Finance Committee
United States Senate
Savings and Investment Working Group

Subject: Savings and Investment – Americans Residing and Working Overseas

Members,

I am pleased that a bi-partisan approach has been adopted for much needed tax reform and appreciate the opportunity to provide input for this important issue. My comments relate to reforming taxation and reporting requirements for savings and investments held by U.S. citizens living and working abroad. Tax reform needs to benefit the U.S. economy by providing its citizens with fairness and better opportunities in the global marketplace.

I write from the perspective of an American citizen who has lived and worked in Australia since late 1973. I have maintained a modest lifestyle as an educational professional in the largest state-based Australian public vocational education system. I am one of an estimated 13% of American expats living abroad who submits annual U.S. tax returns. [i]

Since my arrival in Australia the economic environment has become global in nature. In order for the U.S. economy to flourish and for Americans to be competitive in the global economy the U.S. tax system needs to maximise employment opportunities for its citizens by providing

- fairness to non-resident citizens, particularly with respect to their long-term savings and investments, including foreign-held retirement funds
  and
- simplicity of reporting for non-resident citizens and employers.

Throughout my working life I saved towards a retirement that would enable me to continue my modest lifestyle independent of governmental financial support. I have superannuation (retirement) funds that are compliant with and taxed under Australian law. Because they are not recognized as "qualified" under U.S. law they are also heavily taxed under current U.S. tax law. As a result the modest retirement lifestyle I had worked so hard to achieve may not be possible.

Based on my experience I believe that if compliant Australian superannuation funds held by U.S. citizens were treated as "qualified" under U.S. law the issues outlined below would be overcome. These issues are not shared by individuals holding U.S. retirement funds.

1. For many compliant Australian superannuation funds individuals have no choice of investments and they do not receive a breakdown of gains and losses as required for U.S. tax purposes. Consequently their superannuation funds are treated under U.S. law as PIFCs and are taxed accordingly.
2. Compliant Australian superannuation funds which do allow choice of investment are still subject to annual U.S. tax on annual income.
3. Under Australian law individuals cannot withdraw money from their superannuation funds prior to "preservation age" (retirement age) to pay U.S. tax; thus as people approach retirement the U.S. tax becomes substantial and puts people under significant financial strain.
4. Upon retirement many compliant Australian superannuation funds require individuals to rollover into a lump sum or pension plan. This transaction is also a U.S. tax event.

If they rollover into a pension plan the annual pension is taxed, and if their fund does not require rollover the annual income continues to be taxed by both the Australian and the U.S.

5. The complexities of annual reporting of Australian superannuation funds have made compliance burdensome from both a financial and a time perspective.

While these issues could be addressed through amendment to the *Double Taxation Taxes on Income Convention between the United States of America and Australia,* such an approach would be inefficient and expensive when applied to a problem that is common to non-resident U.S. citizens in many countries.

Of further concern is that the functional currency for U.S. citizens living abroad is the U.S. dollar. Currency fluctuations can transform capital losses associated with the sale of investments into capital gains for U.S. tax purposes. This is illogical. It would make more sense if capital gains and losses were calculated in the currency of the country of residence and translated using the exchange rate on the date of sale.

These discriminatory anomalies should be addressed through legislation that applies to all U.S. citizens living and/or working overseas. This could be done through separate pieces of legislation or through a more holistic residence-based tax system that includes anti-abuse provisions and continues to tax individuals for U.S. sourced income. The latter would be a more practical approach. It would provide fairness by greatly improving non-residents' ability to save towards independent retirement, simplifying taxpayer compliance and reducing IRS administrative costs. It would also increase world-wide employment opportunities for U.S. citizens and improve the competitiveness of the U.S. in the global marketplace.

Sincerely,

Martha Henderson

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[i] Burggraf Helen (2015, April 1) On the Trail of the Illusive U.S. Expat Taxpayer. *Wall Street Journal.* Retrieved from http://blogs.wsj.com/expat/2015/04/01/on-the-trail-of-the-elusive-u-s-expat-taxpayer/