**M.S. Burgher**

[redacted]

15 April 2015

Dear members of the Senate Finance Committee,

Thank you for inviting citizens such as I to comment on issues with US taxation. I live overseas owing to my job, and have been paying income and other tax since I left the US in 1981. As I can afford to pay a fine US accountant to help me, I have had little difficulty so far. As a member of the American Women's Club of Denmark (www.awcdenmark.org) and our mother organization, FAWCO (www.fawco.org), however, I have encountered many overseas Americans experiencing great difficulty. For example, with the increased reporting requirement under FATCA, it's particularly unfortunate that our embassy has no staff who can advise us, and that the IRS is closing its overseas offices and reducing its advisory staff. In the absence of any official help, members of our Club have banded together in an informal tax committee to assist other members and we use information from FAWCO, but this is no substitute for official advice. (It's a small thing, but I also object to the new name for the FBAR: FinCEN. I have not ever and do not intend ever to commit any financial crimes, so I find this name inappropriate.)

I understand that something like 80–90% of overseas taxpayers have nothing to pay the Treasury each year, as they are filing and paying taxes where they live, but the requirements not only to file but also to report on "foreign accounts" (they're not foreign to **us**; they're how we pay our bills) are burdensome, particularly when they concern joint accounts held by, say, an American and her foreign spouse. Many such spouses object to reporting their accounts to a foreign government, and are simply removing their US spouses from signing authority. You can imagine the problems this creates for the Americans concerned. As you will know from the news, problems such as this, plus the increased burden of reporting, have caused the numbers of Americans renouncing their citizenship to skyrocket (from a few hundred to over 3000 in just a few years), while the cost of doing this has more than quadrupled at the same time. This is causing our country to lose valuable citizens.

As a FAWCO member, I support the positions in the enclosed paper, prepared by three organizations of overseas Americans, including FAWCO, for the week each year when they lobby Congress to consider our concerns. I hope you will give them your closest consideration. Once again, thank you for giving me the chance to speak up.

Yours sincerely,

Mary Stewart Burgher

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THE ASSOCIATION OF AMERICANS RESIDENT OVERSEAS

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## TAXATION OF AMERICANS ABROAD

AARO considers compliance with tax laws to be a fundamental obligation.

AARO believes compliance is strengthened by simplicity and uniformity.

Countries levy taxes on those resident or domiciled within their territory. The United States taxes U.S. citizens and permanent residents. Most expatriate Americans must annually file two income tax returns – one to the USA and the other in the country of residence/domicile. Tax treaties exist to avoid double taxation. However, the cost and potential confusion involved in respecting the laws and procedures of two different countries adversely affects compliance.

AARO is aware of the recent U.N. condemnation of Eritrea for imposing a 2% tax on its expatriates. It does not believe this to be a general denunciation of citizenship-based taxation.

AARO supports American Citizens Abroad (ACA) in its efforts to change U.S. tax policy to one based on residence rather than citizenship, thereby bringing America into conformity with the rest of the world.

## TAXATION OF "FOREIGN-EARNED INCOME"

AARO believes that the United States puts itself at a competitive disadvantage by taxing the income earned by its citizens working abroad.

The ability to send an employee abroad to manage, direct, instruct or train the employees of a foreign subsidiary is crucial to successful competition. Our trading partners have learned this lesson: a Chinese sent from Beijing to manage a plant in Cincinnati is not taxed by the Chinese government on his earnings. The United States does the opposite, giving the worker only the opportunity each year to exempt (for U.S. tax purposes) a fixed amount of income earned abroad (already taxed in the country where it is earned). The excluded income is still considered in establishing the U.S. tax rate on other income.

AARO supports the compete exclusion of foreign-earned income from U.S. taxation. As an alternative, AARO supports an exclusion adjusted for inflation since the Foreign Earned Income Exclusion was first created, which would make the current exclusion over $300,000.

## Recommendation made by AARO, ACA and FAWCO to the Treasury Department in 2012 regarding a redefinition of the term "foreign" in the FATCA context

"We recommend exempting from reporting requirements "same country" accounts belonging to bona fide residents abroad. A US taxpayer resident in Australia should not have to report his or her accounts in Australia. "Foreign" should apply only to accounts outside the US and the filer's country of residence."

.../...

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## Tax Aspects of U.S. Social Security Pensions

US Social Security pension benefits received by an American citizen or Resident Alien became subject to US income taxation as a result of the Greenspan commission in 1983; Up to 85% of pension benefits can be added to taxable income based upon filing status and total taxable income. Those income thresholds have not been increased in since 1983.

No minimum income threshold was established for those filing as Married Filing Separately. Many of those filing in this capacity do so because their spouse in not an American citizen or resident of the United States.

A Non-Resident Alien receiving US Social Security benefits is taxed at a flat rate of 25.5% (30% of 85% of the pension). Either the tax rate should be lowered or the Social Security pension should be taxed at progressive rates as "income effectively connected with a trade or business".

## AARO supports the proposed ACA "Comprehensive Compliance Program"

Since OVDP (the IRS Overseas Voluntary Disclosure Program) is too penalizing, "Streamlined Procedures" are too restrictive and uncertain, and the path of quiet disclosure has been put into question, ACA recommends that the Department of Treasury and IRS adopt a two-prong strategy to facilitate compliance:

- transform the current "Streamlined Procedures" into a Comprehensive Compliance Program (CCP) exclusively for bona fide Americans resident abroad, with terms substantially different from the current IRS "Streamlined Procedures";
- transform the OVDP into a program essentially for Americans resident in the United States.

There would be two clearly distinct programs for two very different groups of taxpayers. Americans resident in the United States who are hiding assets and related revenues in foreign bank accounts are most likely evading taxes. Americans resident abroad, on the other hand, pay taxes to their country of residence.

The CCP would be open to all non-resident taxpayers who have resided abroad for three years or more, as bona fide overseas residents defined in Section 911 of the Tax Code, and who meet one or more of the following four conditions:

a. who have not filed tax returns and FBARs;
b. who have filed incomplete or complete tax returns but have not filed FBARs or have filed an incomplete FBAR;
c. who have filed FBAR forms, but have not filed tax returns;
d. who do not need to file a tax return because total income is below the threshold for reporting but who meet the FBAR filing requirement and have not filed an FBAR.