

Richard Warfield

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**Dear members of the International Tax Working Group,**

I write as an American who has lived his entire adult life overseas, to share some of my concerns with respect to U.S. taxation of Americans who reside abroad. It is well known that the U.S. is the only major nation to assess income tax based on citizenship rather than residence, and that this creates substantial burdens in cost and compliance efforts. Below I share some of my particular concerns and experiences.

**Unfair choices for foreign spouses of Americans.** My wife is a foreign citizen who has never lived in the U.S. She has been forced to choose between electing into the U.S. tax system – with all the associated documentation and compliance cost – or otherwise I must file as "married filing separately", which creates a much higher tax burden for our family.

Furthermore, the election to treat a spouse as a U.S. taxpayer can only be made once – if at some point she leaves the tax system for any reason she cannot make the election again, and I would henceforth have to file as "married filing separately". This seems an unreasonably arbitrary limitation on what is already an unappealing set of choices.

**Limitations of the foreign tax credits system in ameliorating double taxation.** In theory, the U.S. doesn't double tax its overseas citizens because foreign tax is creditable. In reality, the system only works in countries that (like the U.S.) raise most of their revenue through income taxes. This is often not the case.

Hong Kong – where I live – raises around a third of revenue through the land system in what amounts to a set of hefty hidden taxes on real estate. These "taxes" filter through to housing prices as well as the costs of nearly all goods and services, but are not creditable in the U.S. system. The foreign housing exclusion helps, but only partially, and only for those who rent their home.

Other jurisdictions rely primarily on VAT or other taxes, rather than income taxes. Yet the U.S. tax treatment of overseas citizens seems to be based around the faulty assumption that all tax systems are like the income tax-centered U.S. system.

**Unfair treatment of foreign pension funds.** Most Americans who have an employee-provided defined contribution pension plan benefit from tax deferred programs such as the 401(k). Like many Americans employed abroad by a foreign employer, I am required by local law to enroll in my employer's local pension fund. Under current American tax law such a fund is not tax-advantaged, creating an additional burden for retirement savings of overseas Americans relative to U.S.-based citizens. Furthermore, simply possessing such a retirement account – irrespective of whether or not the employee desired it – creates a substantial additional compliance burden on

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American overseas workers.

Above all, I feel that the U.S. tax system does not give sufficient consideration to the circumstances of Americans like myself who have settled for the long run overseas. American citizenship is indeed a privilege – but America should make room for those of us who want to remain American while also being “normal” residents in our countries of residence. We cannot live normal lives if we bring special burdens upon our spouses, if our access to financial services is limited due to FATCA, or if we pay much higher effective tax rates than our neighbors.

The most logical reform would be a move to a residency-based tax system, which would bring the U.S. in line with the rest of the world. While there would undoubtedly be concerns about abuse of such a system – and I support robust measures to stem such abuse – I am confident that the committee would be able to design a system with appropriate safeguards in place that is nonetheless much fairer to bona fide long-term foreign residents than the current system.

Sincerely,

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**Richard Warfield**

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