Patricia M. Anderson d'Addario Individual April 14th, 2015

Subject: Comments - Bipartisan Tax Reform Working Groups
International Tax, Individual Tax
The United States Senate Committee on Finance
Attention: Finance Committee Chairman Orrin Hatch (R-Utah)
Ranking Member Ron Wyden (D-Ore)
Concerns: Recommendation to Repeal Citizenship Based Taxation (CBT), and replace it with Residence Based Taxation (RBT) for overseas Americans

Thank you for your bipartisan efforts to solicit comments from the public so that members of the five working groups can put forth ideas on how best to overhaul the tax code in each of their areas. I am particularly interested in the areas of International Tax and Individual Tax.

As one of the 7.5 million Americans living overseas, I would like to highlight just a few of the specific difficulties I have personally experienced as a result of Citizenship Based Taxation (CBT). Please see my letter to the Ways and Means Committee in April 2013:
http://waysandmeans.house.gov/uploadedfiles/patricia_anderson_daddario.pdf
In brief, this letter describes the events leading up to the extortionate $80K FBAR fine imposed on me, in spite of the fact that I have filed US tax returns (zero tax owing) every year since moving permanently to Canada in 1988. As an aside, 88% of all tax filings from overseas result in no tax due.

Nina Olsen comments in her 2014 report to Congress that FBAR penalties were so disproportionate as to violate the Excessive Fines Clause of the Eighth Amendment to the US Constitution. FBAR fines for Americans living overseas need to be eliminated, and should be refunded to those of us who were faced with a "bait and switch" half way through the 2009 OVDP (Nina Olsen).

The following are just a few of the CBT issues which affect my Canadian husband and me in Canada:

Exorbitant cross border tax preparation fees, and time involved for compliance (my US tax return last year was 64 pages (no tax due) and the cross border tax accountant's fee was quadrupled over the previous year).

Complexity of filing is a serious issue, foreign exchange risk, taxation and fines on phantom amounts, and the burden of filing tax, FBARs and FATCA forms in the US dollar (year end and/or average exchange rate) when income and expenses are in Canadian currency.
A constant fear of making simple filing errors or omissions due to the complexity of the US tax code and the myriad of forms.

A US person overseas is penalized for owning “foreign” mutual funds (PFICs), which are a local investment vehicle for me. The tax forms are highly complicated and time-consuming to prepare and there is always the underlying fear of more onerous fines.

CBT creates blatant discriminatory action against Americans overseas with regards to the ability to save for retirement (and during retirement). It seems that we can only invest in savings accounts and stocks, and cannot own any investments in the USA.

Capital gains tax on primary residence in country of residence (not taxed in Canada) is not a fair system and needs to be eliminated.

My non-American spouse is subjected to serious privacy breaches by being forced to give detailed financial information to a foreign government. This situation is breaking up many marriages where one partner is a US person, and is especially unjust in the cases where the breadwinner is not an American citizen. Sending account information to the Financial Crimes Network creates a total disruption of harmony in my own marriage for three months every year leading up to two tax deadlines, as well as an FBAR and FATCA deadline. These two forms contain almost identical information and should be amalgamated.

My husband frequently worries about the distinct possibility of hacking and identity fraud, and losing our hard earned (in Canada) retirement savings. As low-income seniors, living out our golden years in Canada tied down in a US CBT straitjacket has taken all the joy out of our lives.

And how will those of us with mental disabilities, onset of Alzheimers, stroke etc manage the tax complexities of CBT when we are left alone?

Residence based taxation MUST be brought into law in order to give back to all US persons living overseas their fundamental rights under international law to be free to live where they wish and to abide by the local laws of their chosen country of residence.

My Canadian husband and I appreciate that the staff members of the Senate Finance Committee are taking steps toward changes in the way the United States taxes its citizens overseas, and look forward to hearing the positive outcome of your efforts.

We thank you for the opportunity to be heard.

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