rep. George Holding. That bill (H.R. 7358), which failed to get traction in Congress, was designed to end “the onerous burdens of citizenship-based taxation,” according to its description.

“This is the second [bill], and I personally think these will lead to hearings on the subject of taxation of Americans abroad,” Bruce said. “With hearings . . . the world at large will be become more comfortable with residence-based taxation.” ■