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Senate Committee on Finance
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**Creating Opportunity Through a Fairer Tax System
Subcommittee on Fiscal Responsibility and Economic Growth
Tuesday, April 27, 2021**

Submission by the Association of Americans Resident Overseas to the U.S. Senate Committee on Finance, Subcommittee on Fiscal Responsibility and Economic Growth

The Association of American Residents Overseas (AARO) welcomes this opportunity to inform the Senate Committee on Finance of the deep concerns of Americans abroad in relation to existing and future U.S. legislation and regulation. AARO is a Paris-based, non-partisan, volunteer, not-for-profit organization that represents the interests of Americans abroad throughout the world, including stateside residents who share our concerns.

Thanks to communication with its active membership of over 1000 and constant contact with many other overseas Americans throughout the world, AARO is particularly familiar with the issues of interest to Americans abroad. AARO periodically conducts extensive surveys of overseas Americans to determine precisely the nature of these issues and the real-life effect of burdens borne as a result of U.S. legislation, regulation, and the lack of access and support for Americans abroad from public and private entities.

AARO has very recently completed such a survey, which clearly demonstrated that certain U.S. legislation and regulations, particularly in the areas of taxation (as a consequence of citizen-based taxation) and access to financial services (aggravated by the Foreign Account Tax Compliance Act – FATCA – and the current regulations for filing the annual Financial Bank Account Report -- FBAR), create serious issues of fairness for overseas Americans. This has led to discrimination against overseas Americans in terms of access to governmental and private sector services as well as the abrupt withdrawal of such services due to the cost of compliance, inherent and irreconcilable conflicts with the law of the country of residence, and access mechanisms that cannot be used because they are solely designed for those resident in the U.S. Our survey data on taxation and banking can be found [here](#) and on FATCA and FBAR [here](#).

The increasing seriousness of this situation is demonstrated by the unfortunate sharp increase over recent years of the number of Americans considering or deciding to renounce American citizenship. AARO emphasizes that the decision to renounce citizenship is not solely or entirely taken out a reluctance to avoid U.S. taxation but can reflect the extreme difficulties American taxpayers face when faced with their obligations to the U.S. government as well as the government wherever they reside. This becomes even more acute and potentially decisive when, for example, marriage or other family relationships involving different nationalities and thus conflicting fiscal obligations. Our survey data on renunciation can be found [here](#).

AARO often hears from Americans overseas for a multitude of reasons, including those who feel frustrated in their attempts to familiarize fellow Americans, including their representatives in Congress, with the real-life burdens, resulting from their status. Denial of local banking services due to the U.S. imposing extraterritorial compliance obligations for American customers due to FATCA or the forced closure of U.S. investment or bank accounts due to residence outside the U.S. have occasionally caused enough personal stress to bring on emotional problems. We believe that the lack of empathy among members of Congress and U.S. officials is in large part the result of a patently false idea of just who American “expats” are combined with a tendency of “experts” to evaluate issues from an often inaccurate and purely quantitative perspective that ignores or is dismissive of the difficulties that Americans abroad must confront in real-life.

Both our surveys and real-life experience living abroad, often for decades, belie the notion that the American community abroad is comprised of wealthy, tax-dodging, unpatriotic expats living in splendid isolation from the local community as personified in old novels and films. On the contrary, many Americans overseas are persons of very modest means who have difficulty coming up with the funds (exceeding \$1000 at a minimum, according to our [survey](#)) to hire the often essential accounting/tax experts to counsel and prepare the several declarations required even for the majority of filers who do not owe tax and maintain “foreign” bank accounts in their country of residence for their daily needs. We believe that the dismissive attitude towards the problems of Americans abroad as evidenced in the testimony of Professor Gamage before the Committee on April 27th results from an unintentional but real discriminatory attitude coined as “placism” by one of our board members, Laura Snyder “Taxing the American Emigrant,” 74(2) *Tax Lawyer* 299 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3795480

Other Americans find themselves living abroad through corporate transfers, opportunities sought in line with our typically American entrepreneurial spirit, or for more personal reasons. The most notable in the latter category include retirement and following one’s spouse. Americans pursuing professional opportunities may be better off financially but not always. Younger Americans in particular, seeking education, adventure, romance, and professionally enriching opportunities overseas, are often of modest means. The same can be said of retirees. Whatever their personal situation, however, Americans considering life

abroad or already established overseas must expend considerable time and may need to pay high consulting fees when confronting the extreme complexity inherent in navigating between two legal and regulatory frameworks (that of the U.S. and their country of residence). Too often, commentators offer conclusions that ignore the reality that tax treaties, foreign country FATCA compliance agreements, and the like do not resolve many problems resulting from the inevitability of individuals and small American-owned businesses being “caught in the middle” between the U.S. and their country of residence. The unanticipated, unjust, and devastating effects of the Global Intangible Low-taxed Income (GILTI) and “transition tax” provisions of the 2017 Tax Cuts and Jobs Act have crippled this particular group.

Americans abroad are loyal, patriotic citizens who do their best to comply with American law within an increasingly complex regulatory framework. They encounter discrimination, for example, in the forced closure of banking and investment accounts abroad and in the U.S. They are denied access to governmental services that are provided to their fellow Americans living in the U.S. (for example, obtaining a “transcript” of their tax filing situation from the IRS or obtaining locally relevant tax counsel after the U.S. government closed IRS offices in a number of embassies).

Our members and the larger community of Americans who contact us increasingly look to Congress for solutions on how best to alleviate unnecessary burdens while preserving the overall objectives of U.S. policy. This does not take into account foreign governments and the European Union, which find themselves under pressure to respond to American unilateralism from dual nationals and citizens who, for various reasons acquired American nationality “accidentally” or unintentionally.

We hope that legislators are concerned about the welfare and interests of Americans abroad, whose estimated number may be as high as nine million, rivaling the population of most U.S. states. We are, however, not convinced that Congress is studying and debating sufficiently the potential negative effects on individual Americans living overseas when it considers new legislation and regulation.

We therefore urge members of Congress, and, in particular, members of this important committee to support the initiative of Representative Maloney, co-chair of the Americans Abroad caucus, to pass HR 2710 which would establish a Commission on Americans Living Abroad.

Thank you for offering us this opportunity to make our views known. We remain at your disposal.

Paul Atkinson
Chairman, Banking Committee

Fred Einbinder
Vice-President for Advocacy

William Jordan
President