

**REQUEST FOR TAX RULES CHANGES  
FOR U.S. CITIZENS OVERSEAS:**

**A SUBMISSION TO THE SENATE  
FINANCE COMMITTEE**

**By**

**JOHN RICHARDSON, WILLARD YATES,  
AND STEPHEN KISH**

**TORONTO, CANADA**

**JANUARY 17, 2014**

## Outline and Table of Contents

<b>Part 1 – Executive Summary</b>	4
Four categories of recommendations	5
<b>Part 2 – Discussion, analysis and general submission</b>	7
Introducing U.S. citizens abroad	7
The current U.S. practice of citizenship-based taxation	9
Elaboration of four categories of recommendations	10
<b>Category 1 – Move from citizenship-based taxation to residence based Taxation</b>	10
Citizenship-based taxation – A taxpayer perspective	10
Citizenship-based taxation – An employer perspective	13
Citizenship-based taxation – An international trade perspective	13
Citizenship-based taxation – An academic perspective	13
Citizenship-based taxation – An enforcement perspective	14
ACA recommendations to the Senate Finance Committee	16
Cost/savings of switching to resident based taxation	16
Third party comments on U.S. citizenship-based taxation	17
Organizations including ACA	17
General submissions – Americans abroad	17
Specific submissions – Pinto and D’Addario	17
Academic commentary – Schneider	17
U.S. Treasury – Taxpayer Advocate	18
<b>Category 2 – Different tax rules for U.S. citizens abroad</b>	19
The two important principles – deferral and FOREIGN	19

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

U.S. citizens abroad need financial planning too	19
The 70 year old mother and her disabled son in Calgary, Canada	20
The PFIC problem and U.S. citizens abroad	21
A partial solution – What’s local to the U.S. citizen abroad is not FOREIGN	23
The Harvey proposals	23
<b>Category 3 – The rules for expatriation must be revised to reflect reality</b>	<b>25</b>
Pressure to expatriate coming from the country of residence	25
Pressure to expatriate coming from the United States	25
Renouncing U.S. citizenship – psychological and financial costs	27
The true scope of the exit tax	27
Possible constitutional considerations and the exit tax	29
Different approaches to a possible “departure tax”	30
<b>Category 4 – Specific Submission – Desperate relief required!</b>	<b>31</b>

## **PART 1 - EXECUTIVE SUMMARY**

### **PURPOSE, CONTEXT AND OUTLINE**

#### **PURPOSE**

On November 19, 2013 Max Baucus, Chair of the Senate Finance Committee issued a draft discussion on International Business Tax Reform.

<http://www.finance.senate.gov/imo/media/doc/Chairman%27s%20Staff%20International%20Discussion%20Draft%20Summary.pdf>

The paper did NOT include a discussion of the taxation of U.S. citizens abroad, but concluded with:

*“The staff discussion draft does not address the international tax rules addressing individuals, whether for U.S. citizens living overseas or foreign nationals moving to the United States. The Chairman’s staff is considering reforms to simplify the rules in this area while appropriately taxing such individuals. Comments are requested regarding the scope and mechanics of reforms in this area.”*

The undersigned, John Richardson, Willard Yates, and Stephen Kish (Toronto, Canada and Arlington, U.S.A.), have prepared this submission as a response to this request.

#### **CONTEXT**

Senator Baucus’ discussion was issued as part of the general discussion on tax reform that began in 2013 in the House Ways and Means Committee.

During the spring of 2013 Representative Camp and Senator Baucus received a number of submissions/comments on the reform of the tax system. This included a very large number of submissions from Americans abroad urging Congress to abolish the practice of citizenship-based taxation and adopt the world standard of residence-based taxation.

In this specific context, on May 9, 2013, the Senate Finance Committee, as part of the process of considering tax reform, issued a report on International Competiveness which included the recognition that U.S. citizens living outside the U.S. should, in appropriate circumstances, be taxed in the same way that “non-resident aliens” are taxed. (In other words a change from citizenship-based taxation to residence-based taxation.)

The report from the Senate Finance Committee included the following text:

***“IV. NON-RESIDENT U.S. CITIZENS***

*1. Provide an election to citizens who are long-term nonresident citizens to be taxed as nonresident aliens if they meet certain conditions ([Schneider, “The End of Taxation Without End: A New Tax Regime for U.S. Expatriates,” 2013](#); similar to the law in Canada)*

*a. Require a minimum period of residence abroad*

*b. Impose an exit tax on electing taxpayers where deemed to sell all assets at the time of election*

*2. Repeal the foreign-earned income exclusion ([H.R.2 \(108<sup>th</sup> Congress\), Jobs and Growth Tax Relief and Reconciliation Act of 2003, sponsored by Rep. Thomas](#))”*

<http://www.finance.senate.gov/issue/?id=0587e4b4-9f98-4a70-85b0-0033c4f14883>

**OUTLINE – Four categories of recommendations**

Within this context, for the purposes of assisting the Committee in considering the “appropriate” rules **for the taxation of U.S. citizens abroad**, the undersigned offer the following four categories of recommendations:

**Category 1 – General Submission:** We support, as a general principle and as a recommendation to be enacted, **abolishing citizenship-based taxation altogether and adopting the world standard of residence-based taxation** (RBT) and ask that this standard be adopted **by the end of 4Q2015**, a timeline we feel is realistic and, given the serious hardships presently imposed by this tax rule, generous.

**Category 2 – General Submission:** As citizenship-based taxation will continue, until major tax reform permits a change to residence-based taxation, the principles of fairness, equality and justice mean that U.S. citizens abroad should be taxed, during this interim, according to different tax rules than those applying to U.S. residents.

**We ask as a general recommendation to be enacted, that what is “local” to the American abroad should NOT be FOREIGN under the IRC (Internal Revenue Code).**

At a bare minimum, banks, businesses and investment vehicles, must NOT be considered “foreign” if they are used by a U.S. citizen in that country. This would include normal day-to-day investment and retirement vehicles (examples, TFSA, RESP, RDSP, ISA and similar vehicles) which should not be treated as PFIC or foreign trusts.

**Further, it is critical that during this interim period, prior to the adoption of residence-based taxation, that the Foreign Account Tax Compliance Act (“FATCA”), not be applied to U.S. citizens resident abroad.** These changes in tax rules and repeal of FATCA should be accomplished no later than **by end of 1Q2015**.

**Category 3 – General Submission:** The tax rules for Exit/Expatriation must be revised to reflect the reality that they currently apply disproportionately to U.S. citizens abroad and unfairly to U.S. citizens abroad.

**Category 4 – Specific Submission:** We recommend three administratively simple interim-measures to be implemented prior to a change to residence-based taxation (and in any event). These measures, which can easily be accomplished **by the end of 3Q2014**, are:

- (i) The threshold for payment of any Exit (or Expatriation) Tax should be increased to be aligned with the Estate tax of threshold of 5 million dollars;
- (ii) Any Exit Tax should be payable only on the assets that exceed the threshold;  
and
- (iii) The requirement of some minors and dual citizens, defined per IRS 8854, to certify that they have been IRS tax compliant for five tax years prior to the date of expatriation should be eliminated.

The individuals submitting this report recognize that the role of the Internal Revenue Service is to implement legislation enacted by Congress. In short, the IRS does not create the laws that in many cases have become both complicated and burdensome to the point of becoming punitive.

Mr. Yates takes the position that, and Mr. Richardson and Dr. Kish do not dispute that: There are many times when IRS personnel are forced to do something they are very uncomfortable and unhappy doing because that is the law that Congress enacted and says IRS must do. IRS is now and has been for some time underfunded, understaffed and otherwise unable to do its job properly in many situations. We hope that in the future taxpayers will understand that IRS does not make the laws that it is required to enforce. Congress enacts tax laws--- not IRS.

This submission is made to the makers of the laws.

## PART 2 – DISCUSSION, ANALYSIS, AND GENERAL SUBMISSION

### Introduction:

Jacqueline Bugnion, Tax Team Director of American Citizens Abroad (ACA) comments that:

*“What Congress has to realize is that the current citizenship-based taxation creates a serious competitive disadvantage for the United States and that if FATCA remains, CBT for Americans living and working abroad has to go. Otherwise, having a US passport overseas is simply too much of a liability to keep. Over 80% of Americans abroad are long-term overseas residents, married to foreigners, working abroad. Many have dual nationality – some even born with it. Why should they have to continue to double file, double pay when all of their governmental services come from the country where they reside? CBT does great harm to the US because it prevents US corporations from sending Americans abroad to represent US interests. More freedom of movement of US citizens would enhance US competitiveness around the World.”*

The above is a quote from an interview with Willard (Bill) Yates, a former IRS international tax attorney, and U.S. tax lawyer Virginia La Torre Jeker:

<http://blogs.angloinfo.com/us-tax/2013/07/22/residence-based-taxation-interview-with-bill-yates-former-attorney-office-of-associate-chief-counsel-international-irs-2/>

Consider also this quote made on January 16, 2014 by Jay Carney, **President Obama’s press officer**:

*“The President has made clear time and time again that:*

*In the United States, **the outcomes of your life should NOT be determined by the circumstances of your birth.**”*

<http://www.c-spanvideo.org/program/SecJayCa>

### Introducing U.S. Citizens Abroad:

One becomes a U.S. citizen in one of three ways:

- Birth in the U.S.
- Naturalization

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

- Born abroad to a U.S. citizen parent(s)

This is an extremely large group of people which is estimated (although no one has precise numbers) to be approximately 7 million. To put this in perspective:

There are more U.S. citizens living abroad than live in Rhode Island.

A high percentage of U.S. citizens abroad:

- Are also citizens of at least one other country (think especially Canada)
- Have lived very little or none of their life in the U.S. (think people who moved as children from the U.S.)
- Are long term residents abroad
- Have no economic connection to the U.S. AND have acquired all of their financial assets in their country of residence
- Pay taxes in their country of residence which exceed U.S. taxes (Note that the IRC allows a U.S. tax credit for only some of these foreign taxes)
- Receive zero benefits from the U.S. government

In some cases, these non-U.S. residents are not aware that the U.S. considers them to be citizens. They are commonly referred to as “accidental citizens,” e.g, born in the U.S. while parents were vacationing in the U.S. or outside the U.S. to U.S. parents.

U.S. citizens abroad are found in a many different occupations and income levels. Very few of them are wealthy. For the most part they are:

- Everyday people struggling to make a living
- Tax compliant in their country of residence.

### **To put it simply:**

U.S. citizens abroad are “everyday people” struggling hard to survive and live meaningful lives. You would like them. But, you must take the time to get to know them. If you knew them, you would know that they pay a variety (e.g., value-added sales, employment, property, income, employment) of significant taxes where they live.

## **Understanding the Current Practice of U.S. Citizenship-Based Taxation:**

The following analogy, written in a comment to a related article at the Washington Times in 2012, summarizes the current absurd situation lived by many US citizens abroad:

*“What if you were born in California but moved to New York early in life. You live and work and pay taxes in New York for 30 years and one day you find out you were supposed to also file and pay taxes to California, because you were born there and never formally renounced your residency! You are a California Tax Evader! Since you didn’t report your New York bank account to California authorities, they are going to confiscate your assets! You have been paying full taxes and complying with New York law, but sorry buddy, you were born in California and therefore must report and pay taxes to your birth state until you renounce California residency.*

*Oh, and renouncing will cost you tons of money and California will threaten to never let you set foot across state lines if you do it. Oh, and your adult children are also facing personal bankruptcy; since you were “Californian” your children are also officially “Californian” until they renounce. Your entire family is destroyed and your New York born wife wants a divorce.*

*Finally, New York banks decide they will no longer let Californians have bank accounts with them because the reporting requirements for you people are just too expensive. And California banks won’t let you have an account with them either (although they still consider you a resident), because you no longer have an address there. You may therefore have no bank account, no retirement plan, no investments, no credit card, no life.*

*This grotesque illustration is not at all far - fetched. It is exactly what US citizens are facing if they have for any reason decided to live outside of the US. US citizens who have lived outside of the states for decades, who are citizens of another country, who have paid taxes and abided by all laws, are now being pursued and persecuted in a breath - taking witch hunt.”*

## **Further Elaboration On Each Of Our Four Categories Of Submissions:**

**CATEGORY 1 - General Submission: *Change the tax rules to switch from U.S. citizenship-based taxation to residence-based taxation which is the world-wide standard and reality***

**U.S. citizenship-based taxation -- Perspectives of different stakeholders:**

**Citizenship-based taxation – A Taxpayer Perspective:**

As TaxPayer Advocate and others have noted, U.S. citizenship-based taxation, as applied to U.S. citizens abroad, is an enormously complex web of tax, information reporting requirements and threats of significant penalties. Not even U.S. residents understand the IRC. The problem is magnified for U.S. citizens abroad. Furthermore, U.S. tax compliance for U.S. citizens abroad comes at:

- The price of significant potential double taxation (the common assumption that the Foreign Earned Income Exclusion and Foreign Tax Credit rules abolish double taxation is wrong);
- Very high tax preparation fees (if a competent U.S. tax preparer can be found)

**A good summary of the effect of these problems facing U.S. citizens abroad, but not those resident in the U.S., can be found at:**

<http://www.aaro.org/taxation>

**The Association of American Residents Overseas (AARO) describes below “Tax Discrimination” and compares tax consequences of Americans residing in U.S. vs. residing abroad:**

- *Americans living abroad must pay taxes twice: once to the country in which they reside and work and again to the U.S. on all their foreign income. The U.S. is the ONLY developed country that taxes its citizens living overseas on foreign-earned income. This has made it too expensive for U.S. companies to send their employees abroad to grow their business.*
- *Mitigating measures against this double taxation have systematically been cut back by Congress. Now, Congress threatens to eliminate Tax Code Section 911, which would make it impossible for many Americans to continue to represent their country abroad and would force many more Americans overseas to return to the U.S.*
- *Because U.S. tax code is so complex for filers residing abroad, they must have their taxes prepared by specialized experts, which costs an average of \$2,000 per filing. Assuming an average of 1,000,000 tax filers, the total annual cost of compliance for Americans overseas is \$2 billion dollars, a high number in proportion to the tax revenue collected.*

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

- *The penalties for human errors on tax forms are also much higher on Americans abroad than they are on those residing in the U.S. For example, the penalty for failure to disclose certain Specified Foreign Financial Interests is \$10,000 with a maximum penalty of \$50,000 for one taxable year.*

## AARO compares tax rules for resident vs. non-resident Americans:

Americans Residing In U.S. Territory	Americans Residing Abroad
Full access to banking privileges at an institution of their choice	Restricted access and limited choice due to FATCA reporting and interpretations of the Patriot Act
Standard IRS reporting requirements	Additional IRS reporting requirements
Capital gains based essentially on dollar assets	Sale of foreign assets can lead to fictive capital gains in dollars
Varying cost of tax preparation from low to high	High costs averaging \$2,000 per filing
Subject to taxation only in the U.S.	Subject to taxation in the foreign country of residence and in the U.S.
No conflict of varying tax systems	Often double taxed due to incompatibilities between U.S. and foreign tax systems
Contributions to domestic pension funds are tax deductible	Contributions to foreign pension funds are not tax deductible
Employers' contributions to U.S. pension funds are not added to individual's taxable income	Employers' contributions to foreign pension funds are added to individual's taxable income
Freedom to enter into joint-ventures or partnerships with other businesses	Restricted to less than 10% ownership in a foreign company due to IRS reporting
Freedom of choice in investments and securities	Restricted choice of investments and securities
No personal filing requirement on financial assets held with domestic banks	Must file the FBAR and now, under FATCA, also full disclosure of foreign-based financial assets with the 1040
Minimal reporting on pension funds, insurance companies, etc.	Additional reporting requirements for foreign pension funds, insurance companies, etc.
Standard penalties for human error or simple reporting omissions on taxes	Substantially higher penalties on errors or omissions on tax filings

A blog posting from a “Harvard blog” written by Jessica Dorfmann which appeared in December 2013 included:

*"The United States needs to get with the times and abolish citizenship-based taxation. The policy is tremendously unfair and detrimental to Americans living abroad, and it serves to anger and alienate citizens, many of whom have a lot to contribute to the United States in terms of international experience and skills. It is ironic that a citizenship so widely desired has come to feel like a burden for so many."*

<http://hir.harvard.edu/blog/jessica-dorfmann/the-cost-of-united-states-citizenship-abroad>

#### **Citizenship-based taxation – An Employer Perspective:**

**As noted by American Citizens Abroad:**

*"US citizens working overseas are subject to a tax liability in their country of residence AND in the US, putting American citizens and businesses overseas at a competitive disadvantage. **This tax burden discourages American companies from employing Americans overseas.** Changing from Citizenship-based taxation to residence-based taxation is revenue neutral and brings major economic advantages to the United States."*

<http://www.americansabroad.org/files/6513/6370/3681/finalsubrbtmarch2013.pdf>

#### **Citizenship-based taxation – An International Trade Perspective:**

As has been noted by Roger Conklin and various trade organizations (including the American Chamber of Commerce in Canada) in their submissions to the Ways and Means Committee, **citizenship-based taxation is a detriment to U.S. exports. Citizenship-based taxation contributes to the large U.S. trade deficit. See:**

[http://waysandmeans.house.gov/uploadedfiles/retired\\_international\\_sales\\_and\\_marketing\\_executive.pdf](http://waysandmeans.house.gov/uploadedfiles/retired_international_sales_and_marketing_executive.pdf)

[http://waysandmeans.house.gov/uploadedfiles/joint\\_statement\\_5.12.pdf](http://waysandmeans.house.gov/uploadedfiles/joint_statement_5.12.pdf)

#### **Citizenship-based taxation – An Academic Perspective:**

Citizenship-based taxation began in the Civil War. Its constitutionality was upheld in the 1924 Supreme Court decision of Justice McKenna in *Cook v. Tait* on the basis that:

“government by its very nature benefits its citizens.”

It is important to note that in 1924 the world was not global. Interestingly the Supreme Court of the United States has not considered the constitutionality of citizenship-based taxation since that time.

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

Even if citizenship-based taxation is constitutional, citizenship-based taxation is not desirable. As noted by University of Michigan law professor Reuven S. Yavi-Jonah in “The Case Against Taxing Citizens”:

*“The US is the only developed country to tax citizens living permanently overseas on their worldwide income. This rule was created at a time when the income tax applied only to the rich and when some of the rich moved overseas to avoid the draft.*

*We do not have a draft any more, the income tax applies to the middle class, and many more US citizens live permanently overseas for non-tax reasons. In a globalized world, citizenship-based taxation is an anachronism which should be abandoned.”*

[http://repository.law.umich.edu/law\\_econ\\_current/art12/](http://repository.law.umich.edu/law_econ_current/art12/)

### **Citizenship-based taxation – An Enforcement Perspective:**

The United States is (with the exception of Eritrea) the ONLY country in the world to use citizenship-based taxation.

Beginning in 2011, the IRS began a significant enforcement campaign. Since that time, U.S. citizens abroad have been living under the threats of “life altering penalties” for failing to comply with U.S. tax obligations that few even knew about. When it comes to tax awareness and compliance, U.S. citizens abroad appear to fall into three groups:

**Group 1** – No idea that citizenship-based taxation even existed. There is NO precedent for citizenship-based taxation anywhere else (Eritrea-excepted) in the world. (This is probably the largest number).

**Group 2** – Aware of citizenship-based taxation and have done their best to comply with their U.S. tax obligations. That said, many have made mistakes. (For example, the FBAR AND PFIC rules were virtually unknown until the IRS began its enforcement campaign).

**Group 3** – Aware of U.S. tax obligations but don’t know how and/or can’t afford the high costs of compliance. Professional assistance is required by almost all Americans abroad. Competent professional assistance is difficult to find and difficult to afford.

Most have been unaware of either any U.S. tax obligations or the extent of those obligations. Of those who are aware of their U.S. tax obligations, a large number do NOT know how to go about complying. This is because (as noted by TaxPayer Advocate) the rules are so complex that it is almost impossible to learn what one is required to do.

Yet, the threat of penalties hangs, like the “Sword of Damocles,” over the head of every U.S. citizen abroad.

**An example:**

The United States of America and the Internal Revenue Service **should hang their heads in shame because of the way that they treated Patricia Anderson D'Addario**, a U.S. citizen living in Canada. Consider a single example of the extreme hardship demonstrated by Ms. D'Addario at:

[http://waysandmeans.house.gov/uploadedfiles/patricia\\_anderson\\_daddario.pdf](http://waysandmeans.house.gov/uploadedfiles/patricia_anderson_daddario.pdf)

In particular, this dual U.S./Canadian citizen tells the W&M Committee that although **she has never owed any tax to the IRS**, she has paid tax preparers "\$42,000 since 1989 to fill out U.S. tax returns on [her] behalf" and that her cost "to hire a cross border accountant going forward is at least 12% of [Ms. D'Addario's] gross income, which is made up of social security and a minimal amount of interest..."

She adds: "One of my doctors who wrote to the IRS requesting that more reasonable deadlines be given because of my health conditions referred to the final outcome as financial rape." and "I used to be such a proud American...I am now reluctant to call myself an overseas representative of the USA."

It should be noted that this is the treatment received by an honest taxpayer who was doing her very best to comply with a system that she (and most others) could not understand.

**We repeat:** this is how the U.S. government treated an **honest retiree** who was **desperately trying to comply** with the system.

**Therefore, we join with American Citizens Abroad (ACA), the American Association of Residents Overseas (AARO), and other groups and individuals advocating:**

**A change from citizenship-based taxation to residence-based taxation**

We urge the committee to consider the work and research of American Citizens Abroad in general:

<http://www.americansabroad.org/issues/>

and the actual ACA proposal to eliminate citizenship-based taxation and replace it with residence-based taxation which is here:

<http://www.americansabroad.org/files/6513/6370/3681/finalsubrbt march2013.pdf>

**In this context, please consider the detailed ACA proposal just submitted (January 15, 2014) to the Senate Finance Committee on International Tax Reform:**

<http://www.americansabroad.org/files/9613/8987/3227/aca-submission-senate-finance.pdf>

**Some of the key ACA recommendations to the Senate Finance Committee are:**

- Residence Based Taxation should be legislated as the default mode of taxation of Americans abroad...
- If an exit tax is required by Congress, there must be a high threshold before the deemed capital gains are taxed, as well as a narrow range of assets subject to the exit tax, to ensure that the vast majority of Americans will not have their savings impacted by the exit tax and will remain free to emigrate and return to the United States without undue financial burden...
- The new exit tax will render Section 877A unnecessary and superfluous. Section 877A, Section 2801 and the Reed Amendment, which has yet to be enforced, should be repealed. The current U.S. estate tax on non-residents should be repealed or modified.
- Americans who are already resident overseas when the law changes from CBT to RBT should be largely exempt from the imposition of the exit tax...

**The Cost of Switching To Residence-Based Taxation:**

**What would Treasury lose? What would Treasury save?**

We acknowledge that specific dollar estimates of costs and savings are speculative. However, the American Citizens Abroad Executive summary suggests that Treasury would lose little or no revenue and that a switch to residence based taxation would:

*“• produce tax revenues for the United States comparable to, and possibly even greater than, the current system of citizenship-based taxation;*

- align US tax policy on individuals to that of the rest of the world;*
- align US tax policy on individuals to numerous proposals to tax US corporations on a territorial basis;*
- increase the competitiveness of the United States and its citizens in world markets;*
- stimulate job creation for Americans at home and abroad;*
- simplify the US tax code and taxation of Americans living and working abroad;*
- rationalize and reduce the administrative burden of the IRS in a cost-effective way;*
- improve the relationship and develop positive synergies between Americans abroad and their home country which they dearly love.”*

## **Residence based taxation would save Treasury money ...**

The abolishment of citizenship-based taxation would result in significant cost savings to the IRS, which as noted above is presently understaffed and underfunded. It would also result in significant cost savings to individual U.S. citizens abroad. Only the tax compliance industry would be hurt by a move to residence based taxation.

## **Third Party Comments On U.S. Citizenship-Based Taxation:**

### **Organizations:**

An explanation of the ACA RBT proposal was submitted in 2013 to the Joint Senate Finance and House Ways and Means website ([taxreform.gov](http://taxreform.gov)) as one of the MANY submissions in support of a switch to residence-based taxation.

### **General Submissions:**

We respectfully request that the Committee review ALL of the letters, submitted to House Ways and Means Committee, from American citizens abroad found at:

<http://waysandmeans.house.gov/taxreform/workinggroups.htm>

and which are summarized at:

<http://isaacbrocksociety.ca/2013/04/17/excellent-submission-to-the-ways-and-means-committee/>

### **Specific Submissions:**

We ask that the committee specifically consider:

A. The logic demonstrated by Mr. Pinto at:

[http://waysandmeans.house.gov/uploadedfiles/pinto\\_wg\\_submission.pdf](http://waysandmeans.house.gov/uploadedfiles/pinto_wg_submission.pdf)

B. The example of the extreme hardship demonstrated by Ms. D'Addario (noted above) and found at:

[http://waysandmeans.house.gov/uploadedfiles/patricia\\_anderson\\_daddario.pdf](http://waysandmeans.house.gov/uploadedfiles/patricia_anderson_daddario.pdf)

### **Academic Commentary:**

We also remind the committee of the recent and excellent paper written by Mr. Bernard Schneider in the Virginia Tax Review - "The End of Taxation Without End" - which recommends abolishing citizenship-based taxation.

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

Mr. Schneider's paper, specifically mentioned for consideration at the Senate Finance, is at:

[http://waysandmeans.house.gov/uploadedfiles/schneider\\_wg\\_comment\\_2.pdf](http://waysandmeans.house.gov/uploadedfiles/schneider_wg_comment_2.pdf)

The gist of his paper is reflected in his comments at:

[http://waysandmeans.house.gov/uploadedfiles/schneider\\_wg\\_comment\\_1.pdf](http://waysandmeans.house.gov/uploadedfiles/schneider_wg_comment_1.pdf)

### **U.S. Treasury – National TaxPayer Advocate:**

Finally, consider the 2013 report of the **National TaxPayer Advocate** to U.S. Congress dealing with the burden of tax filing requirements of U.S. citizens overseas and the exacerbation of this burden once the FATCA law is imposed:

<http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/REPORTING-REQUIREMENTS-The-Foreign-Account-Tax-Compliance-Act-Has-the-Potential-to-Be-Burdensome%2C-Overly-Broad%2C-and-Detrimental-to-Taxpayer-Rights.pdf>

**To reiterate our request: We ask that the United States abolish citizenship-based taxation and join the rest of the world in a system of residence-based taxation.** Why should U.S. citizens abroad receive worse treatment in the U.S. tax system than “non-resident aliens”?

**CATEGORY 2 – Because *citizenship-based taxation will continue until major tax reform results in adoption of residence based taxation, the principles of fairness, equality and justice mean that U.S. citizens abroad should NOT be taxed, under the present system, according to the same rules as are applied to U.S. residents.***

*“The law in its majesty prohibits both the rich and poor from sleeping on the park bench.”*

In general, the U.S. tax system punishes tax deferral and burdens anything that is FOREIGN. U.S. citizens abroad do NOT live in the United States. Therefore, from the perspective of the U.S., the lives of citizens abroad are FOREIGN.

It is natural for U.S. citizens abroad to invest and undertake retirement planning according to the rules where live.

**Two points need to be understood:**

1. Retirement planning in many other countries (of which Canada is a prime example) encourage **retirement planning through tax deferral**; and
2. Things that are “FOREIGN” from the perspective of a U.S. resident are LOCAL to a resident of another country. For example, a U.S. citizen in Santiago who banks at a Santiago bank (which is obviously necessary) does NOT (in any relevant sense) have a FOREIGN bank account. A U.S. citizen living in Vancouver, BC who banks at the Toronto Dominion Bank and buys Toronto Dominion Bank mutual funds is NOT buying FOREIGN mutual funds. He is just attempting to live a normal life. Yet, he will be severely punished for investing in retirement plans that are local to him, but would be FOREIGN to a U.S. resident.

The current rules of citizenship-based taxation, at present, apply exactly the same provisions of the IRC to ALL U.S. citizens regardless of where they live. This deems the lives of all U.S. citizens abroad to be “foreign” and subject to special restrictions, reporting and penalties. To use a hockey analogy, U.S. citizens abroad put their lives “in the penalty box.”

**To put it simply: U.S citizens abroad need financial planning too.**

U.S. citizens abroad (whether long-term or short-term) are disabled by citizenship-based taxation from retirement planning in their country of residence. The current rules of citizenship-based taxation as applied to U.S. citizens abroad impose significant controls on their lives.

**Consider as one recent (January 13, 2014) example (a 6048/RDSP fiasco) the widely published (including CBC National News broadcast) situation of a 70 year-old Canadian mother who has a developmentally disabled son entrapped by U.S. tax laws and citizenship.**

To provide for his future in Canada she established a Registered Disability Savings Plan (RDSP), unfortunately taxed by the U.S. as a “foreign trust.” This trust is subject to foreign trust reporting under section 6048 of the Internal Revenue Code. In addition, the trust would be treated as a grantor trust under section 679 which means that the mother would have to report all income earned by the trust. She is caught in a U.S. “tax quagmire” that she fears she may lose the money she set aside for her son’s financial future.

This Calgary Canada mother cannot pay the costs of IRS compliance (thousands of dollars every year) in relation to this RDSP for her son living in Canada. Neither this woman, nor her son, have any relationship at all with the U.S. She says:

*“I want to have my hard-earned Canadian money that I’ve saved to go to my children, not to the U.S. or some compliance tax lawyers year after year after year after year.*

*I wanted my son to have something when I was gone from this Earth and so I was a saver. And now I don’t want the U.S. to take one penny that should go to my children.”*

<http://www.cbc.ca/news/canada/u-s-fatca-tax-law-catches-unsuspecting-canadians-in-its-crosshairs-1.2493864>

**The PFIC problem and U.S. citizens abroad:**

**PFIC is an acronym which stands for:**

“Passive **FOREIGN** Investment Company”

We urge members of the Senate Finance Committee to consider the punitive and confiscatory effect of the PFIC rules which are found in Sections 1291 – 1297 of the IRC.

The IRC defines a PFIC as being:

[U.S. Code](#) › [Title 26](#) › [Subtitle A](#) › [Chapter 1](#) › [Subchapter P](#) › [Part VI](#) › [Subpart D](#) › § 1297

**26 U.S. Code § 1297 - Passive foreign investment company**

**(a) In general**

For purposes of this part, except as otherwise provided in this subpart, the term “passive foreign investment company” means any foreign corporation if—

- (1) 75 percent or more of the gross income of such corporation for the taxable year is passive income, or
- (2) the average percentage of assets (as determined in accordance with subsection (e)) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent.

Since 2010 the tax community has understood PFICs to include mutual funds incorporated outside the United States (making them FOREIGN mutual funds). This means that Canadian mutual funds are PFICs. U.S. citizens in Canada who buy Canadian mutual funds (funds in their country of residence) will suffer the disastrous consequences associated with punitive PFIC “taxation.”

Interestingly, the Senate Report of May 9, 2013 addressed the issue of PFICs in general noting it is important to:

“**Reform passive foreign investment company (PFIC) rules** ([NY State Bar Association, PFIC Reform Recommendations, Tax Notes Today, 1993](#))”

<http://www.nycbar.org/pdf/report/uploads/20071778ReportRePassiveForeignInvestmentCompanyRules.pdf>

The PFIC rules as applied to U.S. citizens abroad are one of the most serious threats to retirement planning in their country of residence.

To put it simply:

**U.S. citizens abroad who invested in mutual funds in their country of residence will be subject to “taxation” that is more realistically described as “confiscation.”**

This is explained by U.S. tax lawyer Virginia La Torre Jeker, as follows:

<http://blogs.angloinfo.com/us-tax/2013/02/11/latest-irs-news-annual-reporting-foreign-mutual-funds-and-other-pfic-investments/>

### **“Don’t Mind Losing Your Investment? PFIC Means Very Harsh Tax Consequences**

*The harsh bite of the PFIC tax rules will make itself known in either of two events: 1) when the fund makes a distribution (called an “excess distribution”) to the investor or, 2) when the investor disposes of his PFIC shares (a “disposition” of PFIC shares can occur by redeeming them, selling them, gifting them away, or even by giving up one’s US resident status or citizenship).*

*When taxation occurs, the amounts will be taxed at the highest ordinary income tax rate for the investor without regard to other income or expenses (currently the highest individual rate is 39.6% plus, don’t forget the 3.8% Medicaid Surcharge). Long-term capital gains treatment does NOT apply.*

*To add insult to injury, the amounts on which the PFIC tax is to be calculated are “thrown back” evenly over each of the tax years that the investor held his shares. Tax is then assessed for each prior year at the highest possible tax rate that was in effect at such time. Then, interest is compounded on the deferred tax deemed due for each year. These high rates can very easily eat up the investment by removing the benefit of any tax deferral. If an investor has held his PFIC shares for many years, he can basically say goodbye to that investment.*

*By way of example, assume Taxpayer redeems his PFIC shares at a gain of \$10,000 in 2013. Assume he held the shares commencing 2009. In this case, \$2,000 of gain will be deemed to have been earned in each of the five years 2009 through 2013. Tax will be assessed at the highest possible tax rate for each year and compounded interest will apply on the taxes due. Various tax elections can possibly be made to avoid this harsh treatment. Making an election, however, is not always a simple matter since certain requirements must be satisfied. Many times, the requirements cannot be met and the taxpayer is left in the lurch.”*

**A partial solution – What’s local to the U.S. citizen abroad is not foreign:**

The obvious problem is treating as foreign investment and financial products that are local to the U.S. citizen abroad.

It is clear that to treat all U.S. citizens, regardless of their country of residence, in the same way, results in massive unfairness and inequality for U.S. citizens abroad.

What’s local to the American abroad should NOT be FOREIGN under the IRC!

Many of the problems of citizenship-based taxation would be ameliorated by taking the simple and reasonable step of amending the IRC to state that:

No bank or financial product is “foreign” if it exists in the country of one’s residence.

**For example:**

Australian bank accounts, retirement plans, corporations, mutual funds, etc. would NOT be considered to be FOREIGN with respect to a U.S. citizen residing in Australia. This would be true for the purposes of the IRC and ALL reporting requirements (including the title 31 FBAR).

**The Harvey proposals:**

Interestingly, even Professor Richard Harvey (one of the architects of FATCA) has acknowledged the desirability of treating U.S. citizens abroad differently (March 1, 2013).

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2318463](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2318463)

Professor Harvey notes that, in addition to paying taxes to their country of residence, U.S. citizens abroad have substantial and heightened U.S. tax filing burdens (e.g., the example of the Calgary woman described above) NOT faced by U.S. residents. Professor Harvey recognizes that it is unfair to treat U.S taxpayers living abroad the same as those living in the U.S. He notes also that these additional burdens have been increased by FATCA.

He believes that Congress could provide “substantial relief” to U.S. citizens abroad by:

- Increasing the \$97,600 earned income exemption
- Providing a de minimis “passive income exemption
- Eliminate or greatly simplify tax return requirements
- Combine and/or coordinate the FBAR and 8938 requirements
- Continue efforts to ensure routine financial services are available
- Provide an exemption from employment taxes

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

Professor Harvey offers some (limited) helpful elaboration. His point is that, at a minimum, there is room for substantial modification of the existing rules of citizenship-based taxation.

The world of U.S. citizens abroad is NOT the same as the world of U.S. residents. What is “local” to the American abroad should NOT be FOREIGN under the IRC.

**At a bare minimum, banks, businesses and investment vehicles, must NOT be considered “foreign” if they are used by a U.S. citizen in that country.** This would include normal day-to-day investment and retirement vehicles (examples, TFSA, RESP, RDSP, ISA and similar vehicles) which should not be treated as PFIC or foreign trusts.

**To reiterate our request:**

**In the interim period leading to the adoption of residence-based taxation we request that:**

- 1) What is “local” to the American abroad should NOT be FOREIGN under the IRC;  
and
- 2) The Foreign Account Tax Compliance Act (FATCA), not be applied to U.S. citizens resident abroad.

**CATEGORY 3 -- *The rules for Expatriation must be revised to reflect the reality that they apply disproportionately and unfairly to U.S. citizens abroad.***

**Introduction:**

**Many U.S. citizens abroad are being forced to renounce their citizenship.**

**The fact is that U.S. citizenship is no longer compatible with living outside the United States.** This is the result of intolerable pressure coming from inside their country of residence and from the United States.

**Difficulties coming from inside the country of residence – loss of banking privileges:**

The following exchange took place in an interview between U.S. tax lawyer Virginia La Torre Jeker and former IRS attorney Bill Yates:

<http://blogs.angloinfo.com/us-tax/2013/07/22/residence-based-taxation-interview-with-bill-yates-former-attorney-office-of-associate-chief-counsel-international-irs-2/>

*“Let’s talk about US tax: The RBT Proposal also talks about FATCA’s onerous compliance requirement resulting in foreign banks either refusing US customers, dropping current account holder and even causing many Americans and green cardholders to expatriate. Did you know about that?”*

***Yates:** Oh, yes. We knew. We even received a letter from a U.S. taxpayer who’s foreign bank account had been closed without an explanation from the bank. The taxpayer wanted to know why. **Eventually, a response went out to the effect that we simply didn’t know why the bank closed the individual’s account. Politically, that’s all we could say.***

***As for expatriations, I received lots of calls from practitioner friends of mine all over the world telling me that Americans are getting out. We even heard that the wait list to make an appointment to expatriate at some U.S. consulates was over one-year long.”***

**Difficulties coming directly from the U.S. Government (and it gives us no pleasure to include this sad description from a U.S. citizen abroad):**

*“I feel it is extremely important to make a clear distinction between those who live in the US and decide to expatriate and renounce/relinquish their citizenship and those who already live abroad and decide to renounce/relinquish their US citizenship. I do not know anyone who has left the US for tax reasons and then renounced their citizenship. So I cannot speak to any aspect of this particular situation.*

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

*As to Americans living abroad who decide to renounce/relinquish their citizenship, the issue primarily, is not one of taxation but rather, of onerous penalization for not filing the Foreign Bank Account Report (FBAR). FBAR is part of the Bank Secrecy Act (1970), designed to track money of US Homelanders who have foreign accounts to money launder, support terrorism etc. It was not enforced for 40 years. Virtually no one living abroad had ever heard of it. Once the IRS achieved success with breaking the bank secrecy laws in Switzerland, in 2009, this little-known form was added into the pot of the US government's misleading campaign against tax evasion.*

*Americans living in foreign countries pay taxes to the governments of those countries. Along with FBAR, most were unaware they were required to file/pay US taxes as well. This is in no way, equivalent to Homelanders who purposely seek out places "offshore" to avoid tax. However, IRS has gone after honest Americans abroad who had no knowledge of their obligations. Instead of encouraging them to come forward in a reasonable way, the IRS has engaged in a vicious cycle of fines, penalties, interest and whatever else they can think of to persecute those who are simply presumed to be guilty. The stories of those who have tried to comply by entering the Offshore Voluntary Disclosure Initiative are truly horrifying, many enduring 2 years of confusion, being threatened with penalties equivalent to their entire retirements. These are people who by and large, owe no tax to the US.*

*Some of the reporting requirements defy any level of reasonable logic. A US citizen, stay-at-home mother for instance, who likely has no income and is signed onto her non-US citizen husband's accounts, is required to report HIS bank account numbers, balances and so on. I doubt any US Homelander would be willing to do the same if living in the US, married to a foreigner with a government who demanded the same, or else be prepared to lose a considerable portion of savings, retirement plans, etc.*

*Now FATCA promises to be even more punishing. Financial institutions across the globe will be required to report their American clients' personal banking information. The US government will coerce this by withholding 30% of an institution's entire US holdings if they do not comply. Banks in Switzerland have begun to close those client's accounts without notice, including the renewal of mortgages. Congress and the IRS are fully aware of this and do nothing to mitigate this truly destructive practice. There is no excuse whatever for this gross misapplication of power. A recent article pointed out that terrorists will be able to pinpoint identification and location of Americans living abroad, thus putting them in harm's way. I cannot imagine any American, abroad or not, feeling that this is the way a government should act toward its own citizens.*

*The numbers of Americans abroad renouncing is higher than the government will admit. The "Name-and-Shame List" published in the Federal Register is hardly an accurate representation of how many are doing just that. Look to the long waits at European embassies and consulates, the number of expatriates banding together in Canada and Switzerland trying to get their message out via online forums and you'll get a much better sense of how widespread this "trend" is.*

## January 17, 2014 Request for tax rule changes for U.S. citizens overseas

*Not about tax, nor political discontent, the larger issue is the complete betrayal by one's country in an attempt to gouge for money to make up for the horrific debt the US has. Add the cliches of "tax cheat," "traitor," and the guaranteed reaction such labels produce, and those who expatriated for reasons such as marriage, education or employment can count on being treated in the same manner as those who may leave the US for tax purposes.*

*It is high time that Americans learn that the country they grew up in no longer exists. The "American exceptionalism" that we were taught to believe in, needs to be seen for what it has become, an excuse for the government to do whatever it wants with no concern for the consequences. ALL Americans lose in this process."*

It is clear that the stress, life restrictions, and financial burdens of **U.S. citizenship-based taxation** will continue to result in expatriations.

**Citizenship-based taxation is neither necessary nor desirable, but will continue until residence-based taxation is adopted. During this interim small changes can and must be made** to eliminate its most destructive features and to help those who have no choice but to expatriate.

As Bernard Schneider notes in his paper, in the case of Americans abroad:

*"Renunciation is NOT motivated by a desire to escape taxation unjustly, but by the unjust imposition of taxation!"*

### **Renouncing U.S. citizenship has both psychological and financial costs:**

As we finish this submission we note that Texas Senator Ted Cruz is in the process of renouncing his Canadian citizenship. For Senator Cruz this is a simple administrative procedure. For a U.S. citizen abroad it is not so simple.

The Expatriation rules and possible 877A Exit Tax apply to all U.S. citizens and green card holders if their recent net income taxes and net worth exceed certain thresholds, or if they fail to certify that they have been tax compliant prior to expatriation. Section 877A applies to these individuals even though they have lived almost all of their lives outside the U.S., have no economic connection to the U.S., have earned all their assets outside the U.S. and have no assets in the U.S.

### **The true scope of the exit tax:**

The Exit tax applies to assets and people that have no economic connection whatsoever to the USA. Even those who are NOT subject to the Exit Tax must undergo significant compliance costs to leave the system.

**Could it really have been intended that the Exit Tax was to apply to U.S. citizens already living abroad, in 2008, at the time the Exit Tax was enacted?**

**An example of a U.S. citizen abroad subject to the Exit Tax:**

Mr. Smith was born in the United States to American parents. The family moved to Canada when Mr. Smith was 10. Today he is 60 years old. He became a Canadian citizen at the age of 40. He lives in Vancouver where he bought a house for \$100,000.00 in 1980. Today his house is worth \$1,500,000. In addition he has a pension plan worth \$600,000. He has a relatively modest income and plans to retire in the near future. He has not lived in the U.S. since he was 10. He rarely visits the U.S. He has no U.S. assets. He has never made any income in the U.S. He is a very ordinary “middle class” person.

**Yet:**

If Mr. Smith wishes to renounce his U.S. citizenship because he no longer wishes to continue to pay yearly IRS compliance costs to a country for which he has no meaningful relationship, and as he meets the requirements for the application of section 877A, he will be treated as having sold at fair market all of his assets on the day before he expatriates—This will severely impact his ability to retire because he will be considered under the present statute as a “covered expatriate,”

**Could this really have been intended by the Exit Tax? (“Yes, that’s the way the statute works” comments Bill Yates, one of the undersigned.)**

**Could it really have been intended that the combination of citizenship-based taxation and the Exit tax was to operate so that:**

On the one hand it’s impossible to live as a U.S. citizen abroad, but on the other hand it is financially punitive (and in some cases impossible) to expatriate.

**Possible Constitutional Considerations:**

Leaving aside the moral considerations, Professor Worster writing in the Florida Law Review argues that the Exit Tax is NOT constitutional.

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1628568](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1628568)

**Justice Black, in Afroyim vs. Rusk tells us that:**

*“In our country the people are sovereign and the Government cannot sever its relationship to the people by taking away their citizenship. Our Constitution governs us and we must never forget that our Constitution limits the Government to those powers specifically granted or those that are **necessary and proper** to carry out the specifically granted ones.”*

[Afroyim v. Rusk](#)

His important decision in Afroyim strongly states that the 14<sup>th</sup> amendment protects citizens from the “forceful destruction of their citizenship.” This means the “forcible destruction of all incidents of citizenship. Incidents of citizenship include both the right to retain and the right to renounce U.S. citizenship.

Therefore:

- A. The government cannot put you in a position where you are forced to renounce your citizenship (i.e., for the financial security of your family); and**
- B. The government cannot create conditions which make it impossible or unduly burdensome for one to renounce citizenship (i.e., expatriation tax).**

**Differing approaches to a possible departure tax:**

There are a number of different approaches to the “Exit/departure tax” question that might be required to implement the change in taxation.

Schneider, for example, suggests that the “...best, and conceptually cleanest, approach is to follow the [exit tax] approach of Canada and other countries, which was partially relied upon in creating the section 877A exit tax regime, and treat all changes in U.S. residence as resulting in a deemed disposition.”

We do not propose at this time the specific mechanics of a departure tax (if any) for residence-based taxation purposes, but do argue firstly that any such tax must not exceed the taxes that would normally be required during U.S. residency (i.e., departure tax should not be an additional “penalty” as punishment) and that **such departure tax cannot impact negatively on the fundamental right to leave one’s country.**

**We encourage the committee to accept the view that, IF there is to be an Exit/Departure tax that:**

- It be based on assets that have an economic connection to the U.S.
- It be applied on a prospective basis: That is, it should be based on activity after 2008. (The activity is retrospective in application.)
- It not be more punitive than that which would take place on the death of the taxpayer
- It not be applied to long term non-residents of the United States
- It not be a significant deterrent to exercising the fundamental right of expatriation

At the present time, U.S. citizens abroad who are covered expatriates, cannot afford the cost of remaining a U.S. citizen but cannot afford the injustice of Exit Taxes triggered by expatriation. They are in a desperately unfair situation. Relief is absolutely required.

**To reiterate our request: We ask that the Expatriation provisions of the IRC operate to allow U.S. citizens to free themselves in a humane way.**

**CATEGORY 4 -- SPECIFIC SUBMISSION—Desperate relief required.  
Administratively simple interim measures prior to change to residence-based  
taxation**

We are optimistic that, in time, the U.S. will have no choice but to move to residence-based taxation, but do appreciate that changes in tax rules might not happen quickly.

In the interim, we request changes in the tax rules that will significantly help some of the most impacted U.S. citizens survive the imposition of citizenship-based taxation.

We realistically anticipate that prior to residence-based taxation being enacted, the only alternative for many will be to renounce U.S. citizenship. In this respect, we request below that an immediate **interim-only** measure be undertaken to reduce somewhat, and in an administratively simple procedure, the exit tax penalty for such individuals who are forced into renunciation.

Thus, recognizing that the current provisions of the S. 877A Exit Tax apply to U.S. citizens abroad, including U.S. citizens who have lived all of their working lives outside of the United States and who have no economic ties or assets in the United States, we specifically request as an immediate interim measure that:

1. For the purposes of meeting the test for becoming a “covered expatriate” that the two million “threshold” be raised to five million dollars (making it consistent with the Estate and Gift tax exemption). Why should a tax on expatriation exceed a tax on death?;
2. Ensure that the “mark to market” tax be applied only to the extent that gains exceed the “threshold” described in the above paragraph. At the present time, a person with assets of 2,100,000 is a covered expat resulting in his entire estate being subject to tax and a person with 1,999,000 escapes the Exit Tax in its entirety.
3. Eliminate the requirement that “certain minors” and dual U.S. citizens as presently defined in IRS 8854 (<http://www.irs.gov/pub/irs-pdf/i8854.pdf>) be required to certify compliance with U.S. tax obligations for the five years prior to expatriation. Treasury already acknowledges that such individuals should not pay *any* expatriation tax because of absence of meaningful relationship with the US. Similarly, it is illogical for these individuals, many not even aware that they are U.S. citizens, to be required to pay any costs whatsoever associated with five years of back filing.

Regarding our propose five million dollar threshold for becoming a covered expatriate, note the comments of Bill Yates, former IRS attorney (and a recipient of the Albert Gallatin Award) who emphasized: “...I agree with raising the asset and income tax thresholds. We always thought they were too low.”

**January 17, 2014 Request for tax rule changes for U.S. citizens overseas**

See: <http://blogs.angloinfo.com/us-tax/2013/07/22/residence-based-taxation-interview-with-bill-yates-former-attorney-office-of-associate-chief-counsel-international-irs-2/#.Uez248PX494.twitter>

We emphasize that acceptance of these three proposals for immediate relief would require virtually NO new legislative drafting, but only minor amendments to existing legislation.

**To reiterate our request:** We request that as an immediate measure that:

- 1 The threshold for becoming a covered expatriate be raised to 5 million dollars (bringing into line with the estate tax threshold);
- 2 Only the amount that exceeds the threshold be subject to the Exit tax; and
- 3 Eliminate requirement of certification of IRS compliance for five years prior to expatriation for "certain minors" and duals per IRS 8854.

We thank the Senate Finance Committee for the opportunity of improving the lives of U.S. citizens overseas and hope that it will consider our submission favourably.

John Richardson  
Barrister and Solicitor  
Toronto, Canada

Willard (Bill) Yates  
Attorney,  
Private International Tax Consulting,  
*Foreign Trusts, Offshore Compliance and Expatriation*  
Arlington, VA  
U.S.A.

Stephen Kish, Ph.D.  
Professor of Psychiatry and Pharmacology  
University of Toronto  
Toronto, Canada

Cc: Congressman Dave Camp, Chairman, House Ways & Means Committee  
Congressman Jim McDermott, House Ways and Means Committee  
Nina Olson, National TaxPayer Advocate