



DEMOCRATS ABROAD

The Honorable Nancy Pelosi
233 Cannon House Office Building
Washington, D.C. 20515

Democrats Abroad
PO Box 15130
Washington, DC 20003
USA

December 7, 2018

Dear Leader Pelosi,

Re: Hearings on U.S. laws and Americans abroad

Democrats Abroad is delighted to congratulate you and all the Democrats elected to serve in the 116th U.S. Congress. We look forward to the start of a productive new chapter for Americans abroad as we engage with Congress to address the serious issues impacting the overseas community of U.S. citizens. We strongly urge you to start with hearings exploring U.S. laws that discriminate against Americans abroad. The many millions of us who live outside the U.S. for work or family reasons are all too often forgotten during law-making and thus suffer considerable personal and financial harm.

You know from meetings with the Democrats Abroad held over many years and intensively throughout the 115th Congress that U.S. laws and regulations contain many provisions that grievously discriminate against Americans abroad. In summary, American citizens living abroad are materially harmed by:

- **Voting issues: Discriminatory practices affecting voters abroad and their ability to cast their ballots.** While federal legislation provides some protection for overseas voters, this legislation does not go far enough to counter the challenges that arise and limit voting from abroad. In 2018 several states made their voter websites inaccessible to voters attempting to view them from abroad (through IP blocking). As an example, Pennsylvania voters abroad were expected to use a VPN to download their ballots from the PA election site. When that requirement proved impossible for the majority of voters abroad, PA adjusted their requirements, but implemented additional steps which were complicated and confusing for their voters, resulting in a decrease of returned ballots. In other states voters were blocked from seeing instructions, obtaining contact information about their local election offices or using other online voting tools because of similar accessibility issues.
- **Double taxation of business profits.** Provisions in the 2018 Tax Cuts and Jobs Act impose two new “transition taxes” on Americans abroad who are individual shareholders in Controlled Foreign Corporations. Small to medium sized business owners find themselves in an existential crises, burdened by both the **Repatriation Tax** and **GILTI Tax** and unable to take advantage of the offsets afforded to corporate owners of Controlled Foreign Corporations. Many will be forced to close their businesses.
- **The FATCA Effect: Denial of ordinary financial products and services.** Foreign financial account reporting requirements (**FATCA**) motivate foreign financial institutions in our countries of residence to withhold financial products and services. Further there are compliance challenges inherent in mandatory electronic filing of **FBARs** and serious financial information security concerns.
- **Double taxation of most types of income.** The Internal Revenue Code does not recognise pensions paid out of non-U.S. retirement accounts and so treats that income as ordinary unearned income, fully taxable at the marginal rate. The Code also treats social welfare payments to unemployed, elderly, disabled or indigent Americans by the government of their country of residence as ordinary unearned income. Social welfare payments are sized at a level adequate to sustain the recipient but become inadequate for survival if the recipient must pay U.S. tax on them.
- **Denial of full Social Security benefits.** The **Windfall Eliminations Provision**, denies Americans abroad with pensions earned in their country of residence part of their duly earned Social Security pension.

DemocratsAbroad.org
VoteFromAbroad.org

Problems with voting overseas?
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- **Denial of access to Medicare benefits and the Affordable Care Act.** Americans retirees living abroad cannot use their Medicare benefits for care received in their countries of residence. Americans living abroad are not eligible to purchase health insurance on the ACA exchanges.
- **Numerous barriers to investing and saving for the future,** created by statutory bans on investing in U.S. mutual funds without a U.S. residential address and punitive tax treatment of non-US investment and saving vehicles classed as Passive Foreign Investment Companies.
- **Insufficient consular support and access.** Americans abroad are not considered or consulted when changes to consular services and costs are proposed. Americans abroad often struggle to obtain routine consular services such as notarization or passport renewal.
- **Freedom of movement.** Americans abroad face undue restrictions in returning, or simply traveling, to the U.S. with their foreign-citizen spouses, partners, and family members. Expanded scrutiny of applicant features such as age, education, health, etc is discriminatory and will result in greater family separation.
- **Transmission of citizenship.** The right for Americans abroad to transmit their citizenship to their children born abroad is severely restricted and unfair in its application to specific instances. As a result, each year several thousand children of Americans abroad are denied U.S. citizenship, and some are born "stateless," that is, without any nationality or citizenship.
- **Out-of-proportion tax filing cost and complexity.** Preparing tax returns that disclose income earned abroad is inordinately complex. The majority of Americans abroad hire expensive tax return preparers who understand both their local tax system and the U.S. tax system. They are forced to incur U.S. tax compliance expenses that they cannot afford in producing a tax return that many times shows they owe nothing to the IRS. And when their filing indicates they do have a U.S. tax liability, then they are paying tax twice on the same dollar of income: first to their country of residence and then to the I.R.S.

This is a very brief summary of the serious problems that compliance with U.S. laws and regulations causes for Americans abroad. We have published a more extensive briefing on tax code discrimination on our website¹ and have left copies of these in your offices.

We do not believe that Congress has a sufficient understanding of the many ways that U.S. laws and regulations discriminate against Americans abroad. In many ways it unfairly asks much more of us than it does of U.S. citizens living in the U.S. We believe that by learning about the conditions we endure you will see that many provisions, including the current system of citizenship based taxation, are unfair and unreasonable.

We ask, therefore, that you schedule hearings early in the 116th Congress into U.S. laws and regulations impacting Americans abroad. This would be a precursor to debate on specific reforms, including the establishment of a Commission on Americans Abroad and implementation of Residency Based Taxation.

Please contact me or Democrats Abroad Taxation Task Force Chair, Carmelan Polce, (610-596-8431) at any time with questions.

Thank you.

Sincerely,

/S/

Julia Bryan

International Chair

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cc: Representatives Carolyn Maloney and Mark Meadows
Americans Abroad Caucus Co-Chairs
Representatives Neal, Lofgren, Nadler, Cummings and Engel
Assumed Committee Chairs in the 116th Congress

¹ Use this link to access the Democrats Abroad report on the ways U.S. tax laws and regulations discriminate against Americans abroad: <https://bit.ly/2PYAbDn>