



## ISSUE BRIEF: Tax Reform for Americans Abroad

### Background

Democrats Abroad has been working for decades in support of reforms to the wide range of US tax code provisions and other laws that – primarily unintentionally – discriminate against Americans abroad. We do not believe Congress harbors a special malice against us; we do believe non-resident citizens are regularly overlooked when Congress drafts tax policy.

As an example, the 2017 Tax Cuts and Jobs Act includes two new tax provisions – the Repatriation Tax and GILTI Tax – that will force many Americans abroad who own small to medium-sized businesses in the countries where they live to close their companies. As is the case with most of the laws that hurt Americans abroad, the Repatriation Tax and GILTI Tax were enacted without due consideration for the impact they would have on non-resident filers.

Other examples include: the financial account reporting provision in the Bank Secrecy Act, which includes exorbitant and out-of-proportion penalties for non-compliance; SEC regulations and the USA PATRIOT Act which impede investing activities both abroad *and* in the US for Americans abroad without a US address; and the Windfall Elimination Provision, which denies Americans abroad who have pensions in their country of residence the Social Security benefits to which they are fully entitled. This range of punitive tax code provisions makes saving and investing for the future *extremely difficult* for Americans living and working abroad.

### Impact

Americans abroad are faced with an unfair, unreasonable, and unjust compliance burden that causes enormous financial and personal hardship. Filing from abroad alone is inordinately complex and costly. The forms required to declare income generated abroad are highly detailed, and preparing them is extremely difficult. Filing often requires the support of professional tax return preparers with specialist knowledge of overseas filing,<sup>[1]</sup> and the compliance costs for Americans abroad far exceeds the filing costs incurred by US based tax filers.

## Remedy

Addressing this injustice will require remedies across myriad areas of the tax code and other laws, as well as changes to US double taxation. We do not believe Congress has the time or political will to implement these modifications and so instead recommend three solutions that would eliminate many of these problems:

- 1. A switch from our current system of Citizenship-Based Taxation to Residency-Based Taxation (RBT).** Evidence suggests that RBT can be implemented on a revenue-neutral basis,<sup>[2]</sup> without creating loopholes. A bill proposing RBT was introduced in the last Congress – H.R. 7358, the Tax Fairness for Americans Abroad Act. The bill is not perfect, but it serves as an excellent framework for building a bill that provides critical relief for Americans abroad while also protecting the law from abuse by tax cheats and bad actors.
- 2. A same country exemption for Americans abroad to eliminate FATCA reporting on financial accounts in their country of residence.** The Overseas Americans Financial Access Act would provide Americans abroad with relief from the unintended adverse consequences of the Foreign Account Tax Compliance Act (FATCA).<sup>[3]</sup> FATCA was enacted to discourage and apprehend those using foreign bank accounts to commit financial crimes, but it has resulted in significant personal and financial pain to ordinary Americans abroad who use accounts in their countries of residence to pay bills and save for the future.
- 3. Replace the Windfall Elimination Provision with the Social Security Fairness Act.** This would restore to Americans abroad the Social Security benefits they have earned and are entitled to.

Democrats Abroad also supports hearings into the adverse consequences for Americans abroad of tax, banking, securities, and other laws and the establishment of a Commission on Americans abroad to prevent future Congresses from enacting laws that likewise do unintended harm to non-resident US citizens.

[1] [https://www.democratsabroad.org/can\\_we\\_please\\_stop\\_paying\\_twice\\_tax\\_reform\\_for\\_americans\\_abroad](https://www.democratsabroad.org/can_we_please_stop_paying_twice_tax_reform_for_americans_abroad)

[2] <https://www.americansabroad.org/files/586/>

[3] <https://www.finance.senate.gov/download/att-2-democrats-abroad-2014-fatca-research-report>

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