

Input on tax reform, submitted by Richard W. Jessup

My personal situation

I am 64 years old, married, two adult children, retired. I have lived in France for the past 35 years and I am married to a French national. Most of my working income was earned overseas and 95% of my retirement income (Social Security, pensions, investments) is paid in France and by French organizations. I have had very little US based income for the past 35 years.

I believe my situation is fairly typical of a large number of the 7 million US citizens living abroad.

My tax situation in the past

I file and pay my full share of income, and many other taxes to France, my tax home. I have always filed my tax returns to the USA as well but my tax liability there is \$ 0.00 almost every year (a couple of years it was less than \$100). In the past, the burden of filing, never a pleasant affair, was nevertheless moderately complex and time consuming. I am sure there may have been minor inaccuracies mainly due to exchange rates and the major differences in the way French banks report income and investment transactions but these small discrepancies, due my lack of training as an international tax accountant, would have had absolutely no impact on the bottom line: **no taxes owed**. The only alternative to be able to file a perfect return (maybe, this is not even a guaranty) would be to hire a tax accountant in France for about \$800 to \$1000. In other words, pay hundreds of dollars to prove I owe nothing.

Bear in mind that as law abiding French resident, I also have to do a full detailed filing to France, and my tax burden here is much higher here than it would probably be in the USA for the same income.

My tax situation post FATCA

FATCA now imposes burdens and penalties on me that no longer allow me to do without a tax accountant. FATCA fines (on FBAR and form 8932) for making a mistake are disproportionate and it is very easy to make one because it is nightmarishly complicated for a basic US citizen to understand all the details required, claim the foreign tax credits to avoid double taxation, do the right currency conversions, etc. The fines quickly reach hundreds of thousands of dollars and would wipe out the life savings of most retirees abroad (and most others as well).

This does not even take into account the very real mental anguish suddenly experienced by the 99% of law abiding US citizens abroad who now find themselves considered as money laundering, tax evading cheats. The only alternative is to find a tax accountant and pay \$1000, hoping he or she will get it right.

Other detrimental effects of FATCA

Due to the incredible paperwork and complexities imposed by FATCA on them, French (and many European) banks simply no longer take US persons as customers. Worse, many banks have cancelled accounts of US related persons. This is a fact: my wife and my daughter were asked to close accounts and leave a bank (ING Direct). In my wife's case, she is French but I – a US citizen – had a power of attorney on the account. I have been unable to open an account in France in a new bank for the last 18 months for the explicit reason that I am a "US Person". My current bank, Société Générale, one of the largest banks in the world and where I have banked for 35 year, has told me that they would keep me as a favor (and the fact that I have \$200,000 with them I assume). But I am at their mercy and can no longer change or negotiate anything (loan rates for example)

US Persons can no longer open accounts a use banking services in France

My recommendations

Apply Residence Based Taxation (RBT)

Every country in the world applies RBT except the USA (and Eritrea, a more or less failed state). It is commonly stated that the USA (and Eritrea) apply Citizen Based Taxation (CBT) although even this is not quite correct: the USA applies **BOTH** Residency **AND** Citizen based taxation (proof: a French citizen residing in the USA owes taxes to the USA). The unfairness of this is apparent. If every country did this, it would be unworkable. Were the USA to join the rest of the world and apply RBT, it would have the following benefits:

- make the numerous tax treaties far more simple
- be much fairer for both expatriates from the US and inpatriates to the USA
- not really affect US tax revenue, since the tax treaties wind up cancelling most (but not all) of the double taxation the CBT generates (my case is typical, most US citizens abroad don't owe tax, but are still at risk for the huge penalties)

Make FATCA into what it was intended to be

FATCA was a tool to catch big fish, not to give sleepless nights to US teachers, businessmen and retirees living abroad. We have our savings here, we earned our money here, we need bank accounts to manage our daily business, we pay (usually large) taxes to our countries of residence, we don't want to pay hundreds of dollars to tax accountants to confirm that we owe nothing to the IRS, and we don't want to be viewed as potential criminals facing life-breaking fines out of justified ignorance.

Thank you for considering these points.

Richard Jessup