Submission to The U.S. Senate Committee on Finance for Bipartisan Tax Reform

To: **The U.S. Senate Committee on Finance for Bipartisan Tax Reform – International Tax working group**

From: **James H. Carney**

Date: 28 March 2015

Dear International Tax Working Group,

I am a taxpayer and citizen of the United States who immigrated to Australia in 1984 with my family to seek a better environment to raise our children in that what we were exposed to in my former profession as a police officer in Arizona. We became Australian citizens within 3 years of arriving to enable us to contribute to our new homeland in all aspects of citizenry. We maintained our U.S. citizenship and still travel every couple of years to the U.S. to visit the family of one of our children who moved back to the U.S. with his family.

We file our Australian tax returns over the past 30 years, comply with our tax laws fully and pay a higher rate of taxes here than in the U.S., as we are farmers with several avocado orchards. We grew from a few dozen acres to hundreds of acres and have built over time a comfortable life we could never have achieved in the U.S. on a policeman's salary, forgoing personal income and working 15 hour days. Building a life for our family on hard work, as we didn't come to Australia with a huge cash box, but built our farms in Australia from scratch.

We also file our U.S. tax returns. Even though we have no property or income in the U.S.; and, even though no other country in the world (except Eretria) requires a citizen living overseas with off soil earnings to file in their 'native' country, we file our IRS tax forms. We have recently begun to incur U.S. tax obligations that we never foresaw and contacted a U.S. Tax Lawyer and a U.S. Certified Public Accountant to see what we must be missing. After preparing two tax years for us, do you know their advice? They have now advised us to relinquish our U.S. citizenship "as the most reasonable and cost effective approach" to the inequities of the dual taxation from the U.S.

Why on earth would I be forced to renounce my citizenship as an ordinary course of business to disengage from double jeopardy in the U.S. tax system? Here is why:

Superannuation assessment of 9.5% is mandatory in Australia and is regulated, pre-taxed, and audited. I can't touch my retirement fund until I retire. However, the U.S. does not recognise our Australian Superannuation (Self-Managed Super Fund) as an 'approved retirement fund' (and NO Australian fund is approved). The U.S. taxes us on the income each year that the super fund makes, adding $60,000 to our income on our U.S. tax return , even though it already has been taxed going into the fund and is now tax free here. It doesn't make sense (to me) to pay taxes on money earned and taxed here and now earnings are taxed again in U.S. just because it is in a self-managed super fund instead of an "approved IRS fund". The accountant calls it "leakage", but I feel it is double taxation.

Secondly, when we do retire in a few years, the IRS will tax us again on what we take out of our retirement fund as our pension, with the whole amount is unearned income and fully taxable in the U.S.; even though it is tax free here in Australia since it was pre-taxed. Similar to Social Security or 401k, or other retirement plans in the U.S.

Additionally, taxes in Australia are higher than in the U.S., but we try our best to take advantage of any tax breaks there are here as any citizen would do. So when we retire in a couple of years and sell the farms, we are entitled to a 50% reduction in the capital gains tax under Australian tax legislation because we are over 60. But, the IRS doesn't care if that allocation of taxes is what Australia does. They will want to tax capital gains at the full U.S. rate and we will be out hundreds of thousands of dollars in taxes additionally to what we pay here, payable to the IRS. Even though, those assets were built from nothing into a large business.

Lastly, the compliance cost. I spent so far this year nearly $10,000USD on a U.S. Tax Lawyer and CPA for advice to make sure I am in compliance. I take over 100 hours to prepare my personal form 1040, my several form 5471's, my form 3520's, form 8938's, and so forth for myself, my 3 companies and 2 trusts which are in Australia and must be reported to the U.S. I send in a packet over 100 pages long and until last year, never owed a penny. Surely it makes no sense to make citizens of another country to file this many returns for no gain. That will change soon it looks like, but I have already addressed that above. I could have gone the way of the majority of expats I know which is to just never file again. But, I followed the rules and file my U.S. tax returns.

How can anyone comply with two opposing taxation systems that tax events and incomes differently? How can the U.S. decide what mandatory retirement system meets their approval? How come the U.S. doesn't tax people only if the income occurs within its borders as every other country does? Is this fair? Does this meet the pub test and really make sense? I submit that taxation applied to a person already meeting another countries full tax compliance is unjust and unfair, especially since income and residence is fully independent of U.S. domain.

I strongly urge you to consider that the U.S. should tax its international citizens who live abroad on the earnings which occur in the U.S. only. Particularly if that person has shown they are truly a citizen or permanent resident of another country. In our case, we have no U.S. bank accounts, property or any physical tie to the U.S. whatsoever other than one son and his family who lives there.

We don't wish to renounce our citizenship and possibly limit our opportunity to visit our son and his family. We are honest taxpayers and citizens of another country that are caught in this web of trying to catch tax evaders in the U.S. Please don't force us to abandon our heritage.

Respectfully submitted,

James H. Carney
Australia
Telephone: (Australia east coast time) Email: