FUNDAMENTAL TAX REFORM PROPOSALS

HEARING

BEFORE THE

SUBCOMMITTEE ON TAX POLICY

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

MARCH 22, 2016

Serial No. 114–TP05

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FUNDAMENTAL TAX REFORM PROPOSALS

TUESDAY, MARCH 22, 2016

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TAX POLICY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 3:40 p.m., in Room 1100, Longworth House Office Building, Hon. Charles W. Boustany, Jr. [Chairman of the Subcommittee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TAX POLICY

FOR IMMEDIATE RELEASE
Tuesday, March 15, 2016
No. TP–05

CONTACT: (202) 225–3625

Chairman Boustany Announces Member Day Hearing on Fundamental Tax Reform Proposals

House Ways and Means Tax Policy Subcommittee Chairman Charles Boustany (R–LA), today announced that the Subcommittee will hold a hearing on Member proposals relating to fundamental reform of the income tax system. **The hearing will take place on Tuesday, March 22, 2016, in Room 1100 of the Longworth House Office Building, beginning at 2:30 p.m.**

This hearing will focus in particular on cash-flow and consumption-based approaches to taxation. It will be the first in a series of Subcommittee hearings on tax reform proposals by Members of Congress, with the next hearing focused on income-based approaches to taxation.

Oral testimony at this hearing will be limited to Members of Congress who either have introduced or cosponsored legislation that presents an alternative to the current income-based approach to taxation. Members wishing to testify at this hearing should contact the Subcommittee at (202) 225–5522 or *robert.cusmano@mail.house.gov* by no later than noon on Friday, March 18, 2016. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Tuesday, April 5, 2016**. For questions, or if you encounter technical problems, please call (202) 225–3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

3. Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TDD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available online at *http://www.waysandmeans.house.gov/*.

Chairman BOUSTANY. The Subcommittee will come to order, and welcome to the Ways and Means Subcommittee on Tax Policy. And today we are going to have a Member Day, where we will hear a number of bills from Members regarding fundamental tax reform proposals.

This is really the first in a series of hearings on fundamental tax reform, and we are honored to have three of our esteemed colleagues join us today so we can learn about the bills they have developed to take the tax system in a new direction, by moving away from income as the tax base and instead looking to cash-flow or consumption as a tax base that is more conducive to economic growth. These are important ideas, in which our colleagues have invested an enormous amount of time and energy. It shows the seriousness of their commitment to the effort to develop a pro-growth tax system for the 21st century.

It is abundantly clear that our current Tax Code is broken. We are saddled with a Code that is littered with exclusions, deductions, and special rules, a Code that has grown to more than 4 million words, and that doesn't include all the forms, schedules, worksheets, and instructions that are required for Americans to comply with the law. The Code is so complex that Americans devote billions of hours a year to tax compliance, and they also spend tens of billions of dollars a year on tax preparation software or professional services. Imagine if all that time and money could be put to more productive use instead, jump-starting our lackluster economy.

As we focus on tax reform, we want to take a fresh look and consider all ideas and proposals, including the three important proposals being presented today. Ultimately, the Ways and Means Committee must weave the most pro-growth concepts and ideas into a bold plan that fundamentally and comprehensively reforms our tax system: A tax reform plan that suitably marks this year's 30th anniversary of the last overhaul of the tax system.

This hearing is just the beginning. The Subcommittee will continue to solicit and evaluate all ideas. We will be holding our next hearing on April 13th to examine Member bills that make fundamental reforms within the context of an income-based tax system.

So thank you again to each of our witnesses for taking time from your busy schedules to be with us today, and we look forward to hearing about your bold proposals.

And now I yield to the distinguished Ranking Member of the Subcommittee, Mr. Neal, for the purposes of an opening statement.

Mr. NEAL. Thank you, Mr. Chairman, for calling this hearing and considering once again fundamental tax reform proposals. We are all aware of the great need to reform our broken and inefficient Tax Code, while replacing it with a Code that promotes job growth, lifts wages for all workers, and grows the middle class.

One of the challenges, I think, for all of us today is to make sure we are not sitting here for the 35th anniversary of 1986. And the truth is that this is very difficult work, it is very complex work. There is broad agreement on what needs to be done; there is less agreement on how to do it. And that is the challenge we face.

We all know that tax reform cannot wait. The economy, clearly, cannot wait. And certainly the American people cannot wait. Today's hearing is yet another in a long line of hearings that we have had on this matter when both sides were in the Majority. I express my frustration at this hearing because oftentimes, even with the best proposals that step forward, they get caught up in partisan politics and we end up going backward, rather than forward.

So, I want to take a moment to commend my friend and former Chairman of the Committee, Dave Camp. He put out a very earnest effort at reforming our Tax Code, the best effort since Chairman Rostenkowski in 1986. There were parts of his plan that I disagreed with, but I want to tell you the way that it was done with methodical bipartisanship is a very important model, as we go forward. The bipartisan effort included Members and stakeholders alike. We heard from everybody over the course of 3 years.

Now, rather than building on this effort, we are instead holding another hearing on tax reform, instead of trying to roll up our sleeves and actually doing the hard work that reform invites. As time passes, the Code gets older, more inefficient, less competitive.

Mr. Chairman, we are now on the verge of the opportunity to really do something, to get to work and put out a meaningful draft. Now is the time to reform the Code. And I thank you.

Chairman BOUSTANY. I thank the gentleman. Without objection, other Members' opening statements will be made part of the record.

Today's witness panel includes three of our fellow Members of the House of Representatives: The Honorable Devin Nunes, representing the 22nd District of California, and a Member of the Ways and Means Committee. He will be testifying about H.R. 4377, the American Business Competitiveness Act of 2015, which would tax businesses based on their cash-flow, rather than based on their income.

We will also hear from the Honorable Michael Burgess, representing the 26th District of Texas. He will be testifying about H.R. 1040, the Flat Tax Act, which would provide businesses and individuals with an election to be taxed at a flat rate, and to be taxed on a cash-flow basis for business activities.

And we will also hear from the Honorable Rob Woodall, representing the 7th District of Georgia. He will testify about H.R. 25, the Fair Tax Act of 2015, which would impose a national sales tax on gross payments for the use or consumption of taxable property or services.

Each of your tax reform bills will be made part of the formal hearing record. Traditionally, the Committee allots 5 minutes to each witness to deliver oral remarks. However, today we will be somewhat lenient on the 5-minute rule, but just a bit, to ensure that each of you can fully introduce your proposals.

So, we will begin with you, Mr. Nunes.

STATEMENT OF HON. DEVIN NUNES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. NUNES. Well, thank you, Chairman Boustany and Ranking Member Neal, for inviting me to testify today before the Tax Policy Subcommittee. It is nice to be down here with the common folks, instead of up there.

It is my honor to present H.R. 4377, the American Business Competitiveness Act, known as the ABC Act, a business tax reform plan that I have been developing for several years. I look forward to your questions and our continued dialogue on comprehensive tax reform.

Many Republicans and Democrats agree the United States needs to adopt a broad-based consumption tax. We are paying the price through fewer jobs, less economic growth, and less tax revenue for being one of the only developed countries in the world without one.

Most of the world's consumption taxes are sales taxes or value-added taxes, but the ABC Act is different. It would encourage business investment by allowing 100 percent expensing in the current year. This means that companies of any size, no matter how they are organized, would pay no tax on any of their spending for personnel, equipment, property, or any other expenditure related to the operation of their business in the United States.

Today income tax penalizes new investment, but the ABC Act would eliminate that penalty, rapidly spurring economic growth.

First and foremost, the ABC Act applies to all business entities, regardless of their structure, including corporations, S corporations, partnerships, sole proprietorships, LLCs, and any other business entity. The bill would lower the maximum tax rate on net business income to 25 percent. Anything a company purchases, including property, services, compensation, and inventory would be fully expensed. With full expensing, all the business tax credits and deductions littered throughout the Tax Code would be systematically eliminated.

The bill also replaces our complicated, duplicative, and uncompetitive international rules with a simple territorial system. In an increasingly interconnected world, we need to boost our global competitiveness. The ABC Act would achieve that goal by undoing our worldwide tax so that American businesses are only taxed on income effectively connected with business inside the United States. All the complicated deferral rules would be wiped away, leaving us with a simple and fair territorial Code. The only fee companies would pay for repatriating foreign-held earnings up to date in the United States would be a one-time toll charge of 5 percent assessed in the first year of enactment—on undistributed foreign earnings minus dividends paid out in that year.

When combined with immediate expensing and new, lower tax rates, these provisions would make America the largest tax haven in the world. Companies would be scrambling back to reinvest money in the United States. This would boost American jobs, increase GDP, and spark widespread investment in all sectors of the economy.

The ABC Act will not only kickstart economic growth, but it will also allow for the allocation of investment and decisionmaking based on best business practices, not the Tax Code. Inefficient business models based on our current Tax Code would be rendered irrelevant.

The current Tax Code is over 70,000 pages long, and is plagued with senseless regulations and special interest loopholes. This unfairly benefits big businesses, which are often armed with high-priced accountants and tax attorneys who find ways to exploit the complicated provisions. Every day Americans who dream of starting their own business quickly realize that they lack the resources to fight these complex rules and regulations.

My plan would drastically simplify the Tax Code by eliminating all the pet credits and deductions for businesses, which would no longer be necessary with full expensing.

In my home State of California, where tax and business regulations are exceedingly convoluted, the ABC Act would vastly improve the business climate and encourage entrepreneurship. In fact, the ABC Act would provide every American the opportunity to start up a business without being penalized with steep taxes and burdensome regulations. Though this bill makes no changes to the individual Code, other than bringing down the rate on interest income, this efficient, fair, and simple plan would completely revamp business taxes in order to give all citizens a shot at the American dream of owning their own business.

It is increasingly clear that simply lowering the corporate tax rate or adjusting specific provisions of the Code will not yield dramatic economic growth or drastically increase the number of startups. Instead, businesses of all sizes will continue to be burdened by a bewildering, punitive Tax Code, while jobs and investment will continue to transfer overseas.

That is why I have been working on eliminating the income tax and moving to a consumption tax. The ABC Act does exactly that. The bill has 29 cosponsors representing a diverse cross-section of Members.

And I look forward to your questions. I yield back.

[The submission of The Honorable Devin Nunes follows:]

I

114TH CONGRESS
2D SESSION

H. R. 4377

To amend the Internal Revenue Code of 1986 to tax business income on a cash flow basis, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2016

Mr. NUNES (for himself, Mr. TIBERI, Mr. BOUSTANY, Mr. MARCHANT, Mr. HOLDING, Mr. PITTENGER, Mr. PALMER, Mr. RUSSELL, Mr. SIMPSON, Mr. FRANKS of Arizona, Mr. STEWART, Mr. CALVERT, Mr. KNIGHT, Mrs. MIMI WALTERS of California, Mr. VALADAO, Mr. ISSA, Mr. AMODEI, Mr. YOHO, Mr. HARDY, Mr. COLE, Mr. POMPEO, Mr. ROE of Tennessee, Mr. FLEISCHMANN, Mr. EMMER of Minnesota, Mr. LONG, Mr. BRAT, and Mr. ROUZER) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to tax business income on a cash flow basis, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "American Business Competitiveness Act of 2015".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. CONGRESSIONAL FINDINGS.

(a) FINDINGS RELATING TO THE DEPRECIATION SYSTEM OF FEDERAL BUSINESS TAXATION.—Congress finds the depreciation system—

(1) is rife with outdated asset classifications, inaccurate depreciation schedules, targeted credits and deductions, and targeted expensing provisions;

(2) rewards some business activities over others;

(3) reduces savings and investment in the United States by increasing the rate of return that is required for investments to be viable; and

(4) creates complexity for both the Internal Revenue Service and businesses.

(b) FINDINGS RELATING TO THE DEDUCTION OF BUSINESS INTEREST.—Congress finds that the business interest deduction—

(1) encourages businesses to finance their operations with debt;

(2) results in negative effective tax rates for some investments; and

(3) heightens bankruptcy risk during periods of economic distress.

(c) FINDINGS RELATING TO THE EXPENSING OF INVESTMENT.—Congress finds that allowing businesses to expense their investments—

(1) will make more investment opportunities profitable for businesses to undertake;

(2) will promote investment in the United States;

(3) will limit the Government's ability to reward specific business activities through the tax code; and

(4) will simplify business taxation.

SEC. 3. MAXIMUM TAX RATE FOR NET BUSINESS INCOME.

(a) INDIVIDUAL NET BUSINESS INCOME.—

(1) MAXIMUM RATE OF 25 PERCENT.—Paragraph (1) of section 1(h) is amended—

(A) in subparagraph (A)—

(i) by striking "the net capital gain" in clause (i) and inserting "the sum of the net capital gain and the net business income"; and

(ii) by striking "the adjusted net capital gain" in clause (ii)(II) and inserting "the sum of the adjusted net capital gain and the net business income"; and

(B) in subparagraph (E)(i) by striking "unrecaptured section 1250 gain" and inserting "25-percent rate gain".

(2) 25-PERCENT RATE GAIN.—Subsection (h) of section 1 is amended by adding at the end the following:

"(12) 25-PERCENT RATE GAIN.—For purposes of this subsection—

"(A) unrecaptured section 1250 gain, plus

"(B) net business income.".

(b) CORPORATE INCOME TAX RATE REDUCTION; TAX IMPOSED ONLY ON CORPORATION'S NET BUSINESS INCOME.—

(1) IN GENERAL.—Section 11 is amended to read as follows:

"SEC. 11. TAX IMPOSED.

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the net business income of every corporation.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the net business income as does not exceed $50,000, and

"(2) 25 percent of so much of the net business income as exceeds $50,000.

In the case of a corporation which has net business income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $5,000.".

(2) CONFORMING AMENDMENT.—Paragraphs (1) and (2) of section 1445(e) are each amended by striking "35 percent" and inserting "25 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 2015.

SEC. 4. DEFINITION OF NET BUSINESS INCOME TAX BASE.

(a) IN GENERAL.—Subtitle A is amended by inserting after chapter 2A the following new chapter:

"CHAPTER 2B—BUSINESS INCOME

"SUBCHAPTER A. BASIC RULES

"Subchapter A—Basic Rules

"SEC. 1421. NET BUSINESS INCOME.

"(a) IN GENERAL.—For purposes of this title, the term 'net business income' means, for a taxable year with respect to a business entity, the amount by which the taxable receipts of the business entity for the taxable year exceed the deductible amounts for the business entity for the taxable year.

"(b) TAXABLE RECEIPTS.—

"(1) IN GENERAL.—The term 'taxable receipts' means all receipts from the sale of property, use of property, and performance of services.

"(2) GAMES OF CHANCE.—Amounts received for playing games of chance by business entities engaging in the activity of providing such games shall be treated as receipts from the sale of property or services.

"(3) IN-KIND RECEIPTS.—The taxable receipts attributable to the receipt of property, use of property or services in whole or partial exchange for property, use of property or services equal the fair market value of the services or property received.

"(4) TAXES.—The term 'taxable receipts' does not include any excise tax, sales tax, custom duty, or other separately stated levy imposed by a Federal, State, or local government received by a business entity in connection with the sale of property or services or the use of property.

"(5) FINANCIAL RECEIPTS.—

"(A) IN GENERAL.—The term 'taxable receipts' does not include financial receipts.

"(B) FINANCIAL RECEIPTS.—The term 'financial receipts' includes—

"(i) interest,

"(ii) dividends and other distributions by a business entity,

"(iii) proceeds from the sale of stock, other ownership interests in business entities, or other financial instruments,

"(iv) proceeds from life insurance policies,

"(v) proceeds from annuities,

"(vi) proceeds from currency hedging or exchanges, and "(vii) proceeds from other financial transactions.

"(C) FINANCIAL INSTRUMENT.—The term 'financial instrument' means any—

"(i) share of stock in a corporation,

"(ii) equity ownership in any widely held or publicly traded partnership, trust, or other business entity,

"(iii) note, bond, debenture, or other evidence of indebtedness,

"(iv) interest rate, currency, or equity notional principal contract,

"(v) evidence or interest in, or a derivative financial instrument in, any financial instrument described in clause (i), (ii), (iii), or (iv), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a financial instrument or currency, and

"(vi) a position which—

"(I) is not a financial instrument described in clause (i), (ii), (iii), or (iv), "(II) is a hedge with respect to such a financial instrument, and

"(III) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into.

"(c) DEDUCTIBLE AMOUNTS.—

"(1) IN GENERAL.—The term 'deductible amounts' includes for a taxable year with respect to a business entity—

"(A) the cost of business purchases in the taxable year (as determined under subsection (d)),

"(B) compensation expenses for an individual (other than amounts paid to an individual in his capacity as a business entity), or

"(C) the cost of employer-provided health insurance for which the employee, members of his family, or persons designated by him or members of his family are the beneficiaries,

"(D) such entity's loss carryover deduction (determined under section 172),

"(E) in the case of an entity which is a real estate investment trust, the amount of any dividend payment made to a shareholder of such trust, and

"(F) the transition basis deduction (as determined under section 5 of the American Business Competitiveness Act of 2015).

"(2) COMPENSATION EXPENSES.—For purposes of subsection (a), the term 'compensation expenses' means—

"(A) wages, salaries or other cash payable for services,

"(B) any taxes imposed on the recipient that are withheld by the business entity,

"(C) the cost of property purchased to provide employees with compensation (other than property incidental to the provision of fringe benefits that are excluded from income under the individual tax), and

"(D) the cost of fringe benefits other than health insurance deductible under paragraph (1)(C).

"(3) PASS-THRU WAGES MUST BE REASONABLE.—For purposes of paragraph (2)(A), amounts payable as wages, salaries or other cash payable for services by a S corporation, partnership, or other pass-thru entity shall not be treated as wages, salaries or other cash payable for services unless such amounts are reasonable for the service rendered.

"(d) COST OF BUSINESS PURCHASES.—

"(1) BUSINESS PURCHASES.—

"(A) IN GENERAL.—The term 'business purchases' means the acquisition of—

"(i) property,

"(ii) the use of property, or

"(iii) services,

for use in a business activity.

"(B) EXAMPLES.—Business purchases include (without limitation) the—

"(i) purchase or rental of real property,

"(ii) purchase or rental of capital equipment,

"(iii) purchase of supplies and inventory,

"(iv) purchase of services from independent contractors, and

"(v) imports for use in a business activity.

"(C) EXCLUSIONS.—Business purchases do not include—

"(i) payments for use of money or capital, such as interest or dividends (except to the extent that a portion so paid is a fee for financial intermediation services),

"(ii) premiums for life insurance,

"(iii) the acquisition of savings assets or other financial instruments (as defined in subsection (b)(5)(C)),

"(iv) taxes (except as provided in subsection (b)(2) relating to product taxes), and

"(v) the cost of financial instruments (as defined in subsection (b)(5)(C)).

"(2) COST OF BUSINESS PURCHASES.—

"(A) IN GENERAL.—The term 'cost of a business purchase' is the amount paid or to be paid for the business purchase.

"(B) PROPERTY AND SERVICES ACQUIRED FOR PROPERTY.—If a business entity receives property or services from a business entity in whole or partial exchange for property or services, the property or services acquired shall be treated as if they were purchased for an amount equal to the fair market value of the services or property received. For purposes of this section, property includes stock and other equity interests in business other than stock or an equity interest in the business entity acquiring the property or services. See section 1422 for rules on property or services received in exchange for an equity interest in the recipient.

"(C) GAMBLING PAYMENTS.—In the case of a business involving gambling, lotteries, or other games of chance, business purchases include amounts paid to winners.

"(e) BUSINESS ENTITY AND BUSINESS ACTIVITY.—

"(1) BUSINESS ENTITY.—For purposes of determining business income, the term 'business entity' means any corporation (including any S corporation), unincorporated association, partnership, limited liability company, proprietorship, independent contractor, individual, or any other person, engaging in business activity in the United States. An individual shall be considered a business entity only with respect to the individual's business activities.

"(2) BUSINESS ACTIVITY.—The term 'business activity' means the sale of property or services, the leasing of property, the development of property or services for subsequent sale or use in producing property or services for subsequent sale. The term 'business activity' does not include casual or occasional sales of property used by an individual (other than in a business activity), such as the sale by an individual of a vehicle used by the individual.

"(3) EXCEPTION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—The term 'business activity' does not include—

"(i) the performance of services by an employee for an employer that is a business entity with respect to the activity in which the employee is engaged, or

"(ii) the performance of regular domestic household services (including babysitting, housecleaning, and lawn cutting) by an employee of an employer that is an individual or family.

"(B) EMPLOYEE DEFINED.—For purposes of this subsection, the term 'employee' includes an individual partner who provides services to a partnership or an individual member who provides services to a limited liability company, or a proprietor with respect to compensation for services from his proprietorship.

"(f) SAVINGS ASSETS.—The term 'savings assets' means stocks, bonds, securities, certificates of deposits, investments in partnerships and limited liability companies, shares of mutual funds, life insurance policies, annuities, and other similar savings or investment assets.

"Subchapter B—Capital Contributions, Mergers, Acquisitions, and Distributions

"SEC. 1422. CONTRIBUTIONS TO A BUSINESS ENTITY.

"(a) BY BUSINESS ENTITY.—

"(1) CASH.—If a business entity contributes cash to a business entity of which it is or becomes a partial or full owner, the amount contributed is not a deductible amount to the contributor or a taxable receipt to the recipient.

"(2) PROPERTY OR SERVICES.—If a business entity contributes property or services to a business entity of which it is or becomes a partial or full owner, the transaction will not result in taxable receipts to the contributor or a deduction for a business purchase for the recipient and will not constitute a sale resulting in taxable receipts to the contributor.

"(b) BY INDIVIDUAL.—

"(1) CASH.—If an individual contributes cash to a business entity, the amount contributed is not a deductible amount to the contributor and the cash received by the business entity is not a taxable receipt.

"(2) NEW PROPERTY.—If an individual contributes to a business entity property that the individual purchased for the business entity but which was not used by any person after its purchase, the property shall be considered purchased by such business entity from the person from which the individual purchased the property and the transaction will not result in a deductible amount to the contributor.

"(3) PERSONAL USE PROPERTY.—

"(A) IN GENERAL.—If an individual contributes personal use property to a business entity in which the individual has an ownership interest or for which the individual receives an ownership interest, the business entity shall not be permitted to deduct the value of the property received as a business expense. The business entity will have a tax basis in the contributed property equal to the contributor's basis.

"(B) PERSONAL USE PROPERTY.—The term 'personal use property' means any property used by an individual at any time other than in a business activity.

"(4) SERVICES.—If an individual contributes services to a business entity in which the individual has an ownership interest or receives an ownership interest, the business entity shall not be permitted to deduct the value of the services received (or the value of the equity interest provided to the services provider).

"SEC. 1422A. DISTRIBUTIONS OF PROPERTY.

"(a) DISTRIBUTIONS OTHER THAN TO CONTROLLING BUSINESS.—If a business entity distributes all or a portion of its assets to its owners (other than a controlling business entity), the business entity will be treated as if it sold the assets to its owners at fair market value. The fair market value will be determined by the distributing business entity and those determinations, unless unreasonable, will be binding on the recipients.

"(b) DISTRIBUTIONS TO A CONTROLLING BUSINESS.—If a business entity distributes all or a portion of its assets to a controlling business entity, the controlling business entity will assume the distributing entity's tax attributes with respect to the assets and neither entity will have taxable receipts or a deduction as a result of the transaction.

"(c) DISTRIBUTION OF PERSONAL USE PROPERTY.—If personal use property is distributed to the individual who contributed the personal use property to a business entity, the fair market value of the property for purposes of subsection (a) shall equal the basis of the property plus any enhancement in value of the property attributable to business purchases with respect to the property.

"(d) CONTROLLING BUSINESS ENTITY.—A business entity is a 'controlling business entity' with respect to another business entity if it, or any person to which it is related, owns directly or indirectly more than 50 percent of the profits or capital interest in the other business entity. For purposes of the preceding sentence, a person is related to a business entity if such person owns directly or indirectly more than 50 percent of the profits or capital interest in the business entity.

"(e) APPLICATION OF THIS SECTION.—This section applies to both liquidating and nonliquidating distributions.

"SEC. 1422B. ASSET ACQUISITIONS.

"(a) IN GENERAL.—If a business entity transfers some or all of its assets, the consideration received for such assets shall be allocated among the assets transferred in the same manner as was required by section 1060 of the Internal Revenue Code of 1986. If the transferee and transferor agree in writing on the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferor and transferee unless the Secretary determines that such allocation (or fair market value) is not appropriate.

"(b) TAX CONSEQUENCES.—The tax consequences of an asset acquisition shall be determined in accordance with the rules of this chapter and shall be dependent upon allocations made under subsection (a). In general, consideration allocable to savings assets, such as stock in another business entity, would not be included in taxable receipts of the transferor and would not be a business purchase of the purchaser, but consideration allocable to the sale of tangible property and intangible property (other than savings assets) will constitute taxable receipts of the seller and a business purchase of the purchaser.

"(c) ELECTION TO TREAT ASSET ACQUISITION AS A STOCK ACQUISITION.—In the case of the sale of substantially all of the assets of a business entity or substantially all of the assets of a line of business or a separately standing business of a business entity, the transferee and transferor can jointly elect to treat the acquisition as if it were an acquisition of the stock of a business entity holding the assets so transferred. In such case, the rules of section 1422C shall apply.

"(d) AUTHORITY TO REQUIRE ALLOCATION AGREEMENT AND NOTICE TO THE SECRETARY.—If the Secretary determines that certain types of asset acquisitions have significant possibilities of tax avoidance, the Secretary may require—

"(1) parties to such types of acquisitions to enter into agreements allocating consideration,

"(2) parties to acquisitions involving certain kinds of assets to enter into agreements allocating part of the consideration to those assets, or

"(3) parties to certain acquisitions to report information to the Secretary.

"(e) ASSET ACQUISITION RULES DO NOT APPLY IF CONSIDERATION INCLUDES EQUITY IN PURCHASER.—

"(1) IN GENERAL.—If a business entity issues its own equity or equity in a subsidiary or other controlled entity as part of the consideration for the transfer of assets to it, the transaction shall be treated as a business purchase and not as an asset acquisition, and the taxpayer shall not be entitled to a loss carryover for any unused deduction attributable to the equity portion of such transfer.

"(2) EQUITY.—For purposes of this subsection, equity means—

"(A) stock, in the case of a corporation, "(B) partnership or similar interest, in the case of a partnership or limited liability company, and

"(C) an ownership interest or interest in profits in the case of any other business entity.

"SEC. 1422C. MERGERS, STOCK ACQUISITIONS, AND SPIN-OFFS, SPLIT-OFFS, ETC.

"(a) MERGERS.—A merger of one business entity into another or two businesses entities into a third business entity or any other similar transaction shall have no direct consequences under the business cash flow tax. The surviving entity shall assume the tax attributes of the merged business entities, including any loss carryovers and credit carryovers.

"(b) STOCK ACQUISITION.—The acquisition of all or substantially all of the ownership interest in one business entity either for cash or in exchange for ownership in the acquiring entity or an entity controlled by the acquired entity shall have no direct consequences under the business cash flow tax.

"(c) SPIN-OFFS, SPLIT-OFFS, ETC.—A spin-off, split-off or split-up of a business entity shall have no direct tax consequences under this chapter.

"Subchapter C—International Provisions

"SEC. 1423. NO TAX IMPOSED ON INCOME DERIVED FROM TRADE OR BUSINESS OUTSIDE THE UNITED STATES.

"(a) IN GENERAL.—Only taxable receipts and deductible amounts which are effectively connected with the conduct of a trade or business within the United States shall be included or deducted in the computation of net business income.

"(b) No tax shall be imposed under this title on income effectively connected with the conduct of a trade or business that is not a trade or business within the United States.

"SEC. 1423A. NO CREDIT ALLOWED FOR FOREIGN TAXES ON INCOME DERIVED FROM TRADE OR BUSINESS OUTSIDE THE UNITED STATES.

"(a) IN GENERAL.—No credit shall be allowed under this title for any income, war profits, or excess profits taxes paid or accrued with respect to income effectively connected with the conduct of a trade or business that is not a trade or business within the United States.

"(b) UNUSED FOREIGN TAX CREDITS.—Under regulations prescribed by the Secretary, any taxpayer that is a corporation may elect to treat foreign tax credit carryovers from taxable years beginning prior to January 1, 2015, as general business credit carryovers.

"SEC. 1423B. 5-PERCENT TOLL CHARGE ON UNDISTRIBUTED FOREIGN EARNINGS.

"There is hereby imposed on any domestic corporation which owns 10 percent or more of the voting stock of a foreign corporation a tax equal to 5 percent of the corporation's post-1986 undistributed earnings for the corporation's last taxable year beginning prior to January 1, 2015. For purposes of this subsection, post-1986 undistributed earnings shall be computed as provided in section 902(c)(1) of the Internal Revenue Code of 1986 (as in effect prior to the enactment of the American Business Competitiveness Act of 2015), except that such undistributed earnings shall be diminished by the dividends distributed during such taxable year. Except as provided in regulations prescribed by the Secretary, the tax imposed by this subsection shall be paid at the same time and in the same manner as the tax imposed by section 11 for the corporation's first taxable year beginning on or after January 1, 2015.

"Subchapter D—Financial Institutions

"SEC. 1424. REAL-PLUS-FINANCIAL TREATMENT OF CERTAIN TRANSACTIONS INVOLVING FINANCIAL INSTITUTIONS.

"(a) TAXATION OF TRANSACTIONS BETWEEN FINANCIAL INSTITUTIONS AND BUSINESSES.—

"(1) GENERAL RULE.—In the case of a taxpayer that is a financial institution, taxable receipts shall include all amounts received in covered financial transactions and deductible amounts and shall include all amounts paid in covered financial transactions.

"(2) FINANCIAL INSTITUTIONS.—For purposes of this section, 'financial institution' shall mean, under regulations prescribed by the Secretary, any business entity that is regulated by any Federal or State agency as a financial institution. Such term includes regulated banks, insurance companies, investment banks, securities brokers, and mutual funds. Such term does not include credit unions.

"(3) COVERED FINANCIAL TRANSACTIONS.—For purposes of this section, 'covered financial transactions' shall mean transactions between a financial institution and a party that is not a business entity as defined in section 1421(c)(1). Under regulations prescribed by the Secretary, transactions that do not involve any significant provision of financial services (other than services for which explicit fees are charged) shall be treated as not being covered financial transactions.

"(b) TRANSITION RULE.—Under regulations prescribed by the Secretary, a tax is imposed on any financial institution equal to 25 percent of the institution's net claims against parties that are not business entities, as defined in section 1421(e)(1). Such claims shall be valued at the end of the financial institution's last taxable year beginning before January 1, 2015, with value measured by the institution's basis in such claims. Except as provided in regulations prescribed by the Secretary, the tax imposed by this subsection shall be paid at the same time and in the same manner as the net business income tax for the financial institution's first taxable year beginning on or after January 1, 2015.

"Subchapter E—Other Definitions

"SEC. 1425. OTHER DEFINITIONS.

"(a) IN GENERAL.—When used in this chapter, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

"(1) UNITED STATES.—The term 'United States' includes the States and the District of Columbia.

"(2) TREATMENT OF POSSESSIONS.—

"(A) IN GENERAL.—For purposes of this chapter, the United States possessions shall not be treated as part of the United States.

"(B) POSSESSION.—For purposes of paragraph (1), 'United States possession' or 'possession' means a possession of the United States and includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, Guam, American Samoa, and the United States Virgin Islands.

"(3) DEFINITIONS GENERALLY.—Any definition included in this chapter shall apply for all purposes of this chapter unless—

"(A) such definition is limited to the purposes of a particular chapter, section, or subsection, or

"(B) the definition clearly would not be applicable in a particular context.

"(b) INTERPRETATIONS CONSISTENT WITH REST OF INTERNAL REVENUE CODE OF 1986.—Terms not defined in this chapter, but defined elsewhere in this title, shall be interpreted in a manner consistent with this title, except to the extent such interpretation would be inconsistent with the principles and purposes of this chapter.".

(b) EXEMPT ORGANIZATIONS AND UNRELATED BUSINESS INCOME.—Sections 512 and 514 are both amended by striking "gross income" each place it appears and inserting "net business income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 2015, except to the extent otherwise specifically provided in the text of such amendments.

SEC. 5. ALLOWANCE OF TRANSITION BASIS DEDUCTION.

In the case of any property held by the taxpayer on December 31, 2014, and used in a trade or business of the taxpayer on such date, the following rules shall apply:

(1) BASIS.—The basis of such property shall be zero.

(2) DEDUCTION.—

(A) IN GENERAL.—There shall be allowed to the taxpayer a deduction with respect to such property, other than land.

(B) AMOUNT OF DEDUCTION.—Except as provided in subparagraph (D), such deduction shall be determined for a taxable year by amortizing the basis of such property on the same schedule and method that applied to such property before the enactment of this Act.

(C) DISPOSAL OF PROPERTY.—Subparagraph (A) shall apply with respect to property held by the taxpayer on December 31, 2014, whether or not the taxpayer disposes of such property after December 31, 2014.

(D) INVENTORY.—In the case of inventory, the deduction allowed by subparagraph (A) shall be allowed in the taxable year of the taxpayer which includes January 1, 2015.

SEC. 6. INTEREST INCOME OF INDIVIDUALS TAXED IN SAME MANNER AS DIVIDEND INCOME; REDUCED BY INTEREST EXPENSE.

(a) IN GENERAL.—Subparagraph (A) of section 1(h)(11) is amended by striking "qualified dividend income" and inserting "the sum of qualified dividend income and qualified interest income and reduced by interest expense".

(b) QUALIFIED INTEREST INCOME.—Paragraph (11) of section 1(h) is amended by adding at the end the following:

"(E) QUALIFIED INTEREST INCOME.—For purposes of this paragraph, the term 'qualified interest income' means—

"(i) interest on deposits with a bank (as defined in section 581), "(ii) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(I) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(II) any other savings or thrift institution which is chartered and supervised under Federal or State law, the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(iii) interest on—

"(I) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(II) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(iv) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(v) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.".

(c) INTEREST EXPENSE.—Paragraph (11) of section 1(h), as amended by subsection (b), is amended by inserting at the end the following:

"(F) INTEREST EXPENSE.—The term 'interest expense' means interest paid by the taxpayer other than qualified residence interest.".

(d) CONFORMING AMENDMENT.—The heading for section 1(h)(11) is amended by inserting "AND INTEREST" after "DIVIDENDS".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2014.

SEC. 7. REPEAL OF DEPRECIATION, INTERNATIONAL, AND OTHER TAX PROVISIONS.

(a) DEPRECIATION AND COST RECOVERY PROVISIONS.—The following sections of the Internal Revenue Code of 1986 are hereby repealed:

(1) Section 167 (relating to depreciation).

(2) Section 168 (relating to accelerated cost recovery system).

(3) Section 169 (relating to amortization of pollution control facilities).

(4) Section 173 (relating to circulation expenditures).

(5) Section 174 (relating to research and experimental expenditures).

(6) Section 175 (relating to soil and water conservation expenditures; endangered species recovery expenditures).

(7) Section 176 (relating to payments with respect to employees of certain foreign corporations).

(8) Section 178 (relating to amortization of cost of acquiring a lease).

(9) Section 179 (relating to election to expense certain depreciable business assets).

(10) Section 179A (relating to deduction for clean-fuel vehicles and certain refueling property).

(11) Section 179B (relating to deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations).

(12) Section 179C (relating to election to expense certain refineries).

(13) Section 179D (relating to energy efficient commercial buildings deduction).

(14) Section 179E (relating to election to expense advanced mine safety equipment).

(15) Section 180 (relating to expenditures by farmers for fertilizer, etc.).

(16) Section 181 (relating to treatment of certain qualified film and television productions).

(17) Section 190 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly).

(18) Section 192 (relating to contributions to black lung benefit trust).

(19) Section 193 (relating to tertiary injectants).

(20) Section 194 (relating to treatment of reforestation expenditures).

(21) Section 195 (relating to start-up expenditures).

(22) Section 196 (relating to deduction for certain unused business credits).

(23) Section 197 (relating to amortization of goodwill and certain other intangibles).

(24) Section 198 (relating to expensing of environmental remediation costs).

(25) Section 198A (relating to expensing of qualified disaster expenses).

(26) Section 199 (relating to income attributable to domestic production activities).

(27) Section 263 (relating to capital expenditures).

(28) Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses).

(29) Section 471 (relating to general rule for inventories).

(30) Section 472 (relating to last-in, first-out inventories).

(31) Section 473 (relating to qualified liquidations of LIFO inventories).

(32) Section 474 (relating to simplified dollar-value LIFO method for certain small businesses).

(33) Section 611 (relating to allowance of deduction for depletion).

(34) Section 612 (relating to basis for cost depletion).

(35) Section 613 (relating to percentage depletion).

(36) Section 613A (relating to limitations on percentage depletion in case of oil and gas wells).

(37) Section 614 (relating to definition of property).

(38) Section 616 (relating to development expenditures).

(39) Section 617 (relating to deduction and recapture of certain mining exploration expenditures).

(b) Special Deductions for Corporations.—The following sections of the Internal Revenue Code of 1986 are hereby repealed:

(1) Section 241 (relating to allowance of special deductions).

(2) Section 243 (relating to dividends received by corporations).

(3) Section 244 (relating to dividends received on certain preferred stock).

(4) Section 245 (relating to dividends received from certain foreign corporations).

(5) Section 246 (relating to rules applying to deductions for dividends received).

(6) Section 246A (relating to dividends received deduction reduced where portfolio stock is debt financed).

(7) Section 247 (relating to dividends paid on certain preferred stock of public utilities).

(8) Section 248 (relating to organizational expenditures).

(9) Section 249 (relating to limitation on deduction of bond premium on repurchase).

(c) Recognition of Revenue and Timing of Deduction Provisions.—The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) Part X of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to terminal railroad corporations and their shareholders).

(2) Section 456 (relating to prepaid dues income of certain membership organizations).

(3) Section 458 (relating to magazines, paperbacks, and records returned after the close of the taxable year).

(4) Section 460 (relating to special rules for long-term contracts).

(5) Section 467 (relating to certain payments for the use of property or services).

(6) Section 468 (relating to special rules for mining and solid waste reclamation and closing costs).

(d) INTERNATIONAL PROVISIONS.—The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) Section 902 (relating to deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation).

(2) Section 907 (relating to special rules in case of foreign oil and gas income).

(3) Subpart F of part III of subchapter N of chapter 1 (relating to controlled foreign corporations) other than section 965.

(4) Subpart G of part III of subchapter N of chapter 1 (relating to export trade corporations).

(5) Part IV of part III of subchapter N of chapter 1 (relating to domestic international sales corporations).

(e) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2014, in taxable years ending after that date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to dividends received or accrued after December 31, 2014, in taxable years ending after such date.

(3) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning on or after January 1, 2015.

SEC. 8. EXPANDED RELIEF FOR NET OPERATING LOSSES.

(a) EXTENDED CARRYBACK; UNLIMITED CARRYFORWARD WITH INTEREST.—Paragraph (1) of section 172(b) is amended to read as follows:

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—

"(A) IN GENERAL.—A net operating loss for any taxable year—

"(i) shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss, and

"(ii) shall be a net operating loss carryover to the succeeding taxable year and added to the deduction allowable under subsection (a) for such taxable year.

"(B) LIMITATION.—A net operating loss may not be carried back to any taxable year ending before January 1, 2015, except that a loss arising in a taxable year beginning in calendar year 2015 or calendar year 2016 may be carried back to the two preceding taxable years.".

(b) INTEREST ON CARRYFORWARD.—Section 172(b) is amended by adding at the end the following new paragraph:

"(4) INTEREST ON CARRYFORWARD.—The amount of any net operating loss carryover shall, prior to being carried to a succeeding taxable year, be increased by an amount equal to such carryover multiplied by the Federal short-term rate (as defined in section 1274(d)) for the month in which or with which the taxable year ends.".

(c) CONFORMING AMENDMENTS.—

(1) Section 172(d)(1) is amended by inserting "(other than by reason of subsection (b)(1)(B))" after "deduction".

(2) Section 172 is amended by striking subsections (f), (i), and (j) and redesignating subsections (g), (h), and (k) as subsections (f), (g), and (h), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses arising in taxable years beginning after December 31, 2014.

SEC. 9. REPEAL OF CORPORATE AMT AND INDIVIDUAL AMT PREFERENCES AND ADJUSTMENTS THAT PERTAIN TO CAPITAL COST RECOVERY.

(a) CORPORATE AMT.—Section 55(a)(1)(B) is amended by adding at the end the following flush sentence:

"For purposes of this title, the tentative minimum tax of any corporation for any taxable year ending after December 31, 2014, shall be zero.".

(b) INDIVIDUAL AMT.—

(1) Section 56 is amended—

(A) by striking paragraphs (1), (2), (3), (5), and (6) of subsection (a); and

(B) by striking subsection (b)(2).

(2) Section 57 is amended—

(A) by striking paragraphs (1), (2), (6), and (7) of subsection (a); and

(B) by striking subsection (b).

(c) EFFECTIVE DATE.—

(1) CORPORATE AMT.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 2014.

(2) INDIVIDUAL AMT.—The amendments made by subsection (b) shall apply to amounts paid or incurred after December 31, 2014.

SEC. 10. REPEAL OF BUSINESS TAX CREDITS.

(a) IN GENERAL.—Subparts D and E of part IV of subchapter A of chapter 1 are hereby repealed.

(b) SPECIAL RULE FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Any carryback or carryforward that arose under section 39 of the Internal Revenue Code of 1986 (as in effect before the repeal of such section by subsection (a)) shall be allowed under section 38 of such Code (as in effect before the repeal of such section by subsection (a)), in accordance with the terms of such sections (as so in effect).

(c) EFFECTIVE DATE.—The repeals made by this section shall apply with respect to amounts paid or incurred, and property placed in service, in taxable years beginning after December 31, 2014.

SEC. 11. DISALLOWANCE OF INTEREST EXPENSE DEDUCTION, EXCEPT QUALIFIED RESIDENCE INTEREST.

(a) IN GENERAL.—Section 163 is amended by adding at the end the following:

(1) in subsection (a) by striking "There" and inserting "Except as provided by subsection (n), there",

(2) by redesignating subsection (n) as subsection (o), and

(3) by inserting after subsection (m) the following new subsection:

"(n) TERMINATION.—

"(1) IN GENERAL.—Except as provided by subsection (h)(2)(D) and paragraph (2), this section shall not apply to interest paid or accrued after December 31, 2014.

"(2) TRANSITION INTEREST DEDUCTION.—

"(A) IN GENERAL.—In the case of a taxpayer who is a corporation, there shall be allowed as a deduction for a taxable year the sum of the monthly transition interest deductions for the taxable year.

"(B) MONTHLY TRANSITION INTEREST DEDUCTION.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The monthly transition interest deduction for any month is the transition interest amount multiplied by the applicable percentage for such month.

"(ii) APPLICABLE PERCENTAGE DEFINED.—The term 'applicable percentage' means, with respect to a month, 100 percent reduced (but not below zero) by .833 for each month of the transition period occurring before the month for which such percentage is determined.

"(iii) TRANSITION INTEREST AMOUNT.—The transition interest amount is the deduction allowed to the taxpayer under this section for the last full taxable year ending before January 1, 2015.

"(iv) TRANSITION PERIOD.—The term 'transition period' means the 120-month period beginning with January 2015.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest paid or accrued on or after January 1, 2015.

SEC. 12. CASH METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (a) of section 446 is amended to read as follows:

"(a) GENERAL RULE.—Taxable income shall be computed under the cash receipts and disbursements method of accounting.".

(b) CONFORMING AMENDMENTS.—

(1) Section 446 is amended by striking subsections (b), (c), and (e).

(2) The following sections of the Internal Revenue Code of 1986 are repealed:

(A) Section 447 (relating to method of accounting for corporations engaged in farming).

(B) Section 448 (relating to limitation on use of cash method of accounting).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2014.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by an amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period (not greater than 8 taxable years) beginning with such first taxable year.

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Chairman BOUSTANY. Thank you.

Dr. Burgess, you may proceed.

STATEMENT OF HON. MICHAEL C. BURGESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BURGESS. Thank you, Chairman. Thank you for holding this hearing. And I just want to say how grateful I am to the Chairman of the full Committee, Kevin Brady.

You know, as the landscape stretches out ahead of us for the remainder of this term and whatever happens in the next term, I do feel that the accumulated weight of desire for some type of fundamental tax reform will finally achieve that goal.

Now, as Mr. Woodall knows, this is the point in the discussion where I usually play a few lines from a Sheryl Crow song, "Can't Cry Anymore." She says, "Money comes in, but the fact is I don't make enough to pay my taxes." And I want to help Sheryl Crow. I want to help simplify her life, because I understand how——

Chairman BOUSTANY. Mr. Burgess, that is the suspicion we have, that you want to help Sheryl Crow.

[Laughter.]

Mr. BURGESS. Well, the truth is, I want to help every American. And it is—we have made life so difficult for the average citizen with our Tax Code. And this Subcommittee knows it much better than I. I mean I am just a simple country doctor. What do I know about tax policy? Next to nothing. And I will readily admit that.

But let me just tell you my own personal journey with the Flat Tax Act. It actually goes back to calendar year 1993. Bill Clinton and I that year earned exactly—exactly—the same amount of money. But when Bill Clinton's taxes were published in the newspaper and I calculated his effective tax rate, it was 19 percent. When I calculated my effective tax rate—remember the tax increases that were retroactive for the rich and the dead in 1993—I fell into that category. Not dead, but certainly well off. And my tax rate was 32 percent.

Why that discrepancy? Why treat one American citizen who happens to have a very well-paying job—the President of the United States—why treat that person preferentially, as opposed to someone who is delivering your health care late at night in their local hospital?

So, I started on this journey. And then, in 1995, my predecessor, Representative Dick Armey, Majority Leader Dick Armey, published a book called "*The Flat Tax*." I read it on a—actually, I was on my way to a medical convention. I bought it at the airport. I read it and it was like a revelation. Why don't we do this? Why don't we simplify? Why don't we give people back, if not money, the gift of time, the amount of time it takes to keep that shoebox full of receipts and prepare your taxes every year?

I actually spoke to Representative Armey about it early in 1996. He assured me that President Dole would sign the bill into law early in 1997. But, as we all know, history took a different turn that year. So here we are today, many years later, still talking about some of these things.

But again, I believe the accumulated weight of desire to affect the Tax Code in a positive way has reached the point where something is, in fact, going to happen.

Now, look. This idea is not new to me. Congressman Armey obviously had a bill to create a flat tax. The Hall-Rabushka proposals from years before. The concept is simple. You fill out a form, your amount of income less some personal deductions and some family deductions. I have the form up there. It is really pretty simple. It is a one-page form. Fill it out on a postcard and mail it in. The obvious takeaway from that is you don't have to spend all of those hours and dollars with your accountant every year.

My own personal situation, I have 2 half-days blocked off while we are out of session the next couple of weeks to accomplish this for myself. It is complicated. Even when everyone under the sun knows what the United States congressman earns, I still have to go through this exercise every year, lest I do something wrong and be called to account for it.

But you could fill out a simple postcard. You could fill out a simple return, and then everyone of the same income level would pay the same amount. It would have no bearing on the cleverness or astuteness of your accountant. It is just a fact of life.

And this was well illustrated by Ben Carson during one of the prayer breakfasts a few years ago. He related it to biblical tithing. My rate is a little higher than the biblical tithing rate, but he said, "If 10 percent is good enough for God, it ought to be good enough for the IRS." You know, again, my rate is a little higher.

The other thing that is different in the bill that I have introduced, H.R. 1040, different from what Congressman Armey had introduced previously, is that it is voluntary. If you like your tax, you can keep your tax. Can we just go ahead and say that, and make it as plain as day, that if you like your life under the Code, you don't have to change a thing, you can stay there.

But if you have reached the point where your frustration level is high enough, and the difficulty with keeping up with all of the pieces of paper is high enough, you could opt in to a flat tax. You can only make the election one time, there would be a 19 percent rate for 3 years, followed by 17 percent for every year subsequent to that.

My belief is that you would not run two systems simultaneously for long because giving people back the gift of time and simplicity in their lives, and allowing them—letting them make the choice. Rather than us making the choice that you are going to go into a flat tax, you are going to go into a consumption tax, rather than us making the choice, let people decide for themselves when the time in their life is right for them to elect into a flat tax.

I stand by to answer your questions. I thank you for the opportunity.

[The submission of The Honorable Michael Burgess follows:]

I

114TH CONGRESS
1ST SESSION

H. R. 1040

To amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2015

Mr. BURGESS introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flat Tax Act".

SEC. 2. THE FLAT TAX.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after part VII the following new part:

"PART VIII—THE FLAT TAX

"SEC. 60. IRREVOCABLE ELECTION TO BE SUBJECT TO FLAT TAX.

"(a) INDIVIDUAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in lieu of the tax imposed by sections 1 (relating to tax imposed) and 55 (relating to alternative minimum tax imposed), under regulations prescribed by the Secretary, an individual may make an irrevocable election to be subject to the tax imposed by this part.

"(2) INNOCENT SPOUSE EXCEPTION.—An individual who has made an election under paragraph (1) and who subsequently obtains relief of liability for tax under section 6015(b) may, not later than 1 year after the date such relief is granted, revoke the election made under paragraph (1).

"(b) PERSON ENGAGED IN BUSINESS ACTIVITY.—In lieu of the tax imposed by sections 11 (relating to tax imposed) and 55 (relating to alternative minimum tax imposed), under regulations prescribed by the Secretary, a person engaged in business activity may make an irrevocable election to be subject to the tax imposed by this part.

"(c) DISALLOWANCE OF CREDITS.—No credit shall be allowed under this chapter for any taxable year to any person with respect to whom an election under subsection (a) or (b) is in effect.

"SEC. 60A. TAX IMPOSED ON INDIVIDUALS.

"(a) IN GENERAL.—There is hereby imposed on the taxable income of every individual who makes an election to be subject to this part a tax equal to—

"(1) 19 percent of the taxable income of such individual for such taxable year in the case of the first 2 taxable years of the individual beginning with the taxable year for which the election is made, and

"(2) 17 percent of the taxable income of such individual for such taxable year in the case of all taxable years subsequent to the taxable years described in paragraph (1).

"(b) TAXABLE INCOME.—For purposes of this part, the term 'taxable income' means the excess of—

"(1) the sum of—

"(A) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash and which are received during the taxable year for services performed in the United States,

"(B) retirement distributions which are includible in gross income for such taxable year, plus

"(C) amounts received under any law of the United States or of any State which is in the nature of unemployment compensation, over

"(2) the standard deduction.

"(c) STANDARD DEDUCTION.—For purposes of this part—

"(1) IN GENERAL.—The term 'standard deduction' means the sum of—

"(A) the basic standard deduction, plus

"(B) the additional standard deduction.

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $32,496 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $20,739 in the case of a head of household (as defined in section 2(b)), and

"(C) $16,248 in the case of an individual—

"(i) who is not married and who is not a surviving spouse or head of household, or

"(ii) who is a married individual filing a separate return.

"(3) ADDITIONAL STANDARD DEDUCTION.—For purposes of paragraph (1), the additional standard deduction is $6,998 for each dependent (as defined in section 152) who is a qualifying child (as defined in section 152(c)(1)) for the taxable year and who is not required to file a return for such taxable year.

"(d) RETIREMENT DISTRIBUTIONS.—For purposes of this section, the term 'retirement distribution' means any distribution from—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an annuity contract described in section 403(b),

"(4) an individual retirement account described in section 408(a), "(5) an individual retirement annuity described in section 408(b),

"(6) an eligible deferred compensation plan (as defined in section 457),

"(7) a governmental plan (as defined in section 414(d)), or

"(8) a trust described in section 501(c)(18).

Such term includes any plan, contract, account, annuity, or trust which, at any time, has been determined by the Secretary to be such a plan, contract, account, annuity, or trust.

"(e) INCOME OF CERTAIN CHILDREN.—For purposes of this part—

"(1) an individual's taxable income shall include the taxable income of each dependent child of such individual who has not attained age 14 as of the close of such taxable year, and

"(2) such dependent child shall have no liability for tax imposed by this section with respect to such income and shall not be required to file a return for such taxable year.

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2016, each dollar amount contained in subsection (c) shall be increased by an amount determined by the Secretary to be equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for such calendar year.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 2015.

"(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

"(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the next highest multiple of $10.

"(g) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

"SEC. 60B. TAX IMPOSED ON BUSINESS ACTIVITIES.

"(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity who makes an election to be taxed under this part a tax equal to—

"(1) 19 percent of the business taxable income of such person for such taxable year in the case of the first 2 taxable years of the person beginning with the taxable year for which the election is made, and

"(2) 17 percent of the business taxable income of such person for such taxable year in the case of all taxable years subsequent to the taxable years described in paragraph (1).

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

"(c) BUSINESS TAXABLE INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

"(2) GROSS ACTIVE INCOME.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'gross active income' means gross receipts from—

"(i) the sale or exchange of property or services in the United States by any person in connection with a business activity, and

"(ii) the export of property or services from the United States in connection with a business activity.

"(B) EXCHANGES.—For purposes of this section, the amount treated as gross receipts from the exchange of property or services is the fair market value of the property or services received, plus any money received.

"(C) COORDINATION WITH SPECIAL RULES FOR FINANCIAL SERVICES, ETC.—Except as provided in subsection (e)—

"(i) the term 'property' does not include money or any financial instrument, and

"(ii) the term 'services' does not include financial services.

"(3) EXEMPTION FROM TAX FOR ACTIVITIES OF GOVERNMENTAL ENTITIES AND TAX-EXEMPT ORGANIZATIONS.—For purposes of this section, the term 'business activity' does not include any activity of a governmental entity or of any other organization which is exempt from tax under this chapter.

"(d) DEDUCTIONS.—

"(1) IN GENERAL.—The deductions specified in this subsection are—

"(A) the cost of business inputs for the business activity,

"(B) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash for services performed in the United States as an employee, and

"(C) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 60A(d)) for the benefit of such employees to the extent such contributions are allowed as a deduction under section 404.

"(2) BUSINESS INPUTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'cost of business inputs' means—

"(i) the amount paid for property sold or used in connection with a business activity,

"(ii) the amount paid for services (other than for the services of employees, including fringe benefits paid by reason of such services) in connection with a business activity, and

"(iii) any excise tax, sales tax, customs duty, or other separately stated levy imposed by a Federal, State, or local government on the purchase of property or services which are for use in connection with a business activity.

Such term shall not include any tax imposed by chapter 2 or 21.

"(B) EXCEPTIONS.—Such term shall not include—

"(i) items described in subparagraphs (B) and (C) of paragraph (1), and

"(ii) items for personal use not in connection with any business activity.

"(C) EXCHANGES.—For purposes of this section, the amount treated as paid in connection with the exchange of property or services is the fair market value of the property or services exchanged, plus any money paid.

"(e) SPECIAL RULES FOR FINANCIAL INTERMEDIATION SERVICE ACTIVITIES.—In the case of the business activity of providing financial intermediation services, the taxable income from such activity shall be equal to the value of the intermediation services provided in such activity.

"(f) EXCEPTION FOR SERVICES PERFORMED AS EMPLOYEE.—For purposes of this section, the term 'business activity' does not include the performance of services by an employee for the employee's employer.

"(g) CARRYOVER OF CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—

"(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the credit-equivalent of such excess shall be allowed as a credit against the tax imposed by this section for the following taxable year.

"(2) CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—For purposes of paragraph (1), the credit-equivalent of the excess described in paragraph (1) for any taxable year is an amount equal to—

"(A) the sum of—

"(i) such excess, plus

"(ii) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, multiplied by

"(B) the rate of the tax imposed by subsection (a) for such taxable year.

"(3) CARRYOVER OF UNUSED CREDIT.—If the credit allowable for any taxable year by reason of this subsection exceeds the tax imposed by this section for such year, then (in lieu of treating such excess as an overpayment) the sum of—

"(A) such excess, plus

"(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year,

shall be allowed as a credit against the tax imposed by this section for the following taxable year.

"(4) 3-MONTH TREASURY RATE.—For purposes of this subsection, the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.

"SEC. 60C. TAX ON NONCASH COMPENSATION PROVIDED TO EMPLOYEES NOT ENGAGED IN BUSINESS ACTIVITY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on every employer of an employee to whom this section applies and who makes an election to be taxed under this part a tax equal to—

"(1) 19 percent of the value of excludable compensation provided during the calendar year by the employer for the benefit of employees to whom this section applies in the case of the first 2 calendar years beginning with the calendar year for which the election under section 60 is made, and

"(2) 17 percent of such excludable compensation during the calendar year in the case of all calendar years subsequent to the calendar years described in paragraph (1).

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the employer.

"(c) EXCLUDABLE COMPENSATION.—For purposes of subsection (a), the term 'excludable compensation' means any remuneration for services performed as an employee other than—

"(1) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash,

"(2) remuneration for services performed outside the United States, and

"(3) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 60A(d)).

"(d) EMPLOYEES TO WHOM SECTION APPLIES.—This section shall apply to an employee who is employed in any activity by—

"(1) any organization which is exempt from taxation under this chapter, or

"(2) any agency or instrumentality of the United States, any State or political subdivision of a State, or the District of Columbia.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"PART VIII. THE FLAT TAX".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2015.

(c) CROSS REFERENCE.—See section 102 of the Internal Revenue Code of 1986 for exclusion of gifts and inheritances from gross income.

SEC. 4. SUPERMAJORITY REQUIRED TO CONSIDER REVENUE MEASURE.

A bill, joint resolution, amendment to a bill or joint resolution, or conference report that—

(1) includes an increase in the rates of tax specified in section 60A(a) or 60B(a) of the Internal Revenue Code of 1986 (as amended by this Act), or

(2) reduces the standard deduction, as defined in section 60A(c) of such Code (as so amended), or

the deductions specified in section 60B(d) of such Code (as so amended),

may not be considered as passed or agreed to by the House of Representatives or the Senate unless so determined by a vote of not less than two-thirds of the Members of the House of Representatives or the Senate (as the case may be) voting, a quorum being present.

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Chairman BOUSTANY. Thank you, Dr. Burgess.

Mr. Woodall, you may proceed.

STATEMENT OF HON. ROBERT WOODALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. WOODALL. Thank you, Mr. Chairman. I appreciate you and the Ranking Member holding this hearing. I—reading the *Wall Street Journal* today, big data firms strike tax inversion deal. Why? Because our friends in the UK offer a 25 percent rate and we have a 35 percent rate. I agree with what Mr. Nunes has said about trying to lower that corporate rate, eliminating the deductions and exemptions. I agree with what the good doctor from Texas said about having all American families pay the same rate, ending the disparity.

But rather than dealing with it from an income perspective, I deal with it from a consumption perspective. And, like the good doctor from Texas, this is not a new idea. H.R. 25, the Fair Tax, while it is the most widely cosponsored fundamental tax reform proposal in the House, while its roots are in bipartisanship—we first had one Republican and one Democrat, we then had two Republicans and two Democrats, then four Republicans and four Democrats, then two of those Democrats retired and one of those Democrats became Republican, and our bipartisanship was lost. But we started down that road.

And this goes back, not just through Congressman John Linder, not just through Congressman Schaffer from Colorado, not just from Senator Dick Lugar, who pushed the sales tax back—it goes all the way back to Governor Jerry Brown, who I believe ran for President on this same kind of platform, this idea that we should be encouraging savings, we should be encouraging productivity, we should be dealing with consumption.

I do share the Ranking Member's frustration that we are talking about it again, rather than doing something about it. Though, Mr. Chairman, it has been 15 years, by my count, since this Committee last held a Members panel to talk about the big fundamental proposals. And I am grateful to you for putting this on the calendar. It hasn't happened in years past.

I have the front page from a Joint Committee on Taxation tax modeling project from 1997. This was when Bill Archer was running the Committee. And absolutely every group they brought in from the left to the right, modeling a consumption tax relative to our current system, said we could grow the American economy faster with a consumption tax. I could support any consumption tax we are talking about here. I think mine is best. I just need us to start moving. Mine is the furthest down the road. I want us on this road getting started.

Fair Tax does a couple of things no other proposal does. It takes the corporate tax rate to zero. This fiction that businesses pay taxes has to be stopped. Businesses don't pay taxes. They collect them from their employees in lower wages, they collect them from their consumers in higher prices, or they collect them from their holders of capital in lower rates of return. Businesses do not pay taxes, they collect taxes from other entities and pass them along. I think we should be honest about that.

My proposal deals with the payroll tax. Eighty percent of American families pay more in payroll taxes than they pay in income taxes, and yet we seem obsessed with the income Tax Code. If you really want to help working families move up that ladder, you have to deal with the payroll Tax Code. The Fair Tax does that.

And the Fair Tax recognizes that compliance is not just an expense, not just a disincentive, but a solvable problem. You may not know, but the economic census that the Census Bureau conducts tells us that 908 businesses in this country sell 60 percent of all the product. The bottom—or the top 10 percent, 8.8 percent of businesses in this country, sell 87 percent of all of the product.

What I am proposing is moving the Tax Code away from 200 million individual American citizens and families, having them pay the tax when they purchase goods at the retail level, but have the tax collection and payment, the auditing process, focused on those folks who are doing the selling. Take businesses out of the role of paying taxes, but leave them in the role of collecting taxes. Take citizens out of the role of having to report taxes, leave them in the role of paying taxes.

It frustrates me that I look at former Soviet bloc countries and they are all moving to low-rate, simple, consumption-based taxes. If it is good enough for the Soviet Union former republics to grow their economies, it has to be good enough to grow ours.

I know if you sit on this Committee it is easy to see how picking winners and losers through the Tax Code can help Americans to succeed more. I don't want to do that. And I understand the kind of authority that takes away from this Committee and it takes away from this institution.

But what I propose is a Tax Code with no exemptions, no exceptions, no deductions, just a simple rebate for folks up to poverty-level spending to insulate the poor from being punished, and a free-for-all above that level. If you drive that Mercedes, you pay for it. If you drive that used Ford Fiesta, we believe you deserve a break.

And with that, Mr. Chairman, thank you so much for having me here today.

[The submission of The Honorable Robert Woodall follows:]

I

114TH CONGRESS
1ST SESSION

H. R. 25

To promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2015

Mr. WOODALL (for himself, Mr. PRICE of Georgia, Mr. KING of Iowa, Mr. BISHOP of Utah, Mr. CONAWAY, Mr. KLINE, Mr. MCCAUL, Mr. MILLER of Florida, Mr. THORNBERRY, Mr. BRADY of Texas, Ms. JENKINS of Kansas, Mr. MARCHANT, Mr. CULBERSON, Mr. BILIRAKIS, Mr. WESTMORELAND, Mr. GRAVES of Georgia, Mr. LONG, Mr. MASSIE, Mr. POSEY, Mr. YODER, Mr. DESJARLAIS, Mr. MEADOWS, Mr. COLLINS of Georgia, Mr. HUELSKAMP, Mr. BRIDENSTINE, Ms. FOXX, Mr. MICA, Mr. MCCLINTOCK, Mr. SALMON, Mr. NEUGEBAUER, Mr. STUTZMAN, Mr. ROE of Tennessee, Mr. GRAVES of Missouri, Mr. POE of Texas, Mr. FRANKS of Arizona, Mr. CRENSHAW, Ms. GRANGER, Mr. NUGENT, Mr. DESANTIS, Mr. POMPEO, Mr. FLORES, Mr. DUNCAN of Tennessee, Mr. WALBERG, Mr. FARENTHOLD, Mr. OLSON, Mr. HARRIS, Mr. YOHO, Mr. DUNCAN of South Carolina, Mr. ROONEY of Florida, Mr. WITTMAN, Mr. LUCAS, Mr. MULLIN, Mr. CHABOT, Mr. RIBBLE, Mr. BRAT, Mr. LOUDERMILK, Mr. HICE of Georgia, and Mr. CARTER of Georgia) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "FairTax Act of 2015".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. CONGRESSIONAL FINDINGS.

(a) FINDINGS RELATING TO FEDERAL INCOME TAX.—Congress finds the Federal income tax—

(1) retards economic growth and has reduced the standard of living of the American public;

(2) impedes the international competitiveness of United States industry;

(3) reduces savings and investment in the United States by taxing income multiple times;

(4) slows the capital formation necessary for real wages to steadily increase;

(5) lowers productivity;

(6) imposes unacceptable and unnecessary administrative and compliance costs on individual and business taxpayers;

(7) is unfair and inequitable;

(8) unnecessarily intrudes upon the privacy and civil rights of United States citizens;

(9) hides the true cost of government by embedding taxes in the costs of everything Americans buy;

(10) is not being complied with at satisfactory levels and therefore raises the tax burden on law abiding citizens; and

(11) impedes upward social mobility.

(b) FINDINGS RELATING TO FEDERAL PAYROLL TAXES.—Congress finds further that the Social Security and Medicare payroll taxes and self-employment taxes—

(1) raise the cost of employment;

(2) destroy jobs and cause unemployment; and

(3) have a disproportionately adverse impact on lower income Americans.

(c) FINDINGS RELATING TO FEDERAL ESTATE AND GIFT TAXES.—Congress finds further that the Federal estate and gift taxes—

(1) force family businesses and farms to be sold by the family to pay such taxes;

(2) discourage capital formation and entrepreneurship;

(3) foster the continued dominance of large enterprises over small family-owned companies and farms; and

(4) impose unacceptably high tax planning costs on small businesses and farms.

(d) FINDINGS RELATING TO NATIONAL SALES TAX.—Congress finds further that a broad-based national sales tax on goods and services purchased for final consumption—

(1) is similar in many respects to the sales and use taxes in place in 45 of the 50 States;

(2) will promote savings and investment;

(3) will promote fairness;

(4) will promote economic growth;

(5) will raise the standard of living;

(6) will increase investment;

(7) will enhance productivity and international competitiveness;

(8) will reduce administrative burdens on the American taxpayer;

(9) will improve upward social mobility; and

(10) will respect the privacy interests and civil rights of taxpayers.

(e) FINDINGS RELATING TO ADMINISTRATION OF NATIONAL SALES TAX.—Congress further finds that—

(1) most of the practical experience administering sales taxes is found at the State governmental level;

(2) it is desirable to harmonize Federal and State collection and enforcement efforts to the maximum extent possible;

(3) it is sound tax administration policy to foster administration and collection of the Federal sales tax at the State level in return for a reasonable administration fee to the States; and

(4) businesses that must collect and remit taxes should receive reasonable compensation for the cost of doing so.

(f) FINDINGS RELATING TO REPEAL OF PRESENT FEDERAL TAX SYSTEM.—Congress further finds that the 16th Amendment to the United States Constitution should be repealed.

TITLE I—REPEAL OF THE INCOME TAX, PAYROLL TAXES, AND ESTATE AND GIFT TAXES

SEC. 101. INCOME TAXES REPEALED.

Subtitle A of the Internal Revenue Code of 1986 (relating to income taxes and self-employment taxes) is repealed.

SEC. 102. PAYROLL TAXES REPEALED.

(a) IN GENERAL.—Subtitle C of the Internal Revenue Code of 1986 (relating to payroll taxes and withholding of income taxes) is repealed.

(b) FUNDING OF SOCIAL SECURITY.—For funding of the Social Security Trust Funds from general revenue, see section 201 of the Social Security Act (42 U.S.C. 401).

SEC. 103. ESTATE AND GIFT TAXES REPEALED.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed.

SEC. 104. CONFORMING AMENDMENTS; EFFECTIVE DATE.

(a) CONFORMING AMENDMENTS.—The Internal Revenue Code of 1986 is amended—

(1) by striking subtitle H (relating to financing of Presidential election campaigns), and

(2) by redesignating—

(A) subtitle D (relating to miscellaneous excise taxes) as subtitle B,

(B) subtitle E (relating to alcohol, tobacco, and certain other excise taxes) as subtitle C,

(C) subtitle F (relating to procedure and administration) as subtitle D,

(D) subtitle G (relating to the Joint Committee on Taxation) as subtitle E,

(E) subtitle I (relating to the Trust Fund Code) as subtitle F,

(F) subtitle J (relating to coal industry health benefits) as subtitle G, and

(G) subtitle K (relating to group health plan portability, access, and renewability requirements) as subtitle H.

(b) REDESIGNATION OF 1986 CODE.—

(1) IN GENERAL.—The Internal Revenue Code of 1986 enacted on October 22, 1986, as heretofore, hereby, or hereafter amended, may be cited as the Internal Revenue Code of 2015.

(2) REFERENCES IN LAWS, ETC.—Except when inappropriate, any reference in any law, Executive order, or other document—

(A) to the Internal Revenue Code of 1986 shall include a reference to the Internal Revenue Code of 2015, and

(B) to the Internal Revenue Code of 2015 shall include a reference to the provisions of law formerly known as the Internal Revenue Code of 1986.

(c) ADDITIONAL AMENDMENTS.—For additional conforming amendments, see section 202 of this Act.

(d) EFFECTIVE DATE.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on January 1, 2017.

TITLE II—SALES TAX ENACTED

SEC. 201. SALES TAX.

(a) IN GENERAL.—The Internal Revenue Code of 2015 is amended by inserting before subtitle B (as redesignated by section 104(a)(2)(A)) the following new subtitle:

"Subtitle A—Sales Tax

"SEC. 1. PRINCIPLES OF INTERPRETATION.

"(a) IN GENERAL.—Any court, the Secretary, and any sales tax administering authority shall consider the purposes of this subtitle (as set forth in subsection (b)) as the primary aid in statutory construction.

"(b) PURPOSES.—The purposes of this subtitle are as follows:

"(1) To raise revenue needed by the Federal Government in a manner consistent with the other purposes of this subtitle.

"(2) To tax all consumption of goods and services in the United States once, without exception, but only once.

"(3) To prevent double, multiple, or cascading taxation.

"(4) To simplify the tax law and reduce the administration costs of, and the costs of compliance with, the tax law.

"(5) To provide for the administration of the tax law in a manner that respects privacy, due process, individual rights when interacting with the government, the presumption of innocence in criminal proceedings, and the presumption of lawful behavior in civil proceedings.

"(6) To increase the role of State governments in Federal tax administration because of State government expertise in sales tax administration.

"(7) To enhance generally cooperation and coordination among State tax administrators; and to enhance cooperation and coordination among Federal and State tax administrators, consistent with the principle of intergovernmental tax immunity.

"(c) SECONDARY AIDS TO STATUTORY CONSTRUCTION.—As a secondary aid in statutory construction, any court, the Secretary, and any sales tax administering authority shall consider—

"(1) the common law canons of statutory construction;

"(2) the meaning and construction of concepts and terms used in the Internal Revenue Code of 1986 as in effect before the effective date of this subtitle; and

"(3) construe any ambiguities in this Act in favor of reserving powers to the States respectively, or to the people.

"SEC. 2. DEFINITIONS.

"(a) IN GENERAL.—For purposes of this subtitle—

"(1) AFFILIATED FIRMS.—A firm is affiliated with another if 1 firm owns 50 percent or more of—

"(A) the voting shares in a corporation, or

"(B) the capital interests of a business firm that is not a corporation.

"(2) CONFORMING STATE SALES TAX.—The term 'conforming State sales tax' means a sales tax imposed by a State that adopts the same definition of taxable property and services as adopted by this subtitle.

"(3) DESIGNATED COMMERCIAL PRIVATE COURIER SERVICE.—The term 'designated commercial private courier service' means a firm designated as such by the Secretary or any sales tax administering authority, upon application of the firm, if the firm—

"(A) provides its services to the general public,

"(B) records electronically to its data base kept in the regular course of its business the date on which an item was given to such firm for delivery, and

"(C) has been operating for at least 1 year.

"(4) EDUCATION AND TRAINING.—The term 'education and training' means tuition for primary, secondary, or postsecondary level education, and job-related training courses. Such term does not include room, board, sports activities, recreational activities, hobbies, games, arts or crafts or cultural activities.

"(5) GROSS PAYMENTS.—The term 'gross payments' means payments for taxable property or services, including Federal taxes imposed by this title.

"(6) INTANGIBLE PROPERTY.—

"(A) IN GENERAL.—The term 'intangible property' includes copyrights, trademarks, patents, goodwill, financial instruments, securities, commercial paper, debts, notes and bonds, and other property deemed intangible at common law. The Secretary shall, by regulation resolve differences among the provisions of common law of the several States.

"(B) CERTAIN TYPES OF PROPERTY.—Such term does not include tangible personal property (or rents or leaseholds of any term thereon), real property (or rents or leaseholds of any term thereon) and computer software.

"(7) PERSON.—The term 'person' means any natural person, and unless the context clearly does not allow it, any corporation, partnership, limited liability company, trust, estate, government, agency, administration, organization, association, or other legal entity (foreign or domestic.)

"(8) PRODUCE, PROVIDE, RENDER, OR SELL TAXABLE PROPERTY OR SERVICES.—

"(A) IN GENERAL.—A taxable property or service is used to produce, provide, render, or sell a taxable property or service if such property or service is purchased by a person engaged in a trade or business for the purpose of employing or using such taxable property or service in the production, provision, rendering, or sale of other taxable property or services in the ordinary course of that trade or business.

"(B) RESEARCH, EXPERIMENTATION, TESTING, AND DEVELOPMENT.—Taxable property or services used in a trade or business for the purpose of research, experimentation, testing, and development shall be treated as used to produce, provide, render, or sell taxable property or services.

"(C) INSURANCE PAYMENTS.—Taxable property or services purchased by an insurer on behalf of an insured shall be treated as used to produce, provide, render, or sell taxable property or services if the premium for the insurance contract giving rise to the insurer's obligation was subject to tax pursuant to section 801 (relating to financial intermediation services).

"(D) EDUCATION AND TRAINING.—Education and training shall be treated as services used to produce, provide, render, or sell taxable property or services.

"(9) REGISTERED SELLER.—The term 'registered seller' means a person registered pursuant to section 502.

"(10) SALES TAX ADMINISTERING AUTHORITY.—The term 'sales tax administering authority' means—

"(A) the State agency designated to collect and administer the sales tax imposed by this subtitle, in an administering State, or

"(B) the Secretary, in a State that is neither—

"(i) an administering State, nor

"(ii) a State that has elected to have its sales tax administered by an administering State.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(12) TAXABLE EMPLOYER.—

"(A) IN GENERAL.—The term 'taxable employer' includes—

"(i) any household employing domestic servants, and

"(ii) any government except for government enterprises (as defined in section 704).

"(B) EXCEPTIONS.—The term 'taxable employer' does not include any employer which is—

"(i) engaged in a trade or business,

"(ii) a not-for-profit organization (as defined in section 706), or

"(iii) a government enterprise (as defined in section 704).

"(C) CROSS REFERENCE.—For rules relating to collection and remittance of tax on wages by taxable employers, see section 103(b)(2).

"(13) TAX INCLUSIVE FAIR MARKET VALUE.—The term 'tax inclusive fair market value' means the fair market value of taxable property or services plus the tax imposed by this subtitle.

"(14) TAXABLE PROPERTY OR SERVICE.—

"(A) GENERAL RULE.—The term 'taxable property or service' means—

"(i) any property (including leaseholds of any term or rents with respect to such property) but excluding—

"(I) intangible property, and

"(II) used property, and

"(ii) any service (including any financial intermediation services as determined by section 801).

"(B) SERVICE.—For purposes of subparagraph (A), the term 'service'—

"(i) shall include any service performed by an employee for which the employee is paid wages or a salary by a taxable employer, and

"(ii) shall not include any service performed by an employee for which the employee is paid wages or a salary—

"(I) by an employer in the regular course of the employer's trade or business,

"(II) by an employer that is a not-for-profit organization (as defined in section 706), "(III) by an employer that is a government enterprise (as defined in section 704), and

"(IV) by taxable employers to employees directly providing education and training.

"(15) UNITED STATES.—The term 'United States', when used in the geographical sense, means each of the 50 States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(16) USED PROPERTY.—The term 'used property' means—

"(A) property on which the tax imposed by section 101 has been collected and for which no credit has been allowed under section 202, 203, or 205, or

"(B) property that was held other than for a business purpose (as defined in section 102(b)) on December 31, 2016.

"(17) WAGES AND SALARY.—The terms 'wage' and 'salary' mean all compensation paid for employment service including cash compensation, employee benefits, disability insurance, or wage replacement insurance payments, unemployment compensation insurance, workers' compensation insurance, and the fair market value of any other consideration paid by an employer to an employee in consideration for employment services rendered.

"(b) CROSS REFERENCES.—

"(1) For the definition of business purposes, see section 102(b).

"(2) For the definition of insurance contract, see section 206(e).

"(3) For the definition of qualified family, see section 302.

"(4) For the definition of monthly poverty level, see section 303.

"(5) For the definition of large seller, see section 501(e)(3).

"(6) For the definition of hobby activities, see section 701.

"(7) For the definition of gaming sponsor, see section 701(a).

"(8) For the definition of a chance, see section 701(b).

"(9) For the definition of government enterprise, see section 704(b).

"(10) For the definition of mixed use property, see section 705.

"(11) For the definition of qualified not-for-profit organization, see section 706.

"(12) For the definition of financial intermediation services, see section 801.

"CHAPTER 1—INTERPRETATION; DEFINITIONS; IMPOSITION OF TAX; ETC.

"SEC. 101. IMPOSITION OF SALES TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the use or consumption in the United States of taxable property or services.

"(b) RATE.—

"(1) FOR 2017.—In the calendar year 2017, the rate of tax is 23 percent of the gross payments for the taxable property or service.

"(2) FOR YEARS AFTER 2017.—For years after the calendar year 2017, the rate of tax is the combined Federal tax rate percentage (as defined in paragraph (3)) of the gross payments for the taxable property or service.

"(3) COMBINED FEDERAL TAX RATE PERCENTAGE.—The combined Federal tax rate percentage is the sum of—

"(A) the general revenue rate (as defined in paragraph (4)), "(B) the old-age, survivors and disability insurance rate, and

"(C) the hospital insurance rate.

"(4) GENERAL REVENUE RATE.—The general revenue rate shall be 14.91 percent.

"(c) COORDINATION WITH IMPORT DUTIES.—The tax imposed by this section is in addition to any import duties imposed by chapter 4 of title 19, United States Code. The Secretary shall provide by regulation that, to the maximum extent practicable, the tax imposed by this section on imported taxable property and services is collected and administered in conjunction with any applicable import duties imposed by the United States.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The person using or consuming taxable property or services in the United States is liable for the tax imposed by this section, except as provided in paragraph (2) of this subsection.

"(2) EXCEPTION WHERE TAX PAID TO SELLER.—A person using or consuming a taxable property or service in the United States is not liable for the tax imposed by this section if the person pays the tax to a person selling the taxable property or service and receives from such person a purchaser's receipt within the meaning of section 509.

"SEC. 102. INTERMEDIATE AND EXPORT SALES.

"(a) IN GENERAL.—For purposes of this subtitle—

"(1) BUSINESS AND EXPORT PURPOSES.—No tax shall be imposed under section 101 on any taxable property or service purchased for a business purpose in a trade or business.

"(2) INVESTMENT PURPOSE.—No tax shall be imposed under section 101 on any taxable property or service purchased for an investment purpose and held exclusively for an investment purpose.

"(3) STATE GOVERNMENT FUNCTIONS.—No tax shall be imposed under section 101 on State government functions that do not constitute the final consumption of property or services.

"(b) BUSINESS PURPOSES.—For purposes of this section, the term 'purchased for a business purpose in a trade or business' means purchased by a person engaged in a trade or business and used in that trade or business—

"(1) for resale,

"(2) to produce, provide, render, or sell taxable property or services, or

"(3) in furtherance of other bona fide business purposes.

"(c) INVESTMENT PURPOSES.—For purposes of this section, the term 'purchased for an investment purpose' means property purchased exclusively for purposes of appreciation or the production of income but not entailing more than minor personal efforts.

"SEC. 103. RULES RELATING TO COLLECTION AND REMITTANCE OF TAX.

"(a) LIABILITY FOR COLLECTION AND REMITTANCE OF THE TAX.—Except as provided otherwise by this section, any tax imposed by this subtitle shall be collected and remitted by the seller of taxable property or services (including financial intermediation services).

"(b) TAX TO BE REMITTED BY PURCHASER IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—In the case of taxable property or services purchased outside of the United States and imported into the United States for use or consumption in the United States, the purchaser shall remit the tax imposed by section 101.

"(2) CERTAIN WAGES OR SALARY.—In the case of wages or salary paid by a taxable employer which are taxable services, the employer shall remit the tax imposed by section 101.

"(c) CONVERSION OF BUSINESS OR EXPORT PROPERTY OR SERVICES.—Property or services purchased for a business purpose in a trade or business or for export (sold untaxed pursuant to section 102(a)) that is subsequently converted to personal use shall be deemed purchased at the time of conversion and shall be subject to the tax imposed by section 101 at the fair market value of the converted property as of the date of conversion. The tax shall be due as if the property had been sold at the fair market value during the month of conversion. The person using or consuming the converted property is liable for and shall remit the tax.

"(d) BARTER TRANSACTIONS.—If gross payment for taxable property or services is made in other than money, then the person responsible for collecting and remitting the tax shall remit the tax to the sales tax administering authority in money as if gross payment had been made in money at the tax inclusive fair market value of the taxable property or services purchased.

"CHAPTER 2—CREDITS; REFUNDS

"SEC. 201. CREDITS AND REFUNDS.

"(a) IN GENERAL.—Each person shall be allowed a credit with respect to the taxes imposed by section 101 for each month in an amount equal to the sum of—

"(1) such person's business use conversion credit pursuant to section 202 for such month,

"(2) such person's intermediate and export sales credit pursuant to section 203 for such month,

"(3) the administration credit pursuant to section 204 for such month,

"(4) the bad debt credit pursuant to section 205 for such month,

"(5) the insurance proceeds credit pursuant to section 206 for such month,

"(6) the transitional inventory credit pursuant to section 902, and

"(7) any amount paid in excess of the amount due.

"(b) CREDITS NOT ADDITIVE.—Only one credit allowed by chapter 2 may be taken with respect to any particular gross payment.

"SEC. 202. BUSINESS USE CONVERSION CREDIT.

"(a) IN GENERAL.—For purposes of section 201, a person's business use conversion credit for any month is the aggregate of the amounts determined under subsection (b) with respect to taxable property and services—

"(1) on which tax was imposed by section 101 (and actually paid), and

"(2) which commenced to be 95 percent or more used during such month for business purposes (within the meaning of section 102(b)).

"(b) AMOUNT OF CREDIT.—The amount determined under this paragraph with respect to any taxable property or service is the lesser of—

"(1) the product of—

"(A) the rate imposed by section 101, and

"(B) the quotient that is—

"(i) the fair market value of the property or service when its use is converted, divided by

"(ii) the quantity that is one minus the tax rate imposed by section 101, or

"(2) the amount of tax paid with respect to such taxable property or service, including the amount, if any, determined in accordance with section 705 (relating to mixed use property).

"SEC. 203. INTERMEDIATE AND EXPORT SALES CREDIT.

"For purposes of section 201, a person's intermediate and export sales credit is the amount of sales tax paid on the purchase of any taxable property or service purchased for—

"(1) a business purpose in a trade or business (as defined in section 102(b)), or

"(2) export from the United States for use or consumption outside the United States.

"SEC. 204. ADMINISTRATION CREDIT.

"(a) IN GENERAL.—Every person filing a timely monthly report (with regard to extensions) in compliance with section 501 shall be entitled to a taxpayer administrative credit equal to the greater of—

"(1) $200, or

"(2) one-quarter of 1 percent of the tax remitted.

"(b) LIMITATION.—The credit allowed under this section shall not exceed 20 percent of the tax due to be remitted prior to the application of any credit or credits permitted by section 201.

"SEC. 205. BAD DEBT CREDIT.

"(a) FINANCIAL INTERMEDIATION SERVICES.—Any person who has experienced a bad debt (other than unpaid invoices within the meaning of subsection (b)) shall be entitled to a credit equal to the product of—

"(1) the rate imposed by section 101, and

"(2) the quotient that is—

"(A) the amount of the bad debt (as defined in section 802), divided by

"(B) the quantity that is one minus the rate imposed by section 101.

"(b) UNPAID INVOICES.—Any person electing the accrual method pursuant to section 503 that has with respect to a transaction—

"(1) invoiced the tax imposed by section 101,

"(2) remitted the invoiced tax,

"(3) actually delivered the taxable property or performed the taxable services invoiced, and

"(4) not been paid 180 days after date the invoice was due to be paid,

shall be entitled to a credit equal to the amount of tax remitted and unpaid by the purchaser.

"(c) SUBSEQUENT PAYMENT.—Any payment made with respect to a transaction subsequent to a section 205 credit being taken with respect to that transaction shall be subject to tax in the month the payment was received as if a tax inclusive sale of taxable property and services in the amount of the payment had been made.

"(d) PARTIAL PAYMENTS.—Partial payments shall be treated as pro rata payments of the underlying obligation and shall be allocated proportionately—

"(1) for fully taxable payments, between payment for the taxable property and service and tax, and

"(2) for partially taxable payments, among payment for the taxable property and service, tax and other payment.

"(e) RELATED PARTIES.—The credit provided by this section shall not be available with respect to sales made to related parties. For purposes of this section, related party means affiliated firms and family members (as defined in section 302(b)).

"SEC. 206. INSURANCE PROCEEDS CREDIT.

"(a) IN GENERAL.—A person receiving a payment from an insurer by virtue of an insurance contract shall be entitled to a credit in an amount determined by subsection (b), less any amount paid to the insured by the insurer pursuant to subsection (c), if the entire premium (except that portion allocable to the investment account of the underlying policy) for the insurance contract giving rise to the insurer's obligation to make a payment to the insured was subject to the tax imposed by section 101 and said tax was paid.

"(b) CREDIT AMOUNT.—The amount of the credit shall be the product of—

"(1) the rate imposed by section 101, and

"(2) the quotient that is—

"(A) the amount of the payment made by the insurer to the insured, divided by

"(B) the quantity that is one minus the rate imposed by section 101.

"(c) ADMINISTRATIVE OPTION.—The credit determined in accordance with subsection (b) shall be paid by the insurer to the insured and the insurer shall be entitled to the credit in lieu of the insured, except that the insurer may elect, in a form prescribed by the Secretary, to not pay the credit and require the insured to make application for the credit. In the event of such election, the insurer shall provide to the Secretary and the insured the name and tax identification number of the insurer and of the insured and indicate the proper amount of the credit.

"(d) COORDINATION WITH RESPECT TO EXEMPTION.—If taxable property or services purchased by an insurer on behalf of an insured are purchased free of tax by virtue of section 2(a)(8)(C), then the credit provided by this section shall not be available with respect to that purchase.

"(e) INSURANCE CONTRACT.—For purposes of subsection (a), the term 'insurance contract' shall include a life insurance contract, a health insurance contract, a property and casualty loss insurance contract, a general liability insurance contract, a marine insurance contract, a fire insurance contract, an accident insurance contract, a disability insurance contract, a long-term care insurance contract, and an insurance contract that provides a combination of these types of insurance.

"SEC. 207. REFUNDS.

"(a) REGISTERED SELLERS.—If a registered seller files a monthly tax report with an overpayment, then, upon application by the registered seller in a form prescribed by the sales tax administering authority, the overpayment shown on the report shall be refunded to the registered seller within 60 days of receipt of said application. In the absence of such application, the overpayment may be carried forward, without interest, by the person entitled to the credit.

"(b) OTHER PERSONS.—If a person other than a registered seller has an overpayment for any month, then, upon application by the person in a form prescribed by the sales tax administering authority, the credit balance due shall be refunded to the person within 60 days of receipt of said application.

"(c) INTEREST.—No interest shall be paid on any balance due from the sales tax administering authority under this subsection for any month if such balance due is paid within 60 days after the application for refund is received. Balances due not paid within 60 days after the application for refund is received shall bear interest from the date of application. Interest shall be paid at the Federal short-term rate (as defined in section 511).

"(d) SUSPENSION OF PERIOD TO PAY REFUND ONLY IF FEDERAL OR STATE COURT RULING.—The 60-day periods under subsections (a) and (b) shall be suspended with respect to a purported overpayment (or portion thereof) only during any period that there is in effect a preliminary, temporary, or final ruling from a Federal or State court that there is reasonable cause to believe that such overpayment may not actually be due.

"CHAPTER 3—FAMILY CONSUMPTION ALLOWANCE

"SEC. 301. FAMILY CONSUMPTION ALLOWANCE.

"Each qualified family shall be eligible to receive a sales tax rebate each month. The sales tax rebate shall be in an amount equal to the product of—

"(1) the rate of tax imposed by section 101, and

"(2) the monthly poverty level.

"SEC. 302. QUALIFIED FAMILY.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'qualified family' shall mean one or more family members sharing a common residence. All family members sharing a common residence shall be considered as part of 1 qualified family.

"(b) FAMILY SIZE DETERMINATION.—

"(1) IN GENERAL.—To determine the size of a qualified family for purposes of this chapter, family members shall mean—

"(A) an individual,

"(B) the individual's spouse,

"(C) all lineal ancestors and descendants of said individual (and such individual's spouse),

"(D) all legally adopted children of such individual (and such individual's spouse), and

"(E) all children under legal guardianship of such individual (or such individual's spouse).

"(2) IDENTIFICATION REQUIREMENTS.—In order for a person to be counted as a member of the family for purposes of determining the size of the qualified family, such person must—

"(A) have a bona fide Social Security number; and

"(B) be a lawful resident of the United States.

"(c) CHILDREN LIVING AWAY FROM HOME.—

"(1) STUDENTS LIVING AWAY FROM HOME.—Any person who was a registered student during not fewer than 5 months in a calendar year while living away from the common residence of a qualified family but who receives over 50 percent of such person's support during a calendar year from members of the qualified family shall be included as part of the family unit whose members provided said support for purposes of this chapter.

"(2) CHILDREN OF DIVORCED OR SEPARATED PARENTS.—If a child's parents are divorced or legally separated, a child for purposes of this chapter shall be treated as part of the qualified family of the custodial parent. In cases of joint custody, the custodial parent for purposes of this chapter shall be the parent that has custody of the child for more than one-half of the time during a given calendar year. A parent entitled to be treated as the custodial parent pursuant to this paragraph may release this claim to the other parent if said release is in writing.

"(d) ANNUAL REGISTRATION.—In order to receive the family consumption allowance provided by section 301, a qualified family must register with the sales tax administering authority in a form prescribed by the Secretary. The annual registration form shall provide—

"(1) the name of each family member who shared the qualified family's residence on the family determination date,

"(2) the Social Security number of each family member on the family determination date who shared the qualified family's residence on the family determination date,

"(3) the family member or family members to whom the family consumption allowance should be paid,

"(4) a certification that all listed family members are lawful residents of the United States,

"(5) a certification that all family members sharing the common residence are listed,

"(6) a certification that no family members were incarcerated on the family determination date (within the meaning of subsection (l)), and

"(7) the address of the qualified family.

Said registration shall be signed by all members of the qualified family that have attained the age of 21 years as of the date of filing.

"(e) REGISTRATION NOT MANDATORY.—Registration is not mandatory for any qualified family.

"(f) EFFECT OF FAILURE TO PROVIDE ANNUAL REGISTRATION.—Any qualified family that fails to register in accordance with this section within 30 days of the family determination date, shall cease receiving the monthly family consumption allowance in the month beginning 90 days after the family determination date.

"(g) EFFECT OF CURING FAILURE TO PROVIDE ANNUAL REGISTRATION.—Any qualified family that failed to timely make its annual registration in accordance with this section but subsequently cures its failure to register, shall be entitled to up to 6 months of lapsed sales tax rebate payments. No interest on lapsed payment amount shall be paid.

"(h) EFFECTIVE DATE OF ANNUAL REGISTRATIONS.—Annual registrations shall take effect for the month beginning 90 days after the family registration date.

"(i) EFFECTIVE DATE OF REVISED REGISTRATIONS.—A revised registration made pursuant to section 305 shall take effect for the first month beginning 60 days after the revised registration was filed. The existing registration shall remain in effect until the effective date of the revised registration.

"(j) DETERMINATION OF REGISTRATION FILING DATE.—An annual or revised registration shall be deemed filed when—

"(1) deposited in the United States mail, postage prepaid, to the address of the sales tax administering authority;

"(2) delivered and accepted at the offices of the sales tax administering authority; or

"(3) provided to a designated commercial private courier service for delivery within 2 days to the sales tax administering authority at the address of the sales tax administering authority.

"(k) PROPOSED REGISTRATION TO BE PROVIDED.—Thirty or more days before the family registration date, the sales tax administering authority shall mail to the address shown on the most recent rebate registration or change of address notice filed pursuant to section 305(d) a proposed registration that may be simply signed by the appropriate family members if family circumstances have not changed.

"(l) INCARCERATED INDIVIDUALS.—An individual shall not be eligible under this chapter to be included as a member of any qualified family if that individual—

"(1) is incarcerated in a local, State, or Federal jail, prison, mental hospital, or other institution on the family determination date, and

"(2) is scheduled to be incarcerated for 6 months or more in the 12-month period following the effective date of the annual registration or the revised registration of said qualified family.

"(m) FAMILY DETERMINATION DATE.—The family determination date is a date assigned to each family by the Secretary for purposes of determining qualified family size and other information necessary for the administration of this chapter. The Secretary shall promulgate regulations regarding the issuance of family determination dates. In the absence of any regulations, the family determination date for all families shall be October 1. The Secretary may assign family determination dates for administrative convenience. Permissible means of assigning family determination dates include a method based on the birthdates of family members.

"(n) CROSS REFERENCE.—For penalty for filing false rebate claim, see section 504(i).

"SEC. 303. MONTHLY POVERTY LEVEL.

"(a) IN GENERAL.—The monthly poverty level for any particular month shall be one-twelfth of the 'annual poverty level'. For purposes of this section the 'annual poverty level' shall be the sum of—

"(1) the annual level determined by the Department of Health and Human Services poverty guidelines required by sections 652 and 673(2) of the

Omnibus Reconciliation Act of 1981 for a particular family size, and

"(2) in case of families that include a married couple, the 'annual marriage penalty elimination amount'.

"(b) ANNUAL MARRIAGE PENALTY ELIMINATION AMOUNT.—The annual marriage penalty elimination amount shall be the amount that is—

"(1) the amount that is two times the annual level determined by the Department of Health and Human Services poverty guidelines required by sections 652 and 673(2) of the Omnibus Reconciliation Act of 1981 for a family of one, less

"(2) the annual level determined by the Department of Health and Human Services poverty guidelines required by sections 652 and 673(2) of the Omnibus Reconciliation Act of 1981 for a family of two.

"SEC. 304. REBATE MECHANISM.

"(a) GENERAL RULE.—The Social Security Administration shall provide a monthly sales tax rebate to duly registered qualified families in an amount determined in accordance with section 301.

"(b) PERSONS RECEIVING REBATE.—The payments shall be made to the persons designated by the qualifying family in the annual or revised registration for each qualified family in effect with respect to the month for which payment is being made. Payments may only be made to persons 18 years or older. If more than 1 person is designated in a registration to receive the rebate, then the rebate payment shall be divided evenly between or among those persons designated.

"(c) WHEN REBATES MAILED.—Rebates shall be mailed on or before the first business day of the month for which the rebate is being provided.

"(d) SMARTCARDS AND DIRECT ELECTRONIC DEPOSIT PERMISSIBLE.—The Social Security Administration may provide rebates in the form of smartcards that carry cash balances in their memory for use in making purchases at retail establishments or by direct electronic deposit.

"SEC. 305. CHANGE IN FAMILY CIRCUMSTANCES.

"(a) GENERAL RULE.—In the absence of the filing of a revised registration in accordance with this chapter, the common residence of the qualified family, marital status and number of persons in a qualified family on the family registration date shall govern determinations required to be made under this chapter for purposes of the following calendar year.

"(b) NO DOUBLE COUNTING.—In no event shall any person be considered part of more than 1 qualified family.

"(c) REVISED REGISTRATION PERMISSIBLE.—A qualified family may file a revised registration for purposes of section 302(d) to reflect a change in family circumstances. A revised registration form shall provide—

"(1) the name of each family member who shared the qualified family's residence on the filing date of the revised registration,

"(2) the Social Security number of each family member who shared the qualified family's residence on the filing date of the revised registration,

"(3) the family member or family members to whom the family consumption allowance should be paid,

"(4) a certification that all listed family members are lawful residents of the United States,

"(5) a certification that all family members sharing the commoner residence are listed,

"(6) a certification that no family members were incarcerated on the family determination date (within the meaning of section 302(1)), and

"(7) the address of the qualified family.

Said revised registration shall be signed by all members of the qualified family that have attained the age of 21 years as of the filing date of the revised registration.

"(d) CHANGE OF ADDRESS.—A change of address for a qualified family may be filed with the sales tax administering authority at any time and shall not constitute a revised registration.

"(e) REVISED REGISTRATION NOT MANDATORY.—Revised registrations reflecting changes in family status are not mandatory.

"CHAPTER 4—FEDERAL AND STATE COOPERATIVE TAX ADMINISTRATION

"SEC. 401 AUTHORITY FOR STATES TO COLLECT TAX.

"(a) IN GENERAL.—The tax imposed by section 101 on gross payments for the use or consumption of taxable property or services within a State shall be administered, collected, and remitted to the United States Treasury by such State if the State is an administering State.

"(b) ADMINISTERING STATE.—For purposes of this section, the term 'administering State' means any State—

"(1) which maintains a sales tax, and

"(2) which enters into a cooperative agreement with the Secretary containing reasonable provisions governing the administration by such State of the taxes imposed by the subtitle and the remittance to the United States in a timely manner of taxes collected under this chapter.

"(c) COOPERATIVE AGREEMENTS.—The agreement under subsection (b)(2) shall include provisions for the expeditious transfer of funds, contact officers, dispute resolution, information exchange, confidentiality, taxpayer rights, and other matters of importance. The agreement shall not contain extraneous matters.

"(d) TIMELY REMITTANCE OF TAX.—

"(1) IN GENERAL.—Administering States shall remit and pay over taxes collected under this subtitle on behalf of the United States (less the administration fee allowable under paragraph (2)) not later than 5 days after receipt. Interest at 150 percent of the Federal short-term rate shall be paid with respect to amounts remitted after the due date.

"(2) ADMINISTRATION FEE.—An administering State may retain an administration fee equal to one-quarter of 1 percent of the amounts otherwise required to be remitted to the United States under this chapter by the administering State.

"(c) LIMITATION ON ADMINISTRATION OF TAX BY UNITED STATES.—The Secretary may administer the tax imposed by this subtitle in an administering State only if—

"(1)(A) such State has failed on a regular basis to timely remit to the United States taxes collected under this chapter on behalf of the United States; or

"(B) such State has on a regular basis otherwise materially breached the agreement referred to in subsection (b)(2);

"(2) the State has failed to cure such alleged failures and breaches within a reasonable time;

"(3) the Secretary provides such State with written notice of such alleged failures and breaches; and

"(4) a District Court of the United States within such State, upon application of the Secretary, has rendered a decision—

"(A) making findings of fact that—

"(i) such State has failed on a regular basis to timely remit to the United States taxes collected under this chapter on behalf of the United States, or such State has on a regular basis otherwise materially breached the agreement referred to in subsection (b)(2);

"(ii) the Secretary has provided such State with written notice of such alleged failures and breaches; and

"(iii) the State has failed to cure such alleged failures and breaches within a reasonable time; and

"(B) making a determination that it is in the best interest of the citizens of the United States that the administering State's authority to administer the tax imposed by this subtitle be revoked and said tax be administered directly by the Secretary.

The order of the District Court revoking the authority of an Administering State shall contain provisions governing the orderly transfer of authority to the Secretary.

"(f) REINSTITUTION.—A State that has had its authority revoked pursuant to subsection (e) shall not be an administering State for a period of not less than 5 years after the date of the order of revocation. For the first calendar year commencing 8 years after the date of the order of revocation, the State shall be regarded without prejudice as eligible to become an administering State.

"(g) THIRD STATE ADMINISTRATION PERMISSIBLE.—It shall be permissible for a State to contract with an administering State to administer the State's sales tax for an agreed fee. In this case, the agreement contemplated by subsection (e) shall have both the State and the Federal Government as parties.

"(h) INVESTIGATIONS AND AUDITS.—Administering States shall not conduct investigations or audits at facilities in other administering States in connection with the tax imposed by section 101 or conforming State sales tax but shall instead cooperate with other administering States using the mechanisms established by section 402, by compact or by other agreement.

"SEC. 402. FEDERAL ADMINISTRATIVE SUPPORT FOR STATES.

"(a) IN GENERAL.—The Secretary shall administer a program to facilitate information sharing among States.

"(b) STATE COMPACTS.—The Secretary shall facilitate, and may be a party to a compact among States for purposes of facilitating the taxation of interstate purchases and for other purposes that may facilitate implementation of this subtitle.

"(c) AGREEMENT WITH CONFORMING STATES.—The Secretary is authorized to enter into and shall enter into an agreement among conforming States enabling conforming States to collect conforming State sales tax on sales made by sellers without a particular conforming State to a destination within that particular conforming State.

"(d) SECRETARY'S AUTHORITY.—The Secretary shall have the authority to promulgate regulations, to provide guidelines, to assist States in administering the national sales tax, to provide for uniformity in the administration of the tax and to provide guidance to the public.

"SEC. 403. FEDERAL-STATE TAX CONFERENCES.

"Not less than once annually, the Secretary shall host a conference with the sales tax administrators from the various administering States to evaluate the state of the national sales tax system, to address issues of mutual concern and to develop and consider legislative, regulatory, and administrative proposals to improve the tax system.

"SEC. 404. FEDERAL ADMINISTRATION IN CERTAIN STATES.

"The Secretary shall administer the tax imposed by this subtitle in any State or other United States jurisdiction that—

"(1) is not an administering State, or

"(2) elected to have another State administer its tax in accordance with section 401(g).

"SEC. 405. INTERSTATE ALLOCATION AND DESTINATION DETERMINATION.

"(a) DESTINATION GENERALLY.—The tax imposed by this subtitle is a destination principle tax. This section shall govern for purposes of determining—

"(1) whether the destination of taxable property and services is within or without the United States, and

"(2) which State or territory within the United States is the destination of taxable property and services.

"(b) TANGIBLE PERSONAL PROPERTY.—Except as provided in subsection (g) (relating to certain leases), the destination of tangible personal property shall be the State or territory in which the property was first delivered to the purchaser (including agents and authorized representatives).

"(c) REAL PROPERTY.—The destination of real property, or rents or leaseholds on real property, shall be the State or territory in which the real property is located.

"(d) OTHER PROPERTY.—The destination of any other taxable property shall be the residence of the purchaser.

"(e) SERVICES.—

"(1) GENERAL RULE.—The destination of services shall be the State or territory in which the use or consumption of the services occurred. Allocation of service invoices relating to more than 1 jurisdiction shall be on the basis of time or another method determined by regulation.

"(2) TELECOMMUNICATIONS SERVICES.—The destination of telecommunications services shall be the residence of the purchaser. Telecommunications services include telephone, telegraph, beeper, radio, cable television, satellite, and computer on-line or network services.

"(3) DOMESTIC TRANSPORTATION SERVICES.—For transportation services where all of the final destinations are within the United States, the destination of transportation services shall be the final destination of the trip (in the case of round or multiple trip fares, the services amount shall be equally allocated among each final destination).

"(4) INTERNATIONAL TRANSPORTATION SERVICES.—For transportation services where the final destination or origin of the trip is without the United States, the service amount shall be deemed 50 percent attributable to the United States destination or origin.

"(5) ELECTRICAL SERVICE.—The destination of electrical services shall be the residence of the purchaser.

"(f) FINANCIAL INTERMEDIATION SERVICES.—The destination of financial intermediation services shall be the residence of the purchaser.

"(g) RENTS PAID FOR THE LEASE OF TANGIBLE PROPERTY.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the destination of rents paid for the lease of tangible property and leaseholds on such property shall be where the property is located while in use.

"(2) LAND VEHICLES; AIRCRAFT, WATER CRAFT.—The destination of rental and lease payments on land vehicles, aircraft and water craft shall be—

"(A) in the case of rentals and leases of a term of 1 month or less, the location where the land vehicle, aircraft, or water craft was originally delivered to the renter or lessee; and

"(B) in the case of rentals and leases of a term greater than 1 month, the residence of the renter or lessee.

"(h) ALLOCATION RULES.—For purposes of allocating revenue—

"(1) between or among administering States from taxes imposed by this subtitle or from State sales taxes administered by third-party administering States, or

"(2) between or among States imposing conforming State sales taxes,

the revenue shall be allocated to those States that are the destination of the taxable property or service.

"(i) FEDERAL OFFICE OF REVENUE ALLOCATION.—The Secretary shall establish an Office of Revenue Allocation to arbitrate any claims or disputes among administering States as to the destination of taxable property and services for purposes of allocating revenue between or among the States from taxes imposed by this subtitle. The determination of the Administrator of the Office of Revenue Allocation shall be subject to judicial review in any Federal court with competent jurisdiction. The standard of review shall be abuse of discretion.

"SEC. 406. GENERAL ADMINISTRATIVE MATTERS.

"(a) IN GENERAL.—The Secretary and each sales tax administering authority may employ such persons as may be necessary for the administration of this subtitle and may delegate to employees the authority to conduct interviews, hearings, prescribe rules, promulgate regulations, and perform such other duties as are required by this subtitle.

"(b) RESOLUTION OF ANY INCONSISTENT RULES AND REGULATIONS.—In the event that the Secretary and any sales tax administering authority have issued inconsistent rules or regulations, any lawful rule or regulation issued by the Secretary shall govern.

"(c) ADEQUATE NOTICE TO BE PROVIDED.—Except in the case of an emergency declared by the Secretary (and not his designee), no rule or regulation issued by the Secretary with respect to any internal revenue law shall take effect before 90 days have elapsed after its publication in the Federal Register. Upon issuance, the Secretary shall provide copies of all rules or regulations issued under this title to each sales tax administering authority.

"(d) NO RULES, RULINGS, OR REGULATIONS WITH RETROACTIVE EFFECT.—No rule, ruling, or regulation issued or promulgated by the Secretary relating to any internal revenue law or by a sales tax administering authority shall apply to a period prior to its publication in the Federal Register (or State equivalent) except that a regulation may take retroactive effect to prevent abuse.

"(e) REVIEW OF IMPACT OF REGULATIONS, RULES, AND RULINGS ON SMALL BUSINESS.—

"(1) SUBMISSION TO SMALL BUSINESS ADMINISTRATION.—After publication of any proposed or temporary regulation by the Secretary relating to internal revenue laws, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of such regulation on small businesses. Not later than the date 30 days after the date of such submission, the Chief Counsel for Advocacy of the Small Business Administration shall submit comments on such regulation to the Secretary.

"(2) CONSIDERATION OF COMMENTS.—In prescribing any final regulation which supersedes a proposed or temporary regulation which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration, the Secretary shall—

"(A) consider the comments of the Chief Counsel for Advocacy of the Small Business Administration on such proposed or temporary regulation, and

"(B) in promulgating such final regulation, include a narrative that describes the response to such comments.

"(3) SUBMISSION OF CERTAIN FINAL REGULATION.—In the case of promulgation by the Secretary of any final regulations (other than a temporary regulation) which do not supersede a proposed regulation, the requirements of paragraphs (1) and (2) shall apply, except that the submission under paragraph (1) shall be made at least 30 days before the date of such promulgation, and the consideration and discussion required under paragraph (2) shall be made in connection with the promulgation of such final regulation.

"(f) SMALL BUSINESS REGULATORY SAFEGUARDS.—The Small Business Regulatory Enforcement Fairness Act (Public Law 104–121; 110 Stat. 857 ('SBREFA')) and the Regulatory Flexibility Act (5 U.S.C. 601–612 ('RFA')) shall apply to regulations promulgated under this subtitle.

"SEC. 407. JURISDICTION.

"(a) STATE JURISDICTION.—A sales tax administering authority shall have jurisdiction over any gross payments made which have a destination (as determined in accordance with section 405) within the State of said sales tax administering authority. This grant of jurisdiction is not exclusive of any other jurisdiction that such sales tax administering authority may have.

"(b) FEDERAL JURISDICTION.—The grant of jurisdiction in subsection (a) shall not be in derogation of Federal jurisdiction over the same matter. The Federal Government shall have the right to exercise preemptive jurisdiction over matters relating to the taxes imposed by this subtitle.

"CHAPTER 5—OTHER ADMINISTRATIVE PROVISIONS

"SEC. 501. MONTHLY REPORTS AND PAYMENTS.

"(a) TAX REPORTS AND FILING DATES.—

"(1) IN GENERAL.—On or before the 15th day of each month, each person who is—

"(A) liable to collect and remit the tax imposed by this subtitle by reason of section 103(a), or

"(B) liable to pay tax imposed by this subtitle which is not collected pursuant to section 103(a),

shall submit to the appropriate sales tax administering authority (in a form prescribed by the Secretary) a report relating to the previous calendar month.

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall set forth—

"(A) the gross payments referred to in section 101,

"(B) the tax collected under chapter 4 in connection with such payments,

"(C) the amount and type of any credit claimed, and

"(D) other information reasonably required by the Secretary or the sales tax administering authority for the administration, collection, and remittance of the tax imposed by this subtitle.

"(b) TAX PAYMENTS DATE.—

"(1) GENERAL RULE.—The tax imposed by this subtitle during any calendar month is due and shall be paid to the appropriate sales tax administering authority on or before the 15th day of the succeeding month. Both Federal tax imposed by this subtitle and conforming State sales tax (if any) shall be paid in 1 aggregate payment.

"(2) CROSS REFERENCE.—See subsection (e) relating to remitting of separate segregated funds for sellers that are not small sellers.

"(c) EXTENSIONS FOR FILING REPORTS.—

"(1) AUTOMATIC EXTENSIONS FOR NOT MORE THAN 30 DAYS.—On application, an extension of not more than 30 days to file reports under subsection (a) shall be automatically granted.

"(2) OTHER EXTENSIONS.—On application, extensions of 30 to 60 days to file such reports shall be liberally granted by the sales tax administering authority for reasonable cause. Extensions greater than 60 days may be granted by the sales tax administering authority to avoid hardship.

"(3) NO EXTENSION FOR PAYMENT OF TAXES.—Notwithstanding paragraphs (1) and (2), no extension shall be granted with respect to the time for paying or remitting the taxes under this subtitle.

"(d) TELEPHONE REPORTING OF VIOLATIONS.—The Secretary shall establish a system under which a violation of this subtitle can be brought to the attention of the sales tax administering authority for investigation through the use of a toll-free telephone number and otherwise.

"(e) SEPARATE SEGREGATED ACCOUNTS.—

"(1) IN GENERAL.—Any registered seller that is not a small seller shall deposit all sales taxes collected pursuant to section 103 in a particular week in a separate segregated account maintained at a bank or other financial institution within 3 business days of the end of such week. Said registered seller shall also maintain in that account sufficient funds to meet the bank or financial institution minimum balance requirements, if any, and to pay account fees and costs.

"(2) SMALL SELLER.—For purposes of this subsection, a small seller is any person that has not collected $20,000 or more of the taxes imposed by this subtitle in any of the previous 12 months.

"(3) LARGE SELLERS.—Any seller that has collected $100,000 or more of the taxes imposed by this subtitle in any of the previous 12 months is a large seller. A large seller shall remit to the sales tax administering authority the entire balance of deposited taxes in its separate segregated account on the first business day following the end of the calendar week. The Secretary may by regulation require the electronic transfer of funds due from large sellers.

"(4) WEEK.—For purposes of this subsection, the term 'week' shall mean the 7-day period ending on a Friday.

"(f) DETERMINATION OF REPORT FILING DATE.—A report filed pursuant to subsection (a) shall be deemed filed when—

"(1) deposited in the United States mail, postage prepaid, addressed to the sales tax administering authority,

"(2) delivered and accepted at the offices of the sales tax administering authority,

"(3) provided to a designated commercial private courier service for delivery within 2 days to the sales tax administering authority at the address of the sales tax administering authority, or

"(4) by other means permitted by the Secretary.

"(g) SECURITY REQUIREMENTS.—A large seller (within the meaning of subsection (e)(3)) shall be required to provide security in an amount equal to the greater of $100,000 or one and one-half times the seller's average monthly tax liability during the previous 6 calendar months. Security may be a cash bond, a bond from a surety company approved by the Secretary, a certificate of deposit, or a State or United States Treasury bond. A bond qualifying under this subsection must be a continuing instrument for each calendar year (or portion thereof) that the bond is in effect. The bond must remain in effect until the surety or sureties are released and discharged. Failure to provide security in accordance with this section shall result in revocation of the seller's section 502 registration. If a person who has provided security pursuant to this subsection—

"(1) fails to pay an amount indicated in a final notice of amount due under this subtitle (within the meaning of section 605(d)),

"(2) no Taxpayer Assistance Order is in effect relating to the amount due,

"(3) either the time for filing an appeal pursuant to section 604 has passed or the appeal was denied, and

"(4) the amount due is not being litigated in any judicial forum,

then the security or part of the security, as the case may be, may be forfeited in favor of the Secretary to the extent of such tax due (plus interest if any).

"(h) REWARDS PROGRAM.—The Secretary is authorized to maintain a program of awards wherein individuals that assist the Secretary or sales tax administering authorities in discovering or prosecuting tax fraud may be remunerated.

"(i) CROSS REFERENCE.—For interest due on taxes remitted late, see section 6601.

"SEC. 502. REGISTRATION.

"(a) IN GENERAL.—Any person liable to collect and remit taxes pursuant to section 103(a) who is engaged in a trade or business shall register as a seller with the sales tax administering authority administering the taxes imposed by this subtitle.

"(b) AFFILIATED FIRMS.—Affiliated firms shall be treated as 1 person for purposes of this section. Affiliated firms may elect, upon giving notice to the Secretary in a form prescribed by the Secretary, to treat separate firms as separate persons for purposes of this subtitle.

"(c) DESIGNATION OF TAX MATTERS PERSON.—Every person registered pursuant to subsection (a) shall designate a tax matters person who shall be an individual whom the sales tax administering authority may contact regarding tax matters. Each person registered must provide notice of a change in the identity of the tax matters person within 30 days of said change.

"(d) EFFECT OF FAILURE TO REGISTER.—Any person that is required to register and who fails to do so is prohibited from selling taxable property or services. The Secretary or a sales tax administering authority may bring an action seeking a temporary restraining order, an injunction, or such other order as may be appropriate to enforce this section.

"SEC. 503. ACCOUNTING.

"(a) CASH METHOD TO BE USED GENERALLY.—Registered sellers and other persons shall report transactions using the cash method of accounting unless an election to use the accrual method of accounting is made pursuant to subsection (b).

"(b) ELECTION TO USE ACCRUAL METHOD.—A person may elect with respect to a calender year to remit taxes and report transactions with respect to the month where a sale was invoiced and accrued.

"(c) CROSS REFERENCE.—See section 205 for rules relating to bad debts for sellers electing the accrual method.

"SEC. 504. PENALTIES.

"(a) FAILURE TO REGISTER.—Each person who is required to register pursuant to section 502 but fails to do so prior to notification by the sales tax administering authority shall be liable for a penalty of $500.

"(b) RECKLESS OR WILLFUL FAILURE TO COLLECT TAX.—

"(1) CIVIL PENALTY; FRAUD.—Each person who is required to and recklessly or willfully fails to collect taxes imposed by this subtitle shall be liable for a penalty equal to the greater of $500 or 20 percent of tax not collected.

"(2) CRIMINAL PENALTY.—Each person who is required to and willfully fails as part of a trade or business to collect taxes imposed by this subtitle may be fined an amount up to the amount determined in accordance with paragraph (1) or imprisoned for a period of not more than 1 year or both.

"(c) RECKLESS OR WILLFUL ASSERTION OF INVALID EXEMPTION.—

"(1) CIVIL PENALTY; FRAUD.—Each person who recklessly or willfully asserts an invalid intermediate or export sales exemption from the taxes imposed by this subtitle shall be liable for a penalty equal to the greater of $500 or 20 percent of the tax not collected or remitted.

"(2) CRIMINAL PENALTY.—Each person who willfully asserts an invalid intermediate or export sales exemption from the taxes imposed by this subtitle may be fined an amount up to the amount determined in accordance with paragraph (1) or imprisoned for a period of not more than 1 year or both.

"(d) RECKLESS OR WILLFUL FAILURE TO REMIT TAX COLLECTED.—

"(1) CIVIL PENALTY; FRAUD.—Each person who is required to and recklessly or willfully fails to remit taxes imposed by this subtitle and collected from purchasers shall be liable for a penalty equal to the greater of $1,000 or 50 percent of the tax not remitted.

"(2) CRIMINAL PENALTY.—Each person who willfully fails to remit taxes imposed by this subtitle and collected from purchasers may be fined an amount up to the amount determined in accordance with paragraph (1) or imprisoned for a period of not more than 2 years or both.

"(e) RECKLESS OR WILLFUL FAILURE TO PAY TAX.—Each person who is required to and recklessly or willfully fails to pay taxes imposed by this subtitle shall be liable for a penalty equal to the greater of $500 or 20 percent of the tax not paid.

"(f) PENALTY FOR LATE FILING.—

"(1) IN GENERAL.—In the case of a failure by any person who is required to and fails to file a report required by section 501 on or before the due date (determined with regard to any extension) for such report, such person shall pay a penalty for each month or fraction thereof that said report is late equal to the greater of—

"(A) $50, or

"(B) 0.5 percent of the gross payments required to be shown on the report.

"(2) INCREASED PENALTY ON RETURNS FILED AFTER WRITTEN INQUIRY.—The amount of the penalty under paragraph (1) shall be doubled with respect to any report filed after a written inquiry with respect to such report is received by the taxpayer from the sales tax administering authority.

"(3) LIMITATION.—The penalty imposed under this subsection shall not exceed 12 percent.

"(4) EXCEPTIONS.—

"(A) REASONABLE CAUSE.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(B) OTHER WAIVER AUTHORITY.—In addition to penalties not imposed by reason of subparagraph (A), the sales tax administering authority, on application, shall waive the penalty imposed by paragraph (1) once per registered person per 24-month period. The preceding sentence shall not apply to a penalty determined under paragraph (2).

"(g) PENALTY FOR WILLFULLY OR RECKLESSLY ACCEPTING A FALSE INTERMEDIATE OR EXPORT SALES

CERTIFICATE.—A person who willingly or recklessly accepts a false intermediate or export sales certificate shall pay a penalty equal to 20 percent of the tax not collected by reason of said acceptance.

"(h) PENALTY FOR LATE REMITTANCE OF TAXES.—

"(1) IN GENERAL.—A person who is required to timely remit taxes imposed by this subtitle and remits taxes more than 1 month after such taxes are due shall pay a penalty equal to 1 percent per month (or fraction thereof) from the due date.

"(2) LIMITATION.—The penalty imposed under this subsection shall not exceed 24 percent.

"(3) EXCEPTIONS FOR REASONABLE CAUSE.—No penalty shall be imposed under paragraph (1) with respect to any late remittance if it is shown that such late remittance is due to reasonable cause.

"(i) PENALTY FOR FILING FALSE REBATE CLAIM.—

"(1) CIVIL PENALTY; FRAUD.—A person who willingly or recklessly files a false claim for a family consumption allowance rebate (within the meaning of chapter 3) shall—

"(A) pay a penalty equal to the greater of $500 or 50 percent of the claimed annual rebate amount not actually due, and

"(B) repay any rebates received as a result of the false rebate claim (together with interest).

"(2) CRIMINAL PENALTY.—A person who willingly files a false claim for a family consumption allowance rebate (within the meaning of chapter 3) may be fined an amount up to the amount determined in accordance with paragraph (1) or imprisoned for a period not more than 1 year or both.

"(j) PENALTY FOR BAD CHECK.—If any check or money order in payment of any amount receivable under this subtitle is not duly paid, in addition to other penalties provided by law, the person who tendered such check shall pay a penalty equal to the greater of—

"(1) $25, or

"(2) two percent of the amount of such check.

"(k) PENALTY FOR FAILURE TO MAINTAIN A SEPARATE SEGREGATED ACCOUNT.—Any person required to maintain a separate segregated account pursuant to section 501(e) that fails to maintain such a separate segregated account shall pay a penalty of $1,000.

"(l) PENALTY FOR FAILURE TO DEPOSIT COLLECTED TAXES IN A SEPARATE SEGREGATED ACCOUNT.—Any person required to deposit collected taxes into a separate segregated account maintained pursuant to section 501(e) that fails to timely deposit said taxes into the separate segregated account shall pay a penalty equal to 1 percent of the amount required to be deposited. The penalty imposed by the previous sentence shall be tripled unless said taxes have been deposited in the separate segregated account or remitted to the sales tax administering authority within 16 days of the date said deposit was due.

"(m) JOINT AND SEVERAL LIABILITY FOR TAX MATTERS PERSON AND RESPONSIBLE OFFICERS.—The tax matters person (designated pursuant to section 502(c)) and responsible officers or partners of a firm shall be jointly and severally liable for the tax imposed by this subtitle and penalties imposed by this subtitle.

"(n) RIGHT OF CONTRIBUTION.—If more than 1 person is liable with respect to any tax or penalty imposed by this subtitle, each person who paid such tax or penalty shall be entitled to recover from other persons who are liable for such tax or penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the tax or penalty.

"(o) CIVIL PENALTIES AND CRIMINAL FINES NOT EXCLUSIVE.—

"(1) CIVIL PENALTY.—The fact that a civil penalty has been imposed shall not prevent the imposition of a criminal fine.

"(2) CRIMINAL FINE.—The fact that a criminal fine has been imposed shall not prevent the imposition of a civil penalty.

"(p) CONFIDENTIALITY.—Any person who violates the requirements relating to confidentiality of tax information (as provided in section 605(e)) may be fined up to $10,000 or imprisoned for a period of not more than 1 year, or both.

"(q) CROSS REFERENCE.—For interest due on late payments, see section 6601.

"SEC. 505. BURDEN OF PERSUASION AND BURDEN OF PRODUCTION.

"In all disputes concerning taxes imposed by this subtitle, the person engaged in a dispute with the sales tax administering authority or the Secretary, as the case may be, shall have the burden of production of documents and records but the sales tax administering authority or the Secretary shall have the burden of persuasion. In all disputes concerning an exemption claimed by a purchaser, if the seller has on file an intermediate sale or export sale certificate from the purchaser and did not have reasonable cause to believe that the certificate was improperly provided by the purchaser with respect to such purchase (within the meaning of section 103), then the burden of production of documents and records relating to that exemption shall rest with the purchaser and not with the seller.

"SEC. 506. ATTORNEYS' AND ACCOUNTANCY FEES.

"In all disputes concerning taxes imposed by this subtitle, the person engaged in a dispute with the sales tax administering authority or the Secretary, as the case may be, shall be entitled to reasonable attorneys' fees, accountancy fees, and other reasonable professional fees incurred in direct relation to the dispute unless the sales tax administering authority or the Secretary establishes that its position was substantially justified.

"SEC. 507. SUMMONS, EXAMINATIONS, AUDITS, ETC.

"(a) SUMMONS.—Persons are subject to administrative summons by the sales tax administering authority for records, documents, and testimony required by the sales tax administering authority to accurately determine liability for tax under this subtitle. A summons shall be served by the sales tax administering authority by an attested copy delivered in hand to the person to whom it is directed or left at his last known address. The summons shall describe with reasonable certainty what is sought.

"(b) EXAMINATIONS AND AUDITS.—The sales tax administering authority has the authority to conduct at a reasonable time and place examinations and audits of persons who are or may be liable to collect and remit tax imposed by this subtitle and to examine the books, papers, records, or other data of such persons which may be relevant or material to the determination of tax due.

"(c) LIMITATION ON AUTHORITY IN CASE OF REFERRAL.—No administrative summons may be issued by the sales tax administering authority and no action be commenced to enforce an administrative summons with respect to any person if a Justice Department referral or referral to a State Attorney General's Office is in effect with respect to such person relating to a tax imposed by this subtitle. Such referral is in effect with respect to any person if the sales tax administering authority or the Secretary has recommended to the Justice Department or a State Attorney General's Office a grand jury investigation of such person or a criminal prosecution of such person that contemplates criminal sanctions under this title. A referral shall be terminated when—

"(1) the Justice Department or a State Attorney General's Office notifies the sales tax administering authority or the Secretary that he will not—

"(A) prosecute such person for any offense connected with the internal revenue laws,

"(B) authorize a grand jury investigation of such person with respect to such offense, or

"(C) continue such a grand jury investigation, or

"(2) a final disposition has been made of any criminal proceeding connected with the internal revenue laws, or conforming State sales tax, against such person.

"SEC. 508. RECORDS.

"Any person liable to remit taxes pursuant to this subtitle shall keep records (including a record of all section 509 receipts provided, complete records of intermediate and export sales, including purchaser's intermediate and export sales certificates and tax number and the net of tax amount of purchase) sufficient to determine the amounts reported, collected, and remitted for a period of 6 years after the latter of the filing of the report for which the records formed the basis or when the report was due to be filed. Any purchaser who purchased taxable property or services but did not pay tax by reason of asserting an intermediate and export sales exemption shall keep records sufficient to determine whether said exemption was valid for a period of 7 years after the purchase of taxable property or services.

"SEC. 509. TAX TO BE SEPARATELY STATED AND CHARGED.

"(a) IN GENERAL.—For each purchase of taxable property or services for which a tax is imposed by section 101, the seller shall charge the tax imposed by section 101 separately from the purchase. For purchase of taxable property or services for which a tax is imposed by section 101, the seller shall provide to the purchaser a receipt for each transaction that includes—

"(1) the property or services price exclusive of tax;

"(2) the amount of tax paid;

"(3) the property or service price inclusive of tax;

"(4) the tax rate (the amount of tax paid (per paragraph (2)) divided by the property or service price inclusive of tax (per paragraph (3));

"(5) the date that the good or service was sold;

"(6) the name of the vendor; and

"(7) the vendor registration number.

"(b) VENDING MACHINE EXCEPTION.—The requirements of subsection (a) shall be inapplicable in the case of sales by vending machines. Vending machines for purposes of this subsection are machines—

"(1) that dispense taxable property in exchange for coins or currency; and

"(2) that sell no single item exceeding $10 per unit in price.

"(c) FINANCIAL INTERMEDIATION SERVICES EXCEPTION.—The requirements of subsection (a) shall be inapplicable in the case of sales financial intermediation service. Receipts shall be issued when the tax is imposed (in accordance with section 803 (relating to timing of tax on financial intermediation services)).

"SEC. 510. COORDINATION WITH TITLE 11.

"No addition to tax shall be made under section 504 with respect to a period during which a case is pending under title 11, United States Code—

"(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses; or

"(2) if—

"(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee; and

"(B) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or the date for making the addition to tax occurs on or after the date the petition was filed.

"SEC. 511. APPLICABLE INTEREST RATE.

"(a) IN GENERAL.—

"(1) FEDERAL SHORT-TERM RATE.—In the case of a debt instrument, investment, financing lease, or account with a term of not over 3 years, the applicable interest rate is the Federal short-term rate.

"(2) FEDERAL MID-TERM RATE.—In the case of a debt instrument, investment, financing lease, or account with a term of over 3 years but not over 9 years, the applicable interest rate is the Federal mid-term rate.

"(3) FEDERAL LONG-TERM RATE.—In the case of a debt instrument, investment, financing lease, or account with a term of over 9 years, the applicable interest rate is the Federal long-term rate.

"(b) FEDERAL SHORT-TERM RATE.—The Federal short-term rate shall be the rate determined by the Secretary based on the average market yield (selected by the Secretary and ending in the calendar month in which the determination is made during any one month) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or fewer.

"(c) FEDERAL MID-TERM RATE.—The Federal mid-term rate shall be the rate determined by the Secretary based on the average market yield (selected by the Secretary and ending in the calendar month in which the determination is made during any 1 month) on outstanding marketable obligations of the United States with remaining periods to maturity of more than 3 years and not over 9 years.

"(d) FEDERAL LONG-TERM RATE.—The Federal long-term rate shall be the rate determined by the Secretary based on the average market yield (selected by the Secretary and ending in the calendar month in which the determination is made during any 1 month) on outstanding marketable obligations of the United States with remaining periods to maturity of over 9 years.

"(e) DETERMINATION OF RATES.—During each calendar month, the Secretary shall determine the Federal short-term rate, the Federal mid-term rate and the Federal long-term rate which shall apply during the following calendar month.

"CHAPTER 6—COLLECTIONS; APPEALS; TAXPAYER RIGHTS

"SEC. 601. COLLECTIONS.

"The sales tax administering authority shall collect the taxes imposed by this subtitle, except as provided in section 404 (relating to Federal administration in certain States).

"SEC. 602. POWER TO LEVY, ETC.

"(a) IN GENERAL.—The sales tax administering authority may levy and seize property, garnish wages or salary and file liens to collect amounts due under this subtitle, pursuant to enforcement of—

"(1) a judgment duly rendered by a court of law;

"(2) an amount due if the taxpayer has failed to exercise his appeals rights under section 604; or

"(3) an amount due if the appeals process determined that an amount remained due and the taxpayer has failed to timely petition the Tax Court for relief.

"(b) EXEMPTION FROM LEVY, SEIZURE, AND GARNISHMENTS.—There shall be exempt from levy, seizure, and garnishment or penalty in connection with any tax imposed by this subtitle—

"(1) wearing apparel, school books, fuel, provisions, furniture, personal effects, tools of a trade or profession, livestock in a household up to an aggregate value of $15,000; and

"(2) monthly money income equal to 150 percent of the monthly poverty level (as defined in section 303).

"(c) LIENS TO BE TIMELY RELEASED.—Subject to such reasonable regulations as the Secretary may provide, any lien imposed with respect to a tax imposed by this title shall be released not later than 30 days after—

"(1) the liability was satisfied or became unenforceable; or

"(2) a bond was accepted as security.

"SEC. 603. PROBLEM RESOLUTION OFFICES.

"(a) PROBLEM RESOLUTION OFFICE TO BE ESTABLISHED.—Each sales tax administering authority shall establish an independent Problem Resolution Office and appoint an adequate number of problem resolution officers. The head of the problem resolution office must be appointed by, and serve at the pleasure of either the State Governor (in the case of an administering State) or the President of the United States.

"(b) AUTHORITY OF PROBLEM RESOLUTION OFFICERS.—Problem resolution officers shall have the authority to investigate complaints and issue a Taxpayer Assistance Order to administratively enjoin any collection activity if, in the opinion of the problem resolution officer, said collection activity is reasonably likely to not be in compliance with law or to prevent hardship (other than by reason of having to pay taxes lawfully due). Problem resolution officers shall also have the authority to issue Taxpayer Assistance Orders releasing or returning property that has been levied upon or seized, ordering that a lien be released and that garnished wages be returned. A Taxpayer Assistance Order may only be rescinded or modified by the problem resolution officer that issued it, by the highest official in the relevant sales tax administering authority or by its general counsel upon a finding that the collection activity is justified by clear and convincing evidence. The authority to reverse this Taxpayer Assistance Order may not be delegated.

"(c) FORM OF REQUEST FOR TAXPAYER ASSISTANCE ORDER.—The Secretary shall establish a form and procedure to aid persons requesting the assistance of the Problem Resolution Office and to aid the Problem Resolution Office in understanding the needs of the person seeking assistance. The use of this form, however, shall not be a prerequisite to a problem resolution officer taking action, including issuing a Taxpayer Assistance Order.

"(d) CONTENT OF TAXPAYER ASSISTANCE ORDER.—A Taxpayer Assistance Order shall contain the name of the problem resolution officer, any provision relating to the running of any applicable period of limitation, the name of the person that the Taxpayer Assistance Order assists, the government office (or employee or officer of said government office) to whom it is directed and the action or cessation of action that the Taxpayer Assistance Order requires of said government officer (or employee or officer of said government office). The Taxpayer Assistance Order need not contain findings of fact or its legal basis; however, the problem resolution officer must provide findings of fact and the legal basis for the issuance of the Taxpayer Assistance Order to the sales tax administering authority upon the request of an officer of said authority within 2 weeks of the receipt of such request.

"(e) INDEPENDENCE PROTECTED.—Problem resolution officers shall not be disciplined or adversely affected for the issuance of administrative injunctions unless a pattern of issuing injunctions that are manifestly unreasonable is proven in an administrative hearing by a preponderance of the evidence.

"(f) OTHER RIGHTS NOT LIMITED.—Nothing in this section shall limit the authority of the sales tax administering authority, the registered person or other person from pursuing any legal remedy in any court with jurisdiction over the dispute at issue.

"(g) LIMITATIONS.—The running of any applicable period of limitation shall be suspended for a period of 8 weeks following the issuance of a Taxpayer Assistance Order or, if specified, for a longer period set forth in the Taxpayer Assistance Order provided the suspension does not exceed 6 months.

"SEC. 604. APPEALS.

"(a) ADMINISTRATIVE APPEALS.—The sales tax administering authority shall establish an administrative appeals process wherein the registered person or other person in disagreement with a decision of the sales tax administering authority asserting liability for tax is provided a full and fair hearing in connection with any disputes said person has with the sales tax administering authority.

"(b) TIMING OF ADMINISTRATIVE APPEALS.—Said administrative appeal must be made within 60 days of receiving a final notice of amount due pursuant to section 605(d) unless leave for an extension is granted by the appeals officer in a form prescribed by the Secretary. Leave shall be granted to avoid hardship.

"SEC. 605. TAXPAYER RIGHTS.

"(a) RIGHTS TO BE DISCLOSED.—The sales tax administering authority shall provide to any person against whom it has—

"(1) commenced an audit or investigation;

"(2) issued a final notice of amount due;

"(3) filed an administrative lien, levy, or garnishment;

"(4) commenced other collection action;

"(5) commenced an action for civil penalties; or

"(6) any other legal action,

a document setting forth in plain English the rights of the person. The document shall explain the administrative appeals process, the authority of the Problem Resolution Office (established pursuant to section 603) and how to contact that Office, the burden of production and persuasion that the person and the sales tax administering authority bear (pursuant to section 505), the right of the person to professional fees (pursuant to section 506), the right to record interviews and such other rights as the person may possess under this subtitle. Said document will also set forth the procedures for entering into an installment agreement.

"(b) RIGHT TO PROFESSIONAL ASSISTANCE.—In all dealings with the sales tax administering authority, a person shall have the right to assistance, at their own expense, of one or more professional advisors.

"(c) RIGHT TO RECORD INTERVIEWS.—Any person who is interviewed by an agent of the sales tax administering authority shall have the right to video or audio tape the interview at the person's own expense.

"(d) RIGHT TO FINAL NOTICE OF AMOUNT DUE.—No collection or enforcement action will be commenced against a person until 30 days after they have been provided with a final notice of amount due under this subtitle by the sales tax administering authority. The final notice of amount due shall set forth the amount of tax due (along with any interest and penalties due) and the factual and legal basis for such amounts being due with sufficient specificity that such basis can be understood by a reasonable person who is not a tax professional reading the notice. The final notice shall be sent by certified mail, return receipt requested, to—

"(1) the address last provided by a registered seller; or

"(2) the best available address to a person who is not a registered seller.

"(e) CONFIDENTIALITY OF TAX INFORMATION.—

"(1) IN GENERAL.—All reports and report information (related to any internal revenue law) shall be confidential and except as authorized by this title—

"(A) no officer or employee (including former officers and employees) of the United States;

"(B) no officer or employee (including former officers and employees) of any State or local agency who has had access to returns or return information; and

"(C) no other person who has had access to returns or return information;

shall disclose any report or report information obtained by him in any manner in connection with his service as such officer or employee or otherwise.

"(2) DESIGNEES.—The sales tax administering authority may, subject to such requirements as the Secretary may impose, disclose the report and report information of a person to that person or persons as that person may designate to receive said information or return.

"(3) OTHER SALES TAX ADMINISTERING AUTHORITIES.—A sales tax administering authority may impose, disclose the report and report information to another sales tax administering authority.

"(4) INCOMPETENCY.—A sales tax administering authority may, subject to such requirements as the Secretary may impose, disclose the report and report information to the committee, trustee, or guardian of a person who is incompetent.

"(5) DECEASED PERSONS.—A sales tax administering authority may, subject to such requirements as the Secretary may impose, disclose the report and report information to the decedent's—

"(A) administrator, executor, estate trustee, or

"(B) heir at law, next of kin, or beneficiary under a will who has a material interest that will be affected by the information.

"(6) BANKRUPTCY.—A sales tax administering authority may, subject to such requirements as the Secretary may impose, disclose the report and report information to a person's trustee in bankruptcy.

"(7) CONGRESS.—Upon written request from the Chairman of the Committee on Ways and Means, the Chairman of the Committee on Finance of the Senate, or the Chairman or Chief of Staff of the Joint Committee on Taxation, a sales tax administering authority shall disclose the report and report information, except that any report or report information that can be associated with or otherwise identify a particular person shall be furnished to such committee only when sitting in closed executive session unless such person otherwise consents in writing to such disclosure.

"(8) WAIVER OF PRIVACY RIGHTS.—A person may waive confidentiality rights provided by this section. Such waiver must be in writing.

"(9) INTERNAL USE.—Disclosure of the report or report information by officers or employees of a sales tax administering authority to other officers or employees of a sales tax administering authority in the ordinary course of tax administration activities shall not constitute unlawful disclosure of the report or report information.

"(10) STATISTICAL USE.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish such reports and report information to officers and employees of the Department of Commerce as the Secretary may prescribe by regulation for the purposes of, and only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

"(11) DEPARTMENT OF THE TREASURY.—Returns and return information shall be open for inspection by officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, and only to the extent necessary for, preparing economic or financial forecasts, projections, analyses, or estimates. Such inspection or disclosure shall be permitted only upon written request that sets forth the reasons why such inspection or disclosure is necessary and is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

"SEC. 606. INSTALLMENT AGREEMENTS; COMPROMISES.

"The sales tax administering authority is authorized to enter into written agreements with any person under which the person is allowed to satisfy liability for payment of any tax under this subtitle (and penalties and interest relating thereto) in installment payments if the sales tax administering authority determines that such agreement will facilitate the collection of such liability. The agreement shall remain in effect for the term of the agreement unless the information that the person provided to the sales tax administering authority was materially inaccurate or incomplete. The sales tax administering authority may compromise any amounts alleged to be due.

"CHAPTER 7—SPECIAL RULES

"SEC. 701. HOBBY ACTIVITIES.

"(a) HOBBY ACTIVITIES.—Neither the exemption afforded by section 102 for intermediate sales nor the credits available pursuant to section 202 or 203 shall be available for any taxable property or service purchased for use in an activity if that activity is not engaged in for-profit.

"(b) STATUS DEEMED.—If the activity has received gross payments for the sale of taxable property or services that exceed the sum of—

"(1) taxable property and services purchased;

"(2) wages and salary paid; and

"(3) taxes (of any type) paid,

in two or more of the most recent 3 calendar years during which it operated then the business activity shall be conclusively deemed to be engaged in for profit.

"SEC. 702. GAMING ACTIVITIES.

"(a) REGISTRATION.—Any person selling one or more chances is a gaming sponsor and shall register, in a form prescribed by the Secretary, with the sales tax administering authority as a gaming sponsor.

"(b) CHANCE DEFINED.—For purposes of this section, the term 'chance' means a lottery ticket, a raffle ticket, chips, other tokens, a bet or bets placed, a wager or wagers placed, or any similar device where the purchase of the right gives rise to an obligation by the gaming sponsor to pay upon the occurrence of—

"(1) a random or unpredictable event; or

"(2) an event over which neither the gaming sponsor nor the person purchasing the chance has control over the outcome.

"(c) CHANCES NOT TAXABLE PROPERTY OR SERVICE.—Notwithstanding any other provision in this subtitle, a chance is not taxable property or services for purposes of section 101.

"(d) TAX ON GAMING SERVICES IMPOSED.—A 23-percent tax is hereby imposed on the taxable gaming services of a gaming sponsor. This tax shall be paid and remitted by the gaming sponsor. The tax shall be remitted by the 15th day of each month with respect to taxable gaming services during the previous calendar month.

"(e) TAXABLE GAMING SERVICES DEFINED.—For purposes of this section, the term 'taxable gaming services' means—

"(1) gross receipts of the gaming sponsor from the sale of chances, minus

"(2) the sum of—

"(A) total gaming payoffs to chance purchasers (or their designees); and

"(B) gaming specific taxes (other than the tax imposed by this section) imposed by the Federal, State, or local government.

"SEC. 703. GOVERNMENT PURCHASES.

"(a) GOVERNMENT PURCHASES.—

"(1) PURCHASES BY THE FEDERAL GOVERNMENT.—Purchases by the Federal Government of taxable property and services shall be subject to the tax imposed by section 101.

"(2) PURCHASE BY STATE GOVERNMENTS AND THEIR POLITICAL SUBDIVISIONS.—Purchases by State governments and their political subdivisions of taxable property and services shall be subject to the tax imposed by section 101.

"(b) CROSS REFERENCES.—For purchases by government enterprises see section 704.

"SEC. 704. GOVERNMENT ENTERPRISES.

"(a) GOVERNMENT ENTERPRISES TO COLLECT AND REMIT TAXES ON SALES.—Nothing in this subtitle shall be construed to exempt any Federal, State, or local governmental unit or political subdivision (whether or not the State is an administering State) operating a government enterprise from collecting and remitting tax imposed by this subtitle on any sale of taxable property or services. Government enterprises shall comply with all duties imposed by this subtitle and shall be liable for penalties and subject to enforcement action in the same manner as private persons that are not government enterprises.

"(b) GOVERNMENT ENTERPRISE.—Any entity owned or operated by a Federal, State, or local governmental unit or political subdivision that receives gross payments from private persons is a government enterprise, except that a government-owned entity shall not become a government enterprise for purposes of this section unless in any quarter it has revenues from selling taxable property or services that exceed $2,500.

"(c) GOVERNMENT ENTERPRISES INTERMEDIATE SALES.—

"(1) IN GENERAL.—Government enterprises shall not be subject to tax on purchases that would not be subject to tax pursuant to section 102(b) if the government enterprise were a private enterprise.

"(2) EXCEPTION.—Government enterprises may not use the exemption afforded by section 102(b) to serve as a conduit for tax-free purchases by government units that would otherwise be subject to taxation on purchases pursuant to section 703. Transfers of taxable property or services purchased exempt from tax from a government enterprise to such government unit shall be taxable.

"(d) SEPARATE BOOKS OF ACCOUNT.—Any government enterprise must maintain books of account, separate from the nonenterprise government accounts, maintained in accordance with generally accepted accounting principles.

"(e) TRADE OR BUSINESS.—A government enterprise shall be treated as a trade or business for purposes of this subtitle.

"(f) ENTERPRISE SUBSIDIES CONSTITUTE TAXABLE PURCHASE.—A transfer of funds to a government enterprise by a government entity without full consideration shall constitute a taxable government purchase with the meaning of section 703 to the extent that the transfer of funds exceeds the fair market value of the consideration.

"SEC. 705. MIXED USE PROPERTY.

"(a) MIXED USE PROPERTY OR SERVICE.—

"(1) MIXED USE PROPERTY OR SERVICE DEFINED.—For purposes of this section, the term 'mixed use property or service' is a taxable property or taxable service used for both taxable use or consumption and for a purpose that would not be subject to tax pursuant to section 102(a)(1).

"(2) TAXABLE THRESHOLD.—Mixed use property or service shall be subject to tax notwithstanding section 102(a)(1) unless such property or service is used more than 95 percent for purposes that would give rise to an exemption pursuant to section 102(a)(1) during each calendar year (or portions thereof) it is owned.

"(3) MIXED USE PROPERTY OR SERVICES CREDIT.—A person registered pursuant to section 502 is entitled to a business use conversion credit (pursuant to section 202) equal to the product of—

"(A) the mixed use property amount;

"(B) the business use ratio; and

"(C) the rate of tax imposed by section 101.

"(4) MIXED USE PROPERTY AMOUNT.—The mixed use property amount for each month (or fraction thereof) in which the property was owned shall be—

"(A) one-three-hundred-sixtieth of the gross payments for real property for 360 months or until the property is sold;

"(B) one-eighty-fourth of the gross payments for tangible personal property for 84 months or until the property is sold;

"(C) one-sixtieth of the gross payments for vehicles for 60 months or until the property is sold; or

"(D) for other types of taxable property or services, a reasonable amount or in accordance with regulations prescribed by the Secretary.

"(5) BUSINESS USE RATIO.—For purposes of this section, the term 'business use ratio' means the ratio of business use to total use for a particular calendar month (or portion thereof if the property was owned for only part of said calendar month). For vehicles, the business use ratio will be the ratio of business purpose miles to total miles in a particular calendar month. For real property, the business use ratio is the ratio of floor space used primarily for business purposes to total floor space in a particular calendar month. For tangible personal property (except for vehicles), the business use ratio is the ratio of total time used for business purposes to total time used in a particular calendar year. For other property or services, the business ratio shall be calculated using a reasonable method. Reasonable records must be maintained to support a person's business use of the mixed use property or service.

"(b) TIMING OF BUSINESS USE CONVERSION CREDIT ARISING OUT OF OWNERSHIP OF MIXED USE PROPERTY.—A person entitled to a credit pursuant to subsection (a)(3) arising out of the ownership of mixed use property must account for the mixed use on a calendar year basis, and may file for the credit with respect to mixed use property in any month following the calendar year giving rise to the credit.

"(c) CROSS REFERENCE.—For business use conversion credit, see section 202.

"SEC. 706. NOT-FOR-PROFIT ORGANIZATIONS.

"(a) NOT-FOR-PROFIT ORGANIZATIONS.—Dues, contributions, and similar payments to qualified not-for-profit organizations shall not be considered gross payments for taxable property or services for purposes of this subtitle.

"(b) DEFINITION.—For purposes of this section, the term 'qualified not-for-profit organization' means a not-for-profit organization organized and operated exclusively—

"(1) for religious, charitable, scientific, testing for public safety, literary, or educational purposes;

"(2) as civic leagues or social welfare organizations;

"(3) as labor, agricultural, or horticultural organizations;

"(4) as chambers of commerce, business leagues, or trade associations; or

"(5) as fraternal beneficiary societies, orders, or associations;

no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(c) QUALIFICATION CERTIFICATES.—Upon application in a form prescribed by the Secretary, the sales tax administering authority shall provide qualification certificates to qualified not-for-profit organizations.

"(d) TAXABLE TRANSACTIONS.—If a qualified not-for-profit organization provides taxable property or services in connection with contributions, dues, or similar payments to the organization, then it shall be required to treat the provision of said taxable property or services as a purchase taxable pursuant to this subtitle at the fair market value of said taxable property or services.

"(e) EXEMPTIONS.—Taxable property and services purchased by a qualified not-for-profit organization shall be eligible for the exemptions provided in section 102.

"CHAPTER 8—FINANCIAL INTERMEDIATION SERVICES

"SEC. 801. DETERMINATION OF FINANCIAL INTERMEDIATION SERVICES AMOUNT.

"(a) FINANCIAL INTERMEDIATION SERVICES.—For purposes of this subtitle—

"(1) IN GENERAL.—The term 'financial intermediation services' means the sum of—

"(A) explicitly charged fees for financial intermediation services, and

"(B) implicitly charged fees for financial intermediation services.

"(2) EXPLICITLY CHARGED FEES FOR FINANCIAL INTERMEDIATION SERVICES.—The term 'explicitly charged fees for financial intermediation services' includes—

"(A) brokerage fees;

"(B) explicitly stated banking, loan origination, processing, documentation, credit check fees, or other similar fees;

"(C) safe-deposit box fees;

"(D) insurance premiums, to the extent such premiums are not allocable to the investment account of the underlying insurance policy;

"(E) trustees' fees; and

"(F) other financial services fees (including mutual fund management, sales, and exit fees).

"(3) IMPLICITLY CHARGED FEES FOR FINANCIAL INTERMEDIATION SERVICES.—

"(A) IN GENERAL.—The term 'implicitly charged fees for financial intermediation services' includes the gross imputed amount in relation to any underlying interest-bearing investment, account, or debt.

"(B) GROSS IMPUTED AMOUNT.—For purposes of subparagraph (A), the term 'gross imputed amount' means—

"(i) with respect to any underlying interest-bearing investment or account, the product of—

"(I) the excess (if any) of the basic interest rate (as defined in section 805) over the rate paid on such investment; and

"(II) the amount of the investment or account; and

"(ii) with respect to any underlying interest-bearing debt, the product of—

"(I) the excess (if any) of the rate paid on such debt over the basic interest rate (as defined in section 805); and

"(II) the amount of the debt.

"(b) SELLER OF FINANCIAL INTERMEDIATION SERVICES.—For purposes of section 103(a), the seller of financial intermediation services shall be—

"(1) in the case of explicitly charged fees for financial intermediation services, the seller shall be the person who receives the gross payments for the charged financial intermediation services;

"(2) in the case of implicitly charged fees for financial intermediation services with respect to any underlying interest-bearing investment or account, the person making the interest payments on the interest-bearing investment or account; and

"(3) in the case of implicitly charged fees for financial intermediation services with respect to any interest-bearing debt, the person receiving the interest payments on the interest-bearing debt.

"SEC. 802. BAD DEBTS.

"(a) IN GENERAL.—For purposes of section 205(a), a bad debt shall be a business debt that becomes wholly or partially worthless to the payee.

"(b) BUSINESS LOAN.—For purposes of subsection (a), a business loan or debt is a bona fide loan or debt made for a business purpose that both parties intended be repaid.

"(c) DETERMINATION OF WORTHLESSNESS.—

"(1) IN GENERAL.—No loan or debt shall be considered wholly or partially worthless unless it has been in arrears for 180 days or more, except that if a debt is discharged wholly or partially in bankruptcy before 180 days has elapsed, then it shall be deemed wholly or partially worthless on the date of discharge.

"(2) DETERMINATION BY HOLDER.—A loan or debt that has been in arrears for 180 days or more may be deemed wholly or partially worthless by the holder unless a payment schedule has been entered into between the debtor and the lender.

"(d) CROSS REFERENCE.—See section 205(c) for tax on subsequent payments.

"SEC. 803. TIMING OF TAX ON FINANCIAL INTERMEDIATION SERVICES.

"The tax on financial intermediation services provided by section 801 with respect to an underlying investment account or debt shall be imposed and collected with the same frequency that statements are rendered by the financial institution in connection with the investment account or debt but not less frequently than quarterly.

"SEC. 804. FINANCING LEASES.

"(a) DEFINITION.—For purposes of this section, the term 'financing lease' means any lease under which the lessee has the right to acquire the property for 50 percent or less of its fair market value at the end of the lease term.

"(b) GENERAL RULE.—Financing leases shall be taxed in the method set forth in this section.

"(c) DETERMINATION OF PRINCIPAL AND INTEREST COMPONENTS OF FINANCING LEASE.—The Secretary shall promulgate rules for disaggregating the principal and interest components of a financing lease. The principal amount shall be determined to the extent possible by examination of the contemporaneous sales price or prices of property the same or similar as the leased property.

"(d) ALTERNATIVE METHOD.—In the event that contemporaneous sales prices or property the same or similar as the leased property are not available, the principal and interest components of a financing lease shall be disaggregated using the applicable interest rate (as defined in section 511) plus 4 percent.

"(e) PRINCIPAL COMPONENT.—The principal component of the financing lease shall be subject to tax as if a purchase in the amount of the principal component had been made on the day on which said lease was executed.

"(f) INTEREST COMPONENT.—The financial intermediation services amount with respect to the interest component of the financing lease shall be subject to tax under this subtitle.

"(g) COORDINATION.—If the principal component and financial intermediation services amount with respect to the interest component of a lease have been taxed pursuant to this section, then the gross lease or rental payments shall not be subject to additional tax.

"SEC. 805. BASIC INTEREST RATE.

"For purposes of this chapter, the basic interest rate with respect to a debt instrument, investment, financing lease, or account shall be the applicable interest rate (as determined in section 511). For debt instruments, investments, or accounts of contractually fixed interest, the applicable interest rate of the month of issuance shall apply. For debt instruments, investments, or accounts of variable interest rates and which have no reference interest rate, the applicable interest shall be the Federal short-term interest rate for each month. For debt instruments, investments, or accounts of variable interest rates and which have a reference interest rate, the applicable interest shall be the applicable interest rate for the reference interest rate for each month.

"SEC. 806. FOREIGN FINANCIAL INTERMEDIATION SERVICES.

"(a) SPECIAL RULES RELATING TO INTERNATIONAL FINANCIAL INTERMEDIATION SERVICES.—Financial intermediation services shall be deemed as used or consumed within the United States if the person (or any related party as defined in section 205(c)) purchasing the services is a resident of the United States.

"(b) DESIGNATION OF TAX REPRESENTATIVE.—Any person that provides financial intermediation services to United States residents must, as a condition of lawfully providing such services, designate, in a form prescribed by the Secretary, a tax representative for purposes of this subtitle. The tax representative shall be responsible for ensuring that the taxes imposed by this subtitle are collected and remitted and shall be jointly and severally liable for collecting and remitting these taxes. The Secretary may require reasonable bond of the tax representative. The Secretary or a sales tax administering authority may bring an action seeking a temporary restraining order, an injunction, or such other order as may be appropriate to enforce this section.

"(c) CROSS REFERENCES.—For definition of person, see section 901.

"CHAPTER 9—ADDITIONAL MATTERS

"SEC. 901. ADDITIONAL MATTERS.

"(a) INTANGIBLE PROPERTY ANTIAVOIDANCE RULE.—Notwithstanding section 2(a)(14)(a)(i), the sale of a copyright or trademark shall be treated as the sale of taxable services (within the meaning of section 101(a)) if the substance of the sales of copyright or trademark constituted the sale of the services that produced the copyrighted material or the trademark.

"(b) DE MINIMIS PAYMENTS.—Up to $400 of gross payments per calendar year shall be exempt from the tax imposed by section 101 if—

"(1) made by a person not in connection with a trade or business at any time during such calendar year prior to making said gross payments, and

"(2) made to purchase any taxable property or service which is imported into the United States by such person for use or consumption by such person in the United States.

"(c) DE MINIMIS SALES.—Up to $1,200 per calendar year of gross payments shall be exempt from the tax imposed by section 101 if received—

"(1) by a person not in connection with a trade or business during such calendar year prior to the receipt of said gross payments; and

"(2) in connection with a casual or isolated sale.

"(d) DE MINIMIS SALE OF FINANCIAL INTERMEDIATION SERVICES.—Up to $10,000 per calendar year of gross payments received by a person from the sale of financial intermediation services (as determined in accordance with section 801) shall be exempt from the tax imposed by section 101. The exemption provided by this subsection is in addition to other exemptions afforded by this chapter. The exemption provided by this subsection shall not be available to large sellers (as defined in section 501(e)(3)).

"(e) PROXY BUYING TAXABLE.—If a registered person provides taxable property or services to a person either as a gift, prize, reward, or as remuneration for employment, and such taxable property or services were not previously subject to tax pursuant to section 101, then the provision of such taxable property or services by the registered person shall be deemed the conversion of such taxable property or services to personal use subject to tax pursuant to section 103(c) at the tax inclusive fair market value of such taxable property or services.

"(f) SUBSTANCE OVER FORM.—The substance of a transaction will prevail over its form if the transaction has no bona fide economic purpose and is designed to evade tax imposed by this subtitle.

"(g) CERTAIN EMPLOYEE DISCOUNTS TAXABLE.—

"(1) EMPLOYEE DISCOUNT.—For purposes of this subsection, the term 'employee discount' means an employer's offer of taxable property or services for sale to its employees or their families (within the meaning of section 302(b)) for less than the offer of such taxable property or services to the general public.

"(2) EMPLOYEE DISCOUNT AMOUNT.—For purposes of this subsection, the employee discount amount is the amount by which taxable property or services are sold pursuant to an employee discount below the amount for which such taxable property or services would have been sold to the general public.

"(3) TAXABLE AMOUNT.—If the employee discount amount exceeds 20 percent of the price that the taxable property or services would have been sold to the general public, then the sale of such taxable property or services by the employer shall be deemed the conversion of such taxable property or services to personal use and tax shall be imposed on the taxable employee discount amount. The taxable employee discount amount shall be—

"(A) the employee discount amount, minus

"(B) 20 percent of the amount for which said taxable property or services would have been sold to the general public.

"(h) SATURDAY, SUNDAY, OR LEGAL HOLIDAY.—When the last day prescribed for performing any act required by this subtitle falls on a Saturday, Sunday, or legal holiday (in the jurisdiction where the return is to be filed), the performance of such act shall be considered timely if it is performed on the next day which is not a Saturday, Sunday, or legal holiday (in the jurisdiction where the return is to be filed).

"SEC. 902. TRANSITION MATTERS.

"(a) INVENTORY.—

"(1) QUALIFIED INVENTORY.—Inventory held by a trade or business on the close of business on December 31, 2016, shall be qualified inventory if it is sold—

"(A) before December 31, 2017;

"(B) by a registered person; and

"(C) subject to the tax imposed by section 101.

"(2) COSTS.—For purposes of this section, qualified inventory shall have the cost that it had for Federal income tax purposes for the trade or business as of December 31, 2016 (including any amounts capitalized by reason of section 263A of the Internal Revenue Code of 1986 as in effect on December 31, 2016).

"(3) TRANSITIONAL INVENTORY CREDIT.—The trade or business which held the qualified inventory on the close of business on December 31, 2016, shall be entitled to a transitional inventory credit equal to the cost of the qualified inventory (determined in accordance with paragraph (2)) times the rate of tax imposed by section 101.

"(4) TIMING OF CREDIT.—The credit provided under paragraph (3) shall be allowed with respect to the month when the inventory is sold subject to the tax imposed by this subtitle. Said credit shall be reported as an intermediate and export sales credit and the person claiming said credit shall attach supporting schedules in the form that the Secretary may prescribe.

"(b) WORK-IN-PROCESS.—For purposes of this section, inventory shall include work-in-process.

"(c) QUALIFIED INVENTORY HELD BY BUSINESSES NOT SELLING SAID QUALIFIED INVENTORY AT RETAIL.—

"(1) IN GENERAL.—Qualified inventory held by businesses that sells said qualified inventory not subject to tax pursuant to section 102(a) shall be eligible for the transitional inventory credit only if that business (or a business that has successor rights pursuant to paragraph (2)) receives certification in a form satisfactory to the Secretary that the qualified inventory was subsequently sold subject to the tax imposed by this subtitle.

"(2) TRANSITIONAL INVENTORY CREDIT RIGHT MAY BE SOLD.—The business entitled to the transitional inventory credit may sell the right to receive said transitional inventory credit to the purchaser of the qualified inventory that gave rise to the credit entitlement. Any purchaser of such qualified inventory (or property or services into which the qualified inventory has been incorporated) may sell the right to said transitional inventory credit to a subsequent purchaser of said qualified inventory (or property or services into which the qualified inventory has been incorporated).

"SEC. 903. WAGES TO BE REPORTED TO SOCIAL SECURITY ADMINISTRATION.

"(a) IN GENERAL.—Employers shall submit such information to the Social Security Administration as is required by the Social Security Administration to calculate Social Security benefits under title II of the Social Security Act, including wages paid, in a form prescribed by the Secretary. A copy of the employer submission to the Social Security Administration relating to each employee shall be provided to each employee by the employer.

"(b) WAGES.—For purposes of this section, the term 'wages' means all cash remuneration for employment (including tips to an employee by third parties provided that the employer or employee maintains records documenting such tips) including self-employment income; except that such term shall not include—

"(1) any insurance benefits received (including death benefits);

"(2) pension or annuity benefits received;

"(3) tips received by an employee over $5,000 per year; and

"(4) benefits received under a government entitlement program (including Social Security benefits and unemployment compensation benefits).

"(c) SELF-EMPLOYMENT INCOME.—For purposes of subsection (b), the term 'self-employment income' means gross payments received for taxable property or services minus the sum of—

"(1) gross payments made for taxable property or services (without regard to whether tax was paid pursuant to section 101 on such taxable property or services), and

"(2) wages paid by the self-employed person to employees of the self-employed person.

"SEC. 904. TRUST FUND REVENUE.

"(a) SECRETARY TO MAKE ALLOCATION OF SALES TAX REVENUE.—The Secretary shall allocate the revenue received by virtue of the tax imposed by section 101 in accordance with this section. The revenue shall be allocated among—

"(1) the general revenue,

"(2) the old-age and survivors insurance trust fund,

"(3) the disability insurance trust fund,

"(4) the hospital insurance trust fund, and

"(5) the Federal supplementary medical insurance trust fund.

"(b) GENERAL RULE.—

"(1) GENERAL REVENUE.—The proportion of total revenue allocated to the general revenue shall be the same proportion as the rate in section

101(b)(4) bears to the combined Federal tax rate percentage (as defined in section 101(b)(3)).

"(2) The amount of revenue allocated to the old-age and survivors insurance and disability insurance trust funds shall be the same proportion as the old-age, survivors and disability insurance rate (as defined in subsection (d)) bears to the combined Federal tax rate percentage (as defined in section 101(b)(3)).

"(3) The amount of revenue allocated to the hospital insurance and Federal supplementary medical insurance trust funds shall be the same proportion as the hospital insurance rate (as defined in subsection (e)) bears to the combined Federal tax rate percentage (as defined in section 101(b)(3)).

"(c) CALENDAR YEAR 2017.—Notwithstanding subsection (b), the revenue allocation pursuant to subsection (a) for calendar year 2017 shall be as follows:

"(1) 64.83 percent of total revenue to general revenue,

"(2) 27.43 percent of total revenue to the old-age and survivors insurance and disability insurance trust funds, and

"(3) 7.74 percent of total revenue to the hospital insurance and Federal supplementary medical insurance trust funds.

"(d) OLD-AGE, SURVIVORS AND DISABILITY INSURANCE RATE.—The old-age, survivors and disability insurance rate shall be determined by the Social Security Administration. The old-age, survivors and disability insurance rate shall be that sales tax rate which is necessary to raise the same amount of revenue that would have been raised by imposing a 12.4 percent tax on the Social Security wage base (including self-employment income) as determined in accordance with chapter 21 of the Internal Revenue Code most recently in effect prior to the enactment of this Act. The rate shall be determined using actuarially sound methodology and announced at least 6 months prior to the beginning of the calendar year for which it applies.

"(e) HOSPITAL INSURANCE RATE.—The hospital insurance rate shall be determined by the Social Security Administration. The hospital insurance rate shall be that sales tax rate which is necessary to raise the same amount of revenue that would have been raised by imposing a 2.9 percent tax on the Medicare wage base (including self-employment income) as determined in accordance with chapter 21 of the Internal Revenue Code most recently in effect prior to the enactment of this Act. The rate shall be determined using actuarially sound methodology and announced at least 6 months prior to the beginning of the calendar year for which it applies.

"(f) ASSISTANCE.—The Secretary shall provide such technical assistance as the Social Security Administration shall require to determine the old-age, survivors and disability insurance rate and the hospital insurance rate.

"(g) FURTHER ALLOCATIONS.—

"(1) OLD-AGE, SURVIVORS AND DISABILITY INSURANCE.—The Secretary shall allocate revenue received because of the old-age, survivors and disability insurance rate to the old-age and survivors insurance trust fund and the disability insurance trust fund in accordance with law or, in the absence of other statutory provision, in the same proportion that the old-age and survivors insurance trust fund receipts bore to the sum of the old-age and survivors insurance trust fund receipts and the disability insurance trust fund receipts in calendar year 2016 (taking into account only receipts pursuant to chapter 21 of the Internal Revenue Code).

"(2) HOSPITAL INSURANCE.—The Secretary shall allocate revenue received because of the hospital insurance rate to the hospital insurance trust fund and the Federal supplementary medical insurance trust fund in accordance with law or, in the absence of other statutory provision, in the same proportion that hospital insurance trust fund receipts bore to the sum of the hospital insurance trust fund receipts and Federal supplementary medical insurance trust fund receipts in calendar year 2016 (taking into account only receipts pursuant to chapter 21 of the Internal Revenue Code).

"SEC. 905. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"(a) IN GENERAL.—All persons, in whatever capacity acting (including lessees or mortgagors or real or personal property, fiduciaries, employers, and all officers and employees of the United States) having control, receipt, custody, disposal, or payment of any income to the extent such income constitutes gross income from sources within the United States of any nonresident alien individual, foreign partnership, or foreign corporation shall deduct and withhold from that income a tax equal to 23 percent thereof.

"(b) EXCEPTION.—No tax shall be required to be deducted from interest on portfolio debt investments.

"(c) TREATY COUNTRIES.—In the case of payments to nonresident alien individuals, foreign partnerships, or foreign corporations that have a residence in (or the nationality of a country) that has entered into a tax treaty with the United States, then the rate of withholding tax prescribed by the treaty shall govern.".

SEC. 202. CONFORMING AND TECHNICAL AMENDMENTS.

(a) REPEALS.—The following provisions of the Internal Revenue Code of 1986 are repealed:

(1) Subchapter A of chapter 61 of subtitle D (as redesignated by section 104) (relating to information and returns).

(2) Sections 6103 through 6116 of subchapter B of chapter 61 of subtitle D (as so redesignated).

(3) Section 6157 (relating to unemployment taxes).

(4) Section 6163 (relating to estate taxes).

(5) Section 6164 (relating to corporate taxes).

(6) Section 6166 (relating to estate taxes).

(7) Section 6167 (relating to foreign expropriation losses).

(8) Sections 6201, 6205, and 6207 (relating to assessments).

(9) Subchapter C of chapter 63 of subtitle D (as so redesignated) (relating to tax treatment of partnership items).

(10) Section 6305 (relating to collections of certain liabilities).

(11) Sections 6314, 6315, 6316, and 6317 (relating to payments of repealed taxes).

(12) Sections 6324, 6324A, and 6324B (relating to liens for estate and gift taxes).

(13) Section 6344 (relating to cross references).

(14) Section 6411 (relating to carrybacks).

(15) Section 6413 (relating to employment taxes).

(16) Section 6414 (relating to withheld income taxes).

(17) Section 6422 (relating to cross references).

(18) Section 6425 (relating to overpayment of corporate estimated taxes).

(19) Section 6504 (relating to cross references).

(20) Section 6652 (relating to failure to file certain information returns).

(21) Sections 6654 and 6655 (relating to failure to payment estimated income tax).

(22) Section 6662 (relating to penalties).

(23) Sections 6677 through 6711 (relating to income tax related penalties).

(24) Part II of subchapter B of chapter 68 (relating to certain information returns).

(25) Part I of subchapter A of chapter 70 (relating to termination of taxable year).

(26) Section 6864 (relating to certain carrybacks).

(27) Section 7103 (relating to cross references).

(28) Section 7204 (relating to withholding statements).

(29) Section 7211 (relating certain statements).

(30) Section 7231 (relating to failure to obtain certain licenses).

(31) Section 7270 (relating to insurance policies).

(32) Section 7404 (relating to estate taxes).

(33) Section 7404 (relating to income tax preparers).

(34) Section 7408 (relating to income tax shelters).

(35) Section 7409 (relating to 501(c)(3) organizations).

(36) Section 7427 (relating to income tax preparers).

(37) Section 7428 (relating to 501(c)(3) organizations).

(38) Section 7476 (relating to declaratory judgments relating to retirement plans).

(39) Section 7478 (relating to declaratory judgments relating to certain tax-exempt obligations).

(40) Section 7508 (relating to postponing time for certain actions required by the income, estate, and gift tax).

(41) Section 7509 (relating to Postal Service payroll taxes).

(42) Section 7512 (relating to payroll taxes).

(43) Section 7517 (relating to estate and gift tax evaluation).

(44) Section 7518 (relating to Merchant Marine tax incentives).

(45) Section 7519 (relating to taxable years).

(46) Section 7520 (relating to insurance and annuity valuation tables).

(47) Section 7523 (relating to reporting Federal income and outlays on Form 1040s).

(48) Section 7611 (relating to church income tax exemptions and church unrelated business income tax inquiries).

(49) Section 7654 (relating to possessions' income taxes).

(50) Section 7655 (relating to cross references).

(51) Section 7701(a)(16).

(52) Section 7701(a)(19).

(53) Section 7701(a)(20).

(54) Paragraphs (32) through (38) of section 7701(a).

(55) Paragraphs (41) through (46) of section 7701(a).

(56) Section 7701(b).

(57) Subsections (e) through (m) of section 7701.

(58) Section 7702 (relating to life insurance contracts).

(59) Section 7702A (relating to modified endowment contracts).

(60) Section 7702B (relating to long-term care insurance).

(61) Section 7703 (relating to the determination of marital status).

(62) Section 7704 (relating to publicly traded partnerships).

(63) Section 7805.

(64) Section 7851.

(65) Section 7872.

(66) Section 7873.

(b) OTHER CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6151 is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(2) Section 6161 is amended to read as follows:

"SEC. 6161. EXTENSION OF TIME FOR PAYING TAX.

"The Secretary, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown or required to be shown on any return, report, or declaration required under authority of this title for a reasonable period not to exceed 6 months (12 months in the case of a taxpayer who is abroad).".

(3) Section 6211(a) is amended—

(A) by striking "income, estate and gift taxes imposed by subtitles A and B and",

(B) by striking "subtitle A or B, or", and

(C) by striking ", as defined in subsection (b)(2)," in paragraph (2).

(4) Section 6211(b) is amended to read as follows:

"(b) REBATE DEFINED.—For purposes of subsection (a)(2), the term 'rebate' means so much of an abatement, credit, refund, or other payment, as was made on the ground that the tax imposed by chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.".

(5) Section 6212(b) is amended to read as follows:

"(b) ADDRESS FOR NOTICE OF DEFICIENCY.—In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 42, 43, or 44 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of such chapter and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation has terminated its existence.".

(6) Section 6302(b) is amended by striking "21,".

(7) Section 6302 is amended by striking subsections (g) and (i) and by redesignating subsection (h) as subsection (g).

(8) Section 6325 is amended by striking subsection (c) and by redesignating subsections (d) through (h) as subsections (c) through (g), respectively.

(9) Section 6402(d) is amended by striking paragraph (3).

(10) Section 6402 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(11) Section 6501(b) is amended—

(A) by striking "except tax imposed by chapter 3, 21, or 24," in paragraph (1), and

(B) by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(12) Section 6501(c) is amended by striking paragraphs (5) through (9).

(13) Section 6501(e) is amended by striking "subsection (c)—" and all that follows through "subtitle D" in paragraph (3) and inserting "subsection (c), in the case of a return of a tax imposed under a provision of subtitle B".

(14) Section 6501 is amended by striking subsections (f) through (k) and subsections (m) and (n) and by redesignating subsection (l) as subsection (f).

(15) Section 6503(a) is amended—

(A) by striking paragraph (2),

(B) by striking "DEFICIENCY.—" and all that follows through "The running" and inserting "DEFICIENCY.—The running", and

(C) by striking "income, estate, gift and".

(16) Section 6503 is amended by striking subsections (e), (f), (i), and (k) and by redesignating

subsections (g), (h), and (j) as subsections (e), (f), and (g), respectively.

(17) Section 6511 is amended by striking subsections (d) and (g) and by redesignating subsections (f) and (h) as subsections (d) and (e), respectively.

(18) Section 6512(b)(1) is amended by striking "of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent or".

(19) Section 6513 is amended—

(A) by striking "(a) EARLY RETURN OR ADVANCE PAYMENT OF TAX.—", and

(B) by striking subsections (b) and (c).

(20) Chapter 67 is amended by striking subchapters A through D and inserting the following:

"SEC. 6601. INTEREST ON OVERPAYMENTS AND UNDERPAYMENT.

"(a) UNDERPAYMENTS.—If any amount of tax imposed by this title is not paid on or before the last date prescribed for payment, interest on such amount at the Federal short-term rate (as defined in section 511(b)) shall be paid from such last date to the date paid.

"(b) OVERPAYMENTS.—Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the Federal short-term rate (as defined in section 511(b)) from 60 days after the date of the overpayment until the date the overpayment is refunded.".

(21) Section 6651(a)(1) is amended by striking "subchapter A of chapter 61 (other than part III thereof,".

(22) Section 6656 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(23) Section 6663 is amended by striking subsection (c).

(24) Section 6664(c) is amended—

(A) by striking "Exception.—" and all that follows through "No penalty" and inserting "Exception.—No penalty", and

(B) by striking paragraphs (2) and (3).

(25) Chapter 72 is amended by striking all matter preceding section 7011.

(26) Section 7422 is amended by striking subsections (h) and (i) and by redesignating subsections (j) and (k) as subsections (h) and (i), respectively.

(27) Section 7451 is amended to read as follows:

"SEC. 7451. FEE FOR FILING PETITION.

"The Tax Court is authorized to impose a fee in an amount not in excess of $60 to be fixed by the Tax Court for the filing of any petition for the redetermination of a deficiency.".

(28) Section 7454 is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(29) Section 7463(a) is amended—

(A) by striking paragraphs (2) and (3),

(B) by redesignating paragraph (4) as paragraph (2), and

(C) by striking "D" in paragraph (2) (as so redesignated) and inserting "B".

(30) Section 7463(c) is amended by striking "sections 6214(a) and" and inserting "section".

(31) Section 7463(e) is amended by striking ", to the extent that the procedures described in subchapter B of chapter 63 apply".

(32) Section 7481 is amended by striking subsection (d).

(33) Section 7608 is amended by striking "subtitle E" each place it appears and inserting "subtitle C".

(34) Section 7651 is amended by striking paragraph (5).

(35) Section 7701(a)(29) is amended by striking "1986" and inserting "2013".

(36) Section 7809(c) is amended by striking paragraphs (1) and (4) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(37) Section 7871(a) is amended by striking paragraphs (1) and (3) through (6) and by redesignating paragraphs (2) and (7) as paragraphs (1) and (2), respectively.

(38) Section 7871 is amended by striking subsection (c) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(39) Section 8021 is amended by striking subsection (a) and by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(40) Section 8022(a)(2)(A) is amended by striking ", particularly the income tax".

(41) Section 8023 is amended by striking "Internal Revenue Service" each place it appears and inserting "Department of the Treasury".

(42) Section 9501(b)(2) is amended by striking subparagraph (C).

(43) Section 9702(a) is amended by striking paragraph (4).

(44) Section 9705(a) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(45) Section 9706(d)(2)(A) is amended by striking "6103" and inserting "605(e)".

(46) Section 9707 is amended by striking subsection (f).

(47) Section 9712(d) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(48) Section 9803(a) is amended by striking "(as defined in section 414(f))".

TITLE III—OTHER MATTERS

SEC. 301. PHASE-OUT OF ADMINISTRATION OF REPEALED FEDERAL TAXES.

(a) APPROPRIATIONS.—Appropriations for any expenses of the Internal Revenue Service including processing tax returns for years prior to the repeal of the taxes repealed by title I of this Act, revenue accounting, management, transfer of payroll and wage data to the Social Security Administration for years after fiscal year 2019 shall not be authorized.

(b) RECORDS.—Federal records related to the administration of taxes repealed by title I of this Act shall be destroyed by the end of fiscal year 2019, except that any records necessary to calculate Social Security benefits shall be retained by the Social Security Administration and any records necessary to support ongoing litigation with respect to taxes owed or refunds due shall be retained until final disposition of such litigation.

(c) CONFORMING AMENDMENTS.—Section 7802 is amended—

(1) by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b),

(2) by striking "Internal Revenue Service" each place it appears and inserting "Department of the Treasury", and

(3) by striking "Commissioner" or "Commissioner of Internal Revenue" each place they appear and inserting "Secretary".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect on January 1, 2019.

SEC. 302. ADMINISTRATION OF OTHER FEDERAL TAXES.

(a) IN GENERAL.—Section 7801 (relating to the authority of the Department of the Treasury) is amended by adding at the end the following:

"(d) EXCISE TAX BUREAU.—There shall be in the Department of the Treasury an Excise Tax Bureau to administer those excise taxes not administered by the Bureau of Alcohol, Tobacco and Firearms.

"(e) SALES TAX BUREAU.—There shall be in the Department of the Treasury a Sales Tax Bureau to administer the national sales tax in those States where it is required pursuant to section 404, and to discharge other Federal duties and powers relating to the national sales tax (including those required by sections 402, 403, and 405). The Office of Revenue Allocation shall be within the Sales Tax Bureau.".

(b) ASSISTANT GENERAL COUNSELS.—Section 7801(b)(2) is amended to read as follows:

"(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not more than 5 assistant general counsels.".

SEC. 303. SALES TAX INCLUSIVE SOCIAL SECURITY BENEFITS INDEXATION.

Subparagraph (D) of section 215(i)(1) of the Social Security Act (42 U.S.C. 415(i)(1)) (relating to cost-of-living increases in Social Security benefits) is amended to read as follows:

"(D)(i) the term 'CPI increase percentage', with respect to a base quarter or cost-of-living quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that quarter (as prepared by the Department of Labor) exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

"(ii) if the Consumer Price Index (as so prepared) does not include the national sales tax paid, then the term 'CPI increase percentage', with respect to a base quarter or cost-of-living quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the product of—

"(I) the Consumer Price Index for that quarter (as so prepared), and

"(II) the national sales tax factor,

exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost of living computation quarter under subparagraph (B); and "(iii) the national sales tax factor is equal to one plus the quotient that is—

"(I) the sales tax rate imposed by section 101 of the Internal Revenue Code of 2015, divided by

"(II) the quantity that is one minus such sales tax rate.".

TITLE IV—SUNSET OF SALES TAX IF SIXTEENTH AMENDMENT NOT REPEALED

SEC. 401. ELIMINATION OF SALES TAX IF SIXTEENTH AMENDMENT NOT REPEALED.

If the Sixteenth Amendment to the Constitution of the United States is not repealed before the end of the 7-year period beginning on the date of the enactment of this Act, then all provisions of, and amendments made by, this Act shall not apply to any use or consumption in any year beginning after December 31 of the calendar year in which or with which such period ends, except that the Sales Tax Bureau of the Department of the Treasury shall not be terminated until 6 months after such December 31.

○

Chairman BOUSTANY. Well, thank you. All of you have given really excellent testimony and—about these ideas. And so we will now move to some questions.

I—we all hear about the complexity in the Tax Code, the unfairness of it, when we go back to our districts. And our current income tax system certainly has very complex cost recovery rules that allow business investments to be recovered over time. In some cases over a period of many years. And the three bills today all have rules for business investments that are very different from the current Code.

I would like each of you to describe—how does your bill change the impact of tax on investment decisions by business? Just briefly kind of cover that for the record.

Mr. NUNES. Well, I think, clearly, a lot of—all three of these bills do something similar, because it moves to a consumption-based system. If you look at what—the way that we attacked this in the ABC Act is we take all business activity and you essentially are taxed on your net cash-flow. So you take your income, minus your expenses in that calendar year, so at the end of the year whatever is left over you will pay tax on.

And what this does is encourages investment. So, unlike today, when you have—everybody has a special credit, or some deduction, or something that they want, where they are gaming out, like a lot of my constituents do and like I used to have to do before I was elected to Congress, you have to—by the end of the year you have to say, "Okay, what can I buy that the Tax Code allows me to buy?" And I am not sure that that is really—it wasn't an efficient use of my time, it wasn't an efficient use of capital, and it sure didn't help create jobs.

And so, I think that that is how my bill achieves this, and I think the other bills are very similar, but tweaked just slightly different.

Chairman BOUSTANY. Dr. Burgess.

Mr. BURGESS. I spent most of my time talking about the individual income tax. There would also be a similar flat tax option for businesses, as well.

Essentially, the bill, as written, would eliminate the capital gains tax. As far as the tax imposed on business activities, the deductions that would be allowed would be the cost of business inputs for the business activity, wages, and retirement contributions. So I—my assumption is that, since retirement contributions are removed from—are an allowable deduction, that those would not be adversely affected by the implementation or the election to a flat tax.

Chairman BOUSTANY. And Mr. Woodall.

Mr. WOODALL. Mr. Chairman, by eliminating business taxes all together, you no longer have the Tax Code involved in those decisions.

I confess I am confused why, as Americans, we are trying to get ourselves in the middle of the pack, in terms of corporate tax rates. We are leaders in America. I want to be the leader of the pack in that space, wherever that turns out to be. Again, if we want to tax employees, tax employees. If you want to tax consumers, tax consumers. If you want to tax return to capital, tax return to capital.

But, more importantly, the Fair Tax—again, the only proposal in Congress to eliminate the payroll tax, and that is going to impact the decision to invest in people. And if there is one thing we need this Tax Code to encourage, it is buy all the robotics you want to, but I need you to invest in people and workers, and the Fair Tax does that.

Chairman BOUSTANY. Thank you. And I guess a followup question is, you know, many businesses use debt now to fund investment and growth. We have heard a lot of testimony from experts about the problems associated with debt financing and the risk associated with all that.

But maybe comment, each of you, about what the impact would be on business with regard to debt financing, and how business is actually funded and how investments are carried out. Mr. Woodall, do you want to start?

Mr. WOODALL. Because there would be no deductions, because there would be no tax at all, there would be no benefit to debt financing, and—under the Fair Tax there would be no deduction for those interest payments. So whether you wanted to finance through debt or whether you wanted to finance through equity, the Fair Tax would treat you the same.

Chairman BOUSTANY. Dr. Burgess.

Mr. BURGESS. Under the business tax section, the carryover of—credit equivalent of excess deductions, if in any year your deductions would exceed the amount of money posted in the—as a profit, that can carry over to subsequent years. So there would not be a penalty for not having—you would not lose the ability to have credit for those carryover expenses.

Chairman BOUSTANY. Mr. Nunes.

Mr. NUNES. So the way that it works is that, you know, in order to have a real consumption tax to function properly, you can't allow for interest expense. I think that is the primary—I think that gets to the heart of what your question is.

And that is just—you know, so what does it do in the big picture? We really don't know, because nothing like this has ever been tried. I think when you start to game this out, and you look at what—business models that people have, those business models will all have to change, because people will be spending their time—similar to my example earlier—focusing on what they need to invest in, not how they have to structure their company and how much debt load they have to incur.

So it would open up all sorts of new investment opportunities for the companies that are—a lot of the companies, the big equity companies in Boston, they would end up changing. I think it would benefit a lot of new investment-type equity firms that would have to develop. The banks would develop new products because capital would be more readily available under a plan like this.

Chairman BOUSTANY. And one final, last question. Two of the proposals have been around for a while in some form. Mr. Nunes, yours is a new proposal. We have had a lot of discussion within the Committee about, should we proceed along the lines of the 1986 reform approach, you know, using the income tax as the base, or do we move to something different.

And I think, Mr. Woodall, you mentioned earlier the need to be competitive, to leapfrog ahead of our competitors. Do you think the timing—talk to me a little bit about the timing of these new proposals with regard to tax reform. Is the timing right? Should we really move forward in this direction, or should we, you know, perhaps consider the 1986 reform model as the way to go?

Mr. WOODALL. Mr. Chairman, what I liked about the 1986 reform model was the collaborative way in which it took place. I don't know of any other way to do the big things that we have to do in this country.

But inversions are one of those things that bring us together. Why is it that folks want to leave? This is the best place in the world to do business. Why are we running folks off? I think it is the right time for that.

And more than that, from a consumption tax perspective, we have a billion new middle-class consumers coming online in India, a billion new middle-class consumers coming online in China. If there is ever going to be a time to talk about bringing manufacturing back to America, getting back to our exporting roots, that time is now.

Chairman BOUSTANY. Thanks. Dr. Burgess.

Mr. BURGESS. You know, I wasn't here in 1986, but I was running a medical practice in 1986. It was a hard year in Texas. Energy prices collapsed, we had the collapse of savings and loans. Real estate prices went downhill, and that was exacerbated by the fact that things that used to be called tax shelters, bad business ideas that people would invest in—so that they could shelter dollars from income taxes at a much higher rate, those tax shelters went away, literally, overnight with the imposition of the 1986 Tax Code.

Good thing or bad thing I am not here to decide. But what I do remember is there was a significant amount of disruption in the lives of people. That is why the concept that I am putting forward is a voluntary election that someone will decide that, hey, I want to change my Tax Code, rather than us decide up here in Washington. The time might not be propitious for someone back home to make a major change. They may have done significant investment.

Scott Burns, who writes a financial column for the *Dallas Morning News* in my paper back home, always references the home mortgage deduction. The home mortgage deduction in San Antonio, Texas, when you really put pencil to paper in the average sales price of a home in San Antonio, you are really just pushing around a few dollars on a page. But if you bought a starter castle in Santa Barbara, and we suddenly alter the deductibility of your home mortgage, that is a big deal.

So what I like about the ability for the constituent to decide is they decide when the time is right for them. As I said, if you like your tax you can keep your tax. If you want your life out of the Code, that is your decision. Now, of course, you can't go in and out as whatever would be favorable for you.

But look, I remember the 2012 election. There was a lot of heartburn over the fact that Mitt Romney only paid an effective tax rate of 13 or 14 percent. We are going to put him in 19 percent for 3 years, and then 17 percent thereafter. He is going to be paying more tax. Fundamentally, that is a fairer thing.

Chairman BOUSTANY. Thanks. Mr. Nunes.

Mr. NUNES. I really believe part of what led me to where this—where I am today with this legislation was when you try to do across-the-board reform it is very, very difficult, because everybody has their favorite credit. You have—the entire economy has been built upon the Code.

And so, by taking the business activity and separating that out, anyone who is involved, or most people who are involved in business activity in the United States of America have accountants, lawyers, somebody—you know, even in my family small business we had—you know, had to have an accountant to do our—pay our taxes and file our tax returns.

So I think it is achievable because it doesn't disrupt the wage side of the equation. To be honest with you, in a perfect world, I would prefer to have something more full-scale, like what Dr. Burgess is talking about or what Mr. Woodall is talking about. But part of what went into this calculation is what is actually achievable under the circumstances that we face today.

And, look, anything we do is going to take Republicans and Democrats. I think that what I said in my testimony is Republicans and Democrats both agree on a few things: One, that we need to switch to a consumption-based system; and, two, that we need to fix—move to some type of territorial system. Those have to be done. Those are two things that we agree on. Why don't we do them, but let's do them in a way—one step at a time?

Chairman BOUSTANY. Thank you. I now yield to the Ranking Member, Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman. I appreciate the historic references, obviously, because I knew those individuals, I came here 2 years after that historic act. And those individuals, including Bradley and Gephardt, Rostenkowski, Packwood, Reagan, and O'Neill, they all saw that as one of their finest moments, because they were overcome—they were able to overcome the short-term objections.

And not to miss the point that there were winners and losers that were created by what they did in 1986, but this is a much different atmosphere in which we all served—I mean we serve now. I mean that was a calm, rational, fact-based discussion of virtually every item.

And a reminder, there was more opposition on the Republican side to what Dave Camp did than there was on the Democratic side. I think that is a fair statement. I advise colleagues on this Committee specifically to be very careful how they handle some of the Camp proposals because, in fact, they were long overdue and they were very, very genuine.

But Devin, to your point—and correct me if I am wrong—you mentioned a 5 percent repatriation rate. And how did you arrive at that number?

Mr. NUNES. Largely because it was—I kind of looked at all the different pieces of legislation that were out there that were dealing with the funds that are sitting overseas now, and that was kind of right in the middle. So I thought it was kind of a compromise of what Republicans, Democrats all over the spectrum wanted to do.

And so, remember, when you—it is only necessary one time. If you switch to a system like the ABC Act, then you move to a territorial system, and then people can bring back money how they wish. But I just put, for repatriating the dollars that are sitting overseas now, a one-time fee of 5 percent. That is how I arrived at it.

Mr. NEAL. Just again with institutional memory here, when we did this, when Chairman Thomas was the author of the major piece of legislation on that, we brought it back at—it was brought back over our objections at five-and-a-quarter. And the premise of the return was job creation.

In this town, broadly, think tanks would all come to the same conclusion: There was no job creation. The money was passed on to shareholders. Now, if that had been the premise that was offered, then we could have had an honest debate about that. But the argument instead was, this is going to spur a lot of new investment. And that really didn't happen. I think that is a fair statement.

So there is some suspicion as to the rate, and the Administration has proposed a 19 percent minimum tax, which I assume is negotiable. So we should perhaps begin to have a conversation along those lines, because we all agree that you can't have trillions of dollars sitting offshore for non-productive purposes when it could be better invested back here.

And to Mr. Woodall, to your comment about the proposal that you have offered, the Bush treasury examined that proposal, and they came to the conclusion that it wouldn't work. That is W's Administration. His Treasury Department examined it from A to Z and they came to the conclusion that you run the risk of creating a whole new entitlement program in America.

Mr. WOODALL. I certainly would not point to the Bush Administration as the place to go for good fundamental tax reform. He had a chance to reform the Code and he chose Social Security over tax reform.

They also said that our proposal did the most for low-income American families to lift them from that one rung on the ladder up to the next. I think that is important. And thinking about the good old days, I would remind the Ranking Member that in those Rostenkowski days of calmness and reasonableness, the Catastrophic Care Act had his car being rocked left and right. Those days were raucous days, too. I still think we have an environment in which we can do this together.

Mr. NEAL. Right, but it—I remember the description of what happened on that day. And remember, I was one of the ones that voted to repeal that Act. So there was—again, we weren't locked into the silos of partisanship. And I can tell you it certainly increased my name recognition with Chairman Rostenkowski that I voted to repeal that.

[Laughter.]

I thank the gentleman.

Chairman BOUSTANY. I thank the gentleman.

Mr. Tiberi.

Mr. TIBERI. Thank you, Mr. Chairman. Thanks for holding this hearing.

You know, Mr. Neal, before I leave here, it is probably going to be called the Camp-Levin-Obama tax draft.

[Laughter.]

I just—I don't seem to remember Democrats rushing to be supportive of it, in fairness.

Mr. NEAL. Would the gentleman yield?

Mr. TIBERI. I would love to yield to you, Mr. Neal.

[Laughter.]

Mr. NEAL. Mr. Larson is a witness to what I suggested in our caucus about how to respond to the Camp tax proposal. There were things in there that a Democrat would not have done. That was really—there were a lot of bipartisan things that Dave Camp did.

Mr. TIBERI. Sure.

Mr. NEAL. And I remember the fury when that proposal was released.

And just another example to the newer Members, 52 Members of your caucus signed a letter to him.

Mr. TIBERI. Sure.

Mr. NEAL. That never would have happened in those days that Mr. Woodall described. There really would have been a let's digest it and talk about this calmly, quietly, and have a discussion.

Mr. TIBERI. So, Mr. Nunes, as you know, I am a cosponsor of your legislation. I appreciate your hard work. And, you know, whether it is your proposal or Mr. Burgess' proposal or Mr. Woodall's proposal—and, by the way, you might want to take this on the road. When I originally ran for Congress, Mr. Armey did a road show that was quite entertaining. You guys are just about there.

So, as a former small—the smallest of business owners, I was a one-person business, as a realtor, I am always concerned about, in terms of reform, what a reform proposal will do, how it will impact someone like I was, as a realtor.

And so, Mr. Nunes, I will ask you first. As someone who paid his business income through his personal return, how would the ABC Act—first question—impact the small business owners?

And a concern that I have heard—and if you could, clear up for me with respect to the ABC Act—how last-in, first-out accounting is impacted, how LIFO inventory under LIFO would be treated under the ABC Act.

Mr. NUNES. Well, with LIFO we do away with it, because it is no longer necessary. A lot of the reason that we have LIFO now—and it is part of the example that I was giving earlier—at the end of the year, businesses have to start to dodge and weave their way over what inventory they are going to carry. It is a complete, you know, waste of people's time, and it is an inefficient use of one's resources.

So, the way it works now—under the ABC Act—is business buys what they need to buy, and they put it in their inventory. And so, you know, effectively, you can—as long as you are growing and investing, you can actually drive your effective tax rate pretty low. But if you don't want to grow, you don't want to invest, then you are going to pay the 25 percent rate.

As it affects a small businessman, I mean, from my perspective, I wrote it with that in mind. Because as someone who was dealing with the horrible Tax Code—especially in agriculture—that I worked in, it was very confusing, very complex, remains complex today. We have had to deal with some of those issues in last year's tax bill.

So, I think this is just very simple, because—as in your case, you would just take all your business income that you have, you minus off your expenses, what you use on your wage side. You would pay—you would be under the old system, effectively.

Now, look, it goes back to what I said earlier. I don't believe on the wage side we need to keep the system the way it is. I think it needs to be simplified. But, you know, that has to be figured out, how you get to that point. I think the Camp draft actually had a lot of good proposals in terms of what you could do on the wage side.

Mr. TIBERI. Mr. Burgess, Mr. Woodall, do you have any comments?

Mr. BURGESS. One of the things that struck me when I was in a small business like you, I was given advice that, in order to keep the dire wolf from the door, I ought to keep 3 months of operating capital in a readily-accessible liquid CD at the time. The problem with doing that is you go to the end of a calendar year, and the next year, if you bring that money out, it is brought out at your individual tax rate.

So I, in fact, did that and got significantly criticized by my partners because then the money was paid out to partners in the corporation. They, in turn, paid at the highest rate. So we were taxed twice on that same money, but it seemed like a prudent business decision. And I guess part of my idea with the business side of this is we don't punish people for making prudent business decisions. I think it is a good idea to store up some surplus in good times to guard against the bad times.

Mr. WOODALL. And, Mr. Tiberi, in our proposal the small business owner would still have to deal with the tax man by collecting taxes from whatever it was they were selling. But they wouldn't have to interpret the Tax Code, because it would just be those collections that would happen on each purchase that went out the door, everything being taxed once but only once.

Chairman BOUSTANY. Mr. Larson.

Mr. LARSON. Thank you, Mr. Chairman. This has been an enlightening day. We had a great hearing earlier this morning on fixing Social Security, or a portion thereof. And I especially appreciate it when Members get an opportunity to come before a committee. And it doesn't happen often enough. And the Congress, at the end of the day, should be about the vitality of ideas, and how we interact with those ideas, and how we interact with one another and hopefully achieve those bipartisan or non-partisan ends that we all would like to see. And I think everyone acknowledges in order to move the Nation, or to move a bill forward, that is exactly what we need.

A lot of these—you know, a lot of the proposals here have been around for some time. That doesn't mean that they still don't have salience. Also, I think not to discuss these things—and, frankly, other forms of taxation—where there is broad agreement that we need reform, where there is broad agreement that we have to be more competitive, especially in manufacturing States like the State of Connecticut, there does seem to be an awful lot of reasonable ground.

One of the questions I have that came up in your testimony—and feel free any one of you or all three of you to answer—is in dealing with the various consumption and Fair Tax proposals, how do you treat the payroll tax vis a vis FICA, or the Social Security program that we talked about this morning?

Mr. BURGESS. Under H.R. 1040 it would not change.

Mr. LARSON. Okay.

Mr. NUNES. Same for my proposal.

Mr. WOODALL. We would abolish the FICA tax as it exists, and build it into the purchase price of every item that you buy. Included in our rate is a statutory payment to the Social Security and Medicare trust funds, up to the amount of payroll.

Mr. LARSON. How would that work, exactly?

Mr. WOODALL. We anticipate this Committee solving our Social Security issues for generations to come. But in the interim we would say employers would still need to report their payroll so that we could properly credit that amount of FICA tax. But it would come from the sales, not from——

Mr. LARSON. One of the things that I hope the Committee—and we addressed this earlier today—that I hope that we focus on is looking at the Social Security issue as one—as you all know, Social Security, by law, has to sustain solvency for 75 years. Now we are not remotely close to that. And I think sustainability and solvency are the key words here to restore trust in the American people so that any underlying tax proposal—that if you have the trust of the American people going forward, you have the ability to sale—to sell your program.

Further, I really believe—and again, tailing on the—or building upon the discussion we had earlier today, I really think that if we treat Social Security like a premium, which it is—it is called the Federal Insurance Contribution Act—and the contribution is yours, a.k.a. the citizen and the business who pays, that we bipartisanly can come to a very simplistic resolution.

The thing I admire about your proposals is the simplicity. There is doubts about the efficiency, but we ought to be open to hear those. And, of course, we are very concerned about regressivity on our side of the aisle, and what that would mean to people, and whether or not you get there by dynamic scoring, and what that truly means.

But certainly, all of these proposals, and certainly proposals that come from Members, are something that we ought to be discussing in this Committee. I commend Chairman Brady for doing that, Chairman Boustany for bringing it up. The more we engage like that—and I think the beauty of what Dave Camp did is he said, "Look, let's get out of the spotlight. Let's make it Members-to-Members." You are the best representatives of your constituents. You are out there talking with them all the time. It would be nice if we had more of these conversations.

I appreciate all the experts that we bring before the Committee, but you are the expert in your district, and we ought to hear more from you. Thank you for being here today.

Chairman BOUSTANY. I thank the gentleman.

Mr. Renacci.

Mr. RENACCI. Thank you, Mr. Chairman. I really appreciate your doing this. I hope we can do additional panels like this. It is good to hear different proposals. I really appreciate all of you and your ideas.

I am going to ask you some questions based on a CPA that has been in business, and not only practices as a CPA, but also is in business. And I think every one of your programs has some good points. I am going to touch on the negative side. And hopefully you can give me some answers on that, and just tell me what your thoughts are.

First off, Mr. Nunes, I will start with you. I go back to my—how I started out in business. I had very little. I was able to go to a bank, borrow some money, get started in a nursing home business. There was a competitor down the road who had a lot more money, so he was able to acquire the asset, he was able to buy the building. I couldn't. I had to just buy the operation and lease it.

So, he, on the other hand, under your proposal, would have a—if you are picking winners and losers, he would be a winner. He would have a deduction that I wouldn't have. He would be able to expense that facility, and I would be sitting over here having to pay a 25 percent tax on my earnings, based on your proposal.

So the concern I have in that case is the picking of winners and losers: The guy who can afford to capitalize his business and the guy who can't. The small guy like myself, now, I was successful enough over 25 years to be able to build the business and acquire those assets down the road. But that is because we were in the system we are in today. So that is one question: How do you—help me on that one.

And the other question—which is so concerning for me—is without that interest deduction I would definitely not be able to compete with them, because that is the only deduction I had, where he would be able to capitalize or write off his building.

Mr. NUNES. So, thank you, Mr. Renacci. We have had discussions about this in the past. And I think you are very thoughtful and clearly have experience at dealing with this.

I think one of the challenges that a lot of people have when they first look at this tax bill, the ABC bill specifically, is they look at it through the lenses of an income tax. And that is one of the challenges that I have when I am dealing with the business people is because they are looking at it like income tax. It is going to be income tax, just like income tax has always been, not realizing that this does away with the income tax for all business activity in the United States, and it becomes a consumption tax.

So, I would argue that whatever that business model was—because I am not, you know, familiar with how you started out—that would not be the business model if this system was put into place.

So, for example, you know, how would you do it? Well, I think there would be some—as I talked about earlier, about different equity opportunities that would come up, there would be so many more equity opportunities, because you would have so many more Americans that perhaps don't have a lot of capital, but what little capital they do have they would take risks with people like yourself. Today, those people don't invest. They really have no other options but to maybe invest in the stock market. They have no opportunity to get—invest in small business.

And so, I think those types of investors would be open especially to a small business person like yourself. And so, when you come to the end of the year, what you would do, if you are continuing to grow as a small businessman, the end of the year you have—whatever money you have left over, you might want to go out that December and you might want to go out and make investments so that you don't get taxed at that 25 percent rate that year.

Mr. RENACCI. The only other response I would have is that—I think I told you this on the floor—I am not too sure I would want to have 10 or 12 partners. I kind of like the idea, as you are growing a business, just to have the bank as a partner. Then you just have to answer to one. I wouldn't want 10 or 12 people trying to tell me how to operate, which is the negative side of having equity investors.

But I do appreciate that. I am supportive of a consumption. I just don't know how two business models exactly the same—one has more capital, can buy the building, one who can't, one of them is going to be a winner, one of them is going to be a loser.

Mr. Woodall, I do 100 percent believe with you—believe what you said. Businesses do not pay taxes. And once we get to that point, if everybody can agree to that—because they pass it on—we can reduce the rate.

Explain to me under your plan, which is the down side of the Fair Tax, that somebody who has lived their whole life, saved up money, paid taxes at 36 percent, 38 percent, whatever, now is sitting with a savings account, they are elderly, and all their spending, they are going to have a double taxation. They have already paid tax once, they are going to pay tax again. Explain how that is good for that individual.

Mr. WOODALL. It is a rotten deal, generationally. Just the bottom line. We can either decide that because we are stuck in a bad deal today our kids are going to have to be stuck in that bad deal, too, or we can decide we are going to get the bad deal but our kids are going to do better.

But many seniors living at the low end of the income spectrum—our prebate allows folks up to the poverty level to live tax free. We insulate Social Security payments against any one-time inflationary jump that may happen because of the imposition of a double-digit sales tax in the economy. Any sort of inflationary jump would be captured in outgoing Social Security payments.

And finally, my hope is we would put the economy on fire. And folks, instead of getting a quarter percent on their CD or 2 percent on their bond, are going to get back into the 6, 7, 8 percent yields that they deserve.

Mr. RENACCI. Mr. Burgess, I know I am pretty much out of time, but the one question I would have for you is you said that you can opt into your system. So if I am not paying taxes today, I am going to stay in the current system. But if I am paying 38 percent I am going to opt into your system. That is going to bring the treasury—the dollars coming into the treasury significantly down, because you are going to—everybody is going to pick the lower side, and you are going to have a rate of at least 19 percent or less, because the people who are already paying less than 19 percent aren't going to opt in. So how would you fix that disparity?

Mr. BURGESS. Well, and with all due deference to your profession, the answer lies in the simplicity. Look, I have to visit my accountant every year and make sure I have spent down the equity of my corporation to where I am not going to be taxed. If you elect—and this would be a voluntary election, no one is going to force you into it, but if you elect into the flat tax, then that is going to be the rate from that day forward.

On your question about the difference in treatment for someone who has bought the building and someone who I presume then is renting the building, that is treated equally under the section on inputs, business inputs in the flat tax, whether it is the cost of a building purchased, or the cost of rental. It is treated identically for the person who is invested in the building. That would be phased in over time, over the—the credit allowance would be phased in over time.

Mr. RENACCI. Thank you, gentlemen. I appreciate your input. I yield back.

Chairman BOUSTANY. I thank the gentleman.

Mr. Holding.

Mr. HOLDING. Thank you.

Mr. Nunes, I believe in response to Mr. Tiberi's question you addressed the impact of your proposal, which I am a very proud cosponsor of, the impact of your proposal on pass-throughs. You know, pass-through businesses employ about 50 percent of the private-sector workforce and earn more than 64 percent of all business income. And I believe your answer to him covers my concerns there.

But you know, there is another type of business—I mean they may be pass-throughs or C corps, and these are innovative pre-revenue start-up companies, you know, small businesses throughout the country, particularly in my part of North Carolina and pharmaceutical areas and technology sectors, as well as in my little area of North Carolina. And a lot of these companies faced losses for years before finally making a profit.

In fact, some of these aren't such small companies. I was reading an article that Twitter has been around for 10 years, and I don't think it has ever made a profit. So how would these companies be taxed in fair—under your proposal?

Mr. NUNES. Well, the—sometimes, to develop new technology, it takes investment like that. And I actually feel that—and this gets to Mr. Renacci's question also—that the current Tax Code is inhibiting innovation. Lack of capital is inhibiting innovation. And so, this proposal is perfect for those types of businesses that have to make huge investments year after year after year to develop technology in order to achieve the technology in order to then get to profitability.

And so, what we really want—I mean through all these consumption taxes we talk about businesses not paying taxes. Essentially, that is what the consumption tax allows, as long as you are consuming. And that is what we are trying to get to, and that is what this proposal does.

Mr. HOLDING. And your proposal, Mr. Nunes, as well as Dr. Burgess' and Mr. Woodall's, you know, truly would upend the system. And new business models would have to arise, you know, from these tax proposals, which gets me to the thought of transition.

You know, we have companies that, you know, have hundreds of millions, if not billions of dollars of tax credits stored up, you know, deferrals, so forth. And that is baked into their business models for years to come. So I will just go down the line, ask each one of you your thoughts on transition, kind of big-picture thoughts on transitioning, you know, to this new form of taxation. So I will start with you——

Mr. NUNES. Well, thank you, Mr. Holding. And we spent a lot of time with this proposal, thinking about just that. We have—because we are only dealing with business activity, and everybody that pretty much is in business, as I said earlier, has accountants and lawyers or advisors, you will be able to—there will—the transition—the needed transition will be known, for sure, by this Committee and these Members if you move a proposal like this, because everybody that would need transition would be in here.

We have identified a lot of that. I am not sure how much is actually needed or not needed. You know, when you truly put the option to accompany—okay, you are saying you need some transition, but if your option is no transition but you get this new Code, would you take no transition? And I think oftentimes the answer is yes.

But, for example, we do allow for loss carry-forward to be sort of businesses who have incurred losses or businesses who have made big investments to still be able to write those expenses off.

Mr. HOLDING. Dr. Burgess.

Mr. BURGESS. And under the—this section deals with the carryover of credit equivalent or excess deductions. And Mr. Renacci pointed out if a company is not paying taxes now, under a voluntary election to a flat tax, could continue under the model that they are in, where they are not paying any taxes. And that might be a satisfactory arrangement.

But if they elected to go into a flat tax system and their deductions were in excess of their earnings, obviously there would be no tax liability at the end of the year. And that is based on an accrual method over time, that those deductions can accumulate and carry over from year to year, so the cost of capital for starting a business would be expensed over time.

Mr. HOLDING. Mr. Woodall.

Mr. WOODALL. Mr. Holding, when folks play by the rules, they ought to get—their expectations ought to be met. The 1986 transition crushed folks, crushed commercial real estate, crushed folks in passive loss circumstances. Even as recently as the President's healthcare bill—I met with a couple who was in the tanning business, and that 10 percent gross receipts tax on tanning salons—they had been working their entire life playing by the rules, and now their asset was virtually worthless, because they weren't making that kind of margin. There is no satisfactory explanation for the folks who are going to lose because they have been playing by a convoluted set of rules for the last decade.

But as Milton Friedman said when he testified before George Bush's tax panel, it may just be time to wipe the slate clean. We have one transition rule in the Fair Tax, and that is on inventory. If you bought inventory and the taxes were all baked in throughout the system, you shouldn't have to double tax that as you are trying to move that inventory out of the system.

But I hope we will not let the unmet expectations of folks who have been playing by the rules prevent us from wiping the slate clean. And perhaps, if we do wipe the slate clean, we will never have to have the conversation about folks who counted on Congress maintaining the Tax Code in a constant state, only to be let down.

Mr. HOLDING. Thank you. Thank you, Mr. Chairman.

Chairman BOUSTANY. I thank the gentleman. We want to thank you guys for bringing these really important proposals forward. It is really a valuable addition to our—what we are looking at as we really are all committed to fundamental tax reform.

So, also be aware that over the next 2 weeks there may be some additional questions we will submit to you in writing, and we ask you to follow up and answer those.

And, with that, the Subcommittee stands adjourned.

[Whereupon, at 4:41 p.m., the Subcommittee was adjourned.]

[Submissions for the Record follow:]

ADCT ALLIANCE FOR THE DEFEAT OF CITIZENSHIP TAXATION

405-50 Rosehill Ave., Toronto, ON, CANADA, M4T 1G6
www.citizenshiptaxation.ca

March 20, 2016

Charles Boustany
Chairman,
House Ways and Means Tax Policy Subcommittee

Re: "Fundamental Tax Reform Proposals"

Dear Representative Boustany:

This letter is a response to your 2016 request for "Fundamental Tax Reform Proposals".

RECOMMENDATION: My single recommendation, made on behalf of our organization (see below) is that Congress repeal "citizenship-based taxation", imposed on United States citizens living outside the United States, and switch to "residence-based taxation" — in keeping with the approach accepted by the rest of the civilized world.

SUPPLEMENTARY MATERIAL. In the past I, and hundreds of others, have already made submissions to the Senate Finance Committee and to the House W&M Committee in support of this recommendation.

This includes a comprehensive April 2015 submission my colleague John Richardson and I made to the "International Tax Committee" of the Senate Finance Committee.

The "International Taxation Committee" released its report on tax reform in 2015. In spite of the fact that more than 3/4 of the submissions were from overseas "Americans", the committee acknowledged, but failed to address, the intolerable treatment of Americans citizens abroad and those deemed only by the United States to be United States citizens or "persons" abroad.

The committee did include however this statement, which we ask you to consider:

"According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).

While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward."

OUR ORGANIZATION. I submit this proposal on behalf of myself (I am a United States citizen residing in Canada for more than 40 years who will be forced to renounce United States citizenship should the tax laws affecting Americans overseas not be repealed) and on behalf of the "Alliance for the Defeat of Citizenship Taxation" (ADCT; www.citizenshiptaxation.ca), a non-profit corporation, for which I am Chair.

ADCT ALLIANCE FOR THE DEFEAT OF CITIZENSHIP TAXATION

405-50 Rosehill Ave., Toronto, ON: CANADA, M4T 1G6
www.citizenshiptaxation.ca

Given the reluctance of the Senate Finance and House Ways and Means committees to remedy the situation for overseas Americans, the objective of ADCT is to fight your U.S. citizenship-based taxation laws by litigation in the U.S. courts.

The provisions of the Internal Revenue Code, including various reporting requirements and punitive taxation of non-U.S. resident retirement vehicles, have forced many Americans abroad to renounce U.S. citizenship for their financial survival.

It is the view of ADCT that these direct actions of Congress result in violation of the guarantees of the 14th Amendment of the U.S. Constitution as confirmed by the United States Supreme Court in Afroyim v. Rusk.

As a result, our organization will be bringing a lawsuit in the United States to enforce the Constitutional rights of all American citizens — and specifically those who are attempting to live a normal life outside the United States.

Your subcommittee may wish to consider whether Congress has the Constitutional authority to continue to impose such tax laws on "overseas" United States citizens that compel such persons to renounce their citizenship.

Your subcommittee also needs to understand how the community of U.S. citizens abroad (the best ambassadors that America could ever have) is being destroyed.

This is not about tax compliance. It's not about accountants and lawyers. It's not about academics. It's not about partisan politics. It's not about class warfare. It is certainly not about tax evasion and offshore accounts.

It's about people. It's about people with real lives, who are trying to exercise their constitutional liberties to pursue happiness in the form they desire. Instead they are being forced to renounce (either formally or informally) their U.S. citizenship.

It's about the right of people to live normal lives. It's about being able to "live as a U.S. citizen abroad".

Sincerely,

Stephen Kish
Chair, ADCT

John Richardson
ADCT Legal Counsel and Co-Director,

Patricia Moon
ADCT Secretary-Treasurer

Carol Tapanila
ADCT Director

Alliance for the Defeat of Citizenship Taxation
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ACLI
Financial Security...for Life

Hearing Statement of
Maurice Perkins
Senior Vice President
The American Council of Life Insurers
Before the
Subcommittee on Tax Policy
U.S. House Committee on Ways and Means

"Member Day Hearing on Fundamental Tax Reform Proposals"

March 22, 2016

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the record for today's hearing titled "Member Day Hearing on Fundamental Tax Reform Proposals." We thank Chairman Charles Boustany and Ranking Member Richard Neal for holding this hearing. ACLI would like to take this opportunity to respectfully comment on the American Business Competitiveness Act (HR 4377) and suggest ways in which it can be improved.

ACLI is a Washington, D.C.-based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums.

On behalf of the U.S. life insurance industry, we share Congressman Nunes' goal of encouraging economic growth. HR 4377 proposes a systemic change to a new basis for taxation of business income. It is referred to as a cash flow system where taxable receipts exclude investment income and business expenses are 100 percent deductible. To achieve this, the bill would place all taxpayers on a cash accounting basis. Section 3(b)(1) of HR4377 imposes a tax "for each taxable year on the net business income of every corporation." Section 4(a) of the bill defines "the term 'net business income' . . . [as] the amount by which the taxable receipts of the business entity for the taxable year exceed the deductible amounts for the business entity for the taxable year."

HR 4377 provides that transactions between financial institutions—including life insurers—and any entity or individual not engaged in a business activity are "covered transactions," the proceeds from which are taxable receipts. Therefore, premiums from life insurance, annuity, long-term care and disability income insurance policies issued to individuals for non-business purposes constitute taxable receipts for life insurers under the bill. Currently, there is no provision in HR 4377 accounting for life insurers' primary business expense — the increase in the liabilities required to pay policyholder claims. If premiums from individual policies are included but business expenses are accounted for only when benefits to policyholders are paid - in most cases many years or even decades later— life insurers' net business income under Section 4 of the bill would be significantly accelerated and taxed prematurely. Consequently, the bill in its current form is unworkable for the life insurance industry.

The unique nature of the business of life insurance is different than that of a manufacturer or retailer in that it involves the satisfaction of long-duration promises. However, while HR 4377 accounts for business expenses incurred by other industries, such as manufacturers and retailers, it does not account for increases in life insurers' liabilities—our largest business expense.

American Council of Life Insurers
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Manufacturers or retailers incur expenses first in producing or acquiring the goods they sell, and receive income from their customers later upon sale of such goods. For life insurers, the order of expenses and income is reversed. Life insurers receive income in the form of premiums from their policyholders and pay expenses in the form of policyholder claims, often decades later. Current law treats premiums as income and, to address this unique difference in our business, allows a business expense deduction for the present-day value of future liabilities, using actuarially appropriate assumptions regarding future risks and returns. Life insurers are required to calculate these business expenses annually under state law. This annual measure of the change in life insurer policyholder obligations, known as statutory reserves, is recorded in the statutory accounting annual statements that life insurers must file with financial regulators and, should serve as the starting point for life insurers' reserve business expense.

Under HR 4377, premiums from individual policyholders would be net business income, with no business expense for reserves to properly reflect the net business income of life insurers. The bill must account for life insurer reserves—our largest business expense—so that life insurers receive equal treatment as other business taxpayers.

Only life insurers provide products with guarantees that protect individuals and families from life's financial risks. These protections and guarantees are not available from any other financial services companies. Without accounting for life insurer reserves with respect to policies issued to individuals, HR 4377 would significantly misstate and accelerate life insurer net business income.

Additionally, HR 4377 repeals the alternative minimum tax (AMT) for corporations without providing any opportunity for use of corporate taxpayers' existing AMT credits. The bill should allow a transition period so that corporate taxpayers are able to fully use their AMT credits. Without such a provision, taxpayers will not be able to recoup these pre-paid taxes.

ACLI and its member companies look forward to working with Congressman Nunes and his staff to address our industry's concerns on these very important issues.

Thank you,

Maurice Perkins

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American CRAFT SPIRITS ASSOCIATION

March 21, 2016

The Honorable Charles Boustany
Chairman, Subcommittee on Tax Policy
Ways and Means Committee
1100 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Boustany,

Thank you for holding hearings on tax reform and its impact on growing the U.S. economy.

By way of introduction, the American Craft Spirits Association (ACSA) is a non-profit trade association representing the U.S. craft spirits industry. The craft spirits industry is growing across the U.S. Our Association estimates there are as many as 1200 new, craft distilleries in every State of the U.S.

The growth of craft distilling is supporting main street, small business job growth, tourism and locally sourced products, much like craft beer and small wineries. Craft distilling has the potential to grow even more with a change in tax policies in Washington, D.C.

Nearly thirty six years ago, the Congress enacted legislation to provide a reduced Federal Excise Tax (FET) for small brewers and vintners. This led to a boom in craft brewing and boutique wineries. Unfortunately, this tax treatment was not extended to small distillers, likely because our craft products in our industry did not exist then. In order to advance the continued growth of the craft spirits industry, however, similar excise tax relief is urgently needed now. For distilled spirits, currently all producers pay a FET of $13.50 on each proof gallon and this tax is already significantly higher than on beer and wine. As mentioned above, compounding the problem is that small distillers receive no reduced tax rate.

A reduced tax rate will help our businesses grow. Some estimate each small distiller could add one or two employees immediately and increased production will further the progress of the industry.

No less than five bills have been introduced in this Congress, all of which would reduce the tax for small producers from $13.50 to $2.70. In the House, H.R. 2520, introduced by Rep. Todd Young (R-IN) would reduce the FET for craft distillers and bring more overall fairness for the spirits industry. H.R. 2903 introduced by Congressmen Erik Paulsen (R-MN) has over 165 co-sponsors and would reduce the FET for craft spirits, as well as for beer and wine.

We would encourage the Subcommittee to hold a hearing on Federal Excise Taxes and/or proceed to a mark-up on the various proposals that reform the FET for craft beverage producers, with particular attention to the inequitable treatment for spirits.

Thank you for your consideration of this request. For further information, please contact me at 845-797-9010 or our Counsel in Washington, James Hyland at 202-756-7745.

Sincerely,

Thomas Mooney
President

AMERICAN RETIREMENT ASSOCIATION
Working for America's Retirement

American Retirement Association

Statement for the Record

House Ways & Means Tax Policy Subcommittee Hearing on Proposals Relating to Fundamental Reform of the Income Tax System

March 22, 2016

The American Retirement Association ("ARA") thanks Chairman Boustany, Ranking Member Neal, and the members of House Ways & Means Subcommittee on Tax Policy for the opportunity to submit a statement for the record on the importance of preserving the current tax incentives for employer-sponsored retirement plans as the Subcommittee examines proposals that would fundamentally reform our income tax system.

The ARA is an organization of more than 20,000 members nationwide who provide consulting and administrative services to American workers and sponsors of qualified retirement plans. ARA members are a diverse group of retirement plan professionals of all disciplines, including: financial advisers, consultants, administrators, actuaries, accountants, and attorneys. The ARA is the coordinating entity for its four underlying affiliate organizations, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-deferred Savings Association ("NTSA") and the ASPPA College of Pension Actuaries ("ACOPA"). ARA members are diverse but united in a common dedication to America's private retirement system.

The tax incentives for employer-sponsored plans in place today do an efficient and effective job in allowing Americans across the income spectrum to build a secure retirement. In fact, a workplace retirement plan is the single most important factor that determines whether or not workers accumulate significant savings for retirement. Data from the Employee Benefits Research Institute shows that workers earning between $30,000 and $50,000 per year are *fifteen times* more likely to save at work that to go out and set up an IRA to save on their own. Because moderate income earners almost exclusively save at work through plans like the 401(k) – the most widely known section of the tax code – it is not surprising that Internal Revenue Service data shows that nearly 80% of participants in 401(k) and other profit sharing plans make less than $100,000 per year, and 43% of participants in these plans make less than $50,000 per year.

Simply stated, saving at work, works. That is why the American Retirement Association would caution that repealing all income taxes in favor of a national consumption tax would discourage businesses, especially small businesses, from maintaining a workplace retirement plan and seriously undermine the private employer-sponsored retirement system.

The current income tax incentives are a primary reason small business owners consider offering a retirement plan. In addition, qualified retirement plans are subject to coverage and non-discrimination rules that require employer contributions on behalf of employees if the owner wants to maximize his or her contributions. These employer contributions provide significant retirement benefits to rank and file employees. For a small business owner, the tax savings on his or her contributions to a retirement plan generates part of the cash needed to pay for the required contributions for other employees.

If there is no income tax, the small business owner will have no tax incentive to establish or maintain a workplace retirement plan. There will be less opportunity to save at work, and lower employer contributions made on behalf of workers who still have access to workplace savings. That, in turn, will undermine the retirement security of the tens of millions of American workers who currently rely on these plans for a secure retirement.

The current private employer-sponsored retirement system works well for those that have access to these plans in the workplace. Expanding the availability of workplace savings even further is key to improving the ability for Americans to save for their retirement. The ARA would be pleased to work with this Subcommittee to further develop proposals to expand small business participation in our current system and we thank you for the opportunity to submit these comments.

AVMA
Our Passion. Our Profession.
Governmental Relations

March 21, 2016

The Honorable Kevin Brady
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Sander Levin
Ranking Member, Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Levin:

For years, the American Veterinary Medical Association (AVMA) has urged Congress to pass the Veterinary Medicine Loan Repayment Program (VMLRP) Enhancement Act, H.R. 3095. AVMA strongly backs H.R. 3095 which is championed by Representatives Adrian Smith and Ron Kind and is referred to the Ways and Means Committee.

This important legislation brings parity to the tax treatment of loan repayment awards provided under the VMLRP and the National Health Service Corp (NHSC) Loan Repayment Program. At present the VMLRP awards are subject to 39 percent federal tax withholding – the highest marginal rate. Congress set a precedent for exemption in 2004 when it passed the American Jobs Creation Act (PL 108-357). Prior to that bill's passage NHSC awards had been subject to 39 percent federal tax withholding.

VMLRP incentivizes licensed veterinarians to practice in federally designated veterinary shortage areas that are identified by each state's Animal Health Official. Veterinarians participating in the USDA-administered VMLRP deliver high qualify veterinary care throughout rural America, primarily for livestock – beef and dairy cows, poultry, swine, dairy and meat goats, sheep, farmed aquaculture, and working farm horses. Also, they practice public health – epidemiology, pathology, bacteriology, virology, serology, and perform important roles in foreign animal disease preparedness. Veterinarians play a vital role in protecting food safety and overseeing the use of antimicrobials in food-producing animals.

Unfortunately, fewer than 25 percent of federally designated VMLRP shortages are filled each year because VMLRP is subject to the 39 percent federal tax withholding. All funding allocated for this small federal program should be maximized. Since 2010, the USDA has awarded just 340 awards to veterinarians practicing in 45 states; however, if program awards were exempt from withholding taxes then one additional award could have been made for every three currently awarded. More veterinarians would be practicing in rural areas where farmers and ranchers badly need their services.

The importance of veterinarians practicing in rural areas cannot be overstated. The VMLRP is the only federal program offering an incentive to livestock and public health veterinarians to choose practice in designated shortage areas. Rural America has ongoing and growing needs for veterinarians to help keep their livestock and poultry healthy and their operations profitable. Animal agriculture is a major economic driver in the United States having an impact of $440.7 billion[i] in 2014. The recent animal disease outbreaks have cost billions in production losses and response costs; for example, in 2015 the response to the highly pathogenic avian influenza outbreak cost over $1 billion. Researchers have estimated that the annual economic impact of porcine reproductive and respiratory syndrome is $664 million. An uncontrolled outbreak of foot and mouth disease could have a $200 billion impact over 10 years.

We urge you to pass H.R. 3095. Veterinarians participating in VMLRP merit the same exemption enjoyed by physicians, dentists and other health care providers participating in the National Health Service Corps.

The American Veterinary Medical Association represents more than 88,000 veterinarians engaged in every aspect of veterinary medical science. We look forward to working with you on this very important issue. If you have any questions, Gina Luke on my staff can be reached at 202-289-3204 and gluke@avma.org.

Sincerely,

Mark T. Lutschaunig, VMD MBA

Mark Lutschaunig, VMD MBA
Director, Governmental Relations Division
American Veterinary Medical Association

MTL/ggl

[1] 2004-2014 Economic Analysis of Animal Agriculture, U.S. Soybean Association, published September 2015, http://unitedsoybean.org/wp-content/uploads/Economic-Analysis-of-Animal-Agriculture-FINAL-Low-Resolution.pdf

Written Testimony Submitted by Steven L. Hayes, Chairman
Americans For Fair Taxation

To the House Ways and Means Tax Policy Subcommittee
Hearing on Fundamental Tax Reform
March 22, 2016

Chairman* Boustany, *Ranking Member Richard Neal, and Members of the Tax Policy Subcommittees:

The Americans for Fair Taxation (Fairtax.org) welcome the chance to submit this written testimony to the Subcommittee on the FAIRtax, a national consumption tax.

With more than 600,000 supporters, FAIRtax.org is the nation's largest grassroots citizens' organization dedicated to fundamental tax reform. As a nonpartisan organization, we have engaged some of the nation's leading scholars and tax policy analysts to explore the infirmities of the existing system and the best means of correcting them. The product of our effort is the FAIRtax, which has been introduced by Representative Rob Woodall as H.R. 25 and in the Senate as S.155 by Senator Jerry Moran. The House bill now has 73 cosponsors and the Senate bill has 6. With the benefit of our research and our efforts towards fundamental tax reform, we respectfully offer the following insights within the scope of this hearing.

What is the FAIRtax?

The FAIRtax Act of 2015 (H.R. 25) is comprehensive legislation that replaces all federal income and payroll taxes with an integrated approach including a progressive national retail sales tax, a prebate to ensure no American pays federal taxes on spending up to the poverty level, dollar-for-dollar federal revenue replacement, and, through companion legislation (**H. J. RES. 16**), repeal of the 16th Amendment. The FAIRtax abolishes all federal personal, gift, estate, capital gains, alternative minimum, Social Security, Medicare, self-employment, and corporate taxes and replaces them with one simple, visible, single-rate federal retail sales tax – collected and administered in cooperation with the federal government by existing state sales tax authorities.

Purchase of Living Essentials Tax-Free via the Prebate
Under the FAIRtax, all Americans consume what they see as their necessities of life free of tax. While permitting no exemptions, the FAIRtax (HR25) provides a monthly, universal prebate to ensure that each family unit can consume tax-free at or beyond the poverty level, with the overall effect of making the FAIRtax progressive in application. This is not an entitlement, but a rebate (in advance) of taxes paid – thus the term prebate. Everyone pays taxes at the cash register.

Although everyone pays the same tax rate at the cash register, the effect of the prebate is to increase effective tax rates (annual taxes paid divided by annual spending) as the level of spending increases, a progressive tax rate structure. For example, a person spending at the poverty level ($32,040 for a family of four) has a 0% effective tax rate, the prebate rebates all of the taxes they paid. Whereas someone spending at twice the poverty level has an effective tax rate of 11.5%, and so on.

Administering the prebate under the FAIRtax would also be far simpler than administering the EITC, credits, or deductions under the current system – far cheaper and far less intrusive. The cost to administer the prebate is miniscule compared with the combined compliance costs and administrative burden of the income tax. When the state sales tax authorities process the prebate applications they will validate all names and Social Security numbers against the Social Security Administration (SSA) database. States already do this in relation to the administration of other state/federal cooperative programs such as unemployment benefits and child support enforcement. The states will submit the prebate distribution file to the SSA which will provide the prebate in the form of a paper check via U.S. Mail, an electronic funds transfer to a bank account, or a "smartcard" that can be used much like a bank debit card—already in use to provide other federal benefits.

The estimated number of households for 2015 is 124.6 million. Assuming 100 percent participation by all eligible households (lawful residents), the maximum cost of the prebate would be $589 billion. For comparative purposes, this amount is only 44 percent of total tax expenditures (standard deductions, personal exemptions, Earned Income Tax Credit, mortgage interest and charitable contribution deductions, and various other tax preferences and loopholes) doled out under the current federal income tax system that are repealed when the FAIRtax is enacted. For 2015, the total of all of these tax breaks is estimated to be $1.339 trillion.[1] The FAIRtax provides for both civil and criminal penalties for knowingly filing a fraudulent prebate application. The civil penalty is equal to the greater of $500 or 50 percent of the claimed annual prebate amount not actually due plus repayment of any falsely due prebate amounts. A criminal penalty of imprisonment for up to one year may also be imposed.

Taxation of Government Consumption

Public finance economists realize that the current system imposes taxes on government, albeit indirectly through the higher wages government must pay its employees, the payroll taxes it must pay, and the higher payments it makes to government contractors, than would otherwise be the case if there were no federal income tax system. They further realize that when you shift from an income tax to a consumption tax you must maintain the same "tax wedge" in government. Not doing so would distort the private marketplace, creating an incentive to consume through the medium of government. Federal taxation of units of government has already been upheld by the Supreme Court when it affirmed that the federal government could require all units of government to pay payroll taxes on wages paid to its employees.

FAIRtax.org acknowledges that increased revenue from taxing federal government consumption is exactly canceled by increased costs in the federal budget (as pointed out by the tax panel). What the tax panel neglected to point out is that this accounting method is used today by the Office of Management and Budget and the Congressional Budget Office.

The FAIRtax taxes all consumption, including government consumption, once. Today, the income tax and payroll tax are imposed on government consumption by taxing government employees and government contractors, making government pay more than it would in the absence of these taxes. This tax revenue appears in the receipts column in the federal budget, and the added expense is counted in the federal budget as spending (exactly canceling each other out). Fortunately, at least in this respect, the federal budget is honestly presented.

This tax revenue currently "paid" by the federal government is part of the tax revenue that the FAIRtax replaces. The federal government could artificially reduce both spending and tax revenues by exempting its workers and contractors from both income and payroll taxes and lowering wages paid to employees and amounts paid to contractors accordingly. Similarly, the FAIRtax taxes government consumption and, like today, the expense and revenue would be reflected on the federal budget as such. If the FAIRtax were to exempt government from tax and if federal spending were held constant, then the purchasing power and size of the federal government as a share of the economy would be dramatically increased. Further, not taxing government consumption would artificially make government consumption appear cheaper and promote increased consumption via government. So, though a wash, there would be negative economic consequences if the FAIRtax did not continue the practice of taxing government consumption.[2]

Transition

Transition issues under the FAIRtax are more easily handled than under a flat tax or business transfer tax (subtraction method VAT). To prevent the double taxation of inventory held on the effective date of the sales tax, the FAIRtax provides a credit when the inventory is sold at retail. With respect to unused income tax credits and deductions, some form of transition relief is appropriate under a flat tax or reformed income tax, since firms and

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[1] Office of Management and Budget, *Analytical Perspectives: Budget of the U.S. Government, Fiscal Year 2015*, at Tables 14-1 to 14-4, Feb. 2015.

[2] For a detailed description of the FAIRtax base and step by step explanation of the rate calculation methodology, see Paul Bachman, et. al., "Taxing Sales Under the FairTax: What Rate Works."

investors are going to continue paying tax. Under the FAIRtax, corporations and investors don't need transition relief; after all, how can a corporation or an investor be worse off because it has been relieved from having to pay income tax altogether?

With respect to property owned when the sales tax is enacted, the FAIRtax exempts the sale of used property from tax as the simplest approach. The upshot of this is that market demand will bid up the price of used property, especially homes, until the price of the exempt used property (adjusting for wear and tear) is the same as the cost of new taxable property (inclusive of the tax). Taxing used property as well as new property would eliminate these windfall gains; however it would violate a basic tenet of the sales tax: that the value of the property be taxed only once. It would also result in tax cascading every time the same property were sold. No transition relief is necessary for savings distributed from pension plans, IRAs and other qualified plans because neither the contributions nor the earnings on the plan would have been subjected to income tax. Income earning assets that are currently subject to income tax will not now be paying tax, causing the market value of these assets to climb considerably to reflect the repeal of the income tax. And finally, the FAIRtax provides that the cost of living adjustment for Social Security benefits be computed on a tax-inclusive basis.

The FAIRtax does incorporate two transition rules. First, since inventory is not deductible under the income tax until it is sold, that inventory will have been acquired from after-tax dollars. To then subject that inventory to a sales tax would constitute double taxation and disrupt markets. Accordingly, the FAIRtax provides a credit to businesses for the inventory equal to the value of the inventory on the last income tax return and the sales tax rate. Second, the FAIRtax pushes forward the effective date in order to allow time for the economy to adjust to a consumption tax.

Businesses that have inventory held on the date prior to the enactment of the FAIRtax qualify for a **transitional inventory credit** if the inventory is sold subject to the FAIRtax within a two-year period. Qualified inventory shall have the cost that it had for federal income tax purposes for the active trade or business as of the end of the final income tax year. The credit is equal to the cost of the qualified inventory times the FAIRtax rate. Businesses may sell the right to receive the inventory credit, so the credit can follow qualified inventory through the supply chain. Qualified inventory includes work in process. The transition credit indirectly allows for a transitional period for production and retail to adjust to pricing without the inclusion of income and payroll taxes, corporate taxes, and compliance costs that before the FAIRtax were a large percentage of the cost passed along to the consumer. This means being able to keep some prices the same immediately after the effective date and then change prices over time consistent with new-found production and retail savings as tax burdens are lifted.

Administration of the FAIRtax by the States

The simplicity and efficiency of the sales tax is what has caused its spread from its inception in 1932 in Mississippi to 45 states and Washington, D.C. Today, 98 percent of the population is covered by state or – in Alaska – local sales taxes. State governments have the structure and databases required for implementing sales taxes, which would definitely lower the "startup" costs of administering a national retail sales tax than if it were done by the IRS.[3] State sales tax authorities have amassed great expertise in the administration and collection of sales taxes, performing these activities much more efficiently than could be done by a centralized agency of the federal government. Likewise, there is no reason why the states cannot keep the data on households necessary to administer the prebate. Federal-state cooperative programs already exist for the verification of social security numbers, a noteworthy example is the federal unemployment compensation program which is federally funded but has been administered by the states for more sixty years. To provide federal oversight, the FAIRtax creates an office in the Treasury Department to monitor enforcement of the FAIRtax by the states, to resolve disputes between states and a place to appeal enforcement actions. The Secretary of the Treasury is given the authority to promulgate regulations, to provide guidelines, to assist states in administering the FAIRtax, to provide for uniformity in the administration of the tax, and to provide guidance to the general public. States are provided an

[3] Dronenburg, Ernest J. SAFCT: State Administered Federal Consumption Tax: The Case for State Administration of a Federal Consumption Tax, paper presented at NYU Annual State and Local Taxation Conference, New York, Nov. 30, 1995.

administrative credit of ¼ of one percent of the sales taxes they collect, totaling about $6 billion overall, to compensate them for the costs of administration.

Research demonstrates that if the FAIRtax was in place and administered by state sales tax agencies, it would have saved $346.5 billion in administrative costs in 2005 when compared to the administrative costs associated with the federal taxes it replaces. This implies a saving of $14.70 per $100 of the gross revenue the FAIRtax would collect. These estimates are robust enough to ensure that even if any additional spending is needed under the FAIRtax to have the levels of avoidance and evasion needed to bring in the estimated revenue, it would never overcome the savings it provides in lower administrative costs when compared against the current federal system of taxation it replaces.[4]

Administering states would enter into a cooperative agreement with the U.S. Treasury Department governing the administration of the FAIRtax by such state. Such an agreement includes provisions for the speedy transfer of tax monies collected, contact persons, dispute resolution, information exchange, confidentiality, and taxpayer rights. States that do not have a state sales tax or states that do not want to administer the FAIRtax have two options: They may contract with another state that has a state sales tax to administer the tax, they may contract with the federal government to administer the tax or they may do nothing and the federal government will directly administer the FAIRtax within that state. If a state is collecting the FAIRtax on behalf of another state, both states and the federal government must sign the agreement. Each state may choose whether or not to conform its state sales tax base to the FAIRtax base; however, doing so enables the conforming states to collect state sales tax on sales made by remote sellers outside the state to a destination within that state. The National Conference of State Legislatures estimates that states lost an estimated $23.3 billion in 2012 from being prohibited from collecting sales tax from online and catalog purchases.

What about the IRS?
The IRS will remain in place until September 30th, three years after the FAIRtax is enacted. This allows the IRS to carry out all tax processing and enforcement activities relating to income tax returns for the final income tax year, and prior years. The IRS will be processing annual income tax returns for the individual income tax, corporate income tax, estate and gift tax, and the self-employment tax. It will conduct its normal collection and enforcement activities, including audits. The IRS can focus its attention on collecting taxes for the final income tax year taxes since there will be no time devoted to getting ready for another income tax year. At the end of the three years, no appropriations for expenses of the Internal Revenue Service, including processing tax returns for years prior to the repeal of the taxes repealed by HR25, shall be authorized.

Why the FAIRtax?
The FAIRtax is fair, efficient, transparent, and greatly reduces tax code complexity, compliance costs, and noncompliance.

The very nature of the income tax breeds complexity.
In the long-running experiment of the income tax, it is fairly well demonstrated that it is the nature of the income tax that breeds complexity. No one political party can assign blame or take credit: The nature of the income tax as a hidden tax invites complexity through special-interest provisions. The constantly growing complexity of our tax system is part of a trend that began in 1913 and has only accelerated with the nearly perennial enactment of new tax legislation with 4,428 changes to the tax code in just the last decade. As of 2015, federal tax laws and regulations have grown to over 10 million words in length. This figure includes the federal internal revenue code (2,412,000 words long) and federal tax regulations (7,655,000 words long). It does not include the substantial body of tax-related case law that is often vital to understanding the tax code.

To most Americans, the direct expenses of the IRS or abstract measurements are not the central compliance problem. Most important is the mandate imposed on the American taxpayer to act as tax collector. According to an analysis of IRS data by the Taxpayer Advocate Service (TAS), individual taxpayers and businesses spend an

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[4] Tuerck, David, Paul Bachman, and Alfonso Sanchez-Penalver, Tax Administration and Collection Costs: The FairTax vs the Existing Federal Tax System, The Beacon Hill Institute at Suffolk University, Sept. 2007.

estimated 6.1 billion hours each year complying with the filing requirements of the Internal Revenue Code (henceforth called "compliance costs").

Based on an extensive research review, Fichtner estimated that hidden compliance costs range from $215 to $987 billion and that the tax code results in a $452 billion revenue gap in unreported taxes. These economic costs are substantial relative to the $2.45 trillion in revenues raised by the federal government in 2012.[5]

Small firms bear the lion's share of these fixed costs that stem from paperwork and record keeping, tracking wages, and interpreting the law – costs which, while disproportionately falling upon them, cannot be passed along. Small firms in particular, according to the National Commission on Economic Growth and Tax Reform, are forced to waste 3 to 4 dollars complying with the law for every dollar they pay in taxes.

Paperwork is the most visible compliance cost, but it is clearly not the only cost, and perhaps not the largest cost. Return processing, determining liability, record keeping, and other burdens are an estimated 13 to 22 percent of the total revenue raised by the income tax system.

The monetary cost of compliance with the income tax code is only half of the problem. We pay for our income tax system in equally wasteful ways. The income tax is collected with a heavy hand and much contention. In 2015, our government has embroiled its citizens in more than 69,165 litigation actions, with 77 percent of them involving small businesses. Taxpayers sustained more than 2 million levies.

Another measure of complexity is shown by looking at the record of the IRS's own centers established to help people prepare their tax returns. According to the Taxpayer Advocate Service, the IRS received 110 million calls in each of the last two fiscal years; 25 percent of which the IRS was unable to answer. In addition to the telephone calls, the IRS must process more than 11 million pieces of taxpayer correspondence annually.

The efficiency costs of the federal tax system dwarf compliance costs. Efficiency costs occur when tax rules distort the decisions of individuals and businesses regarding work, savings, consumption, and investment. By changing the relative attractiveness of highly taxed and lightly taxed activities, taxes alter decisions such as what to consume and how to invest. When taxpayers alter their behavior in response to tax rules, they often end up with a combination of consumption and leisure that they value less than the combination they could have achieved if they made decisions free of any tax influences. This reduction in value is a welfare loss or efficiency cost. According to research by the Government Accountability Office, efficiency costs are on the order of magnitude of two to five percent of Gross Domestic Product (GDP).[6] Based on GDP of $17.947 trillion in 2015, efficiency costs are an additional $359 to $987 billion.

All of that complexity disappears with the FAIRtax.
With a national retail sales tax, the Tax Foundation, the oldest national tax research organization, has estimated that compliance costs drop more than 90 percent.[7] Anyone who professes to despise the complexity of the income tax should embrace the FAIRtax. No other tax reform plan would eliminate wasteful compliance costs quite like the FAIRtax. By imposing taxes at the cash register, the FAIRtax wholly exempts individuals from ever having to file another tax return. The FAIRtax taxes only final consumption making business-to-business transactions fully exempt; thus, businesses that serve other businesses will neither collect nor pay taxes. Sellers of retail goods and services, most of which already pay state sales taxes (in the 45 states that have them) are provided an administrative credit compensating them for the costs of sales tax compliance. The self-employed engaged in providing goods and services for final consumption are the only individuals that would have to file tax returns.

[5] Fichtner and Feldman, The Hidden Costs of Tax Compliance, Mercatus Center, George Mason University, May 20,2013.
[6] "Tax Policy: Summary of Estimates of the Costs of the Federal Tax System," U.S. Government Accountability Office Report No. GAO-05-878, August, 2005, p. 20.
[7] Hall, Arthur P., "Compliance Costs of Alternative Tax Systems," Tax Foundation, Testimony before the House Ways and Means Committee, June 6, 1995.

The FAIRtax reduces the more than 700 incomprehensible sections of the Internal Revenue Code to one simple question. As all goods and services for final consumption are taxable, the retailer need answer only "how much did I sell to consumers?" The twin advantages of simplicity and visibility produce another benefit: Greater enforceability with less intrusiveness.

In fact, it is this simplicity that recommends the FAIRtax over the VAT. Under a VAT, all businesses would be forced to keep records on every purchase and submit detailed forms to the government with much higher compliance costs than the FAIRtax. The administrative burden of the VAT would be especially severe if policymakers chose to exempt certain goods and services. Compliance costs would also rise if politicians chose to apply different rates to different goods and services. Most nations with VATs not only exempt certain products altogether, but also tax certain goods and services at different rates. The FAIRtax prebate untaxes living essentials thereby eliminating the need for exemptions and differential rates and the resulting complexity.

Likewise, appeal of the flat tax is mostly in simplified returns, but the flat tax ends up with a slightly more simplified tax return than the current 1040 EZ for individuals. Income still must be tracked and reported; indeed, one must continue to determine taxable income. Both individuals and businesses must file returns. The fear that the flat tax would eventually revert to a complex income tax system would remain. Under the FAIRtax, there is no need to track income and expenses, no need for an IRS, and a high probability the tax will stay simple, since sales taxes are by their nature single rate taxes, and cannot be reverted to an income tax (as it repeals the income tax code and has companion legislation to repeal the 16th amendment).

Compliance rates are a function of enforcement costs, and those costs are at their limit.
Compliance is, in truth, a relativistic notion that compares the rate of voluntary payment of taxes to the costs imposed on taxpayers to make those taxpayers acquiesce, conform, or yield. To understand this relationship in the extreme, consider how we may be able to achieve an acceptable compliance rate, even if a tax system is widely viewed as unfair – such as a *per capita* tax – if we were only willing to impose enough penalties at a high rate, take away civil liberties, require enough substantiation, or provide enough resources for detection.

If we were to try to reduce the interrelationship between compliance and enforcement to a very simple balancing act, we might express our goal for the tax system as trying to minimize one function (compliance costs) at the same time we maximize another (the voluntary compliance rate). Then, in optimizing the compliance rate, we would choose a system for which the voluntary compliance payment rate is acceptably high relative to the costs required to obtain that compliance. Hence, as policymakers evaluate our current system and various reform initiatives, they must do so within a framework that takes into account how much revenue the current system raises as a function of the costs to maintain that system.

You can begin to understand how poorly the current system achieves its compliance rate by comparing the compliance rate to the high administrative and, more importantly, compliance costs (see below). And it can only speak about compliance if it recognizes that the correct manner of viewing compliance is as a function of compliance and administrative costs.

Compliance costs are at an all-time high and dwarf the administrative costs of the IRS. The tax gap is a major, continuing and growing problem which is getting worse, notwithstanding a much larger Internal Revenue Service (IRS), more burdensome information reporting requirements, increasingly stiff and numerous penalties and a host of legislative initiatives. The current system requires taxpayers not only to absorb substantial cost but also to lose fundamental civil liberties. Further escalation of compliance costs may actually spawn further noncompliance. As the GAO has stated, "…some of the 'tax gap' may not be collectible at an acceptable cost. Such collection might require either more intrusive record keeping or reporting than the public is willing to accept or more resources than IRS can commit."[8] Despite this poor compliance rate, we may have reached the limits of

[8] Willis, Lynda D., "Taxpayer Compliance: Analyzing the Nature of the Income Tax Gap," United States General Accounting Office, Testimony Before the National Commission on Restructuring the Internal Revenue Service, GAO/T-GGD-97-35, January 9, 1997. Higher compliance costs can reduce voluntary compliance at a certain level. See, e.g., Sheffrin, Steven M.,

what we are willing to pay in monetary and non-monetary costs to increase compliance. In a report on the tax gap, the General Accounting Office stated:

> Almost every year since 1981 has witnessed legislation to address tax gap issues. These legislative actions generally required information returns [1099's] reporting on income and deductions, imposed penalties for tax noncompliance, or reduced opportunity for noncompliance by eliminating certain tax write-offs. [The] IRS estimated that some of these provisions resulted in additional 1990 tax revenue of $3.4 billion. Even so, [the] IRS' estimated tax gap increased $50.7 billion in current dollars from tax years 1981 to 1992.[9]

With 2.6 billion informational returns filed and roughly 40 million civil penalties assessed in 2015,[10] there is little question that the FAIRtax plan would inspire greater compliance at lower cost.

The FAIRtax: Higher compliance rates at lower cost

Empirical evidence: State sales taxes are enforced at an equal or higher compliance rate than the income tax with lower overall administrative and compliance cost. One means of looking at the possible compliance rate of the FAIRtax is to compare relative compliance rates of various tax policies with the administrative and compliance costs of those forms of taxation.[11] Researchers have found the administrative costs of state sales tax vary as a percent of revenue received from between 0.4 and 1.0 percent, and average 0.7 percent of revenues received.[12] The compliance costs imposed on businesses from state sales taxes have been estimated to fall between 2.0 and 3.8 percent of revenues.[13] Based on similar methodology, researchers have estimated that the costs to comply with a national sales tax would be as low as 1.0 percent of collections, compared with the flat tax at 1.2 percent of collections and a consumed-income tax at 4.6 percent of collections.[14]

Not only are the administrative and compliance costs of a sales tax much lower than an income tax per dollar of revenue received, the compliance rate is higher. A Minnesota study in the year 2000 compared input-output data to taxable sales and estimated how much tax should have been collected. The difference between estimated and actual collections was 9.9 percent. The sales tax gap was therefore an estimated 9.9 percent in Minnesota. This compares favorably to a federal tax compliance gap (and therefore a state income tax compliance gap) nearly double that amount, despite the imposition of much higher administrative and compliance costs. Overall, the noncompliance rate is from 15 percent to 16.6 percent of the true tax liability, according to the IRS, and that same rate of noncompliance can be expected to apply to the state tax system that relies on the federal enforcement apparatus.[15] In the broadest aggregate, assuming the gap of $450 billion, gross noncompliance is about 17 percent of revenues.[16] The evidence at the state level suggests that income taxes have twice the noncompliance level of sales taxes – even those at the state level that are largely very complicated and which cascade – at a fraction of the cost.

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and Robert K. Triest, "Can Brute Deterrence Backfire? Perceptions and Attitudes in Taxpayer Compliance," in *Why People Pay Taxes: Tax Compliance and Enforcement*, Joel Slemrod, ed., Ann Arbor: University of Michigan Press, 1992, pp. 193-222.

[9] "Tax Gap: Many Actions Taken, But a Cohesive Compliance Strategy Needed," United States General Accounting Office GAO/GGD-94-123, May 1994 (hereinafter "GAO").

[10] IRS Data Book, 2015. See Tables 14 and 17 respectively.

[11] Admittedly, this is not ideal since state sales taxes are designed in a manner that requires greater compliance costs than the FAIRtax.

[12] Due, John F., and John L. Mikesell, *Sales Taxation, State and Local Structure and Administration*, Second edition, Washington, D.C.: Urban Institute Press, 1994.

[13] Research summarized by Cnossen. Cnossen, Sijbren, "Administrative and Compliance Costs of the VAT: A Review of the Evidence." *Tax Notes International*, Vol. 8, No. 25, June 20, 1994, pp. 1649-68.

[14] Hall, Arthur P., "Compliance Costs of Alternative Tax Systems," Tax Foundation Special Brief before the House Ways & Means Committee, June 1995.

[15] FS-2005-14, *supra*.

[16] IRS Releases New Tax Gap Estimates, January 6, 2012.

The tax gap not attributable to fraud will improve through the FAIRtax's simplification of the system. To understand how a simple plan reduces the tax gap, policymakers must distinguish between two components of the tax gap: Fraud and non-fraud contributions. There are, in effect, two distinct components of the tax gap. The tax gap is certainly comprised of taxes not voluntarily paid because the taxpayer violated a known legal duty (evasion), but it is also comprised of failures to pay that are unintentional, such as those caused by mathematical errors or confusion. The tax gap is at the same time a measure of the burden and frustration of taxpayers who want to comply but are tripped by tax code complexity and of willful tax cheating by a minority who want the benefits of government services without paying their fair share.[17]

The portion of the tax gap attributable to mistake and confusion is high, as high as 80 percent. Almost 40 percent of the public, according to the IRS, is out of compliance with the current tax system, some unintentionally due to its enormous complexity. Periodically, the IRS conducts a series of extremely intrusive audits of taxpayers selected at random and requires those taxpayers to document every item on their tax return to the minutest detail. These audits are part of the Taxpayer Compliance Measurement Program or TCMP. The 1988 TCMP statistical sample included audits of over 54,000 individual taxpayers, theoretically representing 104 million taxpayers. TCMP data showed that if all 104 million taxpayers had been audited, 42 million (40 percent) of them would have seen increases in their tax liabilities.[18]

The General Accounting Office, in its recent tax gap report said: "The TCMP data showed that an estimated 33 million of the 42 million taxpayers (82 percent) were not assessed a fraud or negligence penalty, suggesting that much of their noncompliance was unintentional."

The reasons for noncompliance are instructive: (1) taxpayers lack the requisite knowledge of the tax law – of course, even tax lawyers and IRS agents cannot grasp the entire tax code these days; (2) taxpayers interpret the law differently than the IRS – but you can depend on the IRS to almost always make aggressive interpretations in favor of the government; (3) taxpayers lack record keeping sufficient to satisfy the IRS – this from an agency that has such poor internal records that it cannot even be audited; (4) taxpayers do their math wrong or they rely on professional return preparers who get it wrong – if professional tax preparers can't get it right, how are ordinary Americans to do so?[19] The largest percentage increase in the tax gap from 1981 to 1992 was attributable to math errors, a 212.3 percent increase.

This portion of the tax gap attributable to confusion and mistakes is largely dependent on the number of taxpayers and the level of complexity, and both diminish under the FAIRtax. Under the Fair Tax, certain transactional areas still require special rules. For example, the treatment of financial intermediation services, the treatment of mixed-use property, and transitional considerations will add some complexity. However, when fully operational, the main decisional juncture is reduced to the analysis under one current code section – section 162. Was a purchase an "ordinary and necessary" business expense? Any tax system that does not seek to tax business inputs (meaning any well-considered tax system) must make this essential distinction. The FAIRtax need not make the tens of thousands of other distinctions we now draw in the code. In place of an almost incomprehensible regime of statutes and regulations, businesses will need to answer one question to determine the tax due: "How much was sold to consumers?"

Furthermore, two other factors reduce this non-fraud component of the tax gap. The increased transparency of the system induces more compliance because it increases the likelihood that tax evasion is uncovered. The FAIRtax draws a clear line between cheating and innocent mistake, and eliminates the plausible

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[17] The IRS defines the tax gap as "the difference between the tax that taxpayers should pay and what they actually pay on a timely basis." The gap is broken down into three components by the IRS: Non-filing (failure to file a tax return), underreporting (understating income, overstating deductions) and underpayment (failure to fully pay reported taxes owed).
[18] GAO, *supra*.
[19] The annual *Money* magazine survey in which 50 accountants prepare a hypothetical middle class couple's tax return and come up with at least 45 different answers each year is a major indication that our tax system is simply not administrable.

deniability that taxpayers misunderstood the law. Few, if any, taxpayers will be confused by the FAIRtax requirements. Second, the roughly 90-percent reduction in filers enables tax administrators to address more effectively instances of noncompliance.

The FairTax improves upon all known factors that bear upon compliance.

To understand how it does so, policy makers need to look at the several factors that bear upon compliance – both fraud and non-fraud – from the scholarly research. The five most important of these are as follows:

- the number of taxpayers in relation to enforcement resources;
- the marginal tax rates;
- transparency or the risk of detection/ability to hide defalcation;
- the magnitude of punishment if caught; and
- perceptions of unfairness.

Number of taxpayers in relation to enforcement resources. The 2015 IRS Data Book gives the number of tax filers under the current system as a whopping 159.6 million. As individuals are removed entirely from the tax system, the FAIRtax reduces the number of filers by about 85%. Thus, enforcement authorities can catch cheats by monitoring far fewer taxpayers. Because the number of collection points is so much lower under the Fair Tax, if enforcement funding is held equal then the audit rate for potential evaders increases considerably and the likelihood of apprehension is correspondingly higher. The perception of risk as a deterrent should also increase commensurately. In other words, the risk of detection increases and the risk-adjusted cost of evasion increases.

Marginal tax rates. Second, compliance is inversely proportional to the marginal rate or the reward for being noncompliant. Because marginal tax rates are the lowest they can be under any sound tax system, cheaters profit less from cheating. Marginal rates are also important as a factor of evasion, since they set the reward for cheating. All other things being equal, the motto that "every man has his price" applies to encourage more attempted evasions as the reward increases. Lower marginal rates, if the risk and motivation are the same, imply lower evasion rates because the benefit from evasion declines while the cost of evasion remains comparable. Research has confirmed the intuitive relationship between higher marginal tax rates and higher rates of evasion. Lower rates, all other things being equal, imply lower evasion because the benefits from evasion decline while the costs of evasion remain comparable. However, precisely because of the larger base and lower marginal tax rates, the benefit from lawful tax avoidance or illegal tax evasion under the FAIRtax is much less at the margin relative to either the current system or competing alternative tax systems that have higher marginal tax rates.

For some low- and middle-income households, their total marginal tax rate under our current tax system is 47.6 percent, given their loss, at the margin, of the Earned Income Tax Credit from earning extra income, and their exposure to marginal FICA taxation.

Transparency or the risk of detection/ability to hide cheating. Visibility was specifically mentioned by the Government Accountability Office as affecting compliance. The transparency of the FairTax increases the likelihood that tax evasion is uncovered and leaves little room to hide between honesty and outright fraud (to say nothing of the well-established efficiency of current state sales tax authorities, well experienced in detecting such infractions). When an individual claims exemption, he has to do so in a very visible way at the cash register.

Magnitude of punishment if caught. The severity of applicable penalties is also a factor, but this would be expected to increase. This is not to say that the FairTax adds to the impressive array of penalties now in the code; but rather, that it becomes quite transparent when someone is cheating as opposed to "gaming" the system. When a retailer fails to pay over trust funds, he does so at great peril and with the knowledge that he is violating the law (i.e., committing evasion). Few excuses apply.

Perception of unfairness. Perception of the fairness of the tax system is increasingly regarded as an important consideration. Studies have persuasively shown that attitudes are important determinants of compliance. Having both a negative attitude towards the tax system and perceiving other taxpayers as dishonest significantly increases the likelihood a person will evade taxes. Today, cheating is encouraged by the perception that one's neighbor is not paying his or her fair share. Under the FAIRtax, as the costs of compliance shrink and the perceived fairness of the tax system increases, some of the hostility to the tax system will decline.

Enforcement resources. State tax administrators can focus enforcement resources on far fewer taxpayers, using consistent and vastly simpler forms, with far fewer opportunities to cheat, diminished incentives to do so, and a far greater chance of getting caught if they do.

The FAIRtax eliminates a major problem with non-filers.
Today, an estimated 18 million wage-earning Americans have dropped out of the income tax system entirely as "non-filers." As noted above, non-filers alone accounted for $28 billion of the tax gap in 2006, more than 2.5 times the amount in 1992. Under the FAIRtax, nonbusiness non-filers find it very difficult to avoid the tax. This aspect of the underground economy is successfully taxed at the retail level under the FAIRtax.

The Central Problem Ignored: Failure to Adopt a Border-Adjusted Tax System
The decline of U.S. manufacturing and the ascendancy of foreign competition have been due in large part to the failure of the U.S. to adopt a border-adjusted tax base.

The current tax system harms the competitiveness of domestic producers and workers. The U.S. tax system imposes heavy income and payroll taxes on U.S. workers and domestic producers whether their products are sold here or abroad. As noted, U.S. corporate taxes are the highest in the industrialized world, with a top corporate rate about nine percentage points higher than the OECD average.[20] At the same time, the U.S. tax system imposes no corresponding tax burden on foreign goods sold in the U.S. market. Moreover, foreign VATs, which are a major component of the total revenue raised elsewhere, are rebated when foreign goods are exported to the U.S. market. This creates a large and artificial relative price advantage for foreign goods, in both the U.S. market and abroad.

Through WTO compliance means, the FAIRtax exempts exports from taxation, while taxing imports the same as U.S. produced goods for the first time. It is the simplest plan that could be devised, without the inter-company (and intra-company) transfer pricing problems present in an origin-principle income or consumption tax. It reduces U.S. corporate rates to zero, ensuring the U.S. is the most competitive environment in which to produce and from which to export. And it would stimulate economic growth by broadening the tax base and reducing marginal rates well beyond any other proposal and do so in a way that does not tax the poor, punish savings and investment or tax income more than once.

In summing up, we quote the President of the National Small Business Association, *"Our members choose the Fair Tax because it is the most efficient and least intrusive form of taxation. It would relieve small business owners from their current role as proxy federal tax collector for income taxes and payroll taxes. Those retail locations that did collect and remit sales taxes to the government would see their overall net tax paperwork burden vastly reduced. The Fair Tax would treat all forms of small business entity the same by eliminating the need for business owners to make the complex and costly choice of business entity for tax purposes."*[21] And, it would put American producers on an equal footing with their foreign competitors, fostering economic growth and much needed job creation.

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[20] Edwards, Chris, "The U.S. Corporate Tax and the Global Economy," Cato Institute, September 2003.
[21] Prepared Remarks of Mr. Todd McCracken, President National Small Business Association, to the House Small Business Committee, February 1, 2006.

March 26, 2015

Tax Code Subcommittee
House Ways and Means Committee

Re: Individual Income Tax; American Overseas

Honorable Congresspeople,

I am an American citizen who has lived continuously in China and Hong Kong for the past 14 years. As a US citizen I vote in Portland, Oregon. US taxation and FATCA are making my and my family's life hell. One bank has already informed us they will close our account. Others refuse us investment and mortgage services. **We are ready to renounce our citizenship *and become Chinese citizens*** because of the way the IRS treats us like criminals.

I wish to make the following proposals for tax reform.

Regarding taxation of US citizens living permanently abroad:

This must end. I propose that any US citizen who remains continuously abroad for three (3) years should be exempt from US income taxes and filing requirements (including bank account filing requirements under FBAR and FATCA).

For example, the citizen is responsible for filing IRS forms (while still getting the 2555 and foreign earned income exemptions) and paying taxes (if owed) for the first 3 years residence abroad. Thereafter, he registers with the IRS as a Tax Exempt US Citizen Abroad, proves that he/she has been compliant in all taxes paid and forms filed, and is from then on free of US filing requirements, until he or she returns to work in the United States. This can be construed as reasonable, since expatriates on 2-year contracts are generally only temporary in their intentions and their thinking, and those staying longer are generally more committed to remaining outside the US longer-term. I believe NO US person should file or pay US taxes when living abroad, but I think redefining a "bonafide foreign resident" as someone abroad more than 3 years might possibly be a solution palatable to all.

Regarding FBAR and FATCA:

Same as above. However, adding a three-year rule imposes even more complexity on foreign financial institutions. For this reason, I strongly advocate the total repeal of FATCA.
Thank you for your attention.

Sincerely,
B. Quinton

Wednesday, October 26, 2016 at 10:14:06 AM Eastern Daylight Time

Subject: Hearing on Fundamental Tax Reform Proposals
Date: Tuesday, March 22, 2016 at 1:50:31 PM Eastern Daylight Time
From: Chuck Bailey
To: waysandmeans.submissions@mail.house.gov

Chairman Boustany,

A flat tax is fake tax reform that does not address the real tax problems like tax evasion, tax inversion and hidden taxes. My input is that the 'flat' tax is still just an income tax with all its associated problems. We've had an income tax since 1913. The 1913 law imposed a tax of 1 percent on income up to $20,000, for both individual and joint filers. However, exemptions from the tax ‹ the first $3,000 of income for individuals and the first $4,000 for joint filers ‹ meant "virtually all middle-class Americans" were excused from paying, according to W. Elliot Brownlee's book, *Federal Taxation in America*. The law also put in place a graduated surtax on incomes above $20,000; the highest rate paid, 7 percent, applied to Americans making more than $500,000 (about $11.4 million in 2011 dollars). See:http://www.politifact.com/texas/statements/2012/jan/31/ron-paul/ron-paul-says-federal-income-tax-rate-was-0-percen/

There were a total of 357, 598 tax filers in 1913 who "contributed" $28 million. By 1916, 336,652 "contributed" $68 million - more from less. But, this setup didn't last long. Today, over 150 million tax filers submit tens of millions of forms, which is nothing more than a tax on our productivity: revenue taken out of the economy to perform non-growth tax collection. View the following image to see what will happen to a 'flat' tax rate. Can you see that it will just be "kicking the can down the road" for a future congress/generation to fix? FAIRtax is bold. Flat tax is just "kicking the can down the road".

America's Big Solution to taxation is the FAIRtax. Learn more at www.BigSolution.org

(https://en.m.wikipedia.org/wiki/Income_tax_in_the_United_States#/media/File%3AHistorical_Marginal_Tax_Rate_for_Highest_and_Lowest_Income_Earners.jpg)

Looking forward to an up or down vote of the FAIRtax on the House floor,

Charles & Mary Lynn Bailey
156 Hillsdale Drive
Gurley, AL 35748

Sent from my iPad

Letter to the House Way and Means Committee
Subcommittee on Tax Policy
Hearing on Fundamental Tax Reform:
Income Tax Reform Proposals
April 13, 2016

"Tinker! Tinker! Tinker!"

My mother-in-law used to sometimes become anxious about some little something: "What if it isn't totally correct! How am I going to finish this on time? Where are we going to put everything?" .... etc. At the outset of any of this, we would chime in with: "Worry! Worry! Worry!" She would laugh with us and then go about whatever needed to be done. I think about that a lot nowadays during this presidential campaign season.

What I mean is many candidates, save one, have come out with "tax reform" that is supposed to save the United States. But, when they display their plans, all I can think of is "Tinker! Tinker! Tinker!" Tinker with the brackets. Tinker with the income levels. Tinker with taxes on corporations. Tinker with the Adjustments: Exemptions, Deductions, Exceptions and Credits. You name name it! "Tinker! Tinker! Tinker!" You do remember the old cliche that "insanity is repeating the same mistakes and expecting different results!" It is time to stop this madness and really fix the problem. And the only proposal out there that actually addresses tax reform is the FAIRtax. The only candidate espousing the FAIRtax (HR 25 in the U.S. House and S 155 in the Senate) was Gov. Huckabee. He was the only candidate who had an actual concept for true tax reform.

If you want to see where all this tinkering leads, you should really peruse this document: *Federal Individual Income Tax Rates History, Nominal Dollars Income Years 1913-2013,*

http://taxfoundation.org/sites/default/files/docs/fed_individual_rate_history_nominal.pdf

It starts in 1862 and lists in bracket form the year-to-year changes to the marginal income tax rates. The real meat of the document starts in 1913 (16th Amendment ratified) through 2013. To illustrate the insanity of the income tax rate schedules, the following "flattening" data is offered:

1. In 1986, the rates were flattened to 15% and 28% to become effective in 1988.
2. The rates and number of rates were reduced in 1987.
3. The "flattened" rates of 15% and 28% became effective in 1988.
4. In 1991, there were three rates: 15%, 28% and 31%.
5. In 1993, there were five rates: 15%, 28%, 31%, 36% and 39.6%.
6. In 2001, there were five rates: 10%, 27.5%, 30.5%, 35.5, and 39.1%.
7. In 2002, there were six rates: 10%, 15%, 27%, 30%, 35% and 38.6%.
8. In 2003, there were six rates: 10%, 15%, 25%, 28%, 33% and 35%.
9. In 2013, there were seven rates: 10%, 15%, 25%, 28%, 33%, 35% and 39.6%.

And, I leave the exercise to reader to look and see how the brackets jumped around during these changes. "Tinker! Tinker! Tinker!" This exercise illustrates the insanity discussed earlier in the message!

After you browse through the pages, you will be asking yourself: "How are these latest tinkerers going to overcome almost 103 years of "Tinker! Tinker! Tinker!" to make taxing my labor with an income tax a good thing?"

Let's stop the insanity and "Pass HR 25, the FAIRtax!"

Sincerely,

Charles P. Bailey
156 Hillsdale Drive
Gurley, AL 35748

Submission to:
House Ways and Means Tax Policy Subcommittee
Hearing on Fundamental Tax Reform Proposals

The United States should join the rest of the world and REPEAL citizenship based taxation in favor of residence based taxation. If only to cut the costs of the excessive paperwork on all sides that comes from tracking citizens who reside abroad.

Every other country in the world except for Eritrea taxes based on RESIDENCE rather than CITIZENSHIP. Citizenship based taxation disadvantages US Persons residing outside of the US, which disadvantages the country as a whole. These disadvantages come from:

- Excessive compliance costs: The reporting requirements on non-US bank accounts and financial assets for US persons residing outside of the US are excessive and intrusive. Accounts and investments held in the country (or economic area) of residence are not tax-motivated, and should not require the same level of disclosure as the non-US accounts of US residents. It is not unusual for a moderate-income US expatriate to spend hundreds of dollars or more to prepare a US tax return showing a US tax liability of zero.
- Double taxation: Tax treaties cannot eliminate double taxation for US expatriates. This is because US persons living in another country must follow the tax rules where they live, which will certainly be different from US tax rules. Retirement savings, mutual fund investments, and capital gains taxes on personal residence are common areas of difference. Where the tax rules are different, US Persons residing outside of the US end up paying the higher tax rate on each category.
- Competitive disadvantage: due to excessive US reporting requirements for non-US assets and double taxation, US persons working outside of the US will pay more in taxes and compliance costs than their non-US peers in their country of residence. This will disadvantage US persons in seeking employment overseas and will reduce the number of US persons who have international work experience. This, in turn, makes the United States as a whole less competitive in international markets.

Support for the URGENT need for reform in the area of the taxation of US expatriates can be found in the last few reports of the Taxpayer Advocate Service, including a recommendation in the recently released 2015 Report to Congress that foreign bank account reporting exclude accounts held in the country of residence.

Finally, I would like to call the Committee's attention to an international perspective on US citizenship based taxation in an article written by Professor Allison Christians of McGill University entitled "Uncle Sam Wants ... Who? A Global Perspective on Citizenship Taxation" available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2717367.

21 March 2015

United States House Ways and Means Tax Policy Subcommittee
Washington DC, USA

Subject: Tax Reform for USA Citizens Living Overseas

Chairman Charles Boustany and Distinguished Members of the US House Ways and Means Tax Policy Subcommittee:

The 8.7 million American citizens living overseas face unfair and unjust taxation from the United States due to their nearly unique and archaic policy of Citizenship Based Taxation (CBT). Note that the USA and Eritrea alone practice CBT while all other countries in the world uses a much fairer Residency Based Taxation (RBT) approach. Over the past decade, the US Government has ratcheted up the both the complexity and enforcement of the myriad of unfair CBT laws affecting millions of law abiding citizens overseas.

My personal situation is that I left the US 25 years ago for work overseas and ended up living long term in the Southern Hemisphere. As I left as a young man, the great majority of my assets have been earned while I have lived overseas and I receive virtually no services from the USA. Imagine living in California for seven years, then moving to Tennesse yet still being taxed by California for the next 25 years without receiving any services or benefits from California – this is a good analogy of our situation.

Despite my ongoing efforts to diligently comply with annual US tax reporting and legislation, it is nearly an impossible task due to the complexity and unforeseen consequences of trying to comply with two country's tax systems. This leads to unnecessary costs, double taxation, difficulties in procuring financial services and challenging impediments towards simply provide long term financial security for my family and ensure a self-funded retirement – all CBT tax system barriers that US resident taxpayers simply do not have to deal with.

A few personal examples of CBT issues that my family faces:

- Our US tax reporting obligations are by nature highly complex and in many cases contradictory. This is not surprising when tax systems of two countries clash. At the same time, the IRS has scaled back international engagement and, as often documented by the US Taxpayer Advocate, the IRS has clearly has done little to assist and educate overseas Americans. The end result is that US Tax compliance becomes ever more costly, time consuming and, arguably, impossible to get right. The issues are not only income tax, we also face complexities within the other two tax pillars of gift and inheritance taxes. Even trying to prepare a simple will becomes a confusing, costly and complex two-country exercise. We also are responsible for tax reporting and compliance in our resident country which results in considerable time and cost managing a two country system.
- We, like many overseas Americans, face unfair double taxation in a number of areas (the latest example being NIIT which is applied after the Foreign Tax Credit so therefore clearly becomes double taxation).
- In many cases, we are unable to take advantage of legitimate tax concessions provided in our country of residence yet we are also denied tax concessions available to US domestic residents in key financial areas such as retirement and education savings. As another example, I was recently made redundant from a company I have worked for the past 20 years. Australia provided a modest level of tax concession on my redundancy termination payment yet I am advised that the USA treats this

payment as fully taxable general employment income and will therefore basically sweep up much of the Australian tax concession through additional US taxes.

- We are either denied access to or face material impediments towards basic and legitimate financial investment tools in order for us to provide for a (self-funded) retirement. US tax treatment of Australian Superannuation is unfair given our compulsory Superannuation programme is not recognised as a complying US retirement scheme. This is also not adequately addressed in tax treaties and totalisation agreements. The PFIC rules designed to prevent Americans from investing into overseas mutual funds have historically not been well communicated or enforced. It is very hard to live overseas long term and not participate in these sorts of financial instruments for retirement preparation but, if enforced, the PFIC taxation rules are absolutely draconian and possibly confiscatory in practice when applied to long term foreign mutual fund holdings.

This is not the first time that our politicians have called for tax reform submissions yet afterwards have failed to engage and respond to these pressing issues. I attach for further information, a submission I made to the United States Senate Finance Committee where once again, no action was taken to address these unfair CBT issues faced by millions of Americans overseas.

Our family feels heightened levels of fear, anxiety and stress as a result of America's increasingly aggressive stance towards taxation of overseas Americans. This has resulted in a growing backlash of anger at our country of birth. With the latest imposition of FATCA reporting to enforce US tax policy around the world, millions of overseas Americans are increasingly becoming aware of the current unjust CBT regime and the backlash is gathering steam (just look at the steeply increasing citizenship renunciations). Residency Based Taxation is the clear and just answer, as most countries in the world have worked out. In the case of the US, it is possible that moving to RBT could even be essentially revenue neutral.

Attachment: 14 April 2015 submission to the US Senate Finance Committee

Attachment 1 – Submission to US Senate Finance Committee

United States Senate Finance Committee
Washington DC, USA

Subject: Tax Reform for USA Citizens Living Overseas; Submission to Individual Income Tax, Savings & Investment and International Tax Working Groups

To Whom It May Concern:

Almost 24 years ago, my wife and I moved to New Zealand for a 2-year work assignment. For numerous reasons, we ended up living long term in the southern hemisphere, with the past 19 years spent in Australia. I am employed by a large Australian company on a local staff basis and do not received company assistance regarding my US tax obligations. Given that we have lived overseas long term, more than 90% of our assets are within Australia and we do not maintain a US address. While in New Zealand, we started our family and have raised two children, now young adults, who are also American citizens.

We have always diligently complied with our taxation obligations. When American Citizens Abroad informed us that the Finance Committee was soliciting feedback on taxation from the public, I felt it was important to share our experiences with the large number of challenges we have and, continue to face, as long term US expatriates seeking to comply with citizenship-based taxation as mandated by US tax code. Citizenship-based (as opposed to residence-based) taxation is rather unique in the world and presents significant challenges to American expatriates far in excess of those faced by the great majority of US citizens who reside within America. These challenges include:

1. Substantially increased complexity over US domiciled taxpayers leading to significant compliance difficulties and costs
2. Double Taxation
3. Impediments to participating in the financial investment industry to provide long term security for our family and ensure a self-funded retirement

In the remainder of this submission, I would briefly like to elaborate further on each of these challenges.

1. Tax Reporting Complexity & Compliance Difficulties and Costs

Citizenship-based taxation adds considerable complexity to preparing our annual tax returns, increasing compliance difficulties and costs. The great majority of our income is derived from Australian employment and investments, where Australia works to a financial year (June to June) reporting period. Australia has a higher personal income tax regime than the USA, with my tax bracket approaching 50%. For many years, I self-prepared our tax returns, spending many weekends working to re-characterise our income to US tax code requirements. For example, Australian financial statements are prepared for Australian tax code and financial year reporting conditions so the reports may not characterise income correctly or in the correct time frames so that I can take advantage of, say, long term capital gains tax discounts.

I also must convert Australian currency to US dollars where income might be increased or decreased due to exchange rate vagaries. This is frankly irrelevant to my actual income given I earned salary and participated in the Australian economy rather than the US economy. The end result was that I often spent more than 40 hours preparing tax forms to owe zero tax in the USA. As my income and savings towards retirement grew, I reached the point that I no longer felt confident with self-preparation and was forced to employ professional

US based tax preparers; still taking many hours of my time and increasing compliance costs. The tax complexities have reached the point where, despite using tax professionals, the returns are becoming too complex for our US based tax preparer.

2. Double Taxation

Citizenship-based taxation has also unfairly exposed us to double taxations. As previously stated, I am highly taxed at a top ~50% tax rate which is in excess of current US income tax rates. Two examples include: 1) Net Investment Income Tax which, apparently through poor drafting of the tax code, is applied after the Foreign Tax Credit, which leads to double taxation in the USA on Australian investment income that I have already paid a high tax rate within Australia; and 2) Difference is tax treatment of retirement investment accounts. In the USA, retirement accounts like 401(K) accounts allow pre-tax contributions, incur tax free growth but become fully taxable on withdrawal. On the other hand, Australian compulsory superannuation retirement accounts have concessional tax rates for contribution and growth but provide tax free withdrawal. To the best of my knowledge (barring tax treaty provisions), the US will treat the Australian distribution as taxable, negating the tax advantages intended for all Australian residents.

One effect of citizenship-based taxation is that the many legit tax deductions, benefits and incentives provided in Australia or USA tax codes are not generally recognised by the other country which disadvantages my family in regards to other Australian or US citizens. It is possible that some relief may be available through USA–Australia tax treaties; however, I have found them to be inaccessible to a layman such as myself and I am struggling to obtain affordable professional advice.

3. Impediments to Providing Financial / Retirement Security

As a long term Australian resident who earns an income and participates in the Australian economy, the US tax codes presents formidable challenges to save for a self-funded retirement. In addition to the double taxation discussed previously, US tax code throws up many challenges such as Passive Foreign Investment Corporation (PFIC) rules that discourages US citizens from owning Australian based passive investment funds through the application of punitive tax rates on disposal. This is further complicated by the fact that most US Investment companies (ie Fidelity, etc.) decline to open US domiciled accounts for us given we do not maintain a US residence. This results in a Catch-22 situation where our investment options are limited.

In closing, we love the life we have developed in Australia and remain proud citizens and ambassadors of the USA. The taxation treatment of US citizens abroad is inequitable and unnecessary for people such as us who virtually do not participate in the US economy or receive benefits or services from the United States. The current approach creates stress, fear and inequitable costs.

I would like to encourage the Senate Finance Committee to consider the plight of millions of US citizens who live overseas. The many inequalities of citizenship-based taxation are unfair to those of us living overseas and increasingly alienate us from our much loved country of birth. I would also encourage members of the Working Groups to read the recent survey-based research by Dr. Amanda Klekowski von Koppenfels, University of Kent, on US citizens living overseas: Univ Kent study brief and US citizenship renunciation Kent study summary

I look forward to hearing how the Finance Committee proposes to address the unfair and inequitable taxation issues faced by millions of US citizens living overseas. Thank you for reading this submission and for your consideration.

Submission statement for the Ways and Means Committee 21 March 2016

FATCA processes, FBAR compliance rules, citizenship based taxation, the exit tax and the abuse of birthright citizenship laws are causing misery, hardship and suffering across the accidental US citizen diaspora. The Ways and Means Committee must examine the following issues.

1. The US government is extorting large fees, penalties and taxes from accidental Americans after having forced dual citizenship on accidental Americans, even in circumstances where for decades the State Department and the Border Control failed to recognise those individual accidental Americans as US citizens and the State Department has never run an information campaign to find these people and inform them of their rights and obligations. This looks like cynical opportunism.

2. If we accept that US nationality law is a sacred aspect of the constitution, why does the US make the process to exit the relationship so cumbersome, slow and expensive for accidental Americans? Why force extreme disclosure requirements, high fees and lengthy compliance requirements on this accidental diaspora and thus exploit and alienate them?

3. The US is the only country in the world to have accidental citizens and the only democratic country in the world to impose citizenship based taxation thus making citizenship for those who live outside the territorial limits of the US unbearably burdensome and now incompatible with living a normal life in their country of residence.

4. Current US government policy is to force accidental Americans to provide documentary evidence of their entire life outside the US in a deeply intrusive manner in order to acquire a SSN and then access the only exit route of formal renunciation from this forcibly imposed citizenship. These processes have uncomfortable echoes of the proof of descent demanded by the fascist Nazi German regime of the 1930s.

5. The US Treasury department has the current policy of forcing full disclosure of all the financial assets of accidental Americans through the FBAR requirements. These are people who have never lived in the US and have no assets in the US. This is deeply intrusive and a violation of the right to privacy.

6. The application of the exit tax to accidental Americans is unjustifiable. Accidental Americans have never accumulated wealth in the US. Why should the US treasury participate in the property booms of Vancouver, London or Hong Kong vicariously feeding off its international accidental diaspora through this pernicious tax? The exemption does not apply in all cases.

7. The standard form of FATCA Intergovernmental Agreement selects birthplace in the US as a prime indicia for US persons. This is arbitrary as there are many other ways of being a US person which will not be caught by the selected indicia and this method deliberately targets accidental Americans, those born on US soil but otherwise with no connection to the US.

8. The current application of US law birthplace citizenship and citizenship based taxation by the IRS and the State Department is an attack on the financial stability of accidental Americans. An accidental American married to non-US persons will very often hold assets jointly with their spouse, something a real US expat would always avoid because of the unfairness of the US treatment of mixed marriages (which incidentally leaves US spouses resident outside the US asset poor and financially vulnerable). The US laws then treat the jointly held assets as the assets of the US person alone and the FATCA processes cause those assets to be contaminated by the US person's status. For example, an accidental American-British citizen married to a British citizen with two British citizen children has had all of the family's saving accounts blocked because either they are held jointly with the spouse or the accidental US person has signing power over the children's accounts. The accidental US person has contaminated the assets of the entire family. This interferes with the right to a family life.

9. US tax law discriminates against mixed marriages (US person non-US person) failing to allow assets to pass from spouse to spouse free of tax. Family ties should count more than nationality.

10. There is one further inestimable loss and cost for the US: its international reputation will now be cemented as the bullying opportunist driven by an irrational greed for money. The US had natural allies in its accidental diaspora. There are now thousands if not millions of accidental Americans who are angry with the US, who feel exploited, humiliated and violated by the US and its procedures. They feel that they have been forced to buy their freedom in order to carry on with their very ordinary lives. The US has attacked their personal freedom, invaded their most private affairs, caused great anguish and divided families. These actions will tarnish the view of the US for this group of people and their families for generations.

I look forward to the day when the US discovers the ability to deal fairly, honestly and justly with its accidental citizens and apologises to its victims and compensates them. I invite this Committee to do so now.

Politicians of the government, by the government, for the government of corporations, only care about corporate interests for their own personal financial gain. This was demonstrated after the Senate Finance Committee coldly ignored 347 international tax reform submissions made as of April 30, 2015. Likewise, Senate Finance Committee coldly ignored submissions made in January 2014.

If the Committee on the Ways and Means was seriously interested in real tax reform, then it would read the past submissions submitted instead of requesting their resubmission to be ignored again.

So, let's be honest. The Committee on Ways and Means will continue to ignore the needs of the people in favor of corporate lobbies for political profit. It will seek for territorial taxation for corporations only while ignoring the plight of unrepresented Americans living abroad, just as how such has always been done with corporate representation. Corporate interests for political profit is the Way and Means of how the government represents its corporate persons. Anyone who thinks that the government cares anything about the people is a fool.

HEARING ON FUNDAMENTAL TAX REFORM PROPOSALS

To: the Committee on Ways and Means

From: an American abroad who simply wants a normal life

Request: Adopt Residence Based Taxation, like the rest of the free and modern world

Dear Sir or Madam,

I am a middle-aged mother of two young children, married to the love of my life, who happens to be Norwegian. We live and work in Oslo, Norway. I was born and raised in the US, but love and fate have moved me across the ocean.

My American citizenship is preventing me from living a normal life abroad. FATCA is not the cause. The Internal Revenue Code and Citizenship Based Taxation are to blame. This is a short list of the very real, very terrible things that are happening to me, inflicted by the country I was once extremely devoted to.

I cannot buy life insurance with a savings component in Norway due to punitive taxation. Therefore, I cannot sufficiently provide for my children in the event of my untimely death.

I cannot invest in mutual funds in Norway due to punitive PFIC taxation. I also cannot invest in US mutual funds because I do not live in the US. Therefore, I have no effective way to save for retirement.

My Norwegian employer's contributions to my pension, as well as all growth, will be taxed annually by the US. This is tax-deferred in Norway, much like an IRA, and I will be taxed again by Norway when I retire. **Therefore, I am clearly suffering from double taxation.**

I can incur capital gains tax on my home simply based on the movement in the exchange rate. The US considers my functional currency to be USD although my entire life is transacted in Norwegian krone. Therefore, **I cannot plan for my future** because I have no idea what the FX rate can be when I sell my home.

I cannot advance in my career because my employer will not want an American to have signature authority over financial accounts due to FBAR reporting. Therefore, I will not achieve my full potential, and my daughter will not see exactly how far a woman can make it in the business world.

I cannot guarantee that I have filed every form exactly as the complicated tax code and guidelines demand, even though I pay $700 a year to have a professional file my taxes. Therefore, **there are nights I cannot sleep** worrying about the draconian fines that I may incur, even for a non-willful mistake.

There is no way this situation can be fixed with Same Country Safe Harbor Exemptions, or updating individual country's tax treaties, or attempting to layer additional tax code on top of the existing 77,000 pages. **The only remedy is to repeal Citizenship Based Taxation and implement Residence Based Taxation like the rest of the free world.** You can keep the complicated international asset tax laws for Americans living in the US, but please do the right thing and free those of us living abroad to live normal lives. **We are not trying to avoid taxes; we are simply trying to lead normal lives.** We want life, liberty, and the pursuit of happiness, as is our constitutional right, even if it we reside outside of the United States of America.

Sincerely,

An American abroad who simply wants to have a normal life

March 19, 2016

Honorable Senators,

I am an American citizen, originally from Massachusetts, who has been living in Europe for the last 45 years. This was not planned, but I completed my education here, fell in love, married, raised a family, worked, and am now retired.

I am writing to you concerning the unfair tax laws imposed on Americans living abroad. According to current law, American citizens are required to file U.S. taxes even if they are living, working, and earning income abroad. In other words, despite not benefitting from the resources available to Americans living locally, Americans living abroad are required to essentially pay a citizenship fee. Other than Eritrea, the United States is the only country in the world to impose a tax on its non-resident citizens. Further, it is the only country to tax its non-residential citizens the same as its residential citizens, despite the fact that non-residential citizens are denied the benefits of a residential citizen, such as Medicare, unemployment benefits, certain investment plans, etc.

This broken tax system indiscriminately taxes its citizens abroad, double-taxing Americans who even face higher costs of living abroad. For example, we pay much higher income taxes and sales taxes in Europe than in the US. Yet because of the different national tax systems, this is no insurance that the IRS will not demand payment. Moreover, we live in fear of errors or omissions because of the extremely elevated fines (up to 3 times the amount in a bank account). Our foreign spouses do not accept to declare their revenues to the U.S., so we cannot hold joint accounts (putting ourselves into uncomfortable positions). Even more scandalous is the fact that the U.S. requires declaration of revenue and bank accounts of "accidental Americans", children born abroad never having lived in the U.S.

This broken tax system is also very expensive and very inefficient. It does not catch U.S. residents with money hidden in tax havens, but it costs Americas abroad (international accountancy fees, difficulties to hold accounts in local banks, and lost job opportunities), banks (cost of compliance with FATCA), IRS (processing paperwork from potentially 8 million Americans abroad, the great majority of whom end up not owing U.S. taxes).

I therefore strongly recommend an end to "Citizen-Based Taxation" and the adoption of internationally recognized Residence-based taxation. Any US citizen who remains continuously abroad for three (3) years should be exempt from US income taxes and filing requirements (including bank account filing requirements under FBAR and FATCA).

Fairness in taxation is one of the founding principles of the U.S. It is up to you to make the U.S. tax system fair again.

Thank you for your attention.

Submission to the House Ways and Means Tax Policy Subcommittee of the Committee on Ways and Means

Dear Chairman Boustany,

I am not a US citizen - at least I don't consider myself as such and most certainly have not lived my life as such - however, as a result of the Foreign Account Tax Compliance Act (FATCA) I, and millions of fellow "Accidental Americans" have unwittingly been subjected to the insane tax filing and reporting system the US imposes on its overseas citizenry. As a dual French / Irish citizen I can assure you that the US' treatment of its diaspora is unique in the world and in urgent need of reform.

In case you are not familiar with the concept of Accidental Americans I have attached a recent memo, our collective of European Accidentals, submitted to the European Commission.

We know that the US authorities are aware of our existence. We were officially recognised in President Obama's 2016 and 2017 Green Books and also in The National Taxpayer Advocate's 2015 report to Congress. Everybody seems to agree that Accidentals are suffering a terrible injustice in the wake of FATCA yet nothing, I repeat nothing, has been done by the US authorities since FATCA was implemented to help us find a way out of the Kafkaesque nightmare we are experiencing. Personally I have sent in excess of 250 letters to US politicians and authorities and am still without a meaningful response. We are not the tax cheats FATCA is purportedly aimed at. We are innocent foreigners caught in the cross-fire of ill conceived and poorly articulated US tax laws and policies. All we ask is to be allowed to shed our unwanted US citizenship on a no fees, no filings, no penalties basis so that we can continue leading our ordinary lives as foreigners without interference from the US.

Having been involved in these issues for over a year now, and with first had experience of the manner in which the US treats its overseas citizenry, I implore you and your Subcommittee to listen to what your expats are telling you. All the US expats I have come across in the past 12 months are upstanding citizens, fantastic unofficial ambassadors for the US and generally great people. The US should be proud of them and cherish them. Often they represent the *creme de la creme* of US society yet they seem to be viewed with suspicion by the US authorities, who assume that if they live overseas they are up to nefarious activities. Nothing could be more far from the truth. In the past year I have exchanged with thousands of US expats and I can vouch for each and every one of them - they are ordinary people (teachers, doctors, lawyers, students, spouses, etc.) who for a myriad of bona fide reasons have decided to live abroad (work, family, etc.). They are not "fatcats" hiding ill-acquired gains in overseas accounts and yet they are the ones who are feeling the brunt of FATCA.

My requests to you and your Subcommittee are therefore the following:

1. Grant Accidental Americans an "amnesty". We have drafted the necessary text which is set out below.

2. Listen to what US expats are saying to you regarding Citizenship Based Taxation, FBARs and FATCA. No doubt others, more informed, will send more exhaustive requests, however, in outline:

- Repeal Citizenship Based Taxation and replace it with the universal norm of Residency Based Taxation. If CBT is repealed, as it should be - US expats are suffering double taxation; the burdens and compliance costs of CBT are unwarranted especially given CBT raises very little, if no, revenue for the IRS; morally and legally CBT has no justification - then FATCA will become much less of an issue.
- Remove the punative fees payable in respect of FBAR fillings: penalties should be related to a dishonest intention. Raise the thresholds for FBAR filings significantly.
- Reform FATCA in particular implement a Same Country Safe Harbour and amend/remove the 30% penalty on banks so that they will, once again, start to accept US clients or better still adopt CBT, repeal FATCA and join the OECD Common Reporting Standards.

Proposed Amnesty for Accidental Americans

Grant Accidental Americans a full amnesty on a no-tax, no-penalty and no-fee basis, and a quick unbureaucratic exit from unwanted, unrequested US citizenship on these terms:

Those who at birth were dual citizens of the US and of a foreign state and:

- *at all times and up to the date of their expatriation remained citizens of another state;*
- *never resided in the US after attaining the age of 18 and a half;*
- *never held a US passport, or only held a US passport for the purposes of leaving the US or because the US State Department required them to travel into and out of the US on a US passport, or who held a US passport as a minor and did not renew or ceased to renew the US passport as an adult;*
- *relinquish their US citizenship within a period of 2 years following 1 January 2016 or in the two year period following the date on which they discovered their US citizenship;*
- *certify under penalty of perjury compliance with all US federal tax obligations that would have applied during the 5 years preceding the year of expatriation as if they had been a non-resident alien during that period, may exit the relationship with the US on a no fee, no penalty and no tax basis.*

Memo to EU Parliamentarians and the EU Commission

"Accidental Americans" and the issues they face following the implementation of the *Foreign Account Tax Compliance Act* (*FATCA*) to enforce U.S. Citizenship-Based Taxation (*CBT*)

The United States of America is the only developed country that applies Citizenship-Based Taxation (***CBT***) rather than the universal norm of Residence-Based Taxation (***RBT***). This form of taxation is based on citizenship and not on residency.

As a result, Americans living overseas must file two tax returns, one with the U.S. Internal Revenue Service (***IRS***) and the other with the tax authorities of their countries of residence. By contrast, citizens of other countries living in the US would not typically be required to file a tax return in their home jurisdictions in relation to income earned outside their home jurisdiction.

The U.S. also has an unusual form of citizenship law, which has no residency condition. This results in there being two categories of "Americans living overseas":

- American expatriates: these are people who grew up and studied in the U.S. or were born to U.S. parents (where one or both U.S. parents meet the criteria for transmission of U.S. citizenship to their children) outside the U.S. but have strong links to the U.S., who possess a U.S. social security number (***SSN***) and a valid U.S. passport (which they use), who have probably previously filed tax returns in the U.S. and know that they remain U.S. citizens and taxpayers wherever they reside (although even many of these people are not aware that they need to file tax returns when they leave the U.S. - it is after all counterintuitive to pay for services you do not receive); and

- "Accidental Americans": these are people who acquired dual citizenship at birth "by accident" and are now deemed by the U.S. to be U.S. citizens. Born to non-U.S. parent(s), they typically acquired U.S. citizenship automatically as a result of their birth on U.S. soil (*jus soli*), but they left the U.S. in their infancy and retained no meaningful ties to the U.S.: they have never studied or worked in the U.S., they have no cultural or economic ties to the country and no (or at most tenuous) family ties to the country. For "Accidental Americans" the U.S. is a foreign country; many do not even speak English.

When the U.S. enacted the Foreign Account Tax Compliance Act (***FATCA***), it created a law with an extraterritorial reach incomparable with any other law ever enacted. But FATCA only became effective within non-U.S. jurisdictions when individual countries signed intergovernmental agreements with the U.S. (***IGAs***). Until FATCA letters started to arrive from their banks, "Accidental Americans" were completely unaware that they could be considered U.S. persons (or legitimately believed that they had previously lost their U.S. citizenship). As E.U. citizens they were ignorant of their filing and reporting obligations to the IRS.

For decades, the U.S. State Department and U.S. Customs either failed to recognise "Accidental Americans" or failed to enforce U.S. citizenship laws in a consistent manner allowing them to travel to the U.S. on their "other" passport - in breach of the requirement for U.S. citizens to travel in and out of the U.S. on a U.S. passport - thereby further compounding the confusion regarding their status. Had the U.S. authorities displayed a consistent approach towards "Accidental Americans" or provided a public information campaign worldwide to alert all parents of Accidental U.S. citizens or the adult "Accidental Americans" during the last 50 years to the burdens and obligations of their status and provided expedited relinquishment of the automatically imposed status, today's situation would not have arisen. "Accidental Americans" would have been made aware of their "condition" much earlier and it is most likely that these people would have taken the opportunity to exit the relationship when eaching adulthood (the U.S. allows adults to exit on a tax free - and until recently no fee basis - within 6 months of turning 18).

What exactly is FATCA?

On 18 March 2010, with the stated aim of combatting tax evasion, the U.S. passed FATCA as part of the 2010 HIRE Act.

Pursuant to FATCA, foreign financial institutions throughout the world are required to provide the IRS with certain information regarding clients they identify as having a U.S. *indicium*, under the threat for failure to comply of a punitive 30% withholding penalty tax on effectively any dollar payments the financial institution wants to conduct. In brief, foreign financial institutions have become the investigative arm of the IRS in exchange for being allowed to participate in the U.S.-dominant banking payment and settlement systems. If the U.S. dollar were not the major currency of international trade and finance, the U.S. would not be able to coerce the international financial markets to act in this way. This is an abuse of power by the U.S. of its privileged position.

The cost of implementing FATCA in terms of due diligence and compliance is said to have cost U.K. companies alone GBP 1 billion to date and it is estimated that the cost to the 30 largest non-U.S. banks in the world (most of which are European) will average US$7.5 billion. These are not one-off costs.

In order to implement the extraterritorial features on which FATCA is built, the U.S. (without seeking the approval of Congress) signed a network of over 100 IGAs with countries worldwide with the apparent aim "to improve international tax compliance and implement FATCA". In fact, the U.S. had to do this as most national legal systems prevent the transmission of personal data to foreign authorities. Financial institutions would therefore breach (as a minimum) their local data protection and banking secrecy laws if they were to comply directly with US demands. The IGAs with the U.S. enable the financial institutions of the counterparty countries to comply with the extraterritorial requirements imposed on them by FATCA and to circumvent domestic laws at the expense of their citizens' fundamental right to privacy. At the risk of overstating the point – without the IGAs, the action required by the U.S. from European financial institutions would otherwise be illegal.

The punitive penalties prescribed by FATCA mean that European financial institutions have no choice – either they become FATCA compliant (and betray their European clients, irrespective of whether there is any element of culpability) or they turn their back on the U.S. financial markets and all U.S. dollar denominated transactions. For most European financial institutions there is no decision to be made – being shut out of the U.S. financial markets would be franchise destroying. This explains why begrudgingly European financial institutions are being coerced into spending colossal amounts of money, which could otherwise be spent on European projects, to become FATCA compliant.

What seems clear in all this is that in the rush to protect the global financial markets, no European national Parliament considered the effect of FATCA on the rights of individuals and no European national Parliament or Government even conceived of the existence of "Accidental Americans".

Why are "Accidental Americans" suffering as a result of FATCA?

From the autumn of 2014 financial institutions globally have been sending letters to their clients identified as U.S. persons (because of their place of birth for example) asking them to provide evidence of their status, their U.S. Taxpayer Identification Number (***TIN***) or proof that they had previously renounced their U.S. citizenship. Some banks adopted a blanket approach and simply closed all the accounts of their clients with American indicia in order to avoid the costly and time-consuming procedures required in order to achieve FATCA compliance. Likewise, European financial institutions and funds are now refusing to allow "Accidental Americans" to hold investment accounts (a raft of laws in the U.S. restricts the type of investments that U.S. persons can make). Those "Accidental Americans" who have saved prudently to provide for their family and retirement (including pension schemes typically provided by European employers) face suffering huge financial losses as a result of their change in citizenship status.

The goal of the U.S. Administration in implementing FATCA was clear - in order to combat tax evasion, the IRS wanted to pinpoint registered American taxpayers who were holding income in offshore accounts that had not been declared to them with the aim of preventing a repeat of the UBS Swiss bank account scandal.

However, due to poor policy making, hundreds of thousands of innocent "Accidental Americans" were caught in the FATCA driftnet.

The IRS and U.S. State Department now take a very strict view of "Accidental Americans" and regard them as ordinary U.S. citizens and U.S. taxpayers which in turn requires them to file U.S. income tax returns and disclose to the U.S. authorities all their accounts held outside the U.S. with a balance of $10,000 at any point in each calendar year with any failure to disclose attracting very high penalties ($10,000 per account per a year).

This is absurd. We believe that this was not the intention behind FATCA and the IGAs now in place.

The absurdity does not stop here. In the wake of the furore surrounding Eduardo Saverin's renunciation of U.S. nationality, U.S. tax laws were further revised to restrict the ability of American citizens to renounce their U.S. nationality for tax reasons. This revision, aimed at preventing high net worth U.S. citizens from renouncing their U.S. nationality in order to avoid U.S. citizenship based taxation, now makes it almost impossible for "Accidental Americans" to exit the system.

Indeed - and whilst there is contradictory advice as regards the exact requirements - it is established that in order to exit the system, the "Accidental American" must among other things obtain an Individual Taxpayer Identification Number (***ITIN***) or a TIN/SSN (a very complicated and potentially costly process, particularly when undertaken from overseas) as it is not possible for the "Accidental American" to file a U.S. tax return until they have an ITIN or a TIN/SSN. It may also be necessary to obtain a U.S. passport as in some instances these have been required by the U.S. Authorities before accepting an application to renounce U.S. citizenship.

This is ludicrous. In order to shed an unwanted citizenship, "Accidental Americans" must first, against their wishes, become fully-fledged American citizens.

The absurdity continues - to obtain an ITIN or a TIN/SSN the "Accidental American" needs to prove that they have not lived, worked or studied in the U.S. since they left the U.S. as an infant or small child (because they do not have the U.S. documents required to apply for these numbers in the normal way). So to become a fully-fledged American the "Accidental American" must in effect prove their accidental status to the U.S. authorities!

To summarise: the current system requires an "Accidental American" first to prove they are not American, in order to become a fully-fledged American citizen, in order to then be allowed to renounce their unwanted American citizenship.

But the hardship does not even end here. Once the "Accidental American" is in a position to renounce they must:

- (i) file 5 years of U.S. federal income tax returns and pay any applicable taxes (which as per the advice of the IRS requires the services of a U.S. tax advisor and potentially a U.S. lawyer – these services alone will cost the "Accidental American" in excess of US$20,000) and various other fees for late filing / failure to file on time;
- (ii) renounce U.S. citizenship (paying a further US$2,350 fee to the U.S. Embassy); and
- (iii) if they exceed the wealth threshold set by the U.S. authorities, pay a capital gains exit tax levied on the deemed sale value of all their worldwide assets on the date they renounce.

Only then is the "Accidental American" allowed to leave behind a nationality that was forcibly imposed on them.

The absurdity of this system suggests that the U.S. Government did not think about the existence of "Accidental Americans" when they enacted FATCA. If they did consider the status of "Accidental Americans", their policy approach seems to have no moral basis at all. Perhaps they had assumed that "Accidental Americans" are rich enough to pay their way out? In any event "Accidental Americans" will not qualify for any kind of social security (pension, medical insurance or unemployment benefit) as a result of any payment they make into the U.S. system.

"Accidental Americans" are not the tax cheats the U.S. Government is trying to hunt down: they are innocent victims caught in the crossfire of ill-conceived and ill-articulated legislation. There is no shame in making mistakes – what is shameful is that the U.S. Government is not owning up to its mistakes and correcting them. It is cynical to believe that the only explanation as to why the U.S. Government is allowing this travesty to continue is because of how lucrative this mistake is proving to be. We want to believe that the U.S. will ultimately do the right thing. But the failure of any members of the Senate, the House of Representatives, U.S. Embassies around the world, the State Department, the IRS and the President himself to respond to our pleas for help, for intervention and for expedited, simpler procedures leads us to conclude that the U.S. Authorities feel that they have so much to gain that it is better to ignore us than to help us.

Willard Yates, a retired senior lawyer with the IRS, commented in a recent interview that the IRS is well aware of the existence of "Accidental Americans" but is turning a blind eye to their predicament given how lucrative it is to force "Accidental Americans" into compliance. US$5billion is reported to have been raised by the IRS in recent years from its various compliance programmes including from "Accidental Americans". These amounts are in addition to the vast fees generated for the U.S. compliance industry from individual European citizens (and European financial institutions) as a result of FATCA. It is important that E.U. nations and other nations of the world understand that the U.S. is extracting money earned outside the U.S. from people and financial institutions at the expense of those other nations. If this behaviour of the U.S. does not motivate you to help us, perhaps the flight of capital from European economies towards the U.S. economy will.

What are the options for "Accidental Americans" under the current system?

As the law stands "Accidental Americans" can either:

(i) refuse to enter the US system in which case: • they will be flagged to the IRS who may decide to audit them and take action against them (penalties include extremely high fines and prison); and (• they will face serious hardship with their financial institutions (blocked accounts, blocked inheritances, account closures and freezes even where jointly held with non-U.S. persons (i.e. their E.U. citizen spouse), expulsion from pension plans etc.)); or

(ii) they apply for an ITIN or a TIN/SSN and file tax returns with the IRS (as a prelude to a renunciation procedure - see above).

In either case the outcome is unsatisfactory and unfairly costly and burdensome.

What should be done for "Accidental Americans"?

The U.S. Government acknowledges there is an issue in trying to shoehorn "Accidental Americans" into the U.S. reporting and filing system simply so that they can renounce their unwanted U.S. citizenship.

In his 2016 Green Book, President Obama proposed excluding from the U.S. tax filing and reporting system people who meet the following criteria:

. (i) at birth were dual citizens of the U.S. and a foreign state;

. (ii) at all times and up to the date of their expatriation remained citizens of another state;

(iii) never resided in the U.S. after attaining the age of 18 and a half;

(iv) never held a U.S. passport or only held a U.S. passport for the purposes of leaving the U.S.;

(v) relinquishes their U.S. citizenship within a period of 2 years following 1 January 2016 or in the two year period following the date on which they discovered their U.S. citizenship; and

(vi) certifies under penalty of perjury compliance with all U.S. federal tax obligations that would have applied during the 5 years preceding the year of expatriation if they had been a non- resident alien during that period.

There is, however, a caveat - and it is a major one - in relation to item (iv) above. A large number of "Accidental Americans" held U.S. passports during their childhood as a result of decisions their parents made on their behalf (and that they have since demonstrated by their acts they have abandoned and/or relinquished). Others were forced to obtain U.S. passports later in life in order to visit the U.S. at the insistence of the U.S. State Department (following a policy shift within the last decade), which failed to point out the tax consequences of doing so. What should be determinative is whether a U.S. passport was actively and intentionally used once the "Accidental American" was in a position to make an informed decision about their status, typically having attained the age of majority.

This proposal, which unfortunately was never enacted, seems a fairly sensible solution for this group of people. It does not change U.S. constitutional birth right citizenship and does not necessitate a revision of existing U.S. tax laws or of FATCA, but it allows "Accidental Americans" to escape at the price of US$2,350 and a cumbersome bureaucratic procedure. Even this price is prohibitive for many.

In light of the above, we "Accidental Americans" request that:

the European Parliament recognises the predicament of European "Accidental Americans" and the potentially crippling financial consequences for them and their families (liabilities for IRS taxes and penalties, renunciation fees, back-taxes and exit tax and accountants' and lawyers' fees) which comes in addition to the emotional pain and suffering they (and their families) are enduring;

the E.U. Commission and all national E.U. Governments engage with the U.S. Government to restrict and amend the scope of the IGAs and FATCA to remove "Accidental Americans dual E.U. citizens" from their scope; and

the E.U. Commission, the European Parliament and all E.U. national Governments together demand that the U.S. Government provides an immediate amnesty to all "Accidental Americans" if necessary by implementing the proposal set out in President Obama's 2016 Budget Proposal (subject to our observations above regarding U.S. passports) at the earliest possible opportunity and in any event no later than 1 January 2016. FATCA was sold to the European authorities on a promise of reciprocity. Pressure must be brought to bear on the U.S. Government to honour this spirit of reciprocity by finding a fair solution for "Accidental Americans" who are European citizens and - in the manner they have lived their lives - only European citizens. We count on you to act for European "Accidental Americans" (as we are first and foremost European citizens) and to defend our fundamental rights and interests.

The U.S. State Department estimates (May 2015) that there are at least 8.7 million American citizens, not counting U.S. military personnel, living abroad. If we were recognized as a "state", and had dedicated representation to help us with our concerns, we would likely tie with New Jersey for the 11th largest state in the nation by population size!

A major improvement in the U.S. tax system for "Americans abroad" – and to guarantee the right of U.S. homelanders to emigrate if they so choose – is to replace the current system of citizenship-based taxation (CBT) (or taxation-based citizenship) with residence-based taxation – the standard in all major, modern countries except the USA. There are many good, solid reasons for making this change, and you have heard them all before in letters to the House Ways and Means Committee and the Senate Finance Committee; meetings with American Citizens Abroad and other such organizations; and letters and meetings with individual constituents.

Rather than repeat all the reasons, perhaps it would be of more value to actually try to *understand* the situation of citizens and permanent residents of other, non-U.S. countries who happen to still have U.S. citizenship or an un-extinguished green card.

Just imagine for a few minutes that each of you on the committee was born in Germany and lived there many years ago. Or, each of you has one or both parents who were born in, and lived in Germany. One day, you receive a letter from the German equivalent of the IRS, or you happen to read in some article on the internet that Germany has "citizenship-based taxation" and YOU owe money to the German IRS. You either owe back taxes or penalties. You say, "What the heck? I'm a citizen (or resident) of the U.S. now, and I pay taxes here where I live and work!" Or, "My parent may have lived in Germany, but I never even lived there!" Or, "I was born in Germany when parents were university students there. I only lived there for one year!"

You go on: "This is ridiculous! It's crazy that Germany would expect me to pay taxes there! I don't live there. I don't use any German services that taxes pay for!" And you start to seriously worry that you will be hit with thousands of dollars of taxes and crippling penalties for taxes not filed, or not paid, to Germany. Your retirement savings will be decimated. "How can this be?" This is commonly referred to as the "OMG moment", when "citizens abroad" learn about the punitive U.S. tax system as it applies to "U.S. Persons" who happen to live outside the geographic boundaries of the USA.

So you consider your options for getting in compliance with German tax law. The situation just keeps getting worse.
* Tax forms are in German, as are instructions, and you need to think in German language, and follow German government tax policy and rules when you file.
* You must convert all your dollar amounts on your U.S. tax forms to the Euros,used by Germany. Br sure to check whether you must use the average annual exchange rate or the end-of-year rate.
* You have invested in U.S. mutual funds for your retirement, a normal thing to do, you think. However, for German tax purposes, these are treated as Passive Financial

Investment Companies (PFICs). You find that the German system of taxing PFICs is more complex than you could have imagined, and simply confiscatory. You think, "What on earth? How could this be?"
* Then, oh, oh! German tax rates are higher than in the U.S., and even with foreign tax credits, you OWE them money!
* You opened a registered education saving plan and a registered disabilities saving plan for your kids. All fine in the U.S., but the German system is different. They don't recognize your U.S. "tax-free" plans, and you must pay taxes on them. No tax credit works, as there is a "tax treaty gap" in these situations.
* And so on, for many more mis-matches of two countries' tax systems that will catch you! And if you seek professional help in filing taxes and getting caught up, you will be out many thousands of your U.S. dollars simply because of the complexity of mis-matched systems.
* Oh, and don't forget to report annually all your financial account holdings to the German equivalent of FINCEN, the Financial Crimes Enforcement Network. Send your FBARs, with your account numbers, locations, and amounts, along with your personal identification, to this foreign country you lived in as a kid – or never! Don't forget to convert from your everyday U.S. currency to that foreign-to-you German currency!

You can review previous submissions from many sources on this topic for specific details, including impacts on families, pensioners, employees, and small business persons "abroad".

"Germany" is just used here as a random country pick for this example and exercise. Germany does NOT have citizenship-based taxation. Only the U.S. tax system operates this way! Imagine, though, if ALL countries dropped their residence-based taxation systems and adopted the USA's system of citizenship-based taxation. It would be complete chaos!

Within the perimeter of the U.S., you are free to move from one state to another without your former state hounding you forever and expecting tax payments and FBARs. Kentucky doesn't consider you a crook or a traitor for moving to California, to study, get married, take a new job – i.e., to go about your ordinary lives there. By comparison, U.S. citizens do not have the freedom to locate their lives *outside* the U.S. without being treated with suspicion, or as a crook, by punitive U.S. government tax policy and rules.

It is reasonable to look for RESIDENTS of the U.S. who seek to hide money to dodge taxes owed to the U.S. It is not reasonable, not legitimate, and also immoral, to impose U.S. homelander tax rules on citizens and residents of other countries, and to use "U.S. persons abroad" to siphon money out of other countries' economies.

Please focus U.S. tax rules on *RESIDENTS* of the U.S. Move away from CBT and institute *RESIDENCE-BASED TAXATION* ASAP.

Committee on Ways and Means
United States House of Representatives

Re: Fundamental Tax Reform Proposals Hearing, 22nd March 2016

This submission is an edited copy of the text submitted to the Taxation Review Committee of the Senate Finance Committee, at its request, in April 2015, a submission that regrettably remains unaddressed to this date.

Systems of taxation on personal income:

No income tax on individuals   Territorial   Residential   Citizenship-based
(Source: http://en.wikipedia.org/wiki/International_taxation)

Ladies and Gentlemen,

A picture speaks a thousand words. For the sake of conciseness please be informed I completely support ACA's (American Citizens Abroad) 2015 Tax Reform Proposal (notably the replacement of Citizen-based taxation (CBT) with Residence-based taxation (RBT)) presented recently to the Senate Finance Committee and cited by the Republican Staff of the Senate Finance Committee in its recent recommendation for "comprehensive tax reform".

My Personal Situation :

I am a US citizen by birth, born and raised outside the US. I have never lived in the US (besides on and off during my undergraduate years in the early 1980s).

My last visit to the US was in May 1994 when I visited for one week. I have never worked in the US and never earned a dime of earned or unearned income from any US domestic activities and/or investments. I currently have no presence in the US of any nature whatsoever; physical, financial, professional, personal, residential or any other. I do not currently have plans to return to the US.

Although I consider myself fully a US citizen at heart, I have never been affiliated to any political party and therefore my comments and recommendations are to be considered strictly non-partisan.

Sadly, US tax laws based on the principle of citizenship-based taxation (CBT), not actual taxes themselves, as well as and their direct and indirect collateral consequences have caused me hardships that left me no realistic alternative but to renounce my US citizenship. I am still technically a US citizen as I have not yet received my renunciation certificate.

How US tax laws (CBT) and FATCA have damaged and continue to damage my life:

My experience with FATCA (and citizenship-based taxation in general) has been traumatic, very costly and often humiliating. Here are some of my experiences as a US citizen living in Switzerland.

- I have been denied 2 major job opportunities because I am a US citizen. I was told in one instance quite literally, "we do not hire US citizens as they represent a potential risk and high internal legal cost"
- I have been denied the increase of my life insurance policy (linked to my retirement plan) because I am a US person
- I have had my pension plan transfer account terminated because of my US citizenship ("La Bâloise Assurances Vie" Insurance Group has taken the decision to terminate its relationships with US clients).
- As a US citizen my bank (UBS) will not allow me to invest in US securities (Equities and funds). I am therefore severely limited in my choice of long-term investment options which has caused me severe opportunity losses over the years with the consequences this will have on my future financial situation, particularly my retirement savings. If I remember correctly this policy was introduced by the bank close to 15 years ago.
- I have an existing secondary residence mortgage which I have been told I can keep for the moment (UBS) but was also told that it would be a challenge to obtain new mortgage facilities (either an increase or a new loan) because of my tax status as a "US person".
- I have had to close all my relationships with banks except two, notably because of administrative hassle, warnings that the accounts would in all likelihood have to be closed in the future as well as exorbitant US tax-reporting costs (the tax accountant charges USD 100 minimum per account even if it is at a zero balance).
- My only remaining bank (UBS) tells me that they are unsure whether they will continue to accept me as a client. Where else would I go? I have to live with this sword of Damocles over my head 24/7, a source of permanent stress and anxiety.
- My annual US tax declaration bill is currently around USD 700, all for nothing as I don't owe and have never owed the US any taxes. Life in Switzerland is very expensive and my income is not very high. I simply don't have the luxury to throw that amount of money out the window each year for no added value to anyone, except to the tax accountant.
- In order to become tax compliant it cost me over CHF 14'000 (a little more than USD 14'000) to do three years of declarations! I have a very simple tax situation; single, no kids, no exotic investments, sources of income or capital gains, etc. I was in a vulnerable position and was clearly abused. But I had to get the job done and didn't know where to turn to for help. As it turns out, I didn't owe any taxes to the US. USD 14'000 down the drain for nothing, literally!
- Besides the issue of cost, the non-compatibility of the US tax system with foreign tax systems means that many of the tax deductions are only partially effective. Furthermore, the US tax system does not take into account cost of living. It doesn't adjust the foreign income

exclusion to inflation. If it did since inception the amount would be at least twice as high today.

- Because of currency rate fluctuations and the fact that US tax declarations are in expressed in USD, taxpayers often end up being taxed on phantom capital gains. I have been affected by this in the past and continue to be, since the US Dollar has been on a steady fall over the years.
- The administrative nightmare of filing US tax declarations for nothing can be illustrated as follows. My Swiss tax declaration can be completed online with the help of a software program that is available for free. In all, the declaration itself is about 10-12 pages long. The US declaration can only realistically be prepared by a professional given the risk of huge penalties in case of omissions and errors. My US declaration is 63 pages long! All that for nothing! A huge waste of time, money, energy, resources, and most importantly my freedom and personal well-being.

A few closing remarks on Swiss financial institutions and US clients:

- A few Swiss banks accept new tax compliant US clients (Von Tobel and Hyposwiss notably), but only those with substantial assets (USD 500K to USD 1 million and above). To my knowledge no Swiss banks or financial institutions (life insurances included) are actively welcoming new US tax compliant retail clients.

- For these institutions, US clients are considered too risky and are demonstrably too expensive to administer (from a legal and compliance standpoint), therefore the risk / return ratio is simply not worth it for them. That is why US clients, especially retail clients, are considered "toxic" and are barely tolerated at best.

Conclusion:

The current US global fiscal inquisition is tantamount to nuking the ocean to catch a few great white sharks. The lives of millions of legitimate overseas Americans are being seriously affected. The system currently considers and treats them as acceptable collateral damage in an otherwise legitimate hunt for deliberate tax evaders who for the most part actually physically reside in the US not abroad.

Unlike other countries where tax systems are pragmatically set up, the US tax system is founded on the arbitrary concept of patriotic emotion. It is no wonder that the system is deeply dysfunctional. Of the 244 tax-raising jurisdictions existing in the World today (sovereign countries, territories, dominions, non-recognized or only partially-recognized countries), 242 (all but two, well over 99% representing over 95% of the world's population) use residence-based taxation (RBT) or (for a minority of these countries) its close alternative known as territorial-based taxation.

The US has to join the rest of the world in adopting RBT and immediately relieve its foreign-residing citizens from the serfdom-like obligation of filing Federal income taxes when they have no connection with the US other than their citizenship. This relief can be provided very easily by changing the definition of US persons for tax purposes, by specifically excluding bone fide foreign-residing US citizens from the scope of taxation. Nonetheless, the only true effective and definitive remedy to the problem is the abandonment of citizenship-based taxation (CBT). Of the eight countries that historically used CBT, only two remain today: rogue, UN-Security-Council-condemned Eritrea (condemned in 2011 notably for its mafia-like tax collection practices) and the US. All the others have seamlessly adopted RBT.

When considering the situation of US citizens living abroad (especially the US diaspora; long-term foreign residents and US emigrants), one must always have the following facts in mind. These US citizens:

- Don't partake in US society (in many cases, never have)
- Don't cost US society anything
- Don't ask US society for anything
- Don't benefit from any notable services and advantages offered to stateside Americans
- Are charged at cost for whatever services they receive from the US Government, except the citizenship renunciation fee if USD 2'350 which is downright, unadulterated extortion.
- Are not represented in Congress as a distinct group

The US has no business forcing its authority on its citizens who have left the country legally or who have never resided there to begin with. Doing so constitutes an act of extra-territorial authoritarianism that is by all standards of measure shameful for a country that claims to be the leader of the free world.

I have heard and read supporters of CBT argue that overseas US citizens should simply renounce their US citizenship instead of changing the system. Their convenient solution to the problem on the blackboard is not to reform the system but to get rid of its victims!

I have been forced to renounce. I hope others in the not-so-distant future will no longer find themselves forced to take such a painful and dramatic decision in order to live the lives of normal free citizens.

I trust I am addressing myself to people who have the compassion and integrity to do what is right and just and I thank you in advance for your interest and efforts in finding a just and lasting solution to our plight.

Submission to the House Ways and Means Tax Policy Committee
Fundamental Tax Reform Proposals
Tuesday, 22 March 2016

Almost daily, there are articles in the press about the unfair system of Citizen-Based Taxation used by the U.S. and its effect on American expats, most of whom live middle-class lives. The system leads to double taxation, taxation without representation, and a violation of the right to due process. There are many burdens including the denial of access to basic banking products and pension savings as well as excessive financial, emotional and psychological stress.

Unfortunately, a letter to my congressman has gone unanswered. Others in the U.S. political system just don't seem to care. I've come to believe that CBT will only be repealed when U.S. corporations feel the effects and apply pressure on our legislators. So, if I may, I'd like to put CBT into a business perspective, even if only in a very small way. You can multiply my story by 7.6 million expats and their families. Given the relatively high level of education among expats, that's economically significant.

I earn a decent salary working 3 days a week, and although my tax return 25 pages long, I owe no taxes in the U.S. If I were to move home, my taxes wouldn't be much. The stories of my non-resident alien husband and American kids are more significant in terms of a potential benefit to the U.S. economy and budget deficit. My husband is the director of wearable healthcare for an important European microelectronics lab. He's also a part-time professor at a top-ranked university (top 50 in the world) and has helped launch 4 high tech start-ups. My oldest son will start a surgical residency next year and my youngest son is working on a master's degree in Chemistry with plans to earn a doctorate.

My husband has always dreamed of living in the States, and we thought we were ready to make that happen. The employment possibilities for him and the contributions he could make before retiring in about 15 years could be huge. Instead, we've reevaluated our plans because we are afraid of how CBT will impact on everything we've worked so hard to achieve if my husband must begin reporting to the IRS. In the end, we may just visit the States as tourists after we retire.

My kids are shocked and disgusted by the unfairness of CBT. Rather than consider moving to the States to live and work, they are seriously considering giving up their citizenship. If so, the American economy stands to gain 5,000 USD in renunciation fees as opposed to a possible lifetime of economic benefits.

If you won't take into account the horrible impact on the lives of American expats, please reevaluate CBT in terms of its detriment to the U.S. economy in contrast to its relatively small benefit and replace it, at the very least, with a system of Residence Based Taxation and safe harbour FATCA.

A letter to the Representatives who have been taxing U.S. expatriates, U.S. immigrants, and colonists from USA, to the representatives who have not been representing us.

Indeed, you are a group of government officials who have been providing no government services to expatriates, have been taxing expatriates, and have been doing less than not representing expatriates--you have either ignored them or persecuted them even further.

Please note that the Senate Finance Committee had previously requested submissions and indicated that the overwhelming response and need for reform was for reform for 8.7 million patriotic United States expatriates. It stated " According to working group submissions, there are currently ~~7.6~~ (8.7) million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusingon citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR). While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward." [1]

Please ensure that you re-read that report and those submissions. It is quite unfair that you ask for the same inputs to be repeated.

Please note that expat Americans have been asking to not be taxed for services they don't receive for more than 30 years. They are tired of being taxed, tired of paying accounting fees that are more than 5 times higher than those of a homelander, and tired of corresponding with politicians that tax them without representing them. Do you remember a certain revolution during the year of 1776? Do you remember that those colonists also objected to a far away and destructive influence was taxing them? Do you realize that YOU (yes you, personally, sitting in your Congressional seat) are the same as an English tyrant in 1776? Do you realize that you, personally---every one of you, are doing the same as English politicians were doing in 1776?

I live in Sweden. Note that your colleagues and your captive media say that people are moving "offshore" to avoid taxation. Please note that Sweden is onshore on the continent of Europe, with most of the other countries of Europe. Most other countries of the world lie onshore and on a continent. More than 92.5% of Americans live onshore in high tax countries---countries which you and your colleagues and your media downtrod in every

[1] United States Senate Finance Committee International Tax Reform Working Group: Final Report, p80
http://www.finance.senate.gov/imo/media/doc/The%20International%20Tax%20Bipartisan%20Tax%20Working%20Group%20Report.pdf

other speech. People do NOT move away from America and to countries in Europe or to Sweden to avoid taxation.

Note that there are 8.7 million U.S. citizens overseas. Note that they are registered in your district and you pledged to represent them. Note that they vote in all of your districts. Note that many of you are in Swing states. Note that the 2004 election was decided by absentee votes. Note that you are hoping for your party to win those swing states.

Note that your ACA tax is not creditable nor deductible, so they are double taxed. Note that, in UK and other countries, a purchase of a home is taxed up front in UK sales tax and taxed upon sale by US capital gains tax. Note that retirement plans in many countries are taxed up by USA due to tax incentives in their own countries. Note that social tax in high-living standard & hi-tax Norway is not deductible and not creditable, hence social tax is double-taxed by USA. Note that pre-taxed charity lottery winnings in Sweden are taxed by USA. Note that there all sorts of reverse loopholes for US citizens to be double taxed by USA.

Note that tax-filing of the local businesses owned by US expats is nearly impossible---forms like IRS form 5471 take hundreds of hours to fill out. Many US citizens overseas have given up on the idea of having their own business.

Note that PFIC tax filing is a destructive taxation of mutual funds of expats at their local bank. These PFIC rules can make an expat's invest return to be highly negative.

Note that many people became US citizens by the actions of their parents and not by their choice.

Note that thousands of US citizens have been trying not to be U.S. citizens. Many have been forced to renounce their citizenship in order to pursue happiness. I have a Freedom of INformation request filed, which was filed almost a year ago, which has no response. I believe that the number of persons giving up their citizenship is significantly higher than reported. I expected that my own government would fulfill my FOIA, but I am disappointed.

Note that United States needs salesmen and engineers overseas, who can specify US products, sell US products, and purchase US products. USA has not had a trade surplus since 1976---the year that USA first began its attack upon its own expatriates by eliminating the Foreign Earned Income Exclusion.

Note that U.S. government officials should be praising their expatriates for their patriotism to USA and for their contribution to USA's wealth growth. Note that U.S. government officials have instead been speaking badly of U.S. expatriates and have over and over again hit them with "offshore" propoganda and blame. It is time for you--the intern that is reading this--and the legislator you report to, to stand up and say that you need U.S. expatriates overseas, that you not only respect their rights but praise their efforts, and that you believe that they should be heard and that immediate action must be taken. You should realize that your own well being is tied to the export performance of your country which is handled by U.S. expatriates.

My letter submission is the same as a letter submitted by another person in that previous submission to Senate Finance. I make small changes.

Elimination of citizenship-based taxation

April 11, 2015

Citizenship-based taxation (CBT) is the imposition of extra-territorial taxes by a country on income not generated there, or on assets not located there, from an individual who does not live there, only because the individual is defined as a citizen of the country. The United States is the only country in the world that uses CBT (with the infamous exception of Eritrea). This document explains why CBT is not justified, and suggests how it should be eliminated from the US tax code.

Summary:

- The benefits of citizenship for nonresidents are minimal and do not incur any cost to the government, therefore citizenship should not be used as a criterion for taxation;
- Main implementation: replace "citizen or resident" and "nonresident alien" with "resident" and "nonresident", everywhere in the tax code;
- Definition of residence: substantial presence test with current exceptions, or left for regulations, plus election to be treated as resident;
- Exemptions for dependents, estate and gift taxes: no restriction based on residence either;
- Foreign earned income exclusion: kept, for those who elect residence;
- Exit tax: none, or based on current expatriation tax (with current exceptions, plus adjustment of thresholds for inflation, exclusion of certain types of assets, no interest, redetermination at realization of gains, and adjustment of basis at start of residence), or based on current tax after move to US territories;
- Consistency: eliminate ban on former citizens, tax on transfers from former citizens, retaliation on citizens of specific countries, "sailing permit", publication of names of former citizens, and Report of Foreign Bank and Financial Accounts (FBAR);
- These suggestions consist of erasing words and sections from current law, without adding virtually anything, thus simplifying the tax code.

1. Invalid justification of CBT

Three criteria may be used to define the international scope of taxation of individuals: source, residence and citizenship. Source-based or territorial taxation means that the government taxes the income generated in its territory, under the idea that individuals benefit from the infrastructure provided by the government of the area where their income is generated.

Residence-based taxation means that the government taxes the income of residents of its territory, under the idea that individuals benefit from the services provided by the government of the area where they live, regardless of where their income is generated.

Citizenship-based taxation (CBT) means that the government taxes the income of citizens of the country, under the idea that citizens benefit from that government, regardless of where they reside or where their income is generated.

All countries and territories that tax income use only territorial and/or residence-based taxation, with the only two exceptions being the United States and Eritrea, which also use CBT.[1] The Eritrean "diaspora tax" has been condemned by the United Nations as a form of extortion, so it is not a valid example.[2] The US government's justification for CBT is the alleged "benefits of citizenship" regardless of where the person lives.[3] As explained below, this justification is not valid either. US citizens who live abroad do not receive any benefit from the US government other than the few benefits for which they pay directly, such as a US passport and other consular services. In fact, the Bureau of Consular Affairs is financially neutral, earning practically the same revenue from fees as its cost of operation.[4] US citizens obviously cannot benefit from the protection or infrastructure provided by the US government when they are physically abroad. US Social Security benefits are only available to those who contributed to it, and reduced for those who already receive similar benefits from another country.[5] Medicare and Medicaid do not pay for health care outside the United States.[6-7] Individuals who do not reside in the United States are not allowed to sponsor foreign relatives for US immigration, and in any case immigration procedures are paid through fees.[8] Even in the rare cases of US assistance in evacuating US citizens from a troubled country, they are normally sent a bill afterwards to pay for the cost of the evacuation.[9-10] US citizens abroad do have the unrestricted right of return, but it does not incur absolutely any cost to the government until the person actually exercises that right, in which case the person would become a US resident, taxed regardless of citizenship. Therefore, there is no benefit of citizenship abroad that requires funding from taxes.

Besides, all of the "benefits of citizenship" cited above are not actually due to citizenship, but nationality. US nationals without citizenship (people born in American Samoa) can also use a US passport and consular services, and have the unrestricted right of return, in the same way as US citizens, but they are taxed as aliens in the US tax code.[11] The only right indeed available exclusively to citizens is the right to vote in federal elections, but the 24th amendment to the US constitution prohibits the dependence of this right on taxation.

Therefore, citizenship is not a valid criterion to define taxation. It should be erased from the US tax code, leaving only taxation based on source and residence. The rest of this document suggests how to implement this idea.

2. CBT in the US tax code

2.1 Approaches to eliminate CBT

The US tax code subjects citizens and resident aliens to worldwide taxation and a large number of reporting requirements, and nonresident aliens only to taxation of US items, mostly by withholding without filing. The tax code makes this distinction by using the terms "citizen or resident" and "nonresident alien" in numerous places. To eliminate

CBT, these terms should be simply replaced with "resident" and "nonresident", respectively, wherever they appear. This change should apply to the entire tax code, including income, payroll, estate and gift taxes, as well as all reporting requirements. Due to the numerous instances of these terms throughout the entire tax code, it may be tempting to leave the code as it is and only add or modify a section dealing only with nonresident citizens. For example, the current code already allows nonresident citizens to exclude some kinds of foreign income from US taxation, up to a certain limit, by filing the appropriate forms (foreign earned income exclusion). To eliminate CBT, such exclusion could be allowed for any kind of foreign income, and unlimited. The problem with this apparently easy implementation is that it would still require nonresident citizens to file US tax forms every year, including various reports of foreign income and assets, when such requirement would be useless as none of these foreign items would be subject to US taxation. In addition, such approach would add unnecessary complexity to the tax code.

Another tempting implementation would be an overriding section that declares that nonresident citizens are treated as nonresident aliens for tax purposes. This approach would eliminate both taxation and filing requirements for nonresident citizens, but its overriding nature would also add unnecessary complexity to the tax code. In sum, CBT should be eliminated by not referring to nonresident citizens at all.

2.2 Definition of residence

For the income tax, the US tax code currently treats aliens as residents if they are permanent residents according to immigration law (green card), or if they are physically present in the United States for a significant amount of time (substantial presence test, at least 183 days in a weighted average over 3 years). There are exceptions for foreign diplomats, students, teachers and trainees, and for involuntary stays due to medical conditions. For estate and gift taxes, the code does not define residence for aliens, and regulations define it as domicile.

The elimination of CBT requires a definition of residence for all individuals. The current substantial presence test may be used, applied to citizens and aliens alike. The test could also be simplified to 183 days in one year instead of the complex weighted average. Alternatively, the tax code could leave the definition of residence to regulations. Similar to citizenship, permanent residence according to immigration law (green card) is a permission to reside indefinitely in the United States, but it does not necessarily reflect actual residence. There are legal exceptions that allow permanent residents to remain abroad for long periods. Therefore, if CBT is eliminated, permanent resident status should also be eliminated from the definition of residence in the tax code. The substantial presence test is sufficient.

The current exceptions for some classes of aliens and for medical conditions should be maintained, as individuals in these situations are not considered residents. Likewise, US citizens or permanent residents who are abroad as US government employees or members of the US military may be considered US residents, as they are considered in other US laws. Additionally, due to the long historical use of CBT, possible ignorance of the elimination of CBT, and to accommodate rare situations where US residence for tax purposes might be beneficial while living abroad, US citizens and permanent residents abroad should be allowed to elect to be taxed as US residents, by simply filing the regular tax returns for residents.

2.3 Exemptions for dependents, estate and gift taxes

For credits and exemptions that depend on the citizenship or residence of individuals other than the taxpayer, such as dependents and spouse, it is easier to remove the restrictions based on citizenship or residence altogether, instead of restricting them to residents only.

For estate and gift taxes, there is currently a very large disparity between the exemptions for citizens and residents ($5.43 million in 2015, indexed for inflation) and for nonresident aliens ($60,000, fixed).
3
The exemption for nonresident aliens may be increased by an estate tax treaty, but the United States only has such treaties with 16 countries. The current exemption of $60,000 has remained constant since 1977, which seems to be an oversight. As CBT is eliminated, the higher exemption should be available for any individual, instead of being restricted to residents only.

In addition, there is an unlimited exemption of the estate and gift taxes for spouses, but only if the receiving spouse is a US citizen. This requirement should also be removed altogether.

2.4 Foreign earned income exclusion
The current tax code allows nonresident citizens to exclude their foreign "earned income" (salaries and self-employment income) from US taxation, up to an annual limit ($100,800 in 2015, indexed for inflation). As CBT is eliminated, this exclusion would become mostly irrelevant, but if nonresident citizens are allowed to elect to be taxed as US residents, the exclusion should remain available for them, so they may choose the entire current system if they wish.

2.5 Exit tax
The current tax code imposes an expatriation tax on unrealized gains of an individual who loses US citizenship. Aliens who lose US permanent residence after having it for 8 years are also similarly subject to the tax, but other aliens who terminate US residence are not. There are also exceptions for some nonresident citizens and minors. The purpose of this tax is to prevent significant avoidance of US tax by expatriation, on gains accumulated during the period of citizenship or residence by individuals with significant connection to the United States.

If CBT is eliminated, the expatriation tax should be eliminated as well, for simplicity. Alternatively, it could be modified and turned into an exit tax, applied to termination of US residence, but only for individuals who are already subject to the current tax (citizens and aliens with permanent residence but not other aliens, and keeping the current exceptions). However, since the current expatriation tax has an extensive potential for excessive or double taxation, several conditions are necessary to avoid these problems in a similar exit tax:

- Any net worth and tax liability thresholds should both be indexed for inflation;
- US real estate, future US pensions and US tax-deferred accounts should not be subject to the exit tax, because such items are still subject to US tax when paid to nonresidents;
- Foreign real estate and future foreign pensions should not be subject to the exit tax either, because such items are usually acquired or earned as nonresidents;
- If deferred, payment of the exit tax should not be subject to interest;
- If the individual elects, the exit tax on unrealized capital gains should be redetermined when the gains are realized, replaced with the part of the realized gains proportional to the period of residence, credited with any foreign tax paid on the same gains, and any expatriation tax previously paid in excess of the redetermined tax should be refunded to the individual;
- The basis of assets already owned by individuals who become residents should not be lower thantheir fair market value at the start of residence, not only for the exit tax but also for the regular capital gains tax.

Another alternative would be to apply to US residents who become nonresidents a system similar to the current rules of taxation of capital gains of US citizens or residents who move to US territories. Under the current rules, individuals who move to US territories and have unrealized capital gains are not subject to an exit tax. Instead, part of the gains, once realized, are taxed by the US. The taxable portion depends on the type of asset, the value at the time of the move, and the length of residence in the US and in the territory while the person held the asset. This option, as applied to nonresident citizens, would have the following rules:

- At the time of the move, there would be no exit tax;
- Gains of US real estate would be taxed by the US when sold, as normally done for nonresidents;
- Gains of foreign real estate would not be taxed by the US;
- For "marketable securities", part of the gain, up to the market value at the time of the move, would be taxed by the US when sold;
- For other assets, part of the gain, proportional to the amount of time for which the person held the asset as a US resident, would be taxed by the US when sold;
- In the previous two cases, the tax should be credited with a foreign tax paid on the same gains.

In either of these options, the exit tax should only apply to actual termination of residence. At the time CBT is eliminated, citizens already nonresident would stop being subject to US tax on worldwide income, but not due to their own action. The only purpose of the exit tax is to prevent tax avoidance, so applying it to individuals who have not taken any action in that sense is not justified.

The current tax code also includes a provision where US citizens or residents are taxed on the inheritance or gifts from individuals previously subject to the expatriation tax. This provision does not allow the very high exclusion available for the normal estate and gift taxes, thus it is excessive, resulting in significantly higher taxes than if expatriation had not occurred. The expatriation tax on unrealized capital gains already prevents any tax avoidance, so this additional provision is not justified.

It should be fully eliminated and not replaced with a version for former residents.

2.6 Related provisions

As a consequence of eliminating CBT, some provisions in the tax code and in related laws should be entirely eliminated as well, for consistency:

• "Reed amendment": bans individuals who renounced US citizenship to avoid US taxation from entering the United States;

• Tax on inheritance and gifts from former citizens (described above);

• Retaliation against other countries through higher taxes on their citizens (not necessarily residents);

• "Sailing permit": requires that aliens, but not citizens, file a partial tax return before they leave the United States (even for temporary trips).

Another reason for eliminating these provisions is that none of them are actually implemented or enforced.

As part of the current expatriation tax, there is a provision that requires the publication of names ofindividuals who terminate US citizenship, or permanent residence after 8 years, in the Federal Register.

This publication serves absolutely no purpose, and would be even more irrelevant if CBT is eliminated. Therefore, this provision should also be entirely eliminated as well. Finally, citizenship should also be irrelevant for the Report of Foreign Bank and Financial Accounts (FBAR). This reporting requirement could also be eliminated altogether as it is redundant with another report required by the tax code.

2.7 Bank Securities Act of 1933

The Bank Securities Act of 1933 "protects" U.S. citizens from being sold non-US investment products. This "protection" means that U.S. citizens living outside the U.S. are usually disallowed from purchasing ANY financial products from the non-US bank near their homes. This law also causes confusion at banks and many banks simply decide to eliminate U.S. persons as customers for any products.

3. Conclusion

The United States should abolish CBT by erasing the references to citizenship in the tax code. A few other provisions should be entirely eliminated for consistency. As a result, the tax code would also become simpler and shorter.

4. Relevant sections of law

The sections of law listed below refer to the Internal Revenue Code, title 26 of the United States Code.

except as otherwise noted.
General uses of "citizen or resident" and "nonresident alien": 2(b)(2)(B), 2(b)(3)(A), 2(d), 5(a)(1), 5(a)
(3), 22(f), 25A(g)(7), 26(b)(2)(L), 32(c)(1)(D), 32(c)(2)(B)(iii), 33, 36(d)(1), 36A(d)(1)(A)(i), 63(c)(6)
(B), 79(d)(3)(B)(iv), 105(h)(3)(B)(v), 125(j)(4)(B)(iv), 153(2), 167(e)(4)(A)(ii), 168(g)(4)(G), 170(p)
(5), 176, 222(d)(5), 303(a)(2), 402(e)(2), 403(b)(12)(A), 404A(e)(2)(A), 404A(g)(1)(A), 406(a), 406(a)
(2), 407(a)(1), 407(a)(1)(A), 410(b)(3)(C), 414(q)(8), 483(e)(4), 505(b)(2)(E), 545(c), 565(e), 641(b),
667(e), 668(a)(4), 672(f)(1), 679(a)(4)(A), 679(a)(5)(A), 860G(b), 861(a)(3), 861(a)(3)(A), 861(a)(3)
(C)(i), 861(a)(3)(C)(ii), 863(c)(2)(B), 864(b)(1), 864(b)(1)(A), 864(b)(1)(B), 864(c)(1)(A), 864(c)(1)
(B), 864(c)(4)(B), 864(c)(5)(A), 864(c)(6), 865(g)(1)(A)(i)(I), 865(g)(1)(A)(i)(II), 865(g)(2), 865(g)(3),
871(a)(1), 871(a)(1)(C)(i), 871(a)(1)(C)(ii), 871(a)(2), 871(a)(3), 871(b)(1), 871(c), 871(d)(1), 871(f)(1)
(A)(i), 871(f)(1)(B), 871(f)(2)(A), 871(h), 871(k)(2)(B), 871(n)(1), 871(n)(5), 871(n)(6), 871(n)(7),
872(a), 872(b), 872(b)(3), 872(b)(3)(A), 872(b)(3)(B), 872(b)(4), 872(b)(5), 873(a), 874(a), 874(b),
874(c), 875(1), 875(2), 876(a), 879(a), 879(b), 884(e)(4)(A)(i), 884(e)(4)(A)(ii), 887(a), 893(a)(1),
894(b), 897(a)(1), 897(a)(1)(A), 897(a)(2)(A), 897(g), 897(h)(1), 897(h)(4)(A)(ii), 897(h)(5)(B)(i),
897(h)(5)(B)(iii), 897(h)(5)(B)(iv), 897(j), 901(b)(1), 901(b)(2), 901(b)(3), 901(b)(4), 906(a), 906(b)(1)
(A), 906(b)(3), 911(d)(1)(A), 911(d)(1)(B), 932(a)(1)(A)(i), 933(2), 934(b)(2), 936(h)(4)(B), 958(b)(1),
988(a)(3)(B)(i), 993(d)(4)(C)(ii), 996(g), 1235(e), 1291(e)(2), 1361(b)(1)(C), 1361(c)(2)(A)(i), 1361(c)
(5)(B)(iii), 1361(d)(3)(B), 1402(a)(6), 1402(a)(8), 1402(b), 1402(c)(2)(C), 1411(e)(1), 1441(a),
1441(b), 1441(b)(2)(D), 1441(c)(4), 1441(c)(6), 1441(d), 1441(e), 1444, 1471(c)(2)(B)(ii), 2001(a),
2053(d)(1), 2101(a), 2103, 2104(a), 2104(c), 2105(a), 2105(c), 2105(d)(1), 2106(a), 2106(b), 2208,
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(iii), 3405(e)(13), 4372(a), 4372(e), 4404(2)(A), 4404(2)(B), 4980B(g)(1)(C), 5000A(d)(1), 6012(a),
6012(a)(5), 6012(c), 6013(a)(1), 6013(g)(1), 6013(g)(2), 6013(g)(3), 6013(g)(4)(B), 6013(h), 6013(h)
(1)(A), 6013(h)(1)(B), 6017, 6018(a)(1), 6018(a)(2), 6038A(c)(3), 6038D(h)(2), 6039C(d), 6042(b)(2)
(A)(ii), 6044(b)(2)(B), 6046(a)(1)(A), 6046(d), 6046(e), 6048(a)(3)(A)(iii), 6049(b)(2)(C)(v), 6049(b)
(5)(A), 6072(c), 6091(b)(1)(B)(ii), 6091(b)(1)(B)(iii), 6091(b)(1)(B)(iv), 6096(a), 6103(h)(5), 6231(a)
(1)(B)(i), 6401(b)(2), 6428(e)(3)(A), 6654(e)(2)(C), 6654(j), 7408(d), 7456(b), 7701(a)(30)(A), 7701(a)
(39), and section 5314(a) of title 31.

Definition of residence: 7701(b).

Uses of citizenship or residence concerning people other than the taxpayer: 23(d)(3)(C), 23(e), 24(c)(2),
72(w), 101(j)(5)(B), 152(b)(3), 1041(d), 2056(d), 2056A, 2523(i).

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Exemptions on estate and gift taxes depending on citizenship or residence: 2032A(a)(1)(A), 2056(d),
2056A, 2057(b)(1)(A), 2057(f)(1)(C), 2057(g), 2102(b)(1), 2102(b)(2), 2102(b)(3)(A), 2201(b)(1),
2505(a), 2513(a)(1), 2522(a), 2522(b), 2523(i), 6018(a)(2), 6166(a)(1).

Foreign earned income exclusion: 911.

Current expatriation tax rules: 2(d), 871(n)(2), 877, 877A, 2107, 2501(a)(2), 2501(a)(3), 2501(a)(5),
2511(b), 2801, 6039G, 7701(a)(50).

Current capital gains tax rules for US citizens or residents who move to US territories: section 1.937-
2(f) of title 26 of the Code of Federal Regulations.

"Reed amendment": section 212(a)(10)(E) of the Immigration and Nationality Act, codified as section
1182(a)(10)(E) of title 8 of the US Code.

Tax on inheritance and gifts from former citizens: 2801.

Retaliation against other countries through higher taxes on their citizens: 5(a)(2), 871(n)(3), 871(n)(4),
891, 896, 901(c), 2014(h), 2108.

"Sailing permit": 6851(c), 6851(d).

Publication of names of former citizens: 6039G.

FBAR: sections 5314 and 5321(a)(5) of title 31 of the US Code.

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7

Swedish Banks are Looking for Americans
https://translate.google.se/translate?sl=sv&tl=en&js=y&prev=_t&hl=sv&ie=UTF-8&u=http%3A%2F%2Fwww.svt.se%2Fnyheter%2Fregionalt%2Fvast%2Fsvenska-banker-letar-efter-amerikaner&edit-text=

US Expats Evade Taxation? NOT. #Mythbusted : 92.5%% of expats live in high-tax regions, #Factcheck
http://isaacbrocksociety.ca/2016/03/08/us-expats-evade-taxation-not-mythbusted-91-5-of-expats-live-in-high-tax-regions/

Date:	March 21st, 2016
Subject:	Fundamental Tax Reform Proposals
Attention:	House Ways and Means Tax Policy Subcommittee Chairman, Charles Boustany (R-LA)
Focus:	Legislative proposals presenting cost-savings and consumption-based approaches to taxation.
Our Recommendation:	To Repeal Citizenship Based Taxation (CBT), and replace it with Residence Based Taxation (RBT) for overseas Americans

As one of the **7.6 million+ Americans living overseas**, I would like to highlight just a few of the specific difficulties I, and many others, have personally experienced as a result of Citizenship Based Taxation (CBT).

As I mentioned in my letter to the Ways and Means Committee in April 2013 (I cannot include the link here because my full name is in the title) in the current CBT system, Americans abroad are treated as tax cheats, and our day-to-day accounts are considered offshore!! The US government dictates how we can invest, or rather not invest, in our country of residence (always under the threat of draconian penalties), demands that our non-American families declare every detail of their Canadian accounts to a foreign government (a complete violation of privacy and at the very real risk of Identity theft), and even subjects mentally disabled people and accidental US persons born outside the USA, to the US tax system.

With regard to FBAR penalties, **the cost to the government (IRS)** to hunt down all the **Minnows** living overseas to catch very few **Whales** is purported to be more than the fines collected. And the US person is in constant fear of making simple filing errors or omissions due to **the complexity of the US tax code and the myriad of forms.**

As an aside, it is estimated that 86% of **all tax filings from overseas result in no tax due.**

Cost Savings in reducing/eliminating IRS and taxpayers' Paperwork:
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 non-US currency.

Training of IRS agents:
Changing to Residence Based Taxation (RBT) would eliminate the cost of training IRS personnel to understand the cultural and tax differences between USA and all other countries involved in FATCA. For example: the IRS sent out

800,000 letters overseas, many of which were not received because US government computers were not set up to understand foreign postal codes or not enough lines to include the country name etc. Also IRS agents need to know more about foreign currencies. Example: my IRS examiner referred to a small British sterling account as 500 lbs!!! weight. In addition, training is needed regarding the different tax years (for example, the UK tax year ends April 5th – not enough time to file in USA by April 15th IF tax is owing).

The following are just a few of the CBT issues which would be eliminated if the USA would change to Residence Based Taxation (RBT) practiced by the rest of the world, except Eritrea:

Exorbitant cross border tax preparation fees ($1500-$2000) because of the **complexity of the US tax law and forms,** as well as the time involved for compliance (my US tax return consisting of government retirement income and simple interest) - last year consisted of **64 pages of multiple complex forms** (no tax due). **Cost of IRS agent to process these forms would be saved.**

A US person overseas is penalized for owning "foreign" mutual funds (PFICs), which are a local investment vehicle for US citizens living overseas. **The tax forms are highly complicated and time-consuming to prepare and there is always the underlying fear of more onerous fines.** (IRS estimates 35 hours per mutual fund which is not PFIC compliant, and according to some sources, IRS agents are now being trained to recognize "foreign" mutual funds).

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 in our country of residence, and as non-residents cannot own any investments in the USA.

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

As mentioned above**, my non-American spouse** is subjected to serious **privacy breaches** by being forced to give detailed financial information to a foreign government **(Financial Crimes Network).**

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.

Flat tax imposed on citizens and their non-citizen spouses living overseas would be totally unacceptable, and would most likely result in even higher annual renunciations of US citizenship.

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. We do not live in tax havens – our tax obligations in our country of residence are much higher than in the USA.

My non-American husband and I appreciate that the **Ways and Means Tax Policy Subcommittee** is following Chairman Brady's vision of setting policy goals for making the broken tax code fairer.

We look forward to hearing the positive outcome of your efforts, and **respectfully implore the Committee to take the rights of US citizens living permanently overseas into account when making such important Tax Reform decisions.**

We thank you for the opportunity to be heard.

20/03/2016

To the House of Ways and Means Committee

RE: End citizenship-based taxation of individuals in favor of the global standard of residence-based taxation

If there is a single reform which can make the United States' tax code fairer and simpler for American citizens, it is for the United States to switch to the worldwide standard of residence-based taxation, and end its outlier position as the only country besides Eritrea to define its tax jurisdiction over individuals on the basis of the circumstances of a person's birth – a system commonly referred to as citizenship-based taxation (CBT) or place of birth taxation.

American citizens abroad, of whom there are estimated by the State Department to be in excess of 7 million, have been struggling under the burden of the complex, onerous and punitive requirements US tax policy imposes on them, and even more so as a result of recent enforcement and surveillance policies like FATCA, which is causing foreign financial institutions to close Americans' legitimate every-day banking and investment accounts where they live, work, and pay taxes in full for the public services they receive. Record numbers of Americans are being compelled to renounce their United States citizenship simply to maintain an ordinary existence in their country of residence.

I respectfully request that you urgently advance residence-based taxation for individuals to the forefront of the tax reform agenda.

Sincerely,

A US-UK dual citizen living in London, England, who wholeheartedly wishes to retain her US citizenship, but who will not be able to in the long term if the current system does not change

March 21, 2016

Chairman Charles Boustany
Tax Policy Subcommittee
House Ways & Means Committee

Dear Congressman Boustany,

As you begin hearings on "Fundamental Tax Reform Proposals", keep in mind that millions of Americans are hoping for just that - fundamental or real tax reform instead of a few unimportant changes that leaves us with the same behemoth of a tax code that we currently struggle with.

There is one proposed plan, HR 25, that has more cosponsors in Congress, more privately funded research behind it and more supporters across the country than any other tax plan ever presented to Congress.

I trust our experts to present the "nuts and bolts" of the FAIRtax plan to your committee. But I want to be sure that you and your Committee members understand that these experts are supported by thousands of volunteers and hundreds of thousands of supporters across the 50 states.

Our volunteers expend many hours giving presentations, staffing information booths at local, state and national events, attending volunteer meetings, writing letters to the editor, posting on social media, emailing their friends and family, and dozens of other promotional activities because they have studied the FAIRtax and believe it is the only true tax reform proposal in Congress.

No other tax proposal has this kind of support behind it. There is nothing that can compare to grassroots support behind the FAIRtax. It stands alone as the peoples choice.

We congratulate you and Chairman Brady for embarking on these most important hearings. Please know that hundreds of thousands of supporters will be paying close attention as this process unfolds.

Don't let the attached spreadsheet intimidate you!

I've included it only to demonstrate that my proposal is serious and not based on "back of the envelope" logic. Nevertheless, you may want to open it and print out the "Table" tab which contains the relevant conclusions.

My original reform proposal that I started circulating in February, 2012, was based on three guiding principles. Income should only be taxed at its destination and not at its source. Income should only be taxed once. In other words, any prior taxes paid should be excluded from the income subject to federal income tax. And finally, the same marginal (flat) tax rate should apply to all income regardless of source. This lead me to offer the following eight provisions as the basis for reforming our federal income tax system.

1. Dividend payments would become tax deductible in the same manner as interest payments for companies. From the company's point of view, compensation to the providers of capital, creditors or shareholders, would be treated the same and not taxed. That means that the company (the source) would only be taxed on the income it retains, not the income it produces. The recipients (the destination) would pay the tax on the dividends and interest they receive and this dividend and interest income would only be taxed once.
2. Individual income from all sources, employment compensation, interest, dividends, capital gains, carried interest, etc., would all be taxed at the same flat rate, most likely between 15% and 20%.
3. Companies would pay the same flat rate as individuals. This would eliminate the differential tax treatment of various company legal structures, corporations (C&S), sole proprietors, partnerships, LLC's, etc.
4. The only permitted deduction from gross income would be other government tax payments, state and local income taxes, real estate taxes, taxes paid to foreign governments, etc. All tax payments would be treated as deductions only and not tax credits.
5. Landlords and lessors would be required to furnish their tenants and lessees with 1099's indicating how much of the tenant's and lessee's annual payments were attributed to real estate taxes the landlord or lessor paid on their behalf. The tenants and lessees would then be able to deduct this amount from their taxable income in the same manner as owners who make real estate tax payments directly to local governments.
6. State and local sales taxes would also be permitted deductions from gross income. The IRS already furnishes tables to estimate the appropriate amounts.
7. So as to prevent very low income earners from paying disproportionately higher taxes, I recommend establishing a threshold level, say $10,000 per taxpayer, that would be excluded from the tax. I am basing this exclusion on taxpayers and not dependents to eliminate family size as a component of tax policy. That is different than the sales tax deduction above which would take family size into account and be based on dependents. BTW, I think this pretty much eliminates the difference between a joint vs. single or married filing separately status. I think you get the same tax total independent of the filing status you choose.
8. Taxable income would be defined as Gross Income minus the allowed tax payment deductions and the exclusion deduction. The flat tax rate would then apply to that net amount.

I'm not proposing that there be any changes to the current tax code regarding how the IRS defines income. In other words, page 1 of the Form 1040 and consequently the definition of Adjusted Gross Income, would not change.

My thinking has evolved as I've discussed this with others and tried to assess its feasibility against historic IRS data.

For example, it became apparent to me very quickly that one rate did not work equitably, nor would it be acceptable to Democrats, so I modified my proposal to accommodate three rates with a threshold Taxable Income over which the second rate would kick in and a second higher threshold Taxable Income that would trigger the third rate. You will find those parameters on the "Distribution" Tab of the attached spreadsheet in cells L 3 through 7. Changing any one of them will cause the spreadsheet to recalculate in accordance with the changed assumption. The values I currently have in cells L 3 through 7 were chosen partially to represent current political realities but, more importantly, to make the Total Tax Amount in column N equal the 2009 Actual Amount from column E. A single Flat Tax Rate would have to be 19.6% to accomplish the same result but would give far too much relief to high income earners at the expense of the lower and middle income earners.

If there is any interest in further pursuing this proposal, I can provide more detailed instructions on how to use the spreadsheet, but, realistically, an independent authority would be needed to provide a bi-partisan recognized objective result. The work I've done to date only demonstrates that my recommendation could have merit.

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	AGI $'s			Income Tax Distribution %			
			Cum # of	2009 Actual		SFK Reform Proposal	
Range	Bracket	Cum $000's	Returns	Cumulative	Specific Range	Cumulative	Specific Range
$1 to $5K	1	0.3%	7.6%	0.0%	0.0%	0.0%	0.0%
$5K to $10K	5,000	1.5%	16.4%	0.0%	0.0%	0.0%	0.0%
$10K to $15K	10,000	3.5%	25.4%	0.1%	0.1%	0.0%	0.0%
$15K to $20K	15,000	6.1%	33.7%	0.4%	0.3%	0.0%	0.0%
$20K to $25K	20,000	8.9%	41.0%	1.0%	0.6%	0.0%	0.0%
$25K to $30K	25,000	12.0%	47.3%	1.8%	0.8%	0.2%	0.2%
$30K to $40K	30,000	18.4%	57.7%	4.1%	2.3%	1.8%	1.6%
$40K to $50K	40,000	24.5%	65.5%	7.0%	2.9%	4.4%	2.6%
$50K to $75K	50,000	39.2%	79.0%	16.0%	9.0%	14.0%	9.6%
$75K to $100K	75,000	51.9%	87.4%	25.3%	9.3%	24.7%	10.7%
$100K to $200K	100,000	74.9%	97.2%	49.8%	24.5%	51.1%	26.4%
$200K to $500K	200,000	86.5%	99.5%	70.2%	20.4%	69.8%	18.7%
$500K to $1,000K	500,000	90.7%	99.8%	79.5%	9.3%	78.4%	8.6%
$1.0M to $1.5M	1,000,000	92.4%	99.9%	83.3%	3.8%	82.0%	3.6%
$1.5M to $2.0M	1,500,000	93.3%	99.9%	85.5%	2.2%	84.1%	2.1%
$2.0M to $5.0M	2,000,000	95.7%	100.0%	90.9%	5.4%	89.5%	5.4%
$5.0M to $10.0M	5,000,000	96.9%	100.0%	93.8%	2.9%	92.5%	3.0%
$10.0M & Above	10,000,000	100.0%	100.0%	100.0%	6.2%	100.0%	7.5%
					100.0%		100.0%
SFK Reform Proposal							
	Bracket						
Rate 1 Threshold	1	51.9%	87.4%	25.3%		24.7%	
Rate 2 Threshold	75,000	34.6%	12.1%	44.9%		45.1%	
Rate 3 Threshold	225,000	13.5%	0.5%	29.8%		30.2%	

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Table 1.2 All Returns: Adjusted Gross Income, Exemptions, Deductions, and Tax Items, by Size of Adjusted Gross Income and by Marital Status, Tax Year 2009

(All figures are estimates based on samples—money amounts are in thousands of dollars)

Size of adjusted gross income	Number of returns	Adjusted gross income less deficit	Exemption amount	Total itemized deductions		Standard
				Number of returns	Amount	Number of returns
	(1)	(2)	(3)	(4)	(5)	(6)
All returns, total	**140,494,127**	**7,626,430,723**	**1,029,070,478**	**45,695,736**	**1,203,808,276**	**92,268,979**
No adjusted gross income	2,511,925	-196,958,452	13,742,768	0	0	0
$1 under $5,000	10,447,635	27,218,608	33,915,413	439,203	8,020,096	10,005,431
$5,000 under $10,000	12,220,335	92,407,278	58,080,799	629,928	9,932,585	11,586,408
$10,000 under $15,000	12,444,512	155,465,805	79,669,121	922,814	14,780,542	11,517,694
$15,000 under $20,000	11,400,228	199,017,560	76,860,603	1,168,782	18,048,313	10,229,448
$20,000 under $25,000	10,033,887	225,167,737	73,010,021	1,319,637	21,306,431	8,713,252
$25,000 under $30,000	8,662,392	237,994,230	63,627,911	1,533,209	24,192,992	7,128,185
$30,000 under $40,000	14,371,647	499,879,773	106,542,591	3,619,951	57,101,228	10,750,692
$40,000 under $50,000	10,796,412	483,088,798	81,504,834	3,994,552	68,330,728	6,800,862
$50,000 under $75,000	18,694,893	1,149,068,817	157,300,277	9,272,525	176,929,742	9,422,368
$75,000 under $100,000	11,463,725	990,337,913	109,058,971	7,583,001	168,120,241	3,880,724
$100,000 under $200,000	13,522,048	1,801,446,897	139,854,272	11,454,028	332,160,979	2,067,568
$200,000 under $500,000	3,195,039	905,347,402	30,562,232	3,051,936	156,026,826	143,092
$500,000 under $1,000,000	492,567	332,037,478	3,638,830	475,847	48,304,789	16,720
$1,000,000 under $1,500,000	108,096	130,149,237	780,188	104,559	18,101,201	3,525
$1,500,000 under $2,000,000	44,273	76,148,200	319,551	43,015	10,229,861	1,248
$2,000,000 under $5,000,000	61,918	182,986,391	442,446	60,522	24,296,813	1,395
$5,000,000 under $10,000,000	14,322	97,493,167	101,357	14,079	12,805,159	241
$10,000,000 or more	8,274	240,133,885	58,294	8,148	35,119,750	126

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Table 1.2 All Returns: Adjusted Gross Income, Exemptions, Deductions, and Tax Items, by Size of Adjusted Gross Income and by Marital Status, Tax Year 2009

(All figures are estimates based on samples—money amounts are in thousands of

Size of adjusted gross income	All returns						
	deduction	Taxable income		Income tax after credits		Total income tax	
	Amount	Number of returns	Amount	Number of returns	Amount	Number of returns	Amount
	(7)	(8)	(9)	(10)	(11)	(12)	(13)
All returns, total	**747,779,539**	**104,160,741**	**5,088,387,918**	**81,890,189**	**865,948,271**	**81,890,189**	**865,948,695**
No adjusted gross income	0	0	0	3,820	85,376	3,820	85,376
$1 under $5,000	53,661,106	443,289	424,220	306,587	40,278	306,587	40,278
$5,000 under $10,000	80,020,270	2,388,996	3,927,228	1,899,331	379,851	1,899,331	379,851
$10,000 under $15,000	86,662,093	6,228,222	20,542,044	2,883,906	848,075	2,883,906	848,075
$15,000 under $20,000	79,150,629	7,288,739	47,287,524	4,868,050	2,516,274	4,868,050	2,516,274
$20,000 under $25,000	69,979,510	8,135,834	72,338,786	4,639,085	4,669,410	4,639,085	4,669,410
$25,000 under $30,000	58,434,144	7,851,127	96,902,697	4,603,763	6,827,564	4,603,763	6,827,564
$30,000 under $40,000	90,781,999	13,830,842	249,325,250	9,589,845	20,151,883	9,589,845	20,151,883
$40,000 under $50,000	61,120,290	10,615,868	275,259,782	8,381,017	25,404,274	8,381,017	25,404,304
$50,000 under $75,000	96,630,436	18,548,842	720,889,762	16,449,393	77,962,073	16,449,393	77,962,073
$75,000 under $100,000	44,763,537	11,423,683	669,533,805	10,987,101	80,492,622	10,987,101	80,492,622
$100,000 under $200,000	24,670,361	13,492,388	1,306,333,237	13,374,553	212,290,589	13,374,553	212,290,589
$200,000 under $500,000	1,641,137	3,186,924	718,621,108	3,178,420	176,322,148	3,178,420	176,322,148
$500,000 under $1,000,000	194,039	490,338	280,537,996	489,904	80,458,185	489,904	80,458,185
$1,000,000 under $1,500,000	38,826	107,527	111,652,589	107,416	32,755,871	107,416	32,755,871
$1,500,000 under $2,000,000	13,070	44,052	65,749,557	44,015	19,393,235	44,015	19,393,235
$2,000,000 under $5,000,000	14,516	61,599	158,702,289	61,535	46,943,489	61,535	46,943,630
$5,000,000 under $10,000,000	2,448	14,247	84,805,917	14,236	24,817,005	14,236	24,817,005
$10,000,000 or more	1,128	8,225	205,554,127	8,211	53,790,072	8,211	53,790,324

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Federal Income Tax Calculation	$1 under $5,000	$5,000 under $10,000	$1,000 under $15,000	$15,000 under $20,000	$20,000 under $25,000	$25,000 under $30,000
Adjusted Gross Income(Form 1040, Line 37)	$ 2,605.00	$ 7,562.00	$ 12,493.00	$ 17,457.00	$ 22,441.00	$ 27,474.00
Deductible Taxes:						
Sales Tax-(Table fr 1040 Inst, Page A-11,)	(330.00)	(330.00)	(330.00)	(330.00)	(505.00)	(505.00)
Real Estate(Schedule A, Line 6)	(1,200.00)	(1,440.00)	(1,800.00)	(2,160.00)	(2,340.00)	(2,520.00)
State Income Taxes(Schedule A, Line 5)	(156.00)	(454.00)	(750.00)	(1,047.00)	(1,346.00)	(1,648.00)
Foreign Tax Pymts(Form 1040, Line 47)						
Sub Total	(1,686.00)	(2,224.00)	(2,880.00)	(3,537.00)	(4,191.00)	(4,673.00)
Exclusions:						
# of Tax Payers	2	2	2	2	2	2
X Exclusion per Tax Payer	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Total Exclusion	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)
Total Deductions	(21,686.00)	(22,224.00)	(22,880.00)	(23,537.00)	(24,191.00)	(24,673.00)
% to Adjusted Gross Income	832.5%	293.9%	183.1%	134.8%	107.8%	89.8%
Taxable Income	(19,081.00)	(14,662.00)	(10,387.00)	(6,080.00)	(1,750.00)	2,801.00
Federal Income Tax	0.00	0.00	0.00	0.00	0.00	(420.00)
% to Adjusted Gross Income	0.0%	0.0%	0.0%	0.0%	0.0%	1.5%
Your Actual Tax(Form 1040, Line 55)	(131.00)	(200.00)	(294.00)	(517.00)	(1,007.00)	(1,483.00)
My Proposal B/(W) than Current Tax	131.00	200.00	294.00	517.00	1,007.00	1,063.00
Total Taxes	(1,686.00)	(2,224.00)	(2,880.00)	(3,537.00)	(4,191.00)	(5,093.00)
Disposable Income	$ 919.00	$ 5,338.00	$ 9,613.00	$ 13,920.00	$ 18,250.00	$ 22,381.00
% to Adjusted Gross Income	35.3%	70.6%	76.9%	79.7%	81.3%	81.5%
Total Tax %	64.7%	29.4%	23.1%	20.3%	18.7%	18.5%
Adjusted Gross Income	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Federal Income Tax Calculation	$30,000 under $40,000	$40,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 under $500,000
Adjusted Gross Income(Form 1040, Line 37)	$ 34,782.00	$ 44,745.00	$ 61,464.00	$ 86,389.00	$ 133,223.00	$ 283,360.00
Deductible Taxes:						
Sales Tax-(Table fr 1040 Inst, Page A-11,)	(591.00)	(664.00)	(786.00)	(891.00)	(1,083.00)	(1,602.00)
Real Estate(Schedule A, Line 6)	(2,700.00)	(2,880.00)	(3,060.00)	(3,420.00)	(5,040.00)	(11,016.00)
State Income Taxes(Schedule A, Line 5)	(2,087.00)	(2,685.00)	(3,688.00)	(5,183.00)	(7,993.00)	(17,002.00)
Foreign Tax Pymts(Form 1040, Line 47)		(100.00)	(200.00)	(300.00)	(500.00)	(900.00)
Sub Total	(5,378.00)	(6,329.00)	(7,734.00)	(9,794.00)	(14,616.00)	(30,520.00)
Exclusions:						
# of Tax Payers	2	2	2	2	2	2
X Exclusion per Tax Payer	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Total Exclusion	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)
Total Deductions	(25,378.00)	(26,329.00)	(27,734.00)	(29,794.00)	(34,616.00)	(50,520.00)
% to Adjusted Gross Income	73.0%	58.8%	45.1%	34.5%	26.0%	17.8%
Taxable Income	9,404.00	18,416.00	33,730.00	56,595.00	98,607.00	232,840.00
Federal Income Tax	(1,411.00)	(2,762.00)	(5,060.00)	(8,489.00)	(17,152.00)	(51,102.00)
% to Adjusted Gross Income	4.1%	6.2%	8.2%	9.8%	12.9%	18.0%
Your Actual Tax(Form 1040, Line 55)	(2,101.00)	(3,031.00)	(4,740.00)	(7,326.00)	(15,873.00)	(55,475.00)
My Proposal B/(W) than Current Tax	690.00	269.00	(320.00)	(1,163.00)	(1,279.00)	4,373.00
Total Taxes	(6,789.00)	(9,091.00)	(12,794.00)	(18,283.00)	(31,768.00)	(81,622.00)
Disposable Income	$ 27,993.00	$ 35,654.00	$ 48,670.00	$ 68,106.00	$ 101,455.00	$ 201,738.00
% to Adjusted Gross Income	80.5%	79.7%	79.2%	78.8%	76.2%	71.2%
Total Tax %	19.5%	20.3%	20.8%	21.2%	23.8%	28.8%
Adjusted Gross Income	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Federal Income Tax Calculation	$500,000 under $1,000,000	$1,000,000 under $1,500,000	$1,500,000 under $2,000,000	$2,000,000 under $5,000,000	$5,000,000 under $10,000,000
Adjusted Gross Income(Form 1040, Line 37)	$ 674,096.00	$ 1,204,015.00	$ 1,719,969.00	$ 2,955,302.00	$ 6,807,231.00
Deductible Taxes:					
Sales Tax-(Table fr 1040 Inst, Page A-11,)	(1,602.00)	(1,602.00)	(1,602.00)	(1,602.00)	(1,602.00)
Real Estate(Schedule A, Line 6)	(36,000.00)	(79,920.00)	(118,800.00)	(154,800.00)	(201,600.00)
State Income Taxes(Schedule A, Line 5)	(40,446.00)	(72,241.00)	(103,198.00)	(177,318.00)	(408,434.00)
Foreign Tax Pymts(Form 1040, Line 47)	(3,000.00)	(5,500.00)	(10,000.00)	(18,000.00)	(56,000.00)
Sub Total	(81,048.00)	(159,263.00)	(233,600.00)	(351,720.00)	(667,636.00)
Exclusions:					
# of Tax Payers	2	2	2	2	2
X Exclusion per Tax Payer	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Total Exclusion	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)	(20,000.00)
Total Deductions	(101,048.00)	(179,263.00)	(253,600.00)	(371,720.00)	(687,636.00)
% to Adjusted Gross Income	15.0%	14.9%	14.7%	12.6%	10.1%
Taxable Income	573,048.00	1,024,752.00	1,466,369.00	2,583,582.00	6,119,595.00
Federal Income Tax	(153,164.00)	(288,676.00)	(421,161.00)	(756,325.00)	(1,817,129.00)
% to Adjusted Gross Income	22.7%	24.0%	24.5%	25.6%	26.7%
Your Actual Tax(Form 1040, Line 55)	(164,233.00)	(304,944.00)	(440,605.00)	(762,877.00)	(1,729,208.00)
My Proposal B/(W) than Current Tax	11,069.00	16,268.00	19,444.00	6,552.00	(87,921.00)
Total Taxes	(234,212.00)	(447,939.00)	(654,761.00)	(1,108,045.00)	(2,484,765.00)
Disposable Income	$ 439,884.00	$ 756,076.00	$ 1,065,208.00	$ 1,847,257.00	$ 4,322,466.00
% to Adjusted Gross Income	65.3%	62.8%	61.9%	62.5%	63.5%
Total Tax %	34.7%	37.2%	38.1%	37.5%	36.5%
Adjusted Gross Income	100.0%	100.0%	100.0%	100.0%	100.0%

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Federal Income Tax Calculation	$10,000,000 or more
Adjusted Gross Income(Form 1040, Line 37)	$ 29,022,708.00
Deductible Taxes:	
Sales Tax-(Table fr 1040 Inst, Page A-11,)	(1,602.00)
Real Estate(Schedule A, Line 6)	(403,200.00)
State Income Taxes(Schedule A, Line 5)	(1,741,362.00)
Foreign Tax Pymts(Form 1040, Line 47)	(224,000.00)
Sub Total	(2,370,164.00)
Exclusions:	
# of Tax Payers	2
X Exclusion per Tax Payer	10,000.00
Total Exclusion	(20,000.00)
Total Deductions	(2,390,164.00)
% to Adjusted Gross Income	8.2%
Taxable Income	26,632,544.00
Federal Income Tax	(7,971,013.00)
% to Adjusted Gross Income	27.5%
Your Actual Tax(Form 1040, Line 55)	(6,551,008.00)
My Proposal B/(W) than Current Tax	(1,420,005.00)
Total Taxes	(10,341,177.00)
Disposable Income	$ 18,681,531.00
% to Adjusted Gross Income	64.4%
Total Tax %	35.6%
Adjusted Gross Income	100.0%

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Size of Adjusted Gross Income	Number of Returns (1)	Adjusted Gross Income less Deficit $000's (2)	Number of Returns (12)	Total Income Tax Amount $000's (13)	Cumulative Income Tax Amount $000's	Cumulative Income Tax Amount % to Total	Average (2)/(1) (Calculated)
All returns, total	**140,494,127**	**7,626,430,723**	**81,890,189**	**865,948,695**			**54,283**
No adjusted gross income	2,511,925	-198,958,452	3,820	85,376			
$1 under $5,000	10,447,635	27,218,608	306,587	40,278	40,278	0.0%	2,605
$5,000 under $10,000	12,220,335	92,407,278	1,899,331	379,851	420,129	0.0%	7,562
$10,000 under $15,000	12,444,512	155,465,805	2,883,906	848,075	1,268,204	0.1%	12,493
$15,000 under $20,000	11,400,228	199,017,560	4,868,050	2,516,274	3,784,478	0.4%	17,457
$20,000 under $25,000	10,033,887	225,167,737	4,639,085	4,669,410	8,453,888	1.0%	22,441
$25,000 under $30,000	8,662,392	237,994,230	4,603,763	6,827,564	15,281,452	1.8%	27,474
$30,000 under $40,000	14,371,647	499,879,773	9,589,845	20,151,883	35,433,335	4.1%	34,782
$40,000 under $50,000	10,796,412	483,088,798	8,381,017	25,404,304	60,837,639	7.0%	44,745
$50,000 under $75,000	18,694,893	1,149,068,817	16,449,393	77,962,073	138,799,712	16.0%	61,464
$75,000 under $100,000	11,463,725	990,337,913	10,987,101	80,492,622	219,292,334	25.3%	86,389
$100,000 under $200,000	13,522,048	1,801,446,897	13,374,553	212,290,589	431,582,923	49.8%	133,223
$200,000 under $500,000	3,195,039	905,347,402	3,178,420	176,322,148	607,905,071	70.2%	283,360
$500,000 under $1,000,000	492,567	332,037,478	489,904	80,458,185	688,363,256	79.5%	674,096
$1,000,000 under $1,500,000	108,096	130,149,237	107,416	32,755,871	721,119,127	83.3%	1,204,015
$1,500,000 under $2,000,000	44,273	76,148,200	44,015	19,393,235	740,512,362	85.5%	1,719,969
$2,000,000 under $5,000,000	61,918	182,986,391	61,535	46,943,630	787,455,992	90.9%	2,955,302
$5,000,000 under $10,000,000	14,322	97,493,167	14,236	24,617,005	812,072,997	93.8%	6,807,231
$10,000,000 or more	8,274	240,133,885	8,211	53,790,324	865,863,321	100.0%	29,022,708
Total(excluding no adjusted gross income)	137,982,203	7,825,389,176	81,886,368	865,863,321			

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			SFK Reform Proposal				
	Average (13)/(12) (Calculated)	FIT as a % of AGI (Calculated)	Average Income Tax		FIT as a % of AGI (Calculated)	Tax Amount $000's (Calculated)	Cumula Income Tax $000's
			FIT Rate 1	15.0%			
			Rate 2	25.0%			
			Rate 3	30.0%			
Size of Adjusted Gross Income			Rate 2 Threshold	$ 75,000			
			Rate 3 Threshold	$ 225,000			
			SIT Rate	6.0%			
All returns, total	**10,575**	**11.40%**					
No adjusted gross income							
$1 under $5,000	131	0.10%		0	0.00%	0	0
$5,000 under $10,000	200	0.40%		0	0.00%	0	0
$10,000 under $15,000	294	0.50%		0	0.00%	0	0
$15,000 under $20,000	517	1.30%		0	0.00%	0	0
$20,000 under $25,000	1,007	2.10%		0	0.00%	0	0
$25,000 under $30,000	1,483	2.90%		420	1.50%	1,933,580	1,933,580
$30,000 under $40,000	2,101	4.00%		1,411	4.10%	13,531,271	15,464,851
$40,000 under $50,000	3,031	5.30%		2,762	6.20%	23,148,369	38,613,220
$50,000 under $75,000	4,740	6.80%		5,060	8.20%	83,233,929	121,847,149
$75,000 under $100,000	7,326	8.10%	Median ?	8,489	9.80%	93,269,500	215,116,649
$100,000 under $200,000	15,873	11.80%		17,152	12.90%	229,400,333	444,516,982
$200,000 under $500,000	55,475	19.50%		51,102	18.00%	162,423,619	606,940,601
$500,000 under $1,000,000	164,233	24.20%		153,164	22.70%	75,035,656	681,976,257
$1,000,000 under $1,500,000	304,944	25.20%		288,676	24.00%	31,008,421	712,984,678
$1,500,000 under $2,000,000	440,605	25.50%		421,161	24.50%	18,537,401	731,522,079
$2,000,000 under $5,000,000	762,877	25.70%		756,325	25.60%	46,540,459	778,062,538
$5,000,000 under $10,000,000	1,729,208	25.20%		1,817,129	26.70%	25,868,648	803,931,186
$10,000,000 or more	6,551,008	22.40%		7,971,013	27.50%	65,449,988	869,381,174
Total(excluding no adjusted gross income)		11.10%			11.10%	869,381,174	

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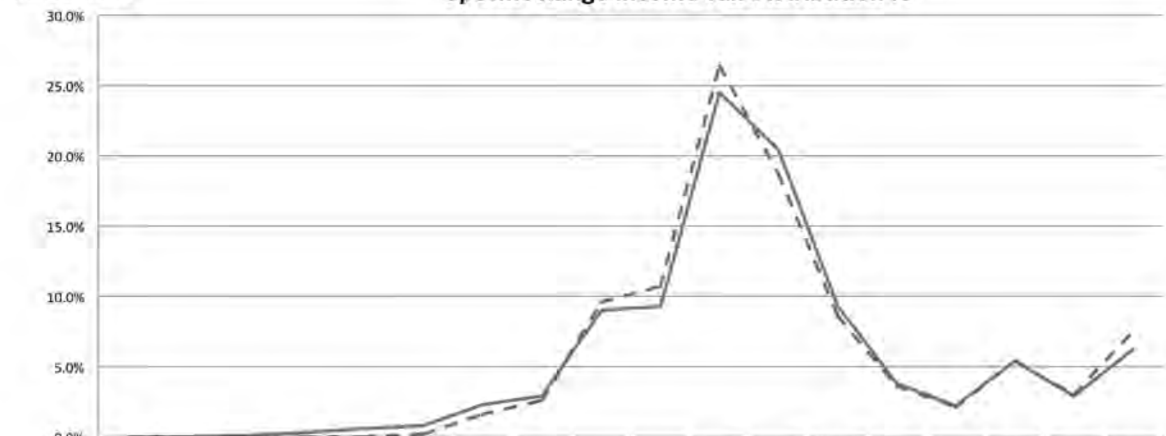
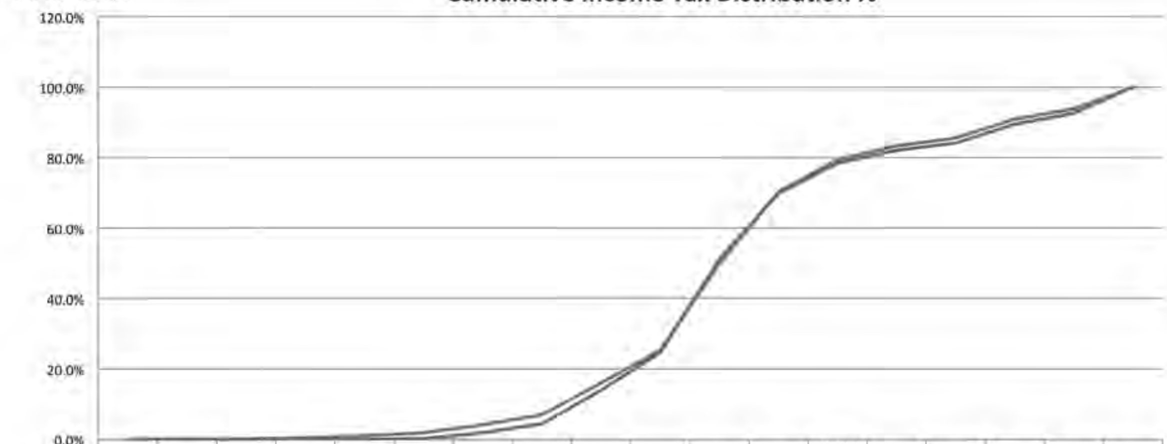
Size of Adjusted Gross Income	tive Amount % to Total
All returns, total	
No adjusted gross income	
$1 under $5,000	0.0%
$5,000 under $10,000	0.0%
$10,000 under $15,000	0.0%
$15,000 under $20,000	0.0%
$20,000 under $25,000	0.0%
$25,000 under $30,000	0.2%
$30,000 under $40,000	1.8%
$40,000 under $50,000	4.4%
$50,000 under $75,000	14.0%
$75,000 under $100,000	24.7%
$100,000 under $200,000	51.1%
$200,000 under $500,000	69.8%
$500,000 under $1,000,000	78.4%
$1,000,000 under $1,500,000	82.0%
$1,500,000 under $2,000,000	84.1%
$2,000,000 under $5,000,000	89.5%
$5,000,000 under $10,000,000	92.5%
$10,000,000 or more	100.0%
Total(excluding no adjusted gross income)	

Specific Range Income Tax Distribution %



Average AGI per Tax Return	$1 to $5K	$5K to $10K	$10K to $15K	$15K to $20K	$20K to $25K	$25K to $30K	$30K to $40K	$40K to $50K	$50K to $75K	$75K to $100K	$100K to $200K	$200K to $500K	$500K to $1,000 K	$1.0M to $1.5M	$1.5M to $2.0M	$2.0M to $5.0M	$5.0M to $10.0M	$10.0M & Above
2009 Actual	0.0%	0.0%	0.1%	0.3%	0.6%	0.8%	2.3%	2.9%	9.0%	9.3%	24.5%	20.4%	9.3%	3.8%	2.2%	5.4%	2.9%	6.2%
SFK Reform Proposal	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	1.6%	2.6%	9.6%	10.7%	26.4%	18.7%	8.6%	3.6%	2.1%	5.4%	3.0%	7.5%

Cumulative Income Tax Distribution %



Average AGI per Tax Return	$1 to $5K	$5K to $10K	$10K to $15K	$15K to $20K	$20K to $25K	$25K to $30K	$30K to $40K	$40K to $50K	$50K to $75K	$75K to $100K	$100K to $200K	$200K to $500K	$500K to $1,000 K	$1.0M to $1.5M	$1.5M to $2.0M	$2.0M to $5.0M	$5.0M to $10.0M	$10.0M & Above
2009 Actual	0.0%	0.0%	0.1%	0.4%	1.0%	1.8%	4.1%	7.0%	16.0%	25.3%	49.8%	70.2%	79.5%	83.3%	85.5%	90.9%	93.8%	100.0%
SFK Reform Proposal	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	1.8%	4.4%	14.0%	24.7%	51.1%	69.8%	78.4%	82.0%	84.1%	89.5%	92.5%	100.0%

Dear Ways and Means Committee Chairman Brady,

Thank you for the opportunity to provide input into your efforts toward much-needed tax reform.

I am a US citizen living in Canada, at least for the time being (the US citizen part). I came here at 12 years of age when my mother returned to live in her home country. I never begrudged my mother that, as I always felt it was natural for someone to want to maintain strong ties to the land of their birth, that is unless that land is acting in a threatening manner against them.

I too have valued the relationship I have with the United States during these nearly 50 years I have lived beyond it borders as part of the American diaspora. My connection to the country extended in so far that I wanted my son to share in the privilege of being an American by allowing him to be born as one here in Canada.

Unfortunately, events that have transpired over the last few years have changed my relationship with the US to the point where I find myself asking: Have I left the US or has the US left me? I've come to the conclusion that the US has left me. When I look at how other civilized nations treat their citizens abroad, I feel ashamed for America - the so-called land of the free. Americans throughout the world, once proud to call themselves Americans, are renouncing US citizenship in record numbers for the sole purpose of protecting themselves and their families against their once beloved America. Some even say that the biggest single threat to US citizens abroad is the US government itself. Could anyone really argue?

For the last few years, I've had to do what citizens living in the US don't need to do, that is to prove to the US government at great personal expense every year that the accounts I use to maintain a mortgage, pay for groceries and living expenses are not being used for money-laundering, tax evasion and terrorist activities. I must also prove, again at great expense, that the taxes I pay locally aren't owed to the US where they could be used for services I don't use. All this for the sin of living outside the geographical confines of the US.

Had I known what abuses lay ahead, I would have severed my ties long ago rather than subject my son to the same. Had I done so, my son would never have been born an American (nor his children). I never would have had to pay the IRS a big chunk of my retirement savings just to make myself compliant into a tax system I didn't know existed a mere five years ago. I'm glad my mother did not live to see what bringing me to her home has done to her daughter and her family. She'd roll in her grave knowing that it will now cost each of us US$2350 and two trips to the consulate to renounce our once proud birthright citizenship. This barrier to American global mobility does nothing but hurt the American brand, in fact, is causing us to be shunned by the rest of the world. Who wants to marry or become a business partner with an American to be subjected to all the same expensive and privacy-invading reporting obligations to prove to the IRS and Treasury Department that they too aren't money launderers and terrorists?

Unlike America, many nations place value on their citizens who live abroad. They do not cause them to become pariahs due to policies that no one could imagine exist in a free world. Some, like France, even have their own legislative representation. Others, like Canada, allow their citizens to repatriate should they choose to after they renounce. None other than a despotic-run country in Africa do they stalk their citizens for taxes to cover services they are incapable of giving to those citizens. The current US policies that encourage good, law-abiding people to renounce US citizenship MUST STOP!

America is at a moral crossroads here. Will she continue to wage war on her own people, or will she liberate those whose lives she seeks to destroy so that they may continue to call themselves "American"?

The US must move from a tax system based on citizenship to one based on residency, and allow its citizens the freedom that citizens of all other nations enjoy and prosper from.

Thank you, and may God Bless America.

Tax Reform: Submission for the Record

April 10, 2016

As a tax preparer I would like to weigh in on why the current income tax system cannot be successfully reformed.

Any type of reform that still taxes income will only become increasingly complicated year by year. This is evidenced by the complexities that have occurred in just the last three years. I have seen tax preparers stop preparing taxes due to these recent changes. The ones still practicing are spending more time researching issues on returns that should be uncomplicated. We are being asked to do more and more with in the same tax filing time frames. I myself have been working 10-12 hour days 6 days a week, and an additional 6-8 hours on Sunday since the beginning of the year. I will prepare around 180 returns this season, which isn't a huge amount. However, this does not include payroll tax quarterly and annual filings that I prepare, 1099-Misc, 1099-S and 1099-Int filings, sales tax filings, and answering the IRS notices that are not always correct. (A recent notice just asked a grieving mother to inform her deceased son that the IRS is communicating directly with her.) Then the brokerages that have been given an extra two weeks to get their statements out so they do not have to send out corrected ones later, are STILL sending out incorrect tax statements and mailing corrected ones much later. They are usually received 3-4 days after the taxpayer's return has already been filed.

Here are some issues that are being discussed among a group of preparers, as you can see, even experts have differing opinions and understandings of what should be done:

KW: If you rent equipment personally owned to yourself (as an S-Corp), the equipment rental/expenses would be reported on Schedule C? Subject to Self-Employment (SE) tax or not? I'm talking myself into circles right now. Example... long haul truck driver owns truck in personal name. His S-Corp rents the truck from him.

KH: Why would it need to rent from him? Other than the W-2 there is no SE Tax from S-Corp earnings. He's jumping through imaginary hoops.

KW: I was referring to the SE from the equipment rental. He has interest expense, storage fees, and small expenses, but the net after rent is still a profit.

KH: and why can't these be taken on the S-Corp?

KW: The truck and loan are in the individual's name

KH: ever hear of equitable ownership?

JJ: Another problem on the personal property rental you run into in some states is the personal property rental becomes subject to sales tax.

MC: An IRS auditor said the majority of rentals are passive, unless they have a store front and are open to the public on a regular basis for the rental of equipment, it's passive.

KH: IRC §469 clearly states so.

NB: I'm not sure if it applies to personal property that's not part of a real estate lease, but self-rental income can be an exception to the passive activity rules. Its non-passive INCOME when connected to a trade or business that the owner materially participates in. But the LOSSES are still passive. Throw in NIIT (Net Investment Income Tax) and it gets even more complicated.

SC: If you report personal property rental on line 21, then you can deduct the expenses on line 35. It's a write-in adjustment. Maybe it's line 36.

KH: Not sure about that SC, these expenses are not Cost of Goods Sold.

How about this definition:

.03 Section 6231 (a) (1) (B) of the Code provides an exception to the definition of "partnership" for small partnerships. In general, the term "partnership" does not include a partnership if the partnership has 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and each partner's share of each partnership item is the same as such partner's share of every other item. A husband and wife, and their estates, are treated as one partner for this purpose.

In the Affordable Care Act, there are three definitions of "household income".

It is my strong opinion that welfare (Child tax credit, earned income credit, etc.) should not be given out through the tax code. When people can self-prepare returns there is incentive for fraud. People should be sitting down in front of a trained social worker to determine if they are eligible for welfare benefits. Education credits: why not apply for them through the educational institution where the student is enrolled?

People do not understand what is being asked of them. Small businesses are not understanding what is being asked of them. There are too many types of taxes on income. There are too many types of income for a reformed income tax code to work. There is an exception or two to every rule.

H.R. 25, The Fair Tax bill, taxes spending. People will understand what is expected of them. They won't have to worry about huge tax debts with fines and penalties. They will be able to budget: how much income they have and how much can they spend, with no surprises at year end.

CUNA
Credit Union National Association

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April 12, 2016

The Honorable Charles Boustany
Chairman
Subcommittee on Tax Policy
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Subcommittee on Tax Policy
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

Dear Chairman Boustany and Ranking Member Neal:

On behalf of the Credit Union National Association (CUNA), I am writing in strong support of the preservation of the credit union tax status. CUNA represents America's credit unions and their more than 100 million members. Credit unions are Americans' best option for financial services, and the credit union tax status represents one of the best investments that the government makes in its citizens. We urge Congress to retain and reaffirm the credit union tax status.

The importance of having not-for-profit credit unions as vibrant and viable alternatives in the financial services marketplace is as significant today as it has ever been. Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital across all individuals, families, communities and small businesses. Credit unions infuse financial market competition with multiple and differentiated competitive business models. They help keep financial services accessible - and affordable- for all consumers, whether they are members of a credit union or not.

In the aftermath of the financial crisis, more Americans are choosing credit unions as their best financial partner. In fact, more than 12 million Americans have joined credit unions since 2008. Some may have joined because their bank failed, moved or was acquired by another institution; and others may have joined because they grew frustrated with the policies and fees of the for-profit sector. What's important is that consumers needed a traditional bank alternative, a healthy credit union system with the capacity to grow was ready to serve them.

Credit union members benefit from conducting their financial services with an institution that they own. The credit union tax status is crucial to encourage and support the continued existence of this alternative, cooperative component of the financial system. This letter provides a brief background on credit unions and their tax treatment as well as an overview of the reasons that Congress should retain the tax status.

Congress should preserve the credit union tax status because:

- The tax treatment for credit unions continues to serve the purpose for which it was conveyed;
- The tax status represents good public policy, because it causes the creation of substantial benefits to the public, far in excess of its cost; and,
- Taxing credit unions represents a tax increase on 105 million Americans—and would likely lead to the elimination of many, if not most, credit unions.

Background on Credit Unions and the Credit Union Tax Status

Credit unions are member-owned, democratically governed, not-for-profit cooperative financial institutions generally managed by volunteer boards of directors, with a specified mission of promoting thrift and providing access to credit for provident purposes to their members, especially those of modest means.[1] Membership in a credit union is restricted to its field of membership, a concept originally used as a creditworthiness tool. Today, credit union fields of membership can include geographical areas in addition to employee, church or associational fields. An individual is not eligible to join any credit union, but we believe there is at least one credit union that every American is eligible to join. Some of the earliest credit unions were formed to provide small business credit to members to fund entrepreneurial endeavors. Over the years, credit unions have adapted to meet the credit needs of their members; whether it is short term, small dollar personal loans, mortgage loans, car loans or small business loans.

Credit unions were established at the Federal level during the Great Depression, but existed in many states as far back as 1908; their inception, driven by a demand for access to basic financial services – loans and savings. Through the enactment of the Federal Credit Union Act and the credit union tax status, as well as enabling legislation in all 50 states, Congress and the states have sanctioned and encouraged the development of a dual-charter credit union system that provides an alternative to the for-profit banking sector, comprised of financial institutions controlled by members and accessible to all.

The tax code from its earliest days has properly recognized the unique status and structure of credit unions. From the beginning, credit unions' tax treatment has been based on this different structure and mission.[2] This basis has been reaffirmed several times since 1917, including in 1937 when Congress made clear in statute, the tax status of Credit Union; and

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[1] 14 USC 12 § 1751.

[2] Credit unions were first made tax exempt in 1917 through a ruling by the United States Attorney General. The ruling noted that, "On examination of the purpose and object of such association, it appears that they are substantively identical with domestic building and loan associations or cooperative banks 'organized and operated for mutual purpose and without profit' [quoting from the 1916 statute]. It is to be presumed that the Congress intended that the general terms used in Section 11 should be construed as not to lead to injustice, oppression, or an absurd consequence." This served as the basis

in 1998, when Congress enacted the Credit Union Membership Access Act. Today, federally chartered credit unions' tax status is made clear by Section 501(c)(1) of the Internal Revenue Code; state chartered credit unions tax status is made clear by Section 501(c)(14) of the Internal Revenue Code. These tax policies were reaffirmed by the Internal Revenue Act of 1986, an important distinction as other tax policies were not specifically affirmed by the Act.

The Tax Treatment of Credit Unions Continues to Serve the Purpose for which Congress Conveyed it

Credit unions' federal income tax treatment has been conveyed in order to support and sustain a system of cooperative financial services in the United States. The existence of this thriving set of alternative consumer-owned financial institutions benefits not only the members of credit unions, but also customers of for-profit banks and other institutions. A safe, sound and growing credit union system is a clear indication that the tax treatment of credit unions continues to serve the purpose for which it was conveyed.

As the years have passed, the financial services sector has evolved, and the entities providing financial services—including credit unions—have adapted. Some have suggested that given the expanded services now offered by credit unions, they have become simply untaxed banks. That position ignores the very real differences that distinguish investor-owned and cooperative firms. The fact of the matter is that even though credit union services have evolved, their structure and mission have remained the same. Precisely because of their cooperative structure, credit unions behave differently from investor-owned financial institutions, and that difference in behavior produces substantial benefits both to the nation's 105 million credit union members, and also to non-members and the economy as a whole.

Two features of the cooperative structure are crucial in generating substantial benefits to society: Their total focus on member value and service, and their tendency to risk aversion. Because of credit unions' strong member focus, driven by their democratic governance structure, credit unions have every incentive to not only "pass on" but also to leverage the benefits of their tax status rather than divert it in some form of expense preference.[3] The cooperative structure also discourages excessive risk taking by credit unions. Because they

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for the exemption of state chartered credit unions from federal income tax until 1951, when mutual savings banks lost their tax exemption because they were deemed to have lost their mutuality but credit unions retained their tax exemption because, as is the case today, they hold firm to their mutuality and cooperative principles. Federally chartered credit unions were made exempt from federal income tax in 1937.

[3] *Expense preference* refers to managerial behavior that places the preferences of managers (inflated salaries and benefits, perquisites, lavish offices, etc.) ahead of the otherwise recognized goals of the firm. In an investor owned firm, expense preference behavior would result in sacrificing profit (investor value) for managerial preferences. For tax-exempt credit unions, expense preference behavior would imply providing excessive managerial emoluments rather than using or leveraging the tax exemption for the benefit of members. There is NO evidence of expense preference resulting from the tax exemption: Comparing similarly sized banks and credit unions, both have expense-to-asset ratios in the range of 3 to

accept less risk, they tend to be less affected by the business cycle. Therefore credit unions can serve as an important counter cyclical economic force in local markets, softening the blow of economic downturns in local economics.[4] In addition, credit unions' member focus and the absence of a strong profit motive allow them to offer significant advantages to their members of modest means.

Credit Union Tax Status Is Good Public Policy and the Benefits Vastly Outweigh the Costs

As a consequence of their member-focused, cooperative structure, credit unions confer on their members--and the rest of society reaps--benefits that far exceed the amount of revenue the Treasury would ever gain by imposing a new tax on credit unions. These benefits are multi-dimensional and include financial benefit, high quality member service and financial education.

The financial benefits that credit unions provide to both members and others amount to an estimated $11 billion in just 2015. Their tax status is leveraged because credit unions do not pay dividends to stockholders, generally do not compensate their directors, and do not compensate senior executives as highly as banks do when stock options and grants are taken into consideration.

Credit unions provide benefits directly to their members in the form of lower fees, lower rates on loans, and higher yields on deposits than those available at other financial institutions. Applying rate differentials from a third party source (Informa Research Services) to the volumes of various loan and deposit accounts at credit unions, and applying fee differentials to credit union non-interest income, allows us to calculate the total amount that members benefit from using credit unions. In 2015, we calculate the total of member benefits at nearly $8 billion.

In addition, several independent researchers have found that credit unions have a moderating influence on bank pricing: Raising bank deposit interest rates and lowering bank loan rates.[5]

3.5%; the aggregate 11.0% credit union capital ratio is four percentage points higher than the level regulators consider to be "adequate" but is no higher than the aggregate bank equity capital ratio. Also, as noted elsewhere in this letter, compensation comparisons between banks and credit unions show lower compensation for credit union senior executives at similar sized institutions – and substantially lower compensation when data on bank stock options, grants and similar non-cash compensation is considered.

[4] James A. Wilcox, *The Increasing Importance of Credit Unions in Small Business Lending*, Office of Advocacy, Small Business Administration, September 2011. p.v.

[5] Robert J Tokle, *The Influence of Credit Unions on Bank CD Rate Payments in the US*, New York Economic Review, Fall 2005. Timothy H. Hannan, *The Influence of Credit Unions on the Rates Offered for Retail Deposits by Banks and Thrift Institutions*, Federal Reserve Board of Governors, September 2002. Robert M. Feinberg, *The Competitive Role of Credit Unions in Small Local Financial Services Markets*, Review of Economics and Statistics, August 2001. Robert M.

Based on this research, we estimate that bank customers saved about $3 billion in 2015 from more favorable pricing due to the presence of credit unions in their local markets.

Compared to historical measures of these consumer benefits, the total of $11 billion in 2015, was relatively subdued because of the unusually low level of most interest rates during the year. When all interest rates are compressed near zero, there is less room for typical differences between credit unions and other rates. Prior to the financial crisis, the combined member and non-member benefits totaled more than $12 billion annually. These levels are likely to be achieved again once interest rates rise.

In addition to these quantifiable benefits, credit unions also provide consumers of financial services significant intangible benefits. As member-owned and governed institutions, credit unions focus on providing exceptional member (customer) service. This too places competitive pressure on banks to follow suit. In the 21 years from 1985 to 2005, the *American Banker* newspaper published an annual survey of consumers of financial services, and each year credit unions scored much higher than banks in customer service. We are aware of sessions at bank conferences with titles such as "Emulating the Customer Service of Credit Unions." This is just another way that the existence of a cooperative alternative to investor-owned banks has value not only to credit union members but also to bank customers.

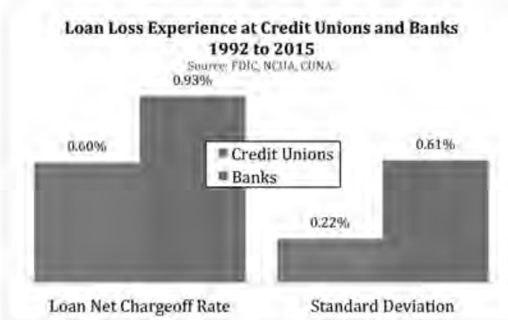
Credit unions offer full and fair service to all of their members, and credit union membership tends to be concentrated in the working class of Americans. Over half of credit union members who rely primarily on their credit union for financial services have incomes between $25,000 and $75,000. Credit unions also do not shy away from serving their members where they are most needed. Nationwide, 49% of credit union branches are located in CDFI investment areas, compared to only 42% of bank branches in such areas.

Compared to other providers, credit unions offer services to lower-income members at prices that are very attractive, and with less of a price differential to services offered to higher income members. In fact, credit unions sometimes charge their lower-income members less for a service than banks charge even their higher-income customers. For example, a recent study found that the fees banks collect on an annual basis on low balance checking accounts ($218) are two and a half times what they collect on their high-balance accounts ($90). In contrast, fees credit unions collect on low-balance accounts ($80) are less than a third of those collected by banks on low-balance accounts, are even less than what banks collect on high-balance accounts, and are less than twice what they collect on their own high-balance accounts ($42). In other words, consumers generally get better deals from credit unions than from banks, and this is particularly true for lower income members.

Feinberg, *The Effects of Credit Unions on Bank Rates in Local Consumer Lending Markets*, Filene Research Institute, 2001.

In addition to providing access to financial services, credit unions also endeavor to provide financial literacy education to their members, and to encourage individual and family level thrift and saving. 69% of credit union members belong to a credit union that offers some form of financial education and 57% of credit union members belong to a credit union that offers financial literacy workshops. Twenty percent of credit union members belong to a credit union that operates one or more in-school branches. Credit unions engage in this activity not just altruistically, but also because it is in the credit union's best interest to have members who are educated regarding best use of the cooperative. Through these and other activities, credit unions employ the tax status to fulfill the purpose for which it was created. As a result, the credit union tax status has proven not only good public policy but represents an incredible return on the government investment.

The incentives faced by credit union management (generally uncompensated volunteer boards, the absence of stock options for senior management and board members, the absence of pressure from stockholders to maximize profits) induce management to eschew higher-risk, higher-return strategies.[6] As a result, credit union operations are less risky, and subject to less volatility over the business cycle. For example, from 1992 to 2015, the average annual net charge-off rate on credit union loans was 0.60%, with a standard deviation of 0.22%. In contrast, the similarly computed average at banks over the same period was 0.93%, with a much greater standard deviation of 0.61%.



[6] Edward J. Kane and Robert J. Hendershott, *The Federal Deposit Insurance Fund that Didn't Put a Bite on U.S. Taxpayers*, Journal of Banking and Finance, 20 (September, 1996), pp. 1305-1327. Kane and Hendershott describe how the cooperative structure of credit unions presents credit union decision makers with incentives that are strikingly different from those faced by a for-profit financial institution, making it less feasible for credit union managers to benefit from high-risk strategies.

Because of this lower-risk profile, credit unions were able to continue lending during the recent financial crisis while other financial institutions failed or had to curtail operations due to damaged balance sheets caused by riskier practices leading up to the crisis. Homeowners benefited from having credit unions in the market during the financial crisis. As the secondary market for residential mortgages collapsed in 2007, the amount of first mortgages originated by credit unions actually rose by 11% in 2007 and 18% in 2008.

Likewise, credit unions were an oasis for small business owners when banks withdrew their offerings and exited the market. From June 2007, the onset of the financial crisis, to December 2015, small business loans outstanding at credit unions grew by 130.4% while such loans at banks actually declined by 10%. A Small Business Administration study found, "that credit unions are increasingly important sources of small business loans as a longer-run development and in response to fluctuations in small business loans at banks."[7]

The tax status, by fostering the continued existence of credit unions as a cooperative alternative in the market, supports this countercyclical lending role for credit unions.

Taxing Credit Unions Would Increase Taxes on more than 100 Million Americans and Likely Lead to the Elimination of Many—if not most—Credit Unions

Some in the for-profit financial services sector would like to see Congress repeal the credit union tax status. Doing so, however, would undoubtedly result in negative consequences for savers and borrowers, the most severe of which would be the erosion of a credit union option for millions of Americans. If taxed, a very significant number of larger credit unions are expected to convert to banks to take advantage of the much greater flexibility of a bank charter, and an equally significant number of smaller credit unions would simply liquidate. The remaining credit unions would have to pass the burden of taxation to their members, because they are wholly owned cooperatives. This would substantially increase the cost of accessing mainstream financial services to American households, exceeding by far, additional revenue to Treasury.

One of the motivations behind comprehensive tax reform is to reduce distortions of resource allocation caused by preferences and exemptions, thereby allowing a reduction in corporate tax rates by expanding the tax base. There would be little to be gained by imposing a new tax on credit unions. For the past two decades credit unions have accounted for only 6% to 7% of the assets in US depository institutions. Nevertheless, more than 105 million working-class Americans benefit in an amount much greater than any possible amount the Treasury could collect from a misguided new tax imposed on credit unions. If credit unions were taxed in 2015, the receipts would have accounted for only 0.05% of 2015 federal government spending – an amount that would have funded U.S. government operations for five hours. It makes no

[7] Wilcox, p v.

sense to wipe out the substantial benefit Americans receive from having a credit union option for five hours of government operation. We encourage Congress to retain and reaffirm the credit union tax status.

On behalf of America's credit unions and their more than 100 million members, thank you very much for your consideration of our views.

Sincerely,

Jim Nussle
President & CEO

April 9, 2016

Honorable Kevin Brady, Chair, & Members
Committee on Ways and Means
United States House of Representatives
Washington DC
Submittal mode: Via email to waysandmeans.submissions@mail.house.gov

Re: Submittal for Committee Consideration, Upcoming Hearing on Tax Reform, April 13, 2016 in Room 1100, Longworth House Office Bldg.

The following piece outlines, in part, some of the benefits that will accrue to our citizens by scrapping the income tax, and replacing it with the FairTax, HR 25, S 122.

A Tax System That Can Unite Our Citizens

By Daar Fisher as published in "End Class Warfare (FairTaxers)" group
https://www.facebook.com/groups/endclasswarfare/

How do we rid ourselves of the suspicion that those who have more than we do are not paying their fair share of taxes? How can we stop the vitriol and the ranting that saturates our political consciousness - pitting citizen against citizen? How do we quench the core of class warfare?

FairTaxers believe that it starts with identifying the primary mechanism which

• promises to take from the rich and give to the poor.

• supports the control of wealth in the hands of the few.

• erodes the substance of the middle class by increasing wealth stratification.

• churns continuous class strife through this "politics of envy."

• is cloaked in complexity and misdirection.

• enables politicians to play "two ends against the middle" for personal gain. (It has been estimated that 53% of the lobbyists in Washington, DC are there to seek income tax code favors. Passing the FairTax legislation would end the income tax code, and the lobbyists who are there to exploit it on behalf of their special interests.)

• fundamentally reverses the roles of "government-servant" and "citizen-served."

• punishes wealth-creation while encouraging debt-driven consumption.

• drives jobs offshore, while favoring imports over exports.

• punishes hard work, investment, making it harder for citizens to "get ahead."

• results in unpredictable and varying outcomes for persons in similar circumstances.

• elevates the power of a "political elite" (*) above the needs of the citizens.

Could it be that what has evolved as a very-Marxist-like "class struggle" for acquiring capital and the "means of production" has done so as an outgrowth of the Marxist tax on INCOME signed into law by President Woodrow Wilson in 1913?

FairTaxers believe that the INTERNAL REVENUE CODE and the TAX ON INCOME is that mechanism that continues to foment class strife. (*)

Millions of dollars have been spent by concerned citizens who have long been concerned at the correlation between our current tax system and the decline of economic opportunity in America and consequent wealth stratification. That research led to development of a progressive consumption model of taxation that, by its nature, is FAIR to ALL - poor and rich, alike.

The "FairTax" is a federal tax system REPLACEMENT that will

• ensure that the wealthy pay their fair share:
http://whatyoupayunderfairtax.blogspot.com/

• encourage productivity, savings and investment.

• untax ALL poverty-level spending, by ALL legal households.

• make it far easier for working families to prosper, and become stake-holders in a capitalist system that will no longer be self-destructing under the weight of a Marxist tax system.

Is it possible that the FairTax plan could be THE KEY to ending the political polarization that besets us, as we struggle for social justice and greater access to economic opportunity? We, as FairTaxers, believe so.

• Warren Buffett, the billionaire "Oracle of Omaha," and advisor to President Obama, has stated that America's income tax system has been increasingly corrupted over the "last ten years" to the benefit of the wealthy.
http://www.youtube.com/watch?v=Cu5B-2LoC4s

• Mike Gravel (D), former Senator from Alaska who served on the powerful Senate Finance Committee for eight years, agrees with Buffett and laments how "taxing business is a canard," that we end up paying business's taxes hidden in higher prices.
http://www.scribd.com/doc/45443206/Gravel-YouTube-Part-2-Transcript

• Mike Huckabee (R), former Governor of Arkansas, used to believe that America needed a "flat" income tax, then he visited Americans for Fair Taxation, and learned about the FairTax; Gov. Huckabee made it the center-piece of his 2008 run for President.

Let us commit to mend our Land by WORKING TOGETHER, with RESPECT for each other, irrespective of political affiliation or advocacy positions on issues outside of the FairTax. Let us be relentless in spreading FairTax information and illumination. Get educated on the FairTax. Suggested key-word searches are yours for the taking at http://bit.ly/fairtaxanswers

Watch as we ignite a new "Golden Age" - a REAL "Golden Age" - with increased economic opportunity for all of our citizens.

(*) Aaron Russo's presentation provides insight into WHO constitute the "political elite" (Oligarchs), and why it was important for them to saddle the People with an income tax. See it here: http://bit.ly/freedomfascism
Simon Johnson describes the Oligarchs to Bill Moyers here:
http://www.pbs.org/moyers/journal/02132009/profile.html

Respectfully submitted,

Daar Fisher (on his own behalf, as an ardent FairTax advocate since 2005)

Statement for the Record:
House Ways and Means Tax Policy Subcommittee hearing on "Fundamental Tax Reform Proposals," Tuesday, March 22nd at 2:30 PM

From: David H. Leake, CAPT, USNR-Ret
4012 38th Ave. W
Bradenton, FL 34205
Constituent of Rep. Vern Buchanan (FL-16)

To quote a famous voice, "America's chickens are coming home to roost." Not talking about 9/11 here; rather, the 1913 decision by Congress to switch funding of the U.S. government -- from a consumption base to direct taxation of income. Not much good has come from that decision.

The good:

-- Helped fund WWI and WWII (with the additional major help of war bonds).

-- Used to extract "contributions" from workers to fund Social Security and Medicare.
(It worked back when there were dozens of workers for each recipient; now at about 2:1, and Social Security is going broke)

-- Helped fund numerous government programs (which worked pretty well on a rising tide of income when we had a growing workforce).

The bad:

--All the above has changed. Our workforce is shrinking as Baby Boomers retire. High paying jobs in mining, steel and industrial manufacturing are being replaced by jobs that pay less, in restaurant, tourism, and retail trades.

Simply, taxation on income is a well that is slowly drying up. Add to that the fast-growing number of workers forced to work for themselves, and switching from filing 1040 forms to filing Schedule C – where there's much more room to fudge the numbers – and government's ability to tax income is not keeping up with need (witness our federal deficit at $19 billion and growing).

-- The IRS is corrupt and inefficient – consuming 25% of all it takes in.

The good news:
--*Personal Consumption* in the United States has continued a steady upward trend since WWII – except for a single decline and quick recovery in 2008 (as seen at https://research.stlouisfed.org/fred2/series/PCECA from the Federal Reserve Bank of Chicago).

America's Big Solution – HR 25, the FairTax Act of 2015 – is gaining in support among the public (https://www.popvox.com/bills/us/114/hr25), in Congress (https://www.congress.gov/bill/114th-congress/house-bill/25/cosponsors), and among members of your own Ways and Means Committee.

-- America's Big Solution taxes the ever increasing stream of *consumption*. It replaces all forms of tax on income and productivity.

-- America's Big Solution gives every worker an instant pay raise when enacted – ranging from 20 to 29% (the higher figure is for the self-employed, who pay both sides of FICA)

-- America's Big Solution protects all retirees, who will pay no taxes when withdrawing funds from any source.

-- America's Big Solution produces the same amount of federal revenue as the current (broken) model.

-- America's Big Solution carves out 34% of its revenues to fund Social Security and Medicare.

-- America's Big Solution protects the poor by refunding *every legal household* its taxes up to the poverty line. Actually, the refund is paid monthly, in advance, for taxes that will be paid in the coming month (See "Prebate" section of the legislation).

-- America's Big Solution encourages those here illegally to self-deport. Because illegal households will not qualify for the prebate, they will find it more expensive to live here.

-- America's Big Solution reverses "corporate inversion." Instead, it welcomes American businesses to return home. It repatriates billions held offshore to avoid our current 34% tax. It makes the USA the best place in the world to build a business, and the best place to move a corporate HQ to, instead of from.

Above are just some highlights of the advantages in switching entirely away from taxing income and productivity, and switching to the system spelled out in HR 25.

Respectfully submitted,

David H. Leake

http://waysandmeans.house.gov/boustany-announces-hearing-on-fundamental-tax-reform-proposals/

and

http://waysandmeans.house.gov/committeesubmissions/

Committee on Ways and Means
United States House of Representatives

Re: Individual Income Tax; American Overseas

Honorable Committee Members,

Thank you very much for your solicitation of input from Americans on how to address fundamental issues in our taxation system for United States Citizens and Residents.

I write to you as a United States citizen who has resided continuously overseas since 1985, both in the United Kingdom and, since 1991, in Hong Kong.

There are three issues that are critical to me as an American residing overseas:

• Residence-based Taxation
• Repeal of FBAR account disclosures to the Treasury's Financial Crimes Enforcement Network
• Repeal of FATCA (Foreign Account Tax Compliance Act)

I am sure others are providing more detailed analysis on these issues so I wish to provide you some examples of how the USA's practice of Citizen Based Taxation has significantly and negatively impacted my life and decreased the ability of America to export goods and services.

I have always faithfully filed my required US tax and bank account disclosure forms. Please note that in 30 years overseas, only twice have I ever owed any US taxes, and even then the amount paid was under $200. Yet the preparation of US tax forms has always been infinitely complicated. However, the process becomes more complex each year, and with the implementation of FATCA, my compliance to US tax laws has become an unbearable burden.

Why should I be required to fill null returns year after year? Why should I reveal private banking information, being treated like a criminal, when I don't owe any US taxes?

Why should I pay US taxes when I receive NO SERVICES from the US government when I live and work full-time overseas?

In the past month alone:

• My bank has informed me that, because of FATCA, they will no longer offer me, as a US citizen, investment services of any kind;

• Two venture capital groups I approached to fund/invest in a business proposal of mine have declined to even listen to my proposal, as they are unwilling to invest in any business associated with Americans, due to the nefarious reporting requirements and exposure to US tax that they and their companies will be subjected to under the FATCA IGA with Hong Kong.

• My life insurance company, based in Switzerland, has made it clear that while they are "doing me a favor" by not terminating my policy, they reserve the right to do so, as well as advising me that they will not consider issuing me any further policies.

My case is nothing unusual. Every American expatriate I know is experiencing similar setbacks in their lives and businesses as a result of FATCA and US Citizen Based Taxation.
In addition I would like to communicate my great concern about the future security risk which the FATCA legislation presents. No one knows what will be done with the huge amount of extremely private information collected by banks, financial institutions and governments under the FATCA

system (names and addresses of client and family members, account numbers and amounts, income and tax information), and there is a great risk that this information could fall into the wrong hands and be used against those of us who live and work abroad.

Regarding taxes themselves, my accountant has advised me that I face the possibility in a few years, when I turn 65, of an enormous "windfall" tax when my local Hong Kong provident fund (similar to 401k) becomes available to me, which is tax free in Hong Kong, but regarded as non-tax deferred "income" by the IRS.

The United States government, the only one in the world to impose taxation on citizens who are permanently or long-term non-resident in the country, has been piling burden upon burden, complexity upon complexity, and life-destroying punitive fines, on its citizens. Many are being driven to renunciation of citizenship, *not to evade taxes,* but to rid themselves of the utter complexity and threat of draconian punishments for minor reporting errors of both taxation and financial reporting.

Finally, I wish to point out that the costs to the US government of collecting taxes and financial account information, and investigating and prosecuting possible fraud far outweigh the benefit to the government. Figures of "$150 billion in unpaid tax revenue" are ludicrous, and you will find that such figures are not based on any study.

I strongly urge you to make the USA join the rest of the world by basing taxation on residency, rather than citizenship, and to repeal completely the onerous FATCA legislation. If nothing is done about it this year, then I and my family will join the renunciation exodus, forever removing ourselves and our income and savings from the United States economy.

Sincerely,
David Nicol

P.S. On a personal note to every lawmaker: please remember that absentee ballots tipped the balance of votes in Florida and other states in at least two recent US presidential elections. A brief visit to US expatriate online forums will convince you that we are banding together, pledging our votes to whichever candidates have taken action to repeal CBT, regardless of our other political affiliations or leanings. There are millions of US citizens abroad. Just as your decisions in this committee will directly affect us, our votes can affect you.

Deborah Lee Soloway
5117 Ian Place
Nanaimo B.C. V9T 6C5
CANADA
(604) 352-8166
lawgrrl52@gmail.com

March 19, 2016

Dear Chairman Bustany and the House Ways and Means Tax Policy Subcommittee,

Thank you for the opportunity to provide input into your efforts toward much-needed tax reform. I am a US citizen living in Canada. I came here three years ago with my Canadian husband to help care for his aged parents. I have never begrudged him that, as he was there to support me in the States when my parents were dying.

Until our move, I was always happy and proud to be a US citizen. I was and continue to be fully compliant with all my tax filings and reporting. Unfortunately, events that have transpired over the last few years have changed my relationship with the US to the point where I find myself asking: Have I left the US or has the US left me? I've come to the conclusion that the US has left me. When I look at how other civilized nations treat their citizens abroad, I feel ashamed for America -- the so-called land of the free. Americans throughout the world, once proud to call themselves Americans, are renouncing US citizenship in record numbers for the sole purpose of protecting themselves and their families against aggressive and ill-considered tax enforcement policies. Some even say that the biggest single threat to US citizens abroad is the US government itself. Could anyone really argue?

Since arriving in Canada, I've had to do what citizens living in the US don't need to do, that is to prove to the US government at great personal effort every year that the **local** accounts I use to save for retirement, pay for groceries and living expenses are not being used for money-laundering, tax evasion and terrorist activities. I must also prove, at great expense and effort, that the taxes I pay locally aren't owed to the US where they could be used for services I don't and can't use (Medicare, for example). All for the "sin" of living outside the geographical confines of the US.

This barrier to American global mobility does nothing but hurt the American brand, in fact, is causing us to be shunned by the rest of the world. Who wants to marry or become a business partner with an American to be subjected to all the same expensive and privacy-invading reporting obligations to prove to the IRS and Treasury Department that they too aren't money launderers and terrorists? Unlike America, many nations place value on their citizens who live abroad. They do not cause them to become pariahs due to policies that no one could imagine exist in a free world. Some, like France, even have their own legislative representation. Others, like Canada, allow their citizens to repatriate should they choose to after they renounce. No country other than Eritrea, a despotic country in Africa, stalks their citizens for taxes to cover services they are incapable of giving to those citizens.

The current US policies that encourage good, law-abiding people to renounce US citizenship MUST STOP! Will America continue to wage war on her own people, or will she liberate those whose lives she seeks to destroy so that they may continue to call themselves "American"? The US must move from a tax system based on citizenship to one based on residency, and allow its citizens the freedom that citizens of all other nations enjoy and prosper from.

Yours truly,

Deborah Lee Soloway

Subject: Prejudice of Citizenship Based Taxation
Date: Saturday, March 19, 2016 at 1:38:41 AM Eastern Daylight Time
From: Eric Hooper
To: waysandmeans.submissions@mail.house.gov

To Whom It May Concern:

Subject: Prejudice of Citizenship Based Taxation (CBT) System

I am writing this letter as an overseas American to highlight the complexity of the current Citizenship Based Taxation (CBT) System. CBT configures discrimination without a rational basis, and against a suspect class without a compelling interest. I realize my letter on such issue will be one of the many letters sent to the U.S. government and officials, including a letter May last year by a mother of an overseas American in Sweden who committed suicide from the struggles of CBT and FATCA. However, I need to have my voice be heard.

Taxation Without Representation:

After 150 years of taxation without representation, colonists revolted and created America. Today, Americans living overseas are being subjected to 150 years of taxation without representation.

Principles of due process and equal protection:

The 5th amendment to the US constitution states that ³No person shall beŠ deprived of life, liberty, of property, without due process of law². The due process clause applies to any government level in the United States.

The 14th amendment states that 'No state shallŠ deny to any person within its jurisdiction the equal protection of the laws². Although the equal protection clause explicitly applies to the states, the Supreme Court has long maintained that the principles of equal protection also apply to the federal government through the due process clause.

CBT is unconstitutional under the due process clause of the 5th amendment because citizenship is not rationally related to the purpose of taxation, and because nonresident citizens are a suspect class and their taxation is not a compelling government interest.

My Background:

Born and raised in the United States, I was a fortunate beneficiary of the American education system. After getting my degree at Embry-Riddle Aeronautical University, I secured a job as a commercial pilot in Hong Kong, Asia. Living outside of the U.S. for the past 5 years has informed me of the complexity and unjust of the current CBT system. In addition, the Foreign Account Tax Compliance Act (FATCA) is on the front burner of the adversity faced by Americans living overseas. The U.S. is the only country in the world that practices such taxation, and this is unsustainable for long term overseas Americans. The number of Americans renouncing their citizenship has grown exponentially and there is an amplifying number considering renouncing in the near future. It is the loss of America, that many outstanding and brilliant individuals have decided to cut ties with the country.

No Retirement Fund:

It is absolutely discriminatory that my pensions earned and paid for in Hong Kong are being taxed. What is your policy on the U.S. double taxation of over 8 million overseas Americans who already pay full taxes where they live and work? My retirement fund is not recognised by the U.S., and hence what was supposed to go into my ŒHong Kong

Retirement Fund[1] gets cashed out each month and is being taxed by the U.S. This extends to all American pilots in my airline, and also each and every American expat in Hong Kong, and also greater Asia. We are the only ones without a retirement fund, while our coworkers of all other nationalities do not face such problem. The U.S. taxes any retirement fund outside of the U.S. and left many hardworking employees who work for a honest living with no retirement fund to depend on when they age.

Income Over International Waters Being Taxed:

In addition, such taxation law has complicated my career as a pilot. Each time I fly over International Waters, I will be taxed as if I am working on U.S. soil. I cannot include my income over International Waters as Foreign-Earned Income, and that means whenever I fly from Hong Kong to the U.S., 75% of my flight income would be taxed, as opposed to my flight duty to Europe not being taxed at all. I felt being penalised for flying Œhome[1], to the country that I belong to.

Overseas Americans Became Uncompetitive:

In low tax, high cost jurisdictions like Hong Kong and Singapore, it makes Americans unemployable, if the employers consider paying their tax burden, or means Americans have to choose to live with up to 25% less income than coworkers paid the same. This result in Americans being hugely uncompetitive compared to their international counterparts in these jurisdictions.

An American Citizen's Privileges:

Being an American citizen should be a privilege. Citizens should expect the U.S. to be a country that values the idea of its citizens living all over the world and acting as ambassadors for a country that protects its citizens abroad as opposed to complicating their lives. CBT targets to make overseas Americans pay the same amount of taxes as if they were living on U.S. soil and it speaks to an injustice that can no longer be left undiscussed. Overseas Americans including me derive no benefit from the services that our U.S. taxes are directed towards. This sum of money in the long run could have helped me raise my family, feed another child, or invest in my own education and skills.

I respectfully write this letter to urge an open discussion and a potential repeal of such double taxation. Overseas Americans should be treated as fairly and as impartially as Americans residing in the U.S. It is high time for the U.S. to hear the voice and protests of overseas Americans and renunciants, and to repeal an unjust policy that no other country in the world had - apart from Eritrea. It affects not just over 8 million Americans living overseas, but their families back home on U.S. soil. The continuation of CBT would also affect our children, grandchildren and future generations to come should they decide to live and work overseas. Many overseas Americans are denied financial services with most local banks, you would not want to see your child in this position. I do not wish to be one of the next Œrecord-high number of renunciants' who decide to bid adieu to my roots.

I appreciate your time and attention dedicated to my letter.

Best regards,

Eric Hooper

Subject: HR25 the Fair Tax Act

Date: Monday, March 21, 2016 at 10:21:07 PM Eastern Daylight Time

From: Georgy Keating

To: waysandmeans.submissions@mail.house.gov

HR25 is the way we need to go.
Get this country back to consumption based, away from direct tax of income.

The good:

-- Helped fund WWI and WWII (with the additional major help of war bonds).

-- Used to extract ³contributions² from workers to fund Social Security and Medicare.
(It worked back when there were dozens of workers for each recipient; now at about 2:1, and Social Security is going broke)

-- Helped fund numerous government programs (which worked pretty well on a rising tide of income when we had a growing workforce).

The bad:

--All the above has changed. Our workforce is shrinking as Baby Boomers retire. High paying jobs in mining, steel and industrial manufacturing are being replaced by jobs that pay less, in restaurant, tourism, and retail trades.

Simply, taxation on income is a well that is slowly drying up. Add to that the fast-growing number of workers forced to work for themselves, and switching from filing 1040 forms to filing Schedule C where there's much more room to fudge the numbers and government's ability to tax income is not keeping up with need (witness our federal deficit at $19 billion and growing).

-- The IRS is corrupt and inefficient consuming 25% of all it takes in.

The good news:

--*Personal Consumption* in the United States has continued a steady upward trend since WWII except for a single decline and quick recovery in 2008 (as seen at https://research.stlouisfed.org/fred2/series/PCECA from the Federal Reserve Bank of Chicago).

America's Big Solution HR 25, the FairTax Act of 2015 is gaining in support among the public (https://www.popvox.com/bills/us/114/hr25), in Congress (https://www.congress.gov/bill/114th-congress/house-bill/25/cosponsors), and among members of your own Ways and Means Committee.

-- America's Big Solution taxes the ever increasing stream of *consumption*. It replaces all forms of tax on income and productivity.

-- America's Big Solution gives every worker an instant pay raise when enacted ranging from 20 to 29% (the higher figure is for the self-employed, who pay both sides of FICA)

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-- America's Big Solution encourages those here illegally to self-deport. Because illegal households will not qualify for the prebate, they will find it more expensive to live here.

-- America's Big Solution reverses "corporate inversion." Instead, it welcomes American businesses to return home. It repatriates billions held offshore to avoid our current 34% tax. It makes the USA the best place in the world to build a business, and the best place to move a corporate HQ to, instead of from.

Respectfully submitted,

Ms. Georgy Keating

Winter Park, Florida

March 19, 2016

To the Ways and Means Committee,

I am writing to support measures to rectify the unfairly harsh, punitive and ultimately costly parts of the U.S. tax code relative to citizens living outside of the United States. The current Citizenship-based Taxation (CBT) puts Americans like me and the U.S. economy at a competitive disadvantage.

I am a U.S. citizen, born in Massachusetts and with my last U.S.-based residence in California. I moved to France in 1994, to marry a French citizen, work and have a family. We are educated, middle-class citizens; my husband is a project manager and I am a civil servant and tenured scientist at the French equivalent to the National Institute of Health, on a salary approximately equivalent to that of an American postdoctoral fellow at the N.I.H. in Bethesda (low-to-middling five figures).

My family and I already pay relatively steep income taxes in France, but at least the forms are easy to file where our employers participate in declarations and the currency is the same. However, I personally, and my children when they reach their majority, are also required by current US law to file complex and time-consuming US tax forms as well as the Report of Foreign Bank and Financial Accounts (FBAR) through a website run by the Financial Crimes Enforcement Network.

I have voted in every election I could both before and after I moved out of the U.S., I use my U.S. passport, and I am in full tax compliance in both countries. Despite my exemplary citizenship, I am penalized many days a year (for 22 years and counting) in my time assembling and translating papers and converting currencies for no useful final outcome for either me or my country. I am likewise penalized in the money I finally now must spend ensuring U.S. tax compliance with a professional accountant. The accounting firm I use has specialized in people like me who never owe any money to the I.R.S., because our salaries are far below the ceiling of deductible income, but who also must be certain we are keeping up with the increasingly baroque and arcane U.S. tax code and filing correctly. The penalties are very threatening in case of innocent errors, and even tax professionals commit them for us residents abroad.

The solution to my situation and that of millions of Americans like me, from across the political spectrum, is to exchange this outdated system for a simpler and logical residency-based tax requirement. In addition, the United States should eliminate from Foreign Account Tax Compliance Act (FATCA) reporting all financial accounts held in the country in which the taxpayer is a *bona fide* resident, thereby saving countless productive hours of U.S. citizens abroad and uselessly spent processing time within the U.S. government. An additional benefit will be that U.S. citizens will no longer be penalized by foreign banks often to the point of being denied access to opening accounts, through foreign banks not wanting to assume reporting obligations.

Please adopt the bipartisan proposals supported by the Association of Americans Resident Overseas (AARO) and the American Citizens Abroad (ACA), presented both to Congress and to the Joint Committee on Taxation, the House Ways and Means Committee and the Senate Finance Committee.

Sincerely,

Heather Etchevers, France

To: waysandmeans.submissions@mail.house.gov

From: James Foley, US citizen residing in Switzerland since 01.01.2013

19 March 2016

RE: Written Comments submitted to Committee on Ways and Means

1. Repeal FATCA
2. Repeal Citizen Based Taxation, implement Residency Based Taxation
3. For US citizens who show proof they reside outside USA, NO reporting requirement of foreign bank accounts, retirement accounts, mortgage accounts, investments, holdings, stocks, pensions, etc.
4. Allow one time tax-free withdrawl of all US held retirement accounts for purpose of purchasing/paying off a primary residence for US citizens living overseas
5. NO US inheritance tax due on estates of US citizens residing overseas

To: All Members of the House Ways and Means Committee

From: James Stehr, retired public school teacher, volunteer for Americans for Fair Taxation
1752 Sea Oats Drive, Atlantic Beach, FL 32233
phone 904-314-1406, email prattstehr@bellsouth.net

Date: April 11, 2016

Honorable Committee Members:

While completing my Master's degree in Economics in 1983, I researched the advantages and disadvantages of replacing federal earnings taxes with a consumption tax. Since then I had over thirty years to think about this issue and I have concluded that the Fair Tax, HR 25, is by far the best available federal tax reform proposal. I will list the advantages of the Fair Tax followed by a description of the bill.

1. Whatever is taxed, less of it is produced by making it more expensive; our current tax system inhibits earnings. This is especially damaging to low and moderate income earners where a combined 15.3% payroll tax is taken off the top followed by an increasing income tax rate that further diminishes earnings. The Fair Tax will remove significant barriers to economic improvement for families.

2. The Fair Tax promotes household savings which is essential to ameliorate the increasing Social Security demographic imbalance. Personal savings are a necessary condition for individuals and families to start their own businesses and to increase economic choices. Because the Fair Tax will not tax earnings from any source, all savings and investment accounts will function as unrestricted IRAs with no taxes or penalties for withdrawals.

3. The Fair Tax is a large transfer of power from the political class to individual taxpayers. Citizens will have the power to control their federal tax payments when they choose their amounts of retail spending. Tax preparers told me that some taxpayers know when to quit their jobs in order to maximize the Earned Income Tax Credit. The late businessman Leo Linbeck Jr. wrote that 80% of business meeting times were spent trying to estimate the tax consequences of alternative decisions. I and other public school teachers declined to teach summer school because, in part, we worked at a higher marginal tax rate than we did during the school year. The Fair Tax removes these distortions to economic production.

4. Other advantages include: The retail sales tax is simple, transparent and has lower compliance costs than income and payroll taxes. States' sales tax collection agencies will replace the IRS unlike the Value Added Tax which will require an expansion of the IRS (according to testimony before the House Ways and Means Committee in July 2011). The monthly rebate makes the Fair Tax progressive. The Fair Tax was designed by economists to be effective and efficient, not by lobbyists to serve their special interests at the considerable expense of the rest of the citizenry. With the Fair Tax, the USA will become a tax haven and a jobs magnet. For years I have tried to find real disadvantages but could not find any. The following two pages contain an overview of the Fair Tax Proposal.

Description of the Fair Tax

House Resolution 25 (74 co-sponsors as of March 16, 2016) and Senate Bill 155 (7 co-sponsors), the Fair Tax, would replace all Federal income, payroll, business, gift and estate taxes with a progressive retail sales tax. When passed, these bills would abolish the IRS. The States would then be required to collect the sales taxes. In order to un-tax spending up to the Federal poverty level, the Social Security Administration (SSA) will issue a monthly rebate to all legal residents, $227.67 per adult and $79.41 per child, adjusted for inflation every year. The SSA may either issue electronic deposits, smart cards or paper checks. The retail tax rate would be 23% inclusive which means it is part of the retail price just as gasoline excise taxes are included in the price of gasoline. Businesses to business transactions would not be taxed.

Retail businesses will collect the sales tax and keep a 0.25% processing fee. Retailers will send the rest to their State. Each State, after collecting from all retail businesses, would keep an additional 0.25% collection fee which would provide the States with the incentive to enforce compliance. Each State would send the rest to the US Department of Treasury.

Progressivity

The monthly rebate makes the sales tax progressive. For example, consider three different adults who spend all of their earnings in one year:

A. Spends $20,000, pays $4600 minus $2732 rebate =$1868 tax, or 9.3%

B. Spends $50,000, pays $11,500 minus $2732 rebate = $8768 tax, or 17.5%

C. Spends $200,000, pays $46,000 minus $2732 rebate = $43,268 tax, or 21.6%

When comparing these examples to the current system, remember to consider income tax plus payroll taxes for Social Security and Medicare. The Fair Tax will replace all Federal income and payroll taxes with one retail sales tax.

Embedded Taxes Eliminated

Under the current system, businesses pay income taxes, their share of payroll taxes and compliance costs. For a business taxes are costs that are added to the price of its goods or services. Combined embedded taxes in the prices vary, but the estimated average is 22%. With the Fair Tax, there will no longer be payroll taxes or business income taxes to pass along. Competitive businesses will pass along the savings in reduced prices to offset the sales tax.

Income Not Classified as "Gross" or "Net"

Withholding of income will not occur when Federal income and payroll taxes are abolished. Workers will keep their entire paychecks; the Federal government will no longer take its share off the top.

Changes in Tax Collection and Reporting

With the Fair Tax, households will not complete income tax forms. Instead, every year each household will submit a list of names of members with birth dates and Social Security numbers. Businesses will continue to report income of employees, because Social Security benefits are based on earnings. Businesses will not pay income taxes. Retailers will forward the monthly sales taxes on to the States.

Tax Treatment of Savings and Earnings

The Fair Tax will abolish all Federal taxes on earnings. Under the current system, interest, dividends and capital gains are taxed, and in certain accounts the taxes are deferred. With the Fair Tax, interest, dividends and capital gains will not be taxed; taxes will be paid only when retail spending occurs. Under the current system, a taxable event occurs when money is withdrawn from a tax deferred account. Withdrawals will not be taxed under the Fair Tax.

Transition Period

HR 25 and S 155 as written will provide for a transition period from the current system to the Fair Tax. The transition period is will be at least one year and not more than two years. For example, if the Fair Tax is signed into law during 2016, the law will take full effect on January 1, 2018. Unsold retail business inventories that exist on December 31, 2017 will be eligible for a tax credit for the sales tax paid when they are sold after that date.

Repeal of the 16th Amendment

The Fair Tax will abolish Federal taxes on income, pay, business, gifts and estates. It will also abolish the IRS. The Fair Tax will sunset in 7 years after enactment if the 16th Amendment to the Constitution is not repealed. If this occurs, then Congress may reauthorize the Fair Tax as the new practices will be in place while the income tax apparatus will be dismantled

Revenue Enhancement

The Fair Tax was designed in the mid 1990s to be revenue-neutral. Many tax cuts enacted since then are still in effect. Economists predict that the Fair Tax will lead immediately to faster economic growth and increased tax revenue. Former Representative John Linder estimated that if the Fair Tax had been in effect in 2012, Federal revenue would have been 10% higher. The Fair Tax will not change Social Security or Medicare programs, but it will fund these programs from a larger, more stable and more predictable tax base. More information is available at fairtax.org, bigsolution.org, flfairtax.org and fairtaxnation.org. You may contact me at any time to discuss this proposal.

Sincerely,

James Stehr
1752 Sea Oats Drive, Atlantic Beach, FL 32233
Phone 904-314-1406, email prattstehr@bellsouth.net

Submission to: Committee on Ways and Means

Taxation without representation is unjust and against the values American claims to hold dear. And it has been this way for over 200 years. Yet, in one of the most-obvious hypocrisies, the U.S. Government obviously supports the practice of taxing citizens who live abroad with no real representation.

Ask yourself why your government supports this. I encourage you to do that, if you do nothing more. And then ask what can do to end it – and what you've done to end it.

I support the shift from what is commonly known as Citizenship-Based Taxation to a system of Consumption-Based Taxation that would eliminate the unjust tax burdens and discrimination that expats currently face around the world.

The United States has lost its sense of self when it comes to taxation. The United States has lost sight of the FACT that its roots are buried deep inside the spirit of revolution against taxation without representation.

And look where we are right now: Expat citizens taxed without representation.

Representatives have received letters from expats numbering in the THOUSANDS with ZERO response. Silence. THAT is our representation.

As a result, the Quiet Revolution is underway. You might not be noticing it, because it comes in the form of dissent, renunciation numbers, disgust on the part of citizens abroad, and other things that the government has long-stopped caring about.

Thousands of U.S. citizens abroad have been renouncing and relinquishing their U.S. citizenships. There are currently long waiting lists at all 300 U.S. consulates around the globe.

Thousands more have given up their permanent resident cards.

The U.S. expat population has been ignored for far too long. Those who choose to renounce or relinquish are not the Ex-Patriots America enjoys denigrating, belittling and hunting in the name of taxation - these are persons of modest means who are being forced to leave their U.S. citizenship in order to maintain their pursuit of happiness and their personal financial security.

I urge you to carefully read all of the submissions that come from those of us who live abroad. Reach out to us. Talk too us. We are more than happy to tell you what the data has been telling you all along – that Citizenship-Based Taxation is WRONG and should never have come to be in the first place.

The practice of Citizenship-Based Taxation and taxation without representation is UNAMERICAN – and as long as it continues, America will remain the great taxation hypocrisy of the world.

In short: Catch up to rest of the world and STOP taxing Americans who don't live in the United States.

I appear on behalf of myself:

Jason Pedley
3 Coral Court
Brantford, ON N3P 1L6
Canada
226-450-2150

Wednesday, October 26, 2016 at 10:05:44 AM Eastern Daylight Time

Subject: Tax Reform
Date: Saturday, April 9, 2016 at 6:02:48 PM Eastern Daylight Time
From: Jeffrey Locke
To: waysandmeans.submissions@mail.house.gov

To: The Honorable Members of the Ways and Means Committee
From: Jeffrey G. Locke of Kansas
Subject: Tax Reform

It is a honor to communicate by personal thoughts as a lawful citizen of Kansas in support of this Committees commitment to pro-growth tax reform and replacement.
To solve any problem one must be clear of what constitutes the problem. To point to this I mention that class warfare and the employ of the political class apparatuses to address them have been established when income began to be taxed with passage of the 16th Amendment to the US Constitution.
The root of all that is wrong with the tax code began with the embrace of the teachings of Karl Marx. A admitted fan of socialism and class warfare. Karl Marx never had a job so changing the paradigm to include the taxation of personal earnings should bring the realization of how America has changed into a socialist progressive image is tied back to the change of over 100 years ago to taxing earnings and savings.
I submit for your consideration that taxing income should be removed from the table. Any iteration that supports keeping an income tax model is advocating of supporting Karl Marx and the ensuing class warfare paradigm.
I would hope you would turn this committee to addressing tax reform models that replace the taxation of income completely. And by doing so maxmize economic productivity in America once more.
The Fair Tax maximizes GDP growth and sustains it. If that is the aim than that is one solution that satisfies twofold goals of removing all taxes on income and savings while additionally maximizing economic growth and prosperity.
Thank for accepting this email transmission in service by this citizen to the aims of tax reform called forth by the Ways and Means Committee.

Jeffrey Locke
P.O. Box 231
1208 South Seneca
Satanta, Kansas
67870-0231
620-238-1378 cell

Wednesday, October 26, 2016 at 10:27:43 AM Eastern Daylight Time

Subject: Submission to the House Ways and Means Tax Policy Subcommittee of the Committee on Ways and Means
Date: Monday, March 21, 2016 at 10:17:08 AM Eastern Daylight Time
From: Jo Corlett
To: waysandmeans.submissions@mail.house.gov

Dear Sirs

We would like to make a submission to the House Ways and Means Tax Policy Subcommittee of the Committee on Ways and Means in advance of Tuesday's hearing on ³Fundamental Tax Reform Proposals².

We would like to express our support for a simpler, residency-based taxation system (as opposed to citizenship based taxation) and an amnesty for all ³accidental Americans². We are both British citizens and have no direct connection to the US. Our daughter is, however, married to an accidental American and they now find their family, their income, their assets and - it is not an exaggeration to say - their very existence as a family threatened by the extraterritorial reach of the US tax system. You can read their story along with the stories of the many, many other innocents caught in the crossfire at www.facebook.com/USAccidental.

We are therefore asking the US government to urgently recognise the predicament of accidental Americans and grant them a full amnesty on a no-tax, no-penalty and no-fee basis, and a quick unbureaucratic exit from unwanted, unrequested US citizenship on these terms:

Those who at birth were dual citizens of the US and of a foreign state and:

€ at all times and up to the date of their expatriation remained citizens of another state;
€ never resided in the US after attaining the age of 18 and a half;
€ never held a US passport, or only held a US passport for the purposes of leaving the US or because the US State Department required them to travel into and out of the US on a US passport, or who held a US passport as a minor and did not renew or ceased to renew the US passport as an adult;
€ relinquish their US citizenship within a period of 2 years following 1 January 2016 or in the two year period following the date on which they discovered their US citizenship;
€ certify under penalty of perjury, compliance with all US federal tax obligations that would have applied during the 5 years preceding the year of expatriation as if they had been a non-resident alien during that period, may exit the relationship with the US on a no fee, no penalty and no tax basis.

Yours faithfully,

Jo and Roger Corlett

Congress Should End Extraterritorial Taxation of the 8.7 million US persons living overseas, and shift to Residence Based Taxation!

In my opinion, The Founding Fathers of America would disapprove of the current US practice of extraterritorial taxation of US persons tax resident in other countries. A key founding principle of America was against the notion of taxation without services.

This is a summary of the situation of US persons tax resident abroad (92% of whom live in countries with generally higher or equal taxation levels than the US – not tax haven countries!):

Double Taxation (county of residence + US tax via tax treaty gaps)

Without Representation (would never have agreed to it all)

Without US Government Services (that US resident US persons may receive)

Without a Care By The US Government For One's Well Being (only about stick and compliance)

With the presumption of guilt of tax evasion until proven innocent (they and their children must report accounts to the US Financial Crimes Enforcement Unit. While within America law is based on the premise of innocent until proven guilty).

With Unfathomable Compliance (obligation to overlay the 74,000+ page US tax code on top of the tax code of one's country of residence - with inevitable tax treaty gaps through which double taxation flows through. Stop US double taxation of Australian Superannuation retirement funds! There are no "qualified" US options under Australian law for Australian earnings. Thus taxed by US as "nonqualified" pension fund. Tax US retirement accounts at US marginal rate on annual account gains to even it all out, if you dare!).

With Excessive Compliance Cost (see above - it all requires highly specialized assistance and can't be done with TurboTax, and you don't use that because of the potentially bankrupting penalties - that US residents do not face for their everyday accounts in the US if not done right, actually not even required to be reported).

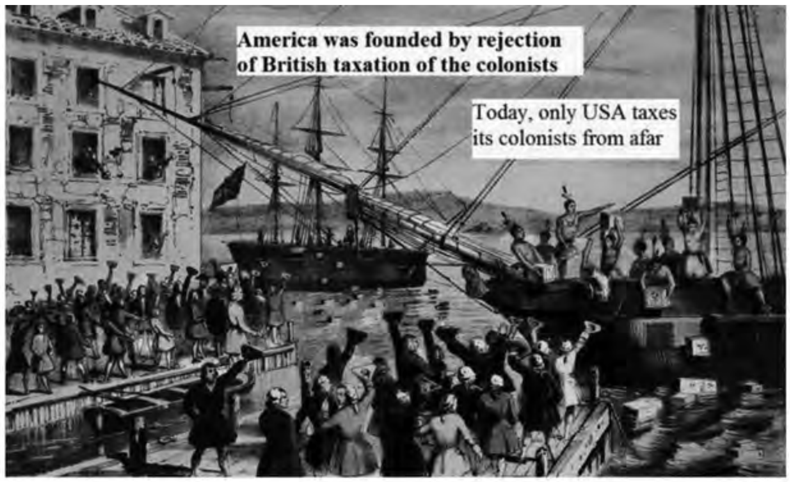
With Excessive Compliance Penalties (The U.S. tax rules punish accounts and investments that are foreign to the USA. For people living overseas, all their accounts and assets may be treated and punished as "foreign." The compliance penalties for not reporting accounts right could be bankrupting even if no US tax is owed).

Is all UnAmerican! Congress should be ashamed of its laws and un-American treatment of US persons living overseas – forcing on them second class status.

US citizenship should be about the greatest liberty in the world. Yet the truth is US persons living overseas are tremendously disadvantaged by the US government compared to nationals from all other OECD countries. **The US should join the OECD and shift to Residence Based Taxation and end its disadvantaging of Americans overseas.**

Also, Congress should legislate that compliance must have reasonable costs, time requirement, and should be minimised. There is a tremendous injustice for US persons overseas in that Congress does not care about their unfathomable and costly compliance, and seemingly unreasonably assumes that each has a compliance unit to serve them, as if a company, to sort it all out.

Regards, Joe Citizen @JCDoubleTaxed


America was founded by rejection
of British taxation of the colonists
Today, only USA taxes
its colonists from afar


WANTED
GINNY
Runaway Tax Slave
WANTED BY THE IRS FOR
FAILURE TO FILE US TAX RETURNS
LAST SEEN ON US PROPERTY
64 YEARS AGO AT THE AGE OF 5 YRS OLD
Penalties include forfeiture of all assets
and/or imprisonment

Wednesday, October 26, 2016 at 10:57:17 AM Eastern Daylight Time

Subject: Re: Expat tax PLEASE solve this problem.
Date: Friday, March 18, 2016 at 7:55:22 PM Eastern Daylight Time
From: Jak Dac
To: waysandmeans.submissions@mail.house.gov

Double Taxation (county of residence + US tax via tax treaty gaps)

Without Representation (would never have agreed to it all)

Without US Government Services (that US resident US persons may receive)

Without a Care By The US Government For One's Well Being (only about stick and compliance)

With Unfathomable Compliance (obligation to overlay the 74,000+ page US tax code on top of the tax code of one's country of residence - with inevitable tax treaty gaps through which double taxation flows through).

With Excessive Compliance Cost (see above - it all requires highly specialized assistance and can't be done with TurboTax, and you don't use that because of the potentially bankrupting penalties (that US residents do not face for their everyday accounts in the US if not done right).

With Excessive Compliance Penalties. (The U.S. tax rules punish accounts and investments that are foreign to the USA. The compliance penalties for not reporting accounts right could be bankrupting even if no US taxes are owed)

Is UnAmerican!

Any US persons living overseas caught up in this must visit the message boards of **The Isaac Brock Society** http://isaacbrocksociety.ca/ and **Facebook Citizenship Based Taxation and American Expatriates Groups**

US citizenship should be about the greatest liberty in the world. Yet the truth is US persons living overseas are tremendously disadvantaged by the US government compared to nationals from all other OECD countries.

The Alliance for the Defeat of Citizenship Taxation has announced a CBT lawsuit.https://citizenshiptaxation.wo...

Republicans Abroad back a lawsuit against FATCA and FBAR that they violate the Constitution on eight counts. www.FATCALegalaction.com.

In Canada **ADCS** has a lawsuit against the Canadian FATCA IGA that it violates The Canadian Charter of Rights that prohibit discrimination based on national origin. http://www.adcs-adsc.ca/

In Israel a case will be presented to the Supreme Court of Israel that the FATCA IGA violates the laws of Israel.

The US should shift to Residence Based Taxation like all other OECD nations.

On Sat, Mar 19, 2016 at 9:51 AM, Jak Dac <jakdac@gmail.com> wrote:

The Senate International Tax Reform report. In the 82 page report the final paragraph acknowledges receiving a LARGE number of submissions from taxation of individuals living overseas

PLEASE solve this problem.

In Australia I have a government mandated pension and a house I am to pay US taxes on ONLY because I am a US citizen (Only Westernized country to do so)

Eritrea has a 2% tax and has been condemned by the US

We fought for this justice in our Revolutionary War

ALL American I talk to and Australians find this situation unbelievable

I am married been here for DECADES and will not be returning to the USA to live

This can be fixed by updating our Tax Treaty (I have written to US / Australian authorities ambassadors tax treaty people etc. yet no action

Our Government Superannuation Pension was introduced TWENTY THREE YEARS ago

The easiest solution is to install RBT and maybe have caveats regarding the issue of rich people avoiding US tax

We are caught in the net

I believe 90% of expats probably ignore US tax YET the law abiding people are the ones to suffer

It IS wrong to pay US taxes from foreign earnings and our house for services we will never use.

I have paid taxes here and I am covered by medical here free if I ever returned this would not be the situation.

I was a teacher and a good ambassador for the US NOT a tax cheat

I also has to show all financial accounts to the USA as if I was a criminal

total overreach

Cheers

John Dacey

John K Dahlke
9611 S Springfield Ave
Evergreen Park, IL 60805

March 21, 2016

House Ways and Means Tax Policy Subcommittee

Dear Members of the Committee,

Thank you for taking the time to read my proposals on fundamental tax reform. To give you a brief history of my background. I was an international corporate tax professional for many years so I have knowledge of both US and foreign corporate and transactional tax laws. I have also operated a small tax consulting/preparation business for many years. I have no affiliations with any organization that has any political agenda.

Individual Tax

From an individual tax compliance standpoint, I simply propose that the committee begin significantly increasing the standard deduction to a point where only a minority of taxpayers have to itemize. This would eliminate the need to separately eliminate popular itemized deductions such as mortgage interest deductions, etc. It would also make it easier for the IRS to audit returns without getting bogged down on minutia such things miscellaneous deductions which in the grand scheme of things don't really add up to a lot. It would also help many taxpayers from having to pay to have their tax returns prepared. Most individual tax credits are normally more trouble to compute (or pay a preparer to compute) than they are worth to most taxpayers. The college credits are relatively easy to compute and meaningful to most taxpayers who can actually use them so they should be kept. If the committee decides to adopt a territorial tax system, as recommended below, then the individual foreign tax credit calculation can be eliminated. The only foreign tax credit that would be claimable would be withholding taxes on foreign dividend remittances to the US taxpayer.

Corporate Tax

The only reason the US corporate tax rate is so high is because most other countries supplement the loss of corporate tax revenue through their national VAT plans. Thus if the US implements a national VAT plan then it should easily be able to collect the lost revenue through a VAT system.

I propose significantly reducing the corporate income tax rate to between 10% and 15% and switching to a territorial type tax jurisdiction for companies who establish or maintain their worldwide headquarters in the US. The caveat of requiring the establishment of worldwide headquarters in the US would probably increase white collar jobs as well. This proposal would effectively eliminate the foreign tax credit gross-up as it relates to corporate repatriations not to mention all of the subpart F nonsense that has to be worked through every year.

I would also propose eliminating the research credit. Computing this credit is particularly difficult and expensive to comply with and audit. Since pharmaceutical companies already receive an indirect subsidy from the US government via the non-negotiable prices they are able to charge for Medicare drugs. Receiving a research credit to boot is a bit excessive.

Simplifying corporate tax compliance and lowering tax rates would also eliminate the need for companies to spend vast amounts of resources on complex tax structures simply because they would no longer need them.

VAT

To help pay for the reduction in corporation tax revenues I propose a national sales tax (or VAT) on professional services, (maybe 1% to 2% to start with). As you know, countries around the world pay for their lower corporate tax rates by tax consumers through the VAT. Over time and after the kinks have been worked out of a whole new level of federal VAT tax collection perhaps the scope of taxable services could be expanded. I selected professional services as a starting point because most professional services, such as law, accounting, medical, advertising and public relations are not subject to any state sales tax at this time. So before the states update their antiquated manufacturing based sales & use tax laws to include sales taxes on these types of service the Federal government should try to out flank them

Social Security Taxes

My first proposal would be to eliminate the existing cap on social security wages of $118,500 for both employees and employers. This limitation has never made sense.

Additionally, I propose that in return for the lower corporate tax rate, employers are asked to pay a larger percentage of employment related taxes (FICA & Medicare) than employees (say for example a combined employer rate of 8% vs employees combined rate of 7.65%)

Summary

From an employment standpoint I think my proposal regarding requiring a companies to set up their worldwide headquarters in the US in exchange for a lower corporate income tax rate has the potential to create a large amount of white collar, middle class jobs in our country filling administrative type roles. It should also help create high paying jobs in legal and law firms who will have to unravel existing tax avoidance structures plus help any new foreign companies who decide to relocate their worldwide headquarters to the U.S.

Thanks for taking the time to read my proposals. I'm sure you have received many proposals that are much more robust. Other than instituting a VAT system (which will create a whole new level of bureaucracy at the federal) my other proposals are intended to work within the existing taxation administration structure we have. However I think they would help simplify the tax laws from both a compliance and administration standpoint and ultimately expand the tax base a create new tax revenues.

Whatever this committee ultimately decides to do with regard to tax reform I pray that our elected leaders find a way to work with one another for the common good of this great country.

Sincerely,

John K Dahlke

Wednesday, October 26, 2016 at 10:50:41 AM Eastern Daylight Time

Subject: Submission to House Ways and Means Tax Policy Subcommittee Chairman - Urgent Tax Reforms are indeed needed!

Date: Saturday, March 19, 2016 at 1:29:46 AM Eastern Daylight Time

From: Jude Ryan

To: waysandmeans.submissions@mail.house.gov

Priority: High

Dear Chairman Boustany,

I am not a US citizen - at least I don't consider myself as such and most certainly have not lived my life as such - however, as a result of the Foreign Account Tax Compliance Act (FATCA) I, and millions of fellow ³Accidental Americans² have unwittingly been subjected to the insane tax filing and reporting system the US imposes on its overseas citizenry. As a dual French / Irish citizen I can assure you that the US' treatment of its diaspora is unique in the world and in urgent need of reform.

In case you are not familiar with the concept of Accidental Americans I have attached a recent memo, our collective of European Accidentals, submitted to the European Commission.

We know that the US authorities are aware of our existence. We were officially recognised in President Obama's 2016 and 2017 Green Books and also in The National Taxpayer Advocate's 2015 report to Congress. Everybody seems to agree that Accidentals are suffering a terrible injustice in the wake of FATCA yet nothing, I repeat nothing, has been done by the US authorities since FATCA was implemented to help us find a way out of the Kafkaesque nightmare we are experiencing. Personally I have sent in excess of 250 letters to US politicians and authorities and am still without a meaningful response. We are not the tax cheats FATCA is purportedly aimed at. We are innocent foreigners caught in the cross-fire of ill conceived and poorly articulated US tax laws and policies. All we ask is to be allowed to shed our unwanted US citizenship on a no fees, no filings, no penalties basis so that we can continue leading our ordinary lives as foreigners without interference from the US.

Having been involved in these issues for over a year now, and with first had experience of the manner in which the US treats its overseas citizenry, I implore you and your Subcommittee to listen to what your expats are telling you. All the US expats I have come across in the past 12 months are upstanding citizens, fantastic unofficial ambassadors for the US and generally great people. The US should be proud of them and cherish them. Often they represent the *creme de la creme* of US society yet they seem to be viewed with suspicion by the US authorities, who assume that if they live overseas they are up to nefarious activities. Nothing could be more far from the truth. In the past year I have exchanged with thousands of US expats and I can vouch for each and every one of them - they are ordinary people (teachers, doctors, lawyers, students, spouses, etc.) who for a myriad of bona fide reasons have decided to live abroad (work, family, etc.). They are not ³fatcats² hiding ill-acquired gains in overseas accounts and yet they are the ones who are feeling the brunt of FATCA.

My requests to you and your Subcommittee are therefore the following:

1. Grant Accidental Americans an ³amnesty². We have drafted the necessary text which is set out below.

2. Listen to what US expats are saying to you regarding Citizenship Based Taxation, FBARs and FATCA. No doubt others, more informed, will send more more exhaustive requests, however, in outline:

- Repeal Citizenship Based Taxation and replace it with the universal norm of Residency Based Taxation. If CBT is repealed, as it should be - US expats are suffering double taxation; the burdens and compliance costs of CBT are unwarranted especially given CBT raises very little, if no, revenue for the IRS; morally and legally CBT has no justification - then FATCA will become much less of an issue.

- Remove the punative fees payable in respect of FBAR fillings: penalties should be related to a dishonest intention.

Raise the thresholds for FBAR filings significantly.

- Reform FATCA in particular implement a Same Country Safe Harbour and amend/remove the 30% penalty on banks so that they will, once again, start to accept US clients or better still adopt CBT, repeal FATCA and join the OECD Common Reporting Standards.

Please do not hesitate to contact me should you require any further information.

Kind regards, Jude

Proposed Amnesty for Accidental Americans.
https://www.change.org/p/president-barack-obama-amnesty-for-accidental-americans-now-ac011c51-167e-421e-b461-cefd011590f3

We are Accidental American citizens. We need the US to free us from forcibly imposed US citizenship and taxpayer status now.

We are accidental US citizens because we were born with one nationality (from our parents) and the US has deemed that we acquired US nationality accidentally at birth by being born on US soil even though the US authorities have never recognised us as citizens. We've grown up and lived our entire lives outside the US, but as we didn't know we were deemed US citizens we have never formally renounced US citizenship. Nor have we ever exercised US citizenship: many of us have never had a passport, we have never cast a vote, we don't have any social security numbers.

We believe that you have no morally justifiable claim to tax us, to require us to disclose all our assets and savings to the US tax authorities nor to require us to document our existence from the time we left the US to the social security department. These are violently intrusive demands. We are not traitors, cheats or thieves. We are normal citizens of our counties. We, therefore, ask you President Obama to recognise our predicament and grant Accidental Americans a full amnesty on a no-tax, no-penalty and no-fee basis, and a quick unbureaucratic exit from unwanted, unrequested US citizenship on these terms:

Those who at birth were dual citizens of the US and of a foreign state and:

- *at all times and up to the date of their expatriation remained citizens of another state;*
- *never resided in the US after attaining the age of 18 and a half;*

- *never held a US passport, or only held a US passport for the purposes of leaving the US or because the US State Department required them to travel into and out of the US on a US passport, or who held a US passport as a minor and did not renew or ceased to renew the US passport as an adult;*
- *relinquish their US citizenship within a period of 2 years following 1 January 2016 or in the two year period following the date on which they discovered their US citizenship;*
- *certify under penalty of perjury compliance with all US federal tax obligations that would have applied during the 5 years preceding the year of expatriation as if they had been a non-resident alien during that period, may exit the relationship with the US on a no fee, no penalty and no tax basis.*

The US is the only country in the world to impose citizenship on the basis of birthplace and immediately impose taxpayer status and worse still a deeply intrusive compliance programme on all US citizens regardless of where they live. All western democracies, and most of the rest of the world, tax on the basis of residency. The US system is arbitrary, capricious and irrational. It is also profoundly undemocratic. Why should French, British or German people who don't live in the US be paying for roads in the US? Why should Indian and Swedish people who don't live in the US fund bridge improvements in the US? Why should Dutch people living in the Netherlands fund flood defences in the US?

We Accidental Americans all have different stories. Until 2015 we were living normal lives in countries like Australia, Belgium, Canada, France, Germany, the Netherlands, India, Sweden, Switzerland and the UK, and pretty much any other country in the world. Then the FATCA letter arrived from our banks asking for proof of not being a US person. From that moment on we have been prevented from living normally as citizens of our home countries. Banks have closed accounts and we and our families have been denied access to our savings. We may have to pay draconian penalties for late filing of US taxes and an exit tax when we renounce and we must fulfil complex disclosure requirements of all our assets to a foreign power. This is wholly disproportionate to the circumstance of being born on US soil: none of us chose where we were born.

As a result of our imposed status, we are discriminated against in our home countries. We can no longer access financial services or save for our futures. The

US in turn discriminates against our families. Children of Accidental Americans, for example, don't count for US tax purposes as dependants because they are not Americans. Spouses are treated as aliens and can't inherit tax free.

No other country in the world has ever created a citizen by accident. The US has done so but has systematically failed to recognise us as citizens for decades. The US State department has never run an information campaign and instead issued most of us with visas for travel to the US. Now at this point in its history you are conducting an immense global census of US persons at the cost of the world's banks. This is President Obama's Doomsday Book. How you use that information will determine how history evaluates the Presidency and all US institutions. Will the US choose extortion, expropriation and penalties for those unfortunate enough to be guilty of being born in the US? Or will reason and fairness prevail so that we Accidental Americans can exit in peace?

President Obama, although you offered a diplomatic olive branch to Accidental Americans in February 2015 with the proposed amnesty for us, you have so far failed to make this amnesty law. Moreover, your draft was inequitable: it excluded a large group of people who are Accidental Americans, although they held a passport as children or because in recent years the US State Department has been slightly more alert to this status and required a US passport to be issued.

President Obama, prove that you can use your political power to help individuals who are caught in FATCA's trap and let us go.

Subject: Statement
Date: Sunday, March 20, 2016 at 9:19:34 AM Eastern Daylight Time
From: K E Millirons Baston
To: waysandmeans.submissions@mail.house.gov

Thank you for considering changing the outdated practice of worldwide taxation. The vast majority are not trying to evade taxes and are essentially punished by the antiquated system for doing no wrong. The principle is simply wrong and anti-democratic. Why demand taxes from people who don't benefit from the proceeds? For the sake of fairness, please change these laws to base them on residency.

I'm not the most eloquent, but please hear my voice too as a concerned parent as my children's future relationship with the US depends on your actions. I want them to respect, admire and appreciate their citizenship. And possibly even want to live in the US for a time or forever. At the moment I fear they will only resent the hassle, cost and unfairness of the burden of it.

Thank you for the consideration.

Kind regards,
Kathryn Millirons Baston

Sent from my iPhone

March 19, 2016

The Honorable Charles Boustany
Chairman, House Ways and Means Tax Policy Subcommittee
US House of Representatives
Washington, D.C. 20515
USA

Dear Mr. Chairman,

I am an American citizen, originally from Wisconsin, but have been living in Hong Kong for many years.

There are an estimated 8.7 million Americans living abroad, a population larger than 39 states. The United States taxes these people, but they cannot benefit from what their taxes pay for, since they are outside the country. The United States is the only country in the world that taxes its citizens abroad, other than the repressive government of Eritrea, which was condemned by the United Nations for this very practice. I strongly feel that the United States should tax people based not on citizenship but residence, like the entire rest of the world does, rather the current policy of taxing its diaspora in the same way the despotic government of Eritrea does.

I would also like to address the hardships caused by FATCA. This legislation has resulted in serious negative effects on Americans living overseas. US citizens must disclose their overseas accounts on FATCA Form 8938 and are subject to steep penalties based on willful tax evasion behavior. If foreign financial institutions do not comply with the reporting on their US clients, all US-based investment transactions are subject to a 30% withholding tax. This has resulted in some terrible unintended consequences:

- FATCA complicates US tax compliancy (confusion between the FBAR FINcen Form 114 and FATCA Form 8938), increasing the risk of filing errors and subjects individuals to steep willful tax evasion penalties for simple reporting errors.
- FATCA is causing some foreign financial institutions to turn away American clients; refusing them services, closing their accounts or charging them higher fees to service their accounts.
- FATCA is creating unnecessary added bureaucracy for the US with little financial return to the US. FATCA passed Congress with no cost/benefit analysis and recent data indicates that the revenue predictions for FATCA are highly overestimated. The huge bureaucracy created to implement FATCA costs greatly exceed what it could possibly take in.
- FATCA increases the risk of identity and data theft, of particular concern for Americans living overseas with the heightened threat of global terrorism
- FATCA dis-incentivizes investment in US markets as foreigners owning US securities are subject to the same reporting and withholding penalties as Americans.

FATCA has touched off a global movement for automatic exchange of information in order to fight tax evasion. Foreign governments aim for reciprocity with the United States through bilateral intergovernmental agreements. However, unlike the United States, many foreign governments operating under residence-based tax policy want to receive information on individuals residing in their countries and not declaring income, whereas the United States seeks information on all US residents, living both domestically and internationally, because of its unique citizenship-based taxation (CBT).

As I see it, the solution to FATCA tax legislation is for the United States to adopt residence-based taxation (RBT), or territorial-based taxation (TBT).

Best regards,

Kevin Kent Caldwell
802, Car Po Comm BLDG
18-20 Lyndhurst Terrace
Central
Hong Kong
Tel: +852-9742-9551
Fax: +852-2854-2761

Date: March 19, 2016

To: The Honorable Kevin Brady and members of the House Ways and Means Committee

From: Leo Brunelle, 17 Halls Lane, Snake Valley, Victoria, Australia 3351

Subject: Citizen Based Taxation

Esteemed members,

My name is Leo Brunelle, I am a US citizen expatriate living and working in Australia. I moved to Australia in 2008 and took citizenship in 2013; I also work and live and work full-time in Australia. I am asking for your assistance in making reforms to the taxation laws regarding US expatriates living and working full-time overseas.

I have a small police pension from a local city, I collect that pension and work full time here in Australia. To my surprise and chagrin, the US IRS has a treaty with the Australian government in that my Australian income which I depend upon to live on is 'stacked' on top of my police pension when it comes time to report my taxes.

My superannuation, the equivalent of the 401K or Roth IRA is also being taxed as I am told that the IRS does not recognize that as a retirement fund. I know that there are many US expats in a similar situation and we are getting taxed at a much higher tax bracket simply because we earn a living here.

Why am I being double taxed? I am told that I am not only that my Australian income is factored into the overall tax submission with my US pension. I respectfully state that I am, I pay my taxes on my Australian income to the Australians and then have my income stacked on my US income and this puts me into a higher tax bracket, the end result is that I end up paying taxes to the IRS.

The so called exemption of the threshold of $99,0000 is essentially useless and moot if I make a total less than that, I should not be taxed on my income, but I am due to this tactic called stacking and I had never heard of it until I submitted my tax returns.

I'm not trying to cheat the US out of taxes, I'm a lifelong citizen, born and raised in the US before moving overseas. I am happy to pay my US taxes and I am happy to pay my Australian taxes, just keep them separate. What I earn here stays here in Australia and what I collect in the US on my pension stays in the US, they are what I need when I retire in a few years and I don't want to have to struggle because I'm paying to masters because of some misguided effort to ensure that everyone pays their fair share.

I do not live in the US and I only visit every 4 or 5 years, I have not property or interests financially other than my pension and I resent very much being double taxed. My fellow expats face the same situation and are renouncing their citizenship to keep from getting pummelled on their tax returns. I also had a very unpleasant interaction with the IRS seeking answers and being treated very poorly by one staff member and my formal complaint to the regional director went unanswered. I wish to keep my US citizenship, but not at the cost of continually being taxed to death because of some treaty loophole to extract more money out of me when I'm trying to wind down my work life.

I make much less than $99,000 annually combined with my US and Australian income, but yet, I am paying an average of $1750 for the past 2 years when I have always paid my taxes on time and at the correct rate. This only changed when I moved overseas and I am taxed here in Australia at a much higher rate on my income than in the US.

I am asking that you consider this, what a US citizen makes in the US gets taxed fairly by the IRS and that's that. What a US citizen makes in the country they reside in full time gets taxed by that country and that's that. Each entity gets their fair share, no one gets cheated and most importantly, a citizen doesn't get double taxed by two countries.

Please help me and my fellow expats out.

Regards,

Leo Brunelle

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PROMOTING CONSTITUTIONAL GOVERNMENT, ECONOMIC FREEDOM & TRADITIONAL VALUES

SUBMISSION FOR THE RECORD

CHAIRMAN BOUSTANY, RANKING MEMBER NEAL AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to submit a statement for the record regarding your hearing on fundamental tax reform proposals.

Whatever your political persuasion, there is little argument that the current tax code is fundamentally flawed and needs a complete overhaul. We know that Speaker Ryan, Chairman Brady and the members of this committee will make this a priority in the near future. We also know from past history that the road to fundamental tax reform, while perhaps paved with good intentions, will have many rocks thrown in its path. To reach that goal sooner rather than later will require a driver, a catalyst, that gives the Congress a deadline it has to meet.

The current tax code is an abomination. From a few hundred pages in 1914, the code has grown to just under 74,000 pages. Its contradictory provisions and complexity have made it almost impossible for millions of Americans to complete their tax submissions on their own. There are many good proposals out there and no doubt you will hear about them during this hearing. This testimony does not take a position on any of these proposals, but rather urges the Subcommittee to consider legislation that would sunset the code at a date certain in the future and call for a replacement before that date.

HR 27, the Tax Code Termination Act, calls for the current tax code to expire on December 31, 2019, following both the presidential election and the next congressional mid-term election and calls for a new code to be in place before that date. As of March 18, this legislation, sponsored by Chairman Goodlatte, has drawn 128 co-sponsors, including a broad cross section of the House, members of the House leadership and numerous committee chairmen.

Public reaction to this proposal has been tested and found to be overwhelmingly favorable. In 2015, the national polling firm McLaughlin and Associates, conducted a national survey designed to ask three questions:

First, is the current federal code tax code "generally fair and equitable"?
-- Fully 75 percent said no, and that answer ran across party lines.

Second, does something need to be done to force Congress to get serious about tax reform before 2020?
-- 85 percent agreed something had to be done (4 percent disagreed).

Third, would you support or oppose terminating the tax code at the end of 2019 to force tax reform? -- The response was seven to one in favor.

There is no question as to the American people's desire for fundamental tax reform. The issue is, how to get there? The answer is to pass HR 27. Passage of this bill will show, that regardless of the details of tax reform, Congress is serious about getting it done. We would ask for a hearing on the bill and further consideration by this Subcommittee.

Thank you again for this opportunity and we wish you well in the task ahead.

Colin A. Hanna
President

This initiative is entirely independent of any donor or client.

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THE TAX CODE

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Fax and Voicemail 888-462-6891 • Telephone 610-793-1800
www.LetFreedomRingUSA.com

Subject: Saving clause in tax treaties / QI / SEC
Date: Saturday, March 19, 2016 at 5:29:10 AM Eastern Daylight Time
From: Marco Sewald
To: waysandmeans.submissions@mail.house.gov
CC: Alex Hutkin

Dear Madame,
dear Sir,

I'm a dual U.S. citizen, working for one major banking group in Germany.

Maybe to your surprise I will not join the anti-FATCA chorus because with CRS in the pipeline a repeal of FATCA or any implementation of the currently discussed „Same Country Exception" on the report obligations imposed on foreign banks and governments will not make any difference to U.S. citizens living abroad.

This is because of the saving clauses in the tax treaty and the other regulations controlling U.S. citizens and banks abroad tax and investment wise (like the QI and the SEC regime)

These regulations are the main driver of the growing denial and your sharp tool enabling the distractive citizenship based taxation made in the USA, causing all the trouble for otherwise innocent people living abroad - now forced to expatriate „for tax reasons".

Recently I tried to open normal retail securities account for my daughter to save for college with a direct bank operating in Germany. Following the U.S. requirements I disclosed our dual U.S. Citizenships by surrendering a W9 forms - which was a big mistake. Our additional U.S. Citizenship caused straight denial of the account. I complained in writing and finally raised a case. I lost and was made aware that discrimination based on U.S. Citizenship is lawful in Europe - especially if the U.S. Citizenship is causing burdens to the banks, imposed by the U.S. government against U.S. citizens, otherwise not in place for any other customer group in Germany.

So I am a victim of the bleak U.S. policies against U.S. citizens living abroad, enabling the concept of citizenship based taxation. As you know, while living in Germany I might only owe U.S. taxes based on some well documented items. Most are surcharge taxes, like Net Investment Income Tax (which must be bypassed by transferring all assets to my NRA wife).

At the end of the day I am now asked by the U.S. governments tax code to expatriate „for tax reasons", without even owing tax in many situations.

There will be a further rise of expatriations and surprised „new" dual nationals, who didn't know about their U.S. citizenship, the harsh tax and report obligations and the local investment restrictions and of course the imposed surcharge / double / penalty U.S. taxation on normal products and otherwise untaxed income until they where educated by their local banks.

I'm not sure what tax policy rationale explains why it would be in the interest of the United States to push people like me and my children out of U.S. citizenship merely because we choose to live beyond the U.S. territory and would like to use local bank services. I'm also not sure why U.S. Citizens have to be educated by a local German bank teller about the true consequences of U.S. tax provisions and the annex of the IGA. Which explains the need to purchase a Certificate of loos of U.S. nationality for $2,350 to renounce U.S. citizenship to be able to use the full range of banking products in the future.

I would suggest to delete the saving clause from the tax treaty instead of continuing the tax induced witch hunt against U.S. citizens living abroad.

If this is impossible, because the U.S. believes it needs to collect „the fair share" from otherwise only nominal or accidental U.S. citizens abroad, I would simply ask for an easy and free way to expatriate - without five years of past tax compliance, excessive fees payable to U.S. tax consultants and the U.S. State Department.

Marco Sewald
Eisenbahnstr. 31
D-61130 Nidderau
+49 176 8266 8343

Subject: Consequences on minor dual national children, caused by U.S. tax laws imposed abroad
Date: Saturday, March 19, 2016 at 10:56:08 AM Eastern Daylight Time
From: Marco Sewald
To: waysandmeans.submissions@mail.house.gov

Dear Madame,
dear Sir,

I am writing on behalf of my minor, dual national U.S. / German daughter. I did the mistake to register her as a U.S. citizen. Obviously that was done in a pre-FATCA time - today no responsible U.S. parent would register a dual national child voluntarily with the U.S. State Department / Embassy abroad.

As a consequence of my mistake she was lawfully and finally denied a retail securities account in Germany for college savings - due to the current U.S. tax laws enforced in Germany. She was also denied to renounce her U.S. citizenship by the U.S. State Department, the citizenship causing the exposure to U.S. tax and report obligations in the first place.

The only way to enable her legally to the benefits from such a normal retail product in Germany is to follow the provisions described in the annex of the IGA and purchase a Certificate of loos of U.S. nationality from the State Department for the fee of $2,350. Since I made the mistake to register her, I am willing to pay the fee, even so I believe that the high fee is just another way to prevent U.S. citizens from leaving the concept of citizenship based taxation.

Since my daughter is minor, I applied for her to renounce but the U.S. State Department finally denied my request to extract the burden of U.S. citizenship from her.

So by virtue of the U.S. lawmaker she is by mischance a U.S. citizen residing abroad and due to the saving clause in the tax treaty she is caught in local U.S. tax laws, discouraging citizens to be abroad.

With the implementation of FATCA all banks and governments have been forced by the U.S. lawmaker to search and find U.S. persons to enable the various U.S. provisions to ensure the U.S. concept of citizenship based taxation. Once a U.S. persons is identified by the foreign financial institute, all other provisions like QI, SEC, penalty taxation on retail investment funds (PFIC) will be enforced.

I seems that most of these laws are obviously enacted to discourage U.S. citizens to reside, invest or receive income abroad. Today these rules are enforced on my minor daughter without a chance for her to follow the only legal exit strategy provided by the U.S. lawmaker: renouncing the problematic citizenship.

I would suggest that you either discontinue citizenship based taxation causing all this trouble or providing a suitable conclusion how to extract U.S. citizenship from dual national minor children residing abroad.

I have attached all documents proofing her case.

Marco Sewald
on behalf of
Lucy F. Sewald
Eisenbahnstr. 31
D-61130 Nidderau
+49 176 8266 8343

Marco Sewald
Eisenbahnstr. 31, 61130 Nidderau,
Germany, marco.sewald@gmail.com

Director
Office of Legal Affairs (CA/OCS/L)
Bureau of Consular Affairs
Mrs. Corrin M. Ferber
U.S. Department of State
SA-17, 10th Floor
Washington, D.C. 20522-1710
USA

COPY:
Consulate of the United States of America - Frankfurt

Mrs. Jessica C. Cue

Nidderau (Germany), 01/06/2016

Certificate of Loss of Nationality for my minor daughter
your letter - dated December 15, 2015

Dear Corrin Ferber,
dear Madame, dear Sir,

thank you very much for your decision in the case of my minor daughter Lucy.

While I sadly have to accept your decision at this time, I would like know what the earliest time is a minor child would be able to execute the „Oath/Affirmation of Renunciation" from your point of view, since this task was one explanation in the proposal 1400-AD71 ("Administrative Processing of Request for Certificate of Loss of Nationality") to justify the excessive $2.350 fee by explaining that ‚This determination can be especially demanding in the case of minors (...)'.

I'm willing and after one year of saving I'm also able to pay the fee, to follow the demands of these U.S. laws and regulations in question and obtain the CLN.

As mentioned in my last letter the bank in question insists to receive a copy of the Certificate of Loss of Nationality of the United States to contract my daughter and is referring to the IGA (annex) which was part of the list of links you provided with your letter.

While the annex of the IGA does not exclude minor children from providing a CLN it promotes loss of U.S. citizenship as the only way to remain or become a customer of a foreign financial institute that – at will of this institute – in Germany legally refuses to be an unpaid helper to establish more U.S. reporting obligations.

.../2

Marco Sewald

Eisenbahnstr. 31, 61130 Nidderau,
Germany, marco.sewald@gmail.com

-2-

I would really like to believe with you that Congress might not have enacted FATCA in 2010 to promote loss of U.S. citizenship in the first place but the current mechanics of the law and the imposed administrativ regulations, burdens and agreements with the German government do speak a different language to me.

According to the law it was enacted to confine foreign accounts possibly and in a small number of cases used for tax evasion based on the U.S. citizenship based taxation regime.

The ongoing denial of financial services to a large number U.S. persons abroad seems to be a favourable progress for the U.S. administration, since non exiting accounts could not be used for tax evasion and the currently absent U.S. taxpayer may consider to return to the U.S. to prevent further „self-inflicted"[1] confinements imposed by Congress and the U.S. administration. Which would be in the interest of the U.S. again.

This is basically the same mechanism used during the civil war by introducing the citizenship taxation regime to prevent young men to avoid the draft by leaving the U.S.

And even with your decison in mind that clearly prevents my daughter Lucy from loosing her U.S. citizenship right now, while being exposed to the consequences in Germany at will of the U.S. State Department, I'm still not sure what policy rationale explains why it would be in the interest of the United States to systematically push fellow citizens out of U.S. citizenship merely because they choose to live beyond the U.S. territory and would like to use local foreign financial services.

Thanks again in advance for your advise – I do appreciate your support, because me and my daughters have obviously been made 2nd class citizens in Germany and we are surely in need of help.

Sincerely,

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[1] See: Case: Mark Crawford, Senator Rand Paul, et al. vs. U.S. / Case No 3:15-cv-00250-TMR Doc #: 16 Filed: 08/12/15

Bundesanstalt für
Finanzdienstleistungsaufsicht

BaFin

BaFin | Postfach 12 53 | 53002 Bonn

22/9/15

Herrn
Marco Sewald
Eisenbahnstraße 31
61130 Nidderau

16.09.2015
GZ: Q 23-QB 4301-2015/3840 (Bitte stets angeben)
2015/1494682
Ihre Eingabe über die NIBC Bank N.V. vom 05.08.2015

Abteilung Verbraucherschutz | Recht

Hausanschrift:
Bundesanstalt für
Finanzdienstleistungsaufsicht
Graurheindorfer Str. 108
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Dreizehnmorgenweg 44-48

60439 Frankfurt
Marie-Curie-Str. 24-28

Sehr geehrter Herr Sewald,

ich beziehe mich auf Ihre Nachricht vom 5. August 2015, in der Sie sich über die NIBC Bank N.V. beschweren, die sich - offenbar im Hinblick auf den „Foreign Account Tax Compliance Act (FATCA)" – geweigert hat, für Sie ein Depot zu eröffnen und Depotleistungen zu erbringen. Sie bitten daher um eine rechtliche Einschätzung des Sachverhalts. Dieser Bitte komme ich gerne nach.

Mir ist bekannt, dass manche Banken aus geschäftspolitischen Gründen die Eröffnung von Konten und Depots für Kunden, die in den USA steuerpflichtig sind, ablehnen, da – aus Sicht der Banken - die zu erfüllenden umfangreichen Meldepflichten in keinem Verhältnis zu einem möglichen Ertragspotential stehen.

Ich kann Ihren Unmut über diese Verhaltensweise durchaus nachvollziehen. Aufsichtsrechtlich ist eine Ablehnung der Depoteröffnung jedoch nicht zu beanstanden, da es nach dem in Deutschland geltenden Grundsatz der Vertragsfreiheit grundsätzlich jedem Marktteilnehmer freigestellt ist, ob, mit wem und unter welchen Bedingungen ein Vertragsverhältnis zustande kommt. Einen generellen Zwang zum Vertragsabschluss („Kontrahierungszwang") gibt es – von Ausnahmen abgesehen, die im Wesentlichen der Daseinsvorsorge dienen – im deutschen Recht nicht.

Bundesanstalt für
Finanzdienstleistungsaufsicht

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Diese wesentlichen Grundsätze gelten für alle Marktteilnehmer; folglich besteht auch für Banken keine rechtliche Verpflichtung, ein Vertragsverhältnis zu begründen und z.B. ein Depot zu eröffnen bzw. Depotdienstleistungen zu erbringen.

Ich bedauere, Ihnen keine positivere Auskunft geben zu können, hoffe, jedoch, Ihnen mit der hier skizzierten Rechtslage den Hintergrund transparent gemacht zu haben.

Mit freundlichen Grüßen

Im Auftrag

Hornischer

Statement for the record of Matthew Lykken, tax attorney
Before the House Committee on Ways and Means member day hearing on fundamental tax reform

Thank you for the opportunity to provide input on the subject of serious proposals for consumption-tax based reform. Having practiced tax for some 31 years I am well aware of the dysfunctions in the current tax system that mathematically impel U.S. corporations to locate high-value operations abroad and to resist repatriating cash, and which make our corporations easy targets for foreign takeover. I am further well aware of the distributional issues surrounding proposals to replace income taxes with consumption taxes. In principle, one should tax things that one wishes to discourage and refrain from taxing things that one wishes to encourage. Taxing productive activity is undesirable. On the other hand, given that the U.S. economy is currently demand-constrained rather than capital-constrained, taxing consumption is even more undesirable if the persons bearing the burden of that tax have limited disposable income. While the wealthiest Americans have more money than they will ever be able to spend, normal working American families are already spending everything they take in, or commonly more. Because the whole point of a consumption-based tax is to take the tax burden off of business producers and impose it on consumers, conversion to a consumption tax will in itself necessarily hurt consumers, reducing their ability to purchase goods and services and thus harming the U.S. economy. One can provide offsets to reduce this damage, but it is inherent in the nature of the tax. Moreover, while consumption taxes are sometimes presented as being progressive because higher-income individuals spend more, and so pay more tax than lower-income individuals, again in fact the highest income Americans, who own a substantial portion of total wealth and receive a substantial portion of total income, earn far more income than they will ever spend, and so they would not suffer consumption tax on the bulk of their ever-accumulating wealth.

Fortunately, on the corporate side there is an alternative that would accomplish the positive goals of a consumption tax without these ill effects. It would involve allowing companies a current 100% deduction for investments in U.S. operations, essentially turning the corporate tax into a cash flow tax. Further, the proposal would reduce the income tax suffered by U.S. corporations to zero on their domestic operations so long as the companies dividend out their post-investment earnings. Moreover, it would do this without aggravating the current economically inefficient over-concentration of wealth or the deterioration of the purchasing power of American families and retirees. In fact, it would boost the incomes of hard-working savers while reducing incentives for destabilizing leverage and speculation. Further, it would provide incentive to move cash to the most promising investments in our economy, making capital more efficient at the same time that employee and retiree incomes and thus consumer demand for goods and services are increasing, triggering a virtuous cycle of stable economic growth. This would allow us to start weaning ourselves off of the increasingly ineffective money-printing "stimulus" that has been the only tool of U.S. economic policy for far too long now. Finally, the proposal would be mildly revenue-positive on a static basis, thus avoiding further aggravation of the deficits that have already saddled each and every member of the Millennial generation with $250,000 worth of federal debt.

That solution is the Shared Economic Growth Act. The draft text of this act follows, together with an explanation of the provisions. I hope that the Committee will give consideration to this sweeping solution to the games that have plagued tax writers and enforcers for decades, and will consider the member proposals against the backdrop of this feasible alternative. Further explanation of the proposal may be found in my article in the PACE University Law Review, available for download from Researchgate at
https://www.researchgate.net/publication/274922525_It's_Not_that_Difficult_The_Shared_Economic_Growth_Solution_to_Tax_Reform

A Bill

To amend the Internal Revenue Code of 1986 to remove incentives to shift employment abroad, and to remove hidden taxes on retirement savings and provide equitable taxation of earnings.

SECTION 1: SHORT TITLE

This Act may be cited as the "Shared Economic Growth Act of 2016".

SECTION 2: PROVIDING INCENTIVES TO LOCATE HIGH-VALUE JOBS IN AMERICA AND TO INJECT CASH INTO THE AMERICAN ECONOMY

(a) Part VIII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended by adding the following new section:

"251. (a) General Rule. In the case of a corporation, there shall be allowed as a deduction an amount equal to the amount paid as dividends in a taxable year of the corporation beginning on or after January 1, 2017.

(b) Limitation of benefit to tax otherwise payable.

1) The deduction under this section may not exceed the corporation's taxable income (as computed before the deduction allowed under this section) for the taxable year in which the dividend is paid, decreased by an amount equal to 2.85 times any tax credits allowed to the corporation in the taxable year.
2) Where the deduction otherwise allowable under this section in a taxable year exceeds the limitation provided in paragraph 1 of this subsection, the excess may be carried back and taken as a deduction in the two prior taxable years or forward to each of the 20 taxable years following the year in which the dividends were paid. However, the total deduction under this section for dividends paid during the taxable year plus carryovers from other taxable years may not exceed the limit provided in paragraph 1 of this subsection. Rules equivalent to those provided in paragraphs 2 and 3 of subsection 172(b) of this subchapter shall govern the application of such carryover deductions.
3) No amount carried back under paragraph 2 of this subsection may be claimed as a deduction in any taxable year beginning on or before December 31, 2016.

(c) Consolidated groups. In the case of a group electing to file a consolidated return under section 1501 of this Subtitle, the deduction provided under this section may be claimed only with respect to dividends paid by the parent corporation of such consolidated group."

(b) Subparagraph (b)(1)(A) of Section 243 of Part VIII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) if the payor of such dividend is not entitled to receive a dividends paid deduction for any amount of such dividend under section 251 of this Part, and if at the close of the day on which such dividend is received, such corporation is a member of the same affiliated group as the corporation distributing such dividend, and".

(c) Section 244 of Part VIII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is repealed for tax years beginning after December 31, 2016.

(d) Subparagraph (a)(3)(A) of Section 245 of Part VIII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) the post-1986 undistributed U.S. earnings, excluding any amount for which the distributing corporation or any corporation that paid dividends, directly or indirectly, to the distributing corporation was entitled to receive a deduction under section 251 of this Part, bears to".

(e) Subsection 1(h) of Part I of Subchapter A of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is repealed for tax years ending after December 31, 2016.

(f) Subsection (a) of Section 901 of Part III of Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) Allowance of credit

If the taxpayer chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b) plus, in the case of a corporation, the taxes deemed to have been paid under sections 902 and 960. However, in the case of a corporation, no credit shall be allowed under this section or under section 902 for foreign taxes paid or accrued, or deemed to have been paid or accrued, in tax years beginning after December 31, 2016. Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 26(b)."

This amendment shall override any contrary provision in any existing income tax convention.

SECTION 3: PREVENTING WINDFALL BENEFITS FOR FOREIGN INVESTORS

(a) Subchapter A of Chapter 3 of Subtitle A of the Internal Revenue Code of 1986 is amended by adding a new Section 1447 to read:

"1447(a) **General rule**. In the case of dividends paid to any non-resident individual or corporation by a United States corporation that claims a deduction under Section 251 with respect to such dividend, the payor shall deduct and withhold from such dividends the tax shall be equal to 30 percent of the gross amount thereof, in addition to any other tax withheld with respect to such payment under this subchapter. The imposition of this 30 percent withholding tax on dividends shall override any contrary restriction in any income tax convention.

(b) **Alternative additional tax**. In lieu of the withholding tax provided under subsection (a), a payor corporation may instead elect to forego the benefit of the dividends-paid deduction under Section 251 with regard to so much of the dividends as would otherwise be subject to withholding under subsection (a), and instead to withhold from such dividends an amount of tax equal to the top rate of corporate income tax under Section 11 multiplied by the amount of such dividends, and to apply the tax thus withheld as a prepayment of the payor corporation's tax liability. Any tax so withheld under this subsection (b) shall act as an incremental final tax on the relevant shareholder that may not be reduced.

(b) Section 871 of Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and adding a new subsection (n) to read:

"(n) **Additional 30 percent tax on deductible dividends paid to nonresident alient individuals**.

(1) **General rule**. In the case of dividends paid to any non-resident alien individual by a United States corporation that claims a deduction under Section 251 with respect to such dividend, there is hereby imposed for each taxable year a tax equal to 30 percent of the gross amount thereof, in addition to any other tax imposed with respect to such payment under this subchapter. The imposition of this 30 percent tax on dividends shall override any contrary restriction in any income tax convention.
(2) **Exception**. In the case of any dividend for which the payor corporation elects the alternative final tax under Section 1447(b), the 30 percent tax under paragraph (1) of this subsection shall not apply.
(3) **Alternative election to pay individual income tax at the highest individual rate**. If the non-resident alien taxpayer elects to treat the dividend income otherwise taxable under paragraph (1) of this subsection as income connected with a United States business, and further agrees to pay tax thereon at the highest rate provided under Section 1, then the 30 percent tax under paragraph (1) of this subsection shall not apply."

(c) Section 881 of Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and adding a new subsection (f) to read:

"(f) **Additional 30 percent tax on deductible dividends paid to foreign corporations**.
(1) **General rule**. In the case of dividends paid to any foreign corporation by a United States corporation that claims a deduction under Section 251 with respect to such dividend, there is hereby imposed for each taxable year a tax equal to 30 percent of the gross amount thereof, in addition to any other tax imposed with respect to such payment under this subchapter. The imposition of this 30 percent tax on dividends shall override any contrary restriction in any income tax convention.
(2) **Exception**. In the case of any dividend for which the payor corporation elects the alternative final tax under Section 1447(b), the 30 percent tax under paragraph (1) of this subsection shall not apply.
(3) **Alternative election to pay income tax at the highest icorporate rate**. If the foreign corporate taxpayer elects to treat the dividend income otherwise taxable under paragraph (1) of this subsection as income connected with a United States business, and further agrees to pay tax thereon at the highest rate provided under Section 11, then the 30 percent tax under paragraph (1) of this subsection shall not apply."

SECTION 4: FAIR FUNDING FOR RETIREMENT SECURITY

(a) Section 1 of Part I of Subchapter A of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended by adding the following new subsection:

"1(h) (1) (a) Tax imposed. There is hereby imposed a tax of 7.65 percent on so much of the adjusted gross income for the taxable year of that exceeds--
(A) $500,000, in the case of
(i) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013;
(ii) every surviving spouse (as defined in section 2(a)); and

(iii) every head of a household (as defined in section 2(b)), ;

(B) $250,000, in the case of

(i) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703); and

(ii) every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013;

(C) $7,500, in the case of every estate and every trust taxable under this subsection.

(b) Credit for hospitalization tax paid. There shall be allowed as a credit against the tax imposed by this subsection so much of the amount of hospitalization tax paid by the individual with respect to his wages under subsection 3101(b) and to his self-employment income under subsection 1401(b) of this Title as exceeds the following amounts:

A) In the case of individuals described in subparagraph (1)(A) of this subsection, $14,500; and

B) In the case of individuals described in subparagraph (1)(B) of this subsection, $7,250.

SECTION 5: REINVESTING IN AMERICA

Subsection (k) of Section 168 of Part I of Subchapter A of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 is amended by adding the following new paragraph:

"168(k)(8) **Expensing of investments made from post-2016 earnings**. In the case of a corporation subject to tax under Section 11, any qualified U.S. property purchased or constructed from the reinvestment of taxable income accrued in taxable years beginning after December 31, 2016, which income was not offset by a dividends-paid deduction under section 251 or by tax credits, the allowance under subsection (k)(1)(A) of this section shall be 100 percent rather than 50 percent. The Secretary shall prescribe regulations providing for the creation and maintenance of eligible reinvestment accounts, such that taxable income not offset by the Section 251 deduction or credits shall be an addition to the account and investments qualifying for the 100 percent allowance shall be a subtraction from the account, and corporate taxpayers may treat otherwise eligible investments as funded by such earnings to the extent of the positive balance in the reinvestment account."

Shared Economic Growth – Bill and Computations Summary

The Shared Economic Growth bill allows a corporate dividends paid deduction, restricted to taxable income otherwise reported decreased by 2.85 times any credits claimed, so that the deduction may only reduce tax to zero. Excess reductions could be carried back 2 years and forward 20, so there would be incentive to pay out earnings with 2 years. Subsection 2(a) of the bill makes this change, with Subsections 2(b), (c) and (d) making certain conforming changes to the existing corporate dividends received deduction provisions.

In 2010 corporations paid tax of $223 billion, so offsets of up to $223 billion would be required for static revenue neutrality. The first and most natural offset is individual tax payable on the dividends paid. In order for the proposal to work, special rates for dividends and for capital gains on equity would need to be eliminated, so that these dividends would be taxed at full 2017 individual rates. Subsection 2(e) repeals these special rates, but does not otherwise upset the incentives provided for certain special categories of capital gains. This would have provided an offset of $74 billion without altering the various special capital gains exemption and rollover provisions. As a practical matter, this offset is only feasible in conjunction with the allowance of a dividends paid deduction, since such a deduction eliminates double taxation on the corporate side and thus eliminates any legitimate argument in favor of the capital gains rate benefits. Subsection 2(f) provides an offset mechanism that is only possible in conjunction with enactment of a dividends paid deduction. Because the deduction would effectively eliminate taxation of corporate income, including foreign income, it would no longer be necessary to allow a corporate credit for foreign taxes paid. A deduction could be permitted instead with the same bottom line effect. However, allowance of a deduction would impel corporations to pay out more dividends in order to eliminate the corporate level tax on the foreign income, which in turn increases the offset at the individual level. With this provision, the individual level offset from full 2011 rate taxation of the dividends needed to reduce corporate tax to zero would be some $54 billion, after factoring out shareholders not subject to tax.

Section 3 provides another offset only feasible in conjunction with a dividends paid deduction. Foreign investors are effectively paying the 35% U.S. corporate level tax on their investment earnings. Congress would not have to let them have the benefit of the dividends paid deduction, since U.S. resident shareholders would have to pay full rate tax on such dividends. So, Section 3 imposes a 30% incremental withholding tax on dividends paid to foreign shareholders. This offset amounts to some $33 billion. The provision provides certain alternative elections that would be unlikely to be used but which would establish that the incremental tax would be appropriate under the principles of America's tax treaties, essentially leaving the foreign shareholders in the same economic position that they are in now and keeping them on a level with U.S. shareholders.

Section 4 provides the final offset, subjecting individual income over $500,000 a year to an Adjusted Gross Income tax equivalent to the individual portion of the FICA taxes that ordinary wage earners pay. At a 7.65% level, with an allowance crediting the Obamacare taxes that were implemented since the first version of this proposal was explained to Congress, this levy would offset the revenue attributable to dividends paid to non-taxable retirement plans, so in effect this levy is requiring high income individuals to pay a supplemental tax similar to FICA taxes that supports non-social security private and state pension savings, thereby taking pressure off of the social security system. This is an optional element of the proposal, but it seems like good and fair policy. This provides an offset of $57 billion. **Moreover, because these retirement savings will ultimately be paid out and taxed, this would increase revenue by at least some $22 billion per year on a static basis as the pension income is paid out (after accounting for Roth IRAs etc.)** This additional revenue will be important as the baby boomers move through retirement and the government is looking for revenues to pay off the deficit in social security funding.

Section 5 provides an optional add-on. Because Shared Economic Growth would make it attractive for corporations to invest in U.S. operations, it would also be desirable to allow them to retain some of their earnings to make such U.S. investments rather than squeezing out too much in dividends, so that we could encourage the most rapid rebuilding of the U.S. economy. Section 5 therefore allows corporations to take a 100% immediate deduction for their investment in qualified U.S. property made from their post-2016 taxable earnings not paid out as dividends. While prior investment expensing initiative were not notably successful in increasing investment, they were in the context of an overall U.S. climate that made investments unattractive. Expensing could be expected to be much more successful at encouraging investment under Shared Economic Growth, and given that it is a relatively short-term timing benefit, the cost to the government would be low (essentially interest on 35% of the investment amount over less than 7 years at the U.S. Treasury borrowing rate). Further, because Shared Economic Growth could be expected to encourage accumulated foreign earnings to be brought home, either producing taxable income that neutralizes this expensing benefit at the corporate level or incurring additional shareholder-level tax when paid out as dividends, there should be more than enough incremental revenue to offset the cost of the timing item.

April 4, 2016

MEMORANDUM

TO: The Honorable Kevin Brady, Chair
House Ways and Means Committee

RE: Transmittal of NGA Guiding Principles on Tax Reform

NGA is pleased to transmit its guiding principles on federal tax reform first released in 2013 when Congress last considered comprehensive reform. NGA's principles remain relevant as the 114th Congress examines this topic.

NGA believes that no fundamental tax reform can succeed unless it is an intergovernmental effort because decisions at the federal level have consequences for the states.

Federal-State Tax Code Linkages

It has been 30 years since the Tax Reform Act of 1986 became law, which was the last period of sustained successful action in Congress to overhaul the federal tax code ("Code").[1] Driving factors today include taxpayer fairness and deficit reduction through closing loopholes and reducing tax expenditures. Another factor that will influence tax reform is the interconnected federal-state relationship because of the variation among states in their linkages to the federal Code.

State income taxes, for both individuals and corporations, often rely on the federal Code, and to a large degree, conform to its features, definitions, eligible deductions, and tax treatment of certain transactions:

- Thirty-six (36) of the 41 states with a broad-based personal income tax base the calculation of state tax on a federal "starting point" such as adjusted gross income (AGI) or taxable income.[2]

- In the five states that do not use a federal starting point, the various items of income used to calculate the state base are commonly defined with federal Code definitions.[3]

- Of the 46 states that levy a tax based on corporate income, all of them effectively use "federal taxable income," with certain modifications, as the starting point for state tax computations.[4]

States conform to the federal Code because it promotes taxpayer simplicity and compliance. Moreover, many states rely on federal reporting mechanisms to help administer state tax systems. Changes to deductions, credits, exclusions, and exemptions in the federal Code, however, would have corresponding revenue and economic implications for each state depending on its relationship to the federal Code. Shifting the federal system of income taxation to something else like a sales or consumption tax also could damage administrative viability and limit state control of their tax systems because of federal encroachment into the traditional tax base of states.

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[1] Congress last year did make permanent state and local sales and income tax deductibility for federal income tax purposes as part of comprehensive tax extenders legislation. Pub.L 114-113 (2015).
[2] According to the Federation of Tax Administrators (FTA), seven states do not impose a state personal income tax: **Alaska, Florida, Nevada, South Dakota, Texas, Washington**, and **Wyoming**. In addition, **Tennessee** and **New Hampshire** impose an income tax on interest and dividends only. FTA (2016)
[3] According to the FTA, those states are **Alabama, Arkansas, Mississippi, New Jersey**, and **Pennsylvania.**
[4] Four states do not impose an Income tax at the corporate or business entity level: **Nevada, South Dakota, Washington**, and **Wyoming**. FTA (2016).

Tax Reform Risks for Municipal Bonds

A key issue for states in federal tax reform is safeguarding public financing— notably tax-exempt bonds — because it is the primary method to finance infrastructure projects. During the last round of congressional action on federal tax reform several scenarios beside the status quo were discussed:

- *Eliminate the Tax Exclusion.* The National Commission on Fiscal Responsibility and Reform (i.e. "Simpson-Bowles") in its December 2010 report included an "illustrative proposal" to end the exclusion from taxable income for municipal bond interest.

  - If municipal bond interest were taxable, or if the federal tax-exempt status on state and local bonds were lifted, the cost of borrowing, and therefore of financing infrastructure, would rise for states.

  - The cost increase would limit infrastructure investments because issuer costs would rise since investors would demand higher yields to compensate for the lost exclusion. This would result in lost jobs, reduced economic growth, higher taxes on citizens to cover the higher yields, or some combination.

- *Cap Federal Deductions and Exclusions.* Proposals to cap all federal deductions and exclusions remain a perennial suggestion to help reduce the deficit and streamline the federal tax code. While its form could vary either as a percentage cap on high-income taxpayers, or a hard dollar cap applied to all taxpayers who itemize their returns, the effect on municipal bonds would be damaging.

  - A "hard dollar" cap crowds out lower-valued deductions and exclusions in favor of higher valued ones like mortgage interest and charitable contributions, effectively making municipal bonds taxable for most taxpayers who itemize.[5] Likewise, a percentage cap would not result in investors rebalancing their tax-exempt portfolios fully into taxables. They would instead seek other ways to adjust their portfolios for tax purposes, which would lower federal revenue projections from this option.

  - If a cap were applied to both new and outstanding bonds retroactively, it changes the contractual terms of those outstanding bonds for investors, creating legal and market disruptions that could put issuers at risk.

  - Moreover, a cap creates new technical complexities for both taxpayers and the IRS because the process for calculating the cap would not be simple.

- *Other Options.* Opponents of the interest exclusion for municipal bonds have suggested alternatives such as tax credit and direct subsidy bonds to replace tax-exempt bonds.

  - Replacing the long-standing tax-exempt market with a tax-credit bond program would harm state and local issuers because investors do not purchase those types of bonds on a wide scale although they are currently available. Converting to tax credits would increase costs to state and local issuers because investors would demand higher yields, which may also crowd out smaller issuers that do not go to market regularly.

  - Direct subsidy bonds have complemented the tax-exempt market, most notably during 2009-2010 with the Build America Bonds program (BABs). BABs were taxable bonds where the federal government provided the state and local issuer a variable subsidy equal to 35 percent of the interest payable over the lifetime of the bonds. However, replacing the tax-exempt market with direct subsidy bonds, most likely at a significantly lower subsidy

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[5] The *American Taxpayer Relief Act of 2012* renewed dormant provisions to establish a personal exemption phase-out ("PEP), and an overall limit on itemized deductions ("Pease"), phased in starting at either $250,000 AGI (individual), or $300,000 AGI (married).

> rate around 25 percent, would limit the scope of financing tools available to state and local issuers, increase costs because of investor demand for higher yields, and inject new uncertainty whether future Congresses would reduce federal subsidy payments.[6]

Finally, the mere discussion about altering the current tax treatment of municipal bonds injects uncertainty into bond markets and raises concern for investors who would likely demand risk premiums on future bond issuances.

* * *

If you have questions or need additional information about this submission, please contact David Parkhurst, General Counsel and Staff Director, Economic Development and Commerce Committee, at dparkhurst@nga.org, or 202.624.5328.

Attachments

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[6] For instance, in 2012, outstanding BABs were subject to a 7.6 percent cut in federal direct subsidy interest payments to state and local issuers because of federal sequestration.

Governors' Principles for Federal Tax Reform

As Congress and the Administration consider federal tax reform proposals, governors offer the following principles that will help guide that work. The Principles focus on the broader issue of ensuring that federal tax reform does not limit or preempt state authority over budget and revenue systems. More specifically, the Principles address federal deductibility of state and local taxes and the interest exclusion on municipal bonds because these topics are top priorities for all states.

PRINCIPLES:

State Sovereignty

- No federal law or regulation, including their interpretation and implementation, should preempt, limit, or interfere with the constitutional or statutory rights of states to develop and operate their revenue and tax systems.

Public Finance

- The preservation of public financing – notably tax-exempt financing – is necessary because it is the primary method for states to raise capital for a wide range of public projects.

- Federal statutory and regulatory policies should neither increase bond issuance costs to states and local governments, directly or indirectly, nor diminish retail and institutional market demand for bonds issued by states and local governments.

Federal Reforms

- Federal tax reforms should deliver simplicity, adopt innovation, promote certainty, and produce savings for both federal and state governments.

- Federal tax policies and expenditures serve public policy purposes not necessarily captured in revenue and spending numbers. To help avoid unintended consequences from federal tax reform, federal and state partners should work together to determine whether the policy benefits of particular federal tax expenditures exceed their budgetary costs before making final decisions.

Proportionality

- Federal tax reforms should not simply shift costs or impose unfunded mandates onto the states.

Economic Growth and Efficiency

- Federal tax reforms should strive to achieve flexibilities for states that help create efficiencies and stimulate economic growth.

Attachment One

State Linkages to the Federal Tax Code

State Sensitivities to Various Federal Tax Policies: Personal Income Taxes

AGI = *Adjusted Gross Income*
FTI = *Federal Taxable Income*

State	State has no broad-based personal income tax	State linkage to IRS code	State deduction for federal taxes paid	State has no broad-based sales tax	State issues no General Obligation debt	State accepts Federal deduction/ S-L taxes
Alabama		No link	X			
Alaska	X	No link		X		
Arizona		AGI			X	
Arkansas		No link				Local income tax only
California		AGI				
Colorado		FTI			X	
Connecticut		AGI				X
Delaware		AGI		X		
Florida	X	No link				
Georgia		AGI				
Hawaii		AGI				
Idaho		FTI			X	
Illinois		AGI				
Indiana		AGI			X	
Iowa		AGI	X		X	
Kansas		AGI			X	
Kentucky		AGI			X	Local income tax only
Louisiana		AGI	X			
Maine		AGI				
Maryland		AGI				
Massachusetts		AGI				
Michigan		AGI				
Minnesota		FTI				
Mississippi		No link				
Missouri		AGI	X			
Montana		AGI	X	X		
Nebraska		AGI			X	
Nevada	X	No link				
New Hampshire[1]	X	No link		X		
New Jersey		No link				
New Mexico		AGI				
New York		AGI				
North Carolina		FTI				

[1] New Hampshire taxes unearned income

State Sensitivities to Various Federal Tax Policies: Personal Income Taxes

State	State has no broad-based personal income tax	State linkage to IRS code	State deduction for federal taxes paid	State has no broad-based sales tax	State issues no General Obligation debt	State accepts Federal deduction/ S-L taxes
North Dakota		FTI			X	X
Ohio		AGI				
Oklahoma		AGI				
Oregon		FTI	X	X		State income tax deduction
Pennsylvania		No link				
Rhode Island		AGI				
South Carolina		FTI				
South Dakota	X	No link			X	
Tennessee[2]	X	No link				
Texas	X	No link				
Utah		AGI				Limited credit/state income tax
Vermont		FTI				
Virginia		AGI				
Washington	X	No link				
West Virginia		AGI				
Wisconsin		AGI				
Wyoming	X	No link			X	
U.S. Territories: *Puerto Rico, American Samoa, Guam, Northern Mariana Islands, U.S. Virgin Islands*	*See Note*[3]	0	USVI (tax credit)	AS, CNMI	AS,USVI	

Source: FFIS, Federation of Tax Administrators (2013)

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[2] Tennessee taxes unearned income.

[3] The application of Federal tax rules varies from one territory to another. **Guam**, the **Northern Mariana Islands**, and the **U.S. Virgin Islands** are called "mirror Code territories" because each adopted the Internal Revenue Code of 1986 ("the Code") as the internal tax law of those territories. **American Samoa** and **Puerto Rico** are non-mirror Code possessions and have their own internal tax laws.

State Sensitivities to Various Federal Tax Policies: Personal Income Taxes

Tax Provisions Related to the U.S. Territories[4]

American Samoa
American Samoa is a non-mirror Code possession and imposes its own local tax code. All nationals are subject to tax as U.S. citizens, with an exclusion provided for American Samoa-sourced income. The Code does not provide relief from double filing, so residents potentially have to file with both the United States and the American Samoa governments.

Guam
Guam uses a mirror system of taxation, so taxpayers are required to file a single tax return to either the United States or Guam, depending on whether they are a United States resident or a Guamanian resident. The United States generally pays the Guamanian treasury certain taxes collected on Guamanian-sourced income and on withholding tax on U.S. federal personnel employed or stationed in Guam. Similarly, Guam pays the U.S. Treasury certain taxes collected from individuals on United States- sourced income.

Northern Mariana Islands
The Commonwealth of the Northern Mariana Islands (CNMI) uses a mirror system of taxation; however, the CNMI also has the authority to rebate the tax imposed by its mirror code with respect to CNMI- sourced income.

Puerto Rico
Puerto Rico is a non-mirror Code possession with its own internal tax laws. A person born in Puerto Rico is a U.S. citizen and is subject to U.S income tax. The Code excludes Puerto-Rican derived income from U.S. taxation provided the taxpayer resides in Puerto Rico for a full taxable year. Income excluded from US gross income, however, is generally subject to Puerto Rican taxation.

U.S. Virgin Islands
The U.S. Virgin Islands (USVI) employs a mirror system of taxation. In general, a resident of the USVI is required to file and pay tax only to the Territory. The USVI may also impose certain local income taxes in addition to taxes imposed by the mirror code. USVI taxes its citizens and residents on their worldwide income. USVI taxpayers receive a foreign tax credit for income taxes paid to the United States, and other possessions of the United States.

THE VOICE OF RETAIL

March 21, 2016

The Honorable Charles Boustany
Chair, Tax Policy Subcommittee
House Ways and Means Committee
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member, Tax Policy Subcommittee
House Ways and Means Committee
Washington, D.C. 20515

Dear Chairman Boustany and Ranking Member Neal:

On behalf of the members of the National Retail Federation (NRF), I am writing to offer our comments on cash-flow and consumption based approaches to taxation in conjunction with the March 22 hearing in the House Ways and Means Tax Policy Subcommittee.

By way of background, NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs – 42 million working Americans. Contributing $2.6 trillion to annual GDP, retail is a daily barometer for the nation's economy.

NRF is a strong supporter of income tax reform that broadens the income tax base and lowers the income tax rates. We believe income tax reform can have an immediate positive impact on economic growth, real wages and consumer spending. We are opposed to enactment of consumption taxes because they will cause the economy and employment to decline, at least for a period of years, and they will have a permanent damaging effect on retail spending. Regardless of label, the proposals under consideration in this hearing are all consumption taxes and have a similar economic equivalence. Consumer spending is two-thirds of the U.S. economy. Given the current weak economy, we believe it is the wrong time to consider a tax system that would increase the tax burden on consumption. We believe that Value Added Taxes (VATs) that are enacted in addition to the income tax system (Add-On VATs) may have even more negative consequences than VATs that would be a total replacement for the income tax system. NRF has studied both Add-On VATs and total replacement consumption taxes, and we have found the results to be negative in both cases.

Results of Economic Studies

1. Add-On VAT

In 2010, NRF engaged Ernst & Young and Tax Policy Advisors (EYTPA) to conduct a study of the macroeconomic effects of an add-on value added tax that would be equivalent to two percent of GDP[1]. (A copy of that study is attached).

[1] Carroll, Robert J., Robert J. Cline, John W. Diamond, Thomas S. Neubig, and George R. Zodrow, 2010. *The Macroeconomic Effects of an Add-On Value-Added Tax*. Ernst & Young LLP, Washington, DC. https://nrf.com/sites/default/files/Documents/nrf_ey_vat_executive_summary_2010_10_07.pdf

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The study examined three alternative VAT scenarios, each designed to raise revenue equal to two percent of GDP. The first scenario was a narrow-based VAT, covering 41 percent of GDP, and excluding many politically popular areas of consumption, like groceries, health care and education expenses. To achieve two percent of GDP, the study found that this base would require a 10.3 percent VAT rate.

The second scenario was a broad-based VAT, covering 67 percent of consumption, and including a cash grant to low-income families to fully offset VAT on families below the federal poverty level. The broad-based VAT would apply to new home purchases, health care expenses that are not financed by the government, and all retail expenditures (including groceries). The VAT rate required by this scenario would be eight percent.

The third scenario was a narrow-based VAT, with a low income rebate. This scenario required a 12.4 percent rate.

The study highlighted the results of scenario one, because it was thought that Congress would be unlikely to enact a VAT that taxed health care expenses, new home purchases, and groceries. The macro-economic impact of enactment of the narrow-based add-on VAT in the United States was a permanent loss in consumer spending, a permanent loss of jobs, and a three year decline in GDP.

- 850,000 jobs would be lost in the year of enactment. Although 150,000 of these positions would eventually be replaced, the economy would permanently lose 700,000 jobs.
- GDP would decline for three years, return to pre-enactment levels in year 4, remain flat for a few years after that, with only modest increases thereafter. The positive effect on GDP in the future is the result of the deficit reduction brought about by the VAT and not the specific structural impact of the VAT on the economy.
- Retail spending would fall by 5% or almost $260 billion in the year after enactment. Retail spending would fall by $2.5 trillion over the next decade.

The EYTPA study found that under a broader based add-on VAT, GDP would similarly decline for three years, remain flat in year five, and only modestly increase in year ten. Retail spending would decline by 4.5 percent in the first year and remain 3.2 percent lower a decade after enactment. The broad-based VAT would have an even more significant impact on employment, losing more than 1.1 million jobs in the first year with a permanent loss of 850,000 jobs.

2. Replacement VAT

In 2000, NRF commissioned PricewaterhouseCoopers to model the macroeconomic impact of two different consumption tax proposals as total replacements for the income tax system.[2] The proposals modeled were the Flat Tax (which is a form of VAT) and the National Retail Sales Tax. Because these proposals were modeled to be total replacements to the income tax system, economic indicators turned positive sooner than with an add-on VAT, but there were still substantial disruptions to the

[2] National Economic Consulting PricewaterhouseCoopers LLP, *Fundamental Tax Reform: Implications for Retailers, Consumers, and the Economy,* NRF Foundation, April 2000. Web link: http://d22f3d5c92fe72fd8ca1-d54e62f2f7fc3e2ff1881e7f0cef284e.r22.cf1.rackcdn.com/Eileen/NRF-PWC%20Fundamental%20Tax%20Reform%20Study.pdf

economy for a period of at least five years. Specifically, GDP declined under the National Retail Sales Tax through year 4, and under the Flat Tax through year 5. Under both proposals, GDP did not show a real positive impact until year 7. Employment was lower than under current law through year 4 for the National Retail Sales Tax and through year 5 for the Flat Tax. Consumer expenditures were lower through year 8 for the National Retail Sales Tax and through year 6 for the Flat Tax.

The lesson of these studies is that a replacement of our current income tax system with a consumption tax system will cause great disruption to the U.S. economy. Any positive results that policy makers might anticipate from such a change will not be realized for a minimum of five years. Congress should not consider making this type of change at a time when the economy is stagnant and consumer confidence is so low.

Income Tax Reform

In contrast to the economic decline that would result from adopting a consumption tax in the United States, income tax reform can create an immediate positive affect that would grow in the long term.

The Joint Tax Committee's Macroeconomic Analysis of the Tax Reform Act of 2014[3] (Ways and Means Committee Chairman Camp's "Discussion Draft") found that the economy would grow because of the proposal's positive impact on labor supply and consumer demand. The analysis provided a range in growth, depending on which model was used for the analysis. Specifically, JCT found that GDP would grow between .1 and 1.6 percent, private sector employment would grow between .4 and 1.5 percent, and consumer spending would grow between .4 and 2.1 percent.

In 2013, Ernst & Young and Tax Policy Advisors studied the macroeconomic effects to the United States economy that have occurred because the United States has failed to reduce its corporate income tax rates, as the rest of the industrialized world has done.[4] The impact on the U.S. economy is primarily because lower foreign corporate tax rates encourage investment abroad instead of in the United States, and the relatively high U.S. corporate income tax rate discourages foreign direct investment in the United States. The study found that U.S. GDP was estimated to be 1.2 – 2.0 percent smaller in 2013 than it would be if not for the fact that the U.S. has such a high corporate tax rate, and in the long run, the U.S. economy would be 1.5 – 2.6 percent smaller if we did not change our corporate tax rates. Similarly, the study found that real wages were .1 – .3 percent lower in 2013, and projected to be 1.0 – 1.2 percent lower in the long run. The study also found that U.S. consumption is 1.7 – 2.3 percent lower than it otherwise would be in 2013, and that consumption is projected to be 2.3 – 3.3 percent lower than it otherwise would be in the long run if the United States does not make its corporate income tax rate more competitive with the rest of the industrialized world. A recent update of this study, performed for NRF in 2015, found that an average family of

[3] *Joint Committee on Taxation, Macroeconomic Analysis of the "Tax Reform Act of 2014,"* (JCX-22-13), February 26, 2014.
[4] Carroll, Robert, John Diamond, and George Zodrow, 2013. *Macroeconomic Effects of Lower Corporate Income Tax Rates Recently Enacted Abroad*. Ernst & Young LLP, Washington, DC.

four has $3000 a year less to spend because high U.S. corporate tax rates are driving U.S. corporations to move investments out of this country.[5]

Specific Concerns with Consumption Taxes

1. Impact on Middle Class

Consumption taxes are generally borne disproportionately by low and moderate-income households. This is because households' consumption tends to comprise a higher fraction of income for low and moderate-income households than for higher-income households.

2. Impact on Trade Competitiveness

It is a common myth that a VAT is good for U.S. competitiveness because the tax is rebated on exports and imposed on imports. The VAT would not apply to the sales price of the export. As a result, there would be no difference in the price of the export from the current price. For imports, the tax would increase the price of the import, in step with the increase in price for domestic products with which the import competes, which would also now be subject to the VAT.

Conclusion

The NRF is opposed to consumption taxes because of their direct impact on consumer spending, which will be highly disruptive to the economy. We don't think this new tax justifies creating a period of economic decline for a minimum of a several year transition period, especially given that the economy has still not recovered from the Great Recession.

The NRF believes a better approach to tax reform would be through income tax changes that would lower rates and broaden the base. Studies have shown that this type of tax reform would have favorable affects on the economy, wages, and retail spending.

Sincerely,

David French
Senior Vice President
Government Relations

[5] Carroll, Robert and Brandon Pizzola, 2015. *Review of the Economic Impact of Tax Reform on Consumers*. Ernst & Young LLP, Washington, DC. https://nrf.com/resources/retail-library/review-of-the-economic-impact-of-tax-reform-consumers

Submission for the record

to the

Ways and Means Committee

of the

United States House of Representatives

on behalf of

NATSO, Representing America's Travel Plazas and Truckstops

for the Hearing:

"Fundamental Tax Reform Proposals"

David H. Fialkov
Vice President, Government Affairs
Legislative and Regulatory Counsel
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Introduction

The National Association of Truck Stop Operators (NATSO), representing America's travel plazas and truckstops, submits this statement for the record with respect to the House Ways and Means Committee hearing regarding "Fundamental Tax Reform Proposals."

As the Committee considers proposals to reform the tax code, its objective should be to raise revenue in a manner that promotes investment and economic activity. This will have a multiplier effect on revenue while minimizing economic disruption to productive entities. It would be counter-productive to make capital formation more difficult in the name of tax reform. This would only serve to encumber those entities that drive job creation and economic growth, and thereby reduce the federal government's ability to raise revenue effectively.

Given the above-captioned hearing's focus on cash-flow and consumption-based approaches to taxation, this statement will focus on the Last-In, First-Out ("LIFO") inventory accounting method that NATSO members utilize.

Background

NATSO is a national trade association representing travel plaza and truckstop owners and operators. NATSO's mission is to advance the success of truckstop and travel plaza members. Since 1960, NATSO has dedicated itself to this mission and the needs of truckstops, travel plazas, and their suppliers by serving as America's official source of information on the diverse industry. NATSO also acts as the voice of the industry on Capitol Hill and before regulatory agencies. NATSO currently represents approximately 1,400 travel plazas and truckstops nationwide, comprised of more than 1,000 chain locations and more than 300 independent locations, owned by approximately 200 corporate entities. Approximately 80 percent of NATSO members' facilities are located within one-quarter mile of the Interstate Highway System, serving interstate travelers exiting the highway and serving as the "home away from home" for the nation's professional truck drivers.

Efficient and effective operations at truckstops and travel plazas allows NATSO's members to sell products to the trucking industry and the American public at lower costs. This makes the costs of traveling less expensive and lowers the costs of transporting goods by truck, which can serve to make all goods more affordable.

NATSO's members operate in a diverse and evolving industry. Every travel center and truckstop includes multiple services, from motor fuel sales to auto-repair and supply shops, to hotels, sit-down restaurants, quick-service restaurants and food courts, and convenience stores. It is an evolving industry that once was tailored primarily to truck drivers, and now caters to the entire traveling public, as well as the local population that lives in close proximity to a travel center location.

Last-In, First-Out ("LIFO") Accounting

The Committee should maintain LIFO as an acceptable inventory accounting method. NATSO's members, including many "pass-through" entities, utilize LIFO as a more accurate accounting method for measuring operations' current economic performance. Repeal or modifications of LIFO would result in substantial, unfunded tax liabilities for LIFO businesses. Many of these businesses will have no corresponding cash with which to satisfy the resulting liabilities. This will create illiquidity events, resulting in job losses and business closures.

In general, businesses must track and account for inventory to determine the cost of goods sold and to determine taxable income. Both LIFO and First-In, First Out ("FIFO") accounting methods serve similar purposes for the companies that use them: creating a consistent measure of the cost of goods sold, allowing businesses to accurately determine their economic performance.

Businesses that sell products in volatile markets or sell products that tend to rise in price are likely to use LIFO. Companies in stable markets or that sell products likely to decline in price are likely to use FIFO. FIFO is not the "default" accounting method, and LIFO is not an exception or a loophole. In fact, LIFO has been a generally approved accounting method for over seventy years.

LIFO does not only affect large, integrated oil companies. Indeed, LIFO is used by more than one third of all U.S. companies, including hundreds of thousands of pass-through and small and mid-sized businesses. Disallowing the use of LIFO as an acceptable accounting method would overstate a business's profits, generating tax liabilities that would decrease the business owner's ability to replace inventory or to reinvest in the company and create jobs.

The Flaws of a Recapture Tax

While LIFO repeal as a general matter is a serious concern for NATSO's members, recent proposals are particularly troubling due to the inclusion of a "recapture tax" on LIFO reserves. Retroactively changing the law and recapturing LIFO reserves outside of existing recapture events (*e.g.*, reduction in inventory levels, business liquidation, etc.) would amount to a large, unforeseen tax liability for past business activities. As a practical matter, a business's LIFO reserve is not an accumulation of funds to which the business necessarily has access; these funds often have been either reinvested in the business or disbursed as income (in which case the recipient already would have incurred a corresponding tax liability).

For a business to pay a recapture tax, it must have a corresponding business activity that generates sufficient funds to pay that tax. Current law accommodates this reality by limiting recapture events to instances that generate cash flow, *i.e.*, where inventories are reduced or the business is liquidated.

A recapture tax on past business activities disregards this business reality. Indeed, it presumes sufficient business activity to generate the necessary cash flow when such activity may not exist. If business owners are faced with such impractical tax liabilities, they will be forced to generate inefficient liquidity events by assuming debts, selling their business, or potentially entering bankruptcy proceedings. In those instances where a business has sufficient cash reserves, the recapture tax would deprive that business of capital that otherwise would be used for reinvestment and job creation.

The recapture tax is even more onerous considering the unreasonably short time frames contained in recent LIFO repeal proposals. For example, former Committee Chairman Dave Camp (R-WI) developed draft tax reform legislation prior to leaving office that would have required LIFO reserves to be recaptured and included in income over a *four-year period.* Many NATSO members simply do not have the cash reserves or liquidity to recapture their LIFO reserves in such a short time frame. The recapture tax and its short transition time frame would result in illiquidity events and potentially the forced sale of many businesses. If Congress does elect to modify current LIFO accounting methods, taxpayers should be permitted to include LIFO reserve funds in income over an extended period of time – substantially longer than four years.

Conclusion

Both LIFO and FIFO are appropriate inventory accounting methods. If Congress repeals LIFO, it could create a preference in the tax code favoring one type of business over another. Furthermore, subjecting LIFO reserves to a recapture tax is a breach of faith with taxpayers utilizing LIFO. These businesses have dutifully followed tax laws for decades, properly accounting for changes in their investments and paying the required taxes on their reserves.

Advocates for repealing LIFO do not oppose the *merits* of the accounting system, but are simply trying to find additional sources of revenue. NATSO understands and supports the need to raise revenue and reduce rates; however, it should be accomplished without imposing debilitating tax liability on a large percentage of the American tax base.

NATSO urges the Committee to recognize the severe economic consequences that could result from the repeal or modification of LIFO, and instead maintain LIFO as an acceptable inventory accounting method.

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WRITTEN STATEMENT OF MR. GARY SHOPE, CHIEF OF STAFF TO THE PRESIDENT PATHEON, INCORPORATED BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS.

HEARING ON INTERNATIONAL TAX REFORM

FEBRUARY 24, 2016

I am very pleased to present my comments on behalf of Patheon Pharmaceuticals Inc. with respect to the hearing today on international tax reform. My name is Gary Shope and I serve as Chief of Staff to the President of Patheon Pharmaceuticals Inc., James C. Mullen.

Patheon Pharmaceuticals Inc. is headquartered in Durham, North Carolina and through our integrated global network of 26 facilities is one of the largest providers of contract drug development and manufacturing (CDMO) services in the world.

With over 9,000 employees worldwide, Patheon serves more than 400 clients from large global providers to small emerging players in the pharmaceutical and biopharmaceutical sectors.

The CDMO industry has substantial operations in the United States, Europe, the Far East, and other parts of the globe. Although headquartered in Durham, Patheon has a substantial presence in Ohio, South Carolina, Missouri, Massachusetts, New Jersey and Oregon. World -wide Patheon plays a key role in delivering a 21st Century health care supply chain.

Let me first identify with the comments of Chairman Brady and other members of the Committee. It is clear to all of us that the current system of US taxation with respect to US international operations is antiquated, non-competitive and is causing key industries like the CDMO sector to expand jobs and operations outside of the US. The CDMO represents a $40 billion industry.

Yes, we would rather invest in jobs and opportunities here in the US but the return on investment (ROI) in Europe and other locations with their lower corporate tax rate; responsive regulatory structure, permanent research and development tax credit and a well designed patent/innovation box structure compels those of us charged with the financial success of our Company to seriously entertain commercial locations outside the United States.

The longer this country takes to significantly change this non-competitive tax structure, the more companies and jobs will be lost to foreign locations. I fully agree with the comments of Congressman Boustany (R-LA) ,Congressman Neal (D-MA) and other members of your Committee who eloquently described the loss of indirect jobs as well as the direct loss of jobs associated with the closure of facilities in the US in favor of more financial hospitable locations outside of the US, the so called inversions.

Congressman Holding (R-NC) spoke of the significant presence of the life sciences sector in his home state (which happens to be my own state) of North Carolina. He spoke of the numerous jobs and economic opportunities sponsored by this one sector. An average Patheon worker in Greenville NC earns a salary of approximately $54,000 along with an additional third of compensation in fringe benefits. This is almost 2.5 times the income of an average worker in Greenville. When the Congressman visited our facility in Greenville he was told by Patheon's finance manager that for every $1 invested by our company in Greenville, the multiplier effect of this investment generate $5-$7 dollars to the community. This ratio is typical for all of Patheon's locations in the United States. Our site in Greenville, NC is a large part of the economic ecosystem of this region of the state, much like we are in other locations with the U.S.

We in the international corporate community are well aware of the action led by this Committee under your leadership Chairman Brady of the permanent extension of the Research and Development tax credit (IRC Section 41). We take this as an indication of this committee's intention to significantly and drastically replace the current system of US international taxation with one that is pro-growth and that is consistent with America's 21st Century economy.

We at Patheon believe that the Patent/Innovation Box such as that suggested by your colleagues Congressman Boustany and Congressman Neal is a viable starting point for that objective and with some technical but critical revision can be a significant incentive for the life sciences industry to locate plants, jobs and economic opportunities here in the United States rather than elsewhere.

Our thoughts in this regard were well summarized by the recent bipartisan North Carolina Congressional Delegation letter sent to you Mr. Chairman and Cong. Levin which said:

We also understand the significant budgetary pressures posed by any changes to the Innovation Box proposal that would expand benefits to include additional companies. In the instances where the IP development and commercialization has been contracted out to a separate U.S.-based company, we suggest structuring the benefit in a manner similar to the research and development tax credit allocation for parallel scenarios *where certain activities have been contracted out. More specifically, in the context of the current Innovation Box proposal, this would mean a reduced tax deduction for the company that produced the IP, allowing for some level of deduction to be assumed by the company contracted to develop and commercialize the IP.*

I have appended a copy of that letter, as well as my correspondence to then Chairman Ryan, on suggested changes to the draft legislation to make it more responsive to the needs of the life sciences sector.

Thank you for the opportunity to submit this testimony.

Gary Shope
Chief Of Staff
Patheon Pharmaceuticals

Congress of the United States
Washington, DC 20515

January 29, 2015

The Honorable Kevin Brady
Member of Congress
U.S. House of Representatives
1233 Longworth House Office Building
Washington, DC 20515

The Honorable Sander Levin
Member of Congress
U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Levin:

We applaud your leadership on continued bipartisan efforts to reform the tax code. We also commend you for recognizing the need to retain and attract domestic investment that leads to high-quality jobs in the United States, a goal we all support. To that end, we write regarding the current discussion within the Ways and Means Committee concerning possible inclusion of the Boustany/Neal "Innovation Box" in the broader consideration of tax reform.

As you likely know, North Carolina is home to a wide range of life sciences companies that collectively reflect the growing diversity of the life sciences industry across the United States. Historically, this industry has primarily been comprised of member companies that both produce the high quality Intellectual Property (IP) through research and development activities, as well as oversee the back-end development and commercialization of that IP necessary to bring their product to market. Over time, however, the life sciences industry has grown rapidly to include companies that are contracted to specifically oversee and carryout the development and commercialization phase of other company's developed IP. These companies face the same pressures to compete in the global marketplace that any other U.S. multinational company is facing today, including the pressure to locate plants and facilities abroad, threatening the livelihood of thousands of U.S. workers.

Many European Union countries offer a range of tax and regulatory incentives, including proposals similar to the Innovation Box; however, these similar proposals not only reward the owner of IP, but also the companies that add value to IP throughout the supply chain. As you know, proponents of the Innovation Box concept believe it incentivizes more IP to be developed and kept within the United States, generating additional high-value jobs in the life sciences industry and other sectors responsible for the development, commercialization, and manufacture of IP-derived products.

Given the Ways and Means Committee's recent interest in the possible inclusion of an Innovation Box proposal in the broader context of international business tax reform, we respectfully request that "commercialization" and "development" be included within any definition of "qualified receipts". Considering the growing diversity of companies in the life sciences industry, and the increasingly specialized roles in the larger effort of bringing IP to market, we believe this change would ensure equitable distribution of tax benefits to all life sciences companies involved in the IP development pipeline.

We also understand the significant budgetary pressures posed by any changes to the Innovation Box proposal that would expand benefits to include additional companies. In the instances where the IP development and commercialization has been contracted out to a separate U.S.-based company, we suggest structuring the benefit in a manner similar to the research and development tax credit allocation for parallel scenarios where certain activities have been contracted out. More specifically, in the context of the current Innovation Box proposal, this would mean a reduced tax deduction for the company that produced the IP, allowing for some level of deduction to be assumed by the company contracted to develop and commercialize the IP.

The life sciences industry plays a significant role in our domestic economy, ensuring the availability of high-value jobs that provide thousands of American workers high wages and robust benefits. We believe the proposals outlined in this letter allow for an equitable allocation of tax benefits associated with any Innovation Box, as well as a compelling incentive for the retention and creation of high-quality jobs in North Carolina and across the country.

As you continue your efforts to modernize and strengthen our nation's tax code, we look forward to working with you and appreciate your consideration of this proposal.

Sincerely,

RENEE ELLMERS (R-NC)
Member of Congress

DAVID PRICE (D-NC)
Member of Congress

DAVID ROUZER (R-NC)
Member of Congress

ALMA ADAMS (D-NC)
Member of Congress

RICHARD HUDSON (R-NC)
Member of Congress

G. K. BUTTERFIELD (D-NC)
Member of Congress

Patheon

August 31, 2015

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The Honorable Paul Ryan
Chairman
Ways and Means Committee
US House of Representatives
Washington DC 20515

Re: Comments of Gary Shope, Patheon Pharmaceuticals Inc

Dear Mr. Chairman:

I am very pleased to present my comments on behalf of Patheon Pharmaceuticals Inc. with respect to the discussion draft authored by Congressmen Boustany and Neal. My name is Gary Shope and I serve as Chief of Staff to the President of Patheon Pharmaceuticals Inc., James C. Mullen.

Patheon Pharmaceuticals Inc. is headquartered in Durham, North Carolina and through our integrated global network of 26 facilities is one of the largest providers of contract drug development and manufacturing (CDMO) services in the world.

With over 9,000 employees worldwide, Patheon serves more than 400 clients from large global providers to small emerging players in the pharmaceutical and biopharmaceutical sectors.

Because of the nature of our business Patheon closely follows tax and financial trends worldwide, as is common practice in most companies in our field.

We are well aware of the innovation schemes authored by many of the countries comprising the European Union and similar schemes created by other nations such as China.

As I understand the many patent box/innovation box regimes in other countries, these regions have been successful in enticing capital intensive and knowledge based industries such as ours to their shores.

I can tell you from my personal experience that these countries offer an attractive integrated package of low corporate tax rates, a permanent research and development tax credit, a user-friendly regulatory approval process, and well-designed patent/innovation box incentives.

As patriotic as we are at Patheon being a North Carolina based Company, these "innovation schemes" are very compelling to us and I am not surprised that many U.S. companies have selected foreign jurisdictions, rather than the U.S. to locate plants and other facilities that require highly skilled, knowledge-based jobs that offer attractive compensation.

An average worker at any one of our U.S. facilities, whether in North or South Carolina, Missouri, New Jersey, Ohio, or Oregon earns a salary of $54,000 not counting normal fringe benefits which taken together provide another third in real benefit. This is our average wage with many in our company earning well above this and a number of our employees earning into the "six figures".

Although wage scales in Europe are somewhat less, the knowledge base of the workers we hire in Europe and in other locales around the world are comparable to the education levels of workers in our U.S. facilities.

Most of our workforce have earned at least a certificate or two-year degree from a community college and a significant portion have earned college bachelor's degrees with many having advanced degrees at the master's and doctoral levels.

Tax and other financial factors as well as the educational and skill of the local work force are key determinative factors in the location of Patheon facilities worldwide.

The draft discussion legislation prepared by Congressmen Boustany and Neal is, in our opinion, timely as global companies like Patheon are constantly seeking opportunities for growth and expansion.

We at Patheon urge the U.S. Congress to rapidly enact a version of a patent box as a down payment on other needed reforms such as a lower corporate tax rate and a permanent research and development tax credit.

My comments regarding the discussion draft really boil down to two levels. First, I believe the most basic issue is to determine the public policy objective underlying the patent box and, second, determine whether in fact the allocation of tax benefits is consistent with achieving that objective.

If the objective is to reward the patent/IP holder for their "invention" I suggest that the draft discussion document amply does that through the provision of a 10% rate on the income derived from that patent or intellectual property.

If the public policy objective is to reward and to further incentivize research, again I believe that the discussion document amply does that as well in the calculation of "innovation box profit" under proposed section 250 (b) (1) (a).

If the public policy objective is to reward and incentivize companies to locate high value jobs in the U.S., then the discussion draft only partially achieves that objective as the definition in the draft limits "5 year research and development" as research and development expenditures ...for which a deduction is allowed under section (a) or (b) of section 174.

That section of the internal revenue code provides for a deduction for expenses incurred for "research and experimentation". In this context research and experimentation is generally defined as research conducted to resolve a scientific or technical uncertainty in the development or improvement of an invention, patent, formula or similar product.

Experimentation is understood to be research conducted to develop or to discover something new in the laboratory or experimental sense. It does not apply, as I understand this section, to develop an invention that has already been patented or to discover information that is not scientific or technical in nature.

Patheon serves the entire pharmaceutical and biotechnology industry. We claim the top twenty pharmaceutical companies as customers as well as those companies that concentrate on specialty drugs and emerging companies. I understand that over 70% of patents in the pharmaceutical sector are discovered by these emerging companies that employ less than 50 people. For these companies we test their "molecule" to make sure that the results that are claimed are in fact verified. Once we have accomplished this task we prepare the "molecule" for the stringent and multiple reviews conducted by the food and drug administration (FDA).

In many instances the molecule that responds favorably in the laboratory will need further refinement when taken out of the laboratory and subjected to the many tests and verifications required by the FDA. Once this scientific, time intensive and complicated process is complete, the molecule can then move to the clinical materials stage (CTM) then possibly receive FDA approval. A roadmap for a molecule at this stage often receives toxicity, efficacy, and solubility analysis along the way toward FDA approval. This process occurs within our pharmaceutical development services (PDS) and can often lead to scale-up within a larger commercialization effort.

In commercialization or drug product services, our company must "scale" the molecule for production and finally we initiate the commercialization aspect of the process through one of our plants in the US or abroad. In essence then, Patheon has taken, a patented "molecule" that by itself has no or nominal value and through an expensive, complicated, and highly regulated effort Patheon has now created a product that can be manufactured, sold commercially and, ultimately delivered to the patient. The same process and protocols need to be met on legacy products (i.e. Big Pharma) that are tech-transferred into one of our global sites.

Although some of this value added process may be deductible under the provisions of IRC, section 174, a significant part may not be. The Internal Revenue Code does not provide a definition of "commercialization". In fact, the only reference to commercialization at all in the IRC is in IRC Section 54D (f) (1) (D). The Courts, as in IIR Research v. US 56 AFTR 2d 85-6023, Code Sec(s) 501, (CICT), generally define "commercialization" as the process of "introducing a new product or production method on the market".

I, therefore, suggest to the Committee and to Congressmen Boustany and Neal that the definition of "5-year research and development expenditures under subparagraph (3) be broadened to include all costs that are "commercially" reasonable; that add value to a product or invention and that may be required, especially in the life sciences industry, by the appropriate regulatory body.

If research and costs, including attorney's fees are deductible under IRC section 174 for purposes of obtaining a patent, by extension it seems appropriate to me for purposes of calculating the "innovation box profit" that costs that add value to the product or invention and that actually produce the "qualified gross receipts" as defined under subsection (b) of the draft discussion bill be included as qualified expenditures under subparagraph (b).

To further incentivize manufacturing in the United States, the Committee may also want to consider coordination with IRC Section 199 whereby businesses with "qualified production activities" are eligible for a deduction equal to 3% of net income.

The draft does not impose any "nexus" requirement for the products resulting from qualified IP to be manufactured in the United States. To the extent that products relating to the IP are manufactured in the United States, businesses should be granted an additional incentive in lieu of the very complicated domestic production activities deduction. For example, the cost relating to domestically produced products under the Innovation Box scheme could be entitled to an additional "deemed" percentage that could be added into the numerator and utilized to further reduce the net income subject to tax.

My second major point has to do with the allocation of benefits under the discussion draft. The definition of "qualified gross receipts" as provided in the draft under subsection (b) (i) is in my opinion unclear as to whether a corporation such as Patheon, which earns income from the creation of value to a patent, may be able to access the tax benefits available under the proposed discussion draft.

Patheon is a "Fee for Service Company". That is, Patheon does have some "process patents" within our Pharmaceutical Product Development business, but generally Patheon is paid a fee to create a marketable and safe pharmaceutical that is then sold to the public with the income from such sales inuring to the benefit of the patent holder.

As a rule, Patheon does not own nor is Patheon the licensee of the intellectual property. If it is the intent of the legislation to "encourage U.S. companies to invest in American workers" and "to keep research and development as well as high paying jobs in the United states" then it seems appropriate to us that the value creators, that is, the companies that sponsor these high paying jobs be incentivized to keep or locate these jobs in the United States by allowing them to share in the associated tax benefits. I therefore recommend that the terms "Development and Commercialization" be added to the definition of "qualified gross receipts" under section (b) (i).

In addition, I suggest that a safe harbor rule be integrated into such innovation box calculation whereby if the IP holder contracts out its development, commercialization and/or manufacture that it may claim no more than 65% of the tax benefit. In such case, the "value creator" may claim the remaining 35% of benefit.

For example the development, commercialization and manufacturing work done by Patheon for its clients is precisely outlined in a contract. It is very easy therefore to track costs, expenses and profit. In a case where Patheon earns a $10 million dollar profit from a particular transaction, $3.5 million of income would be taxed at the innovation box rate and the rest would be subject to the regular corporate income tax. The ratio I have proposed is similar to the ratio currently utilized with the calculation of Qualified Research Expenditures (QRE) for the R&D tax credit whereby an entity that contracts out its research under IRC Section 41(b)(1) may only claim 65% of the cost.

The discussion draft under subsection (4) (b) provides for an exception for certain foreign testing that is conducted outside of the United States because there is an insufficient testing population in the United States or is required by law to be so conducted. This particular subsection is included as part of the definition of "5-year total costs" which is in turn part of the ratio that is provided by the discussion draft in its calculation of the "innovation box profit" under subsection (b) (1) (b). Given the heavily regulated and world –wide nature of the pharmaceutical sector we very much support this exception.

A complementary approach might include a broadening of the proposed exception by allowing testing of drugs in foreign jurisdictions WITHOUT LIMITATION. However, the IP resulting from such testing must be located in the United States and all profits from the IP be mandatorily included in the US tax base on a current and not deferred basis.

Finally, Patheon fully endorses the definition of the "United States" as provided under subsection (6). As "nexus " to a location in the United States is a key element of the draft, we commend the Congressman for ensuring that qualified research and development expenditures include Puerto Rico and all of the U.S. territories. Research and development activities conducted in Puerto Rico and other U.S. territories are key elements of the U.S. supply chain.

In sum, Patheon is very supportive of the efforts of Congressmen Boustany and Neal as well as you Mr. Chairman in creating an innovation box that is intended to incentivize U.S. corporations to further invest in U.S. workers and will also provide affirmative financial reasons for U.S. corporations to retain or relocate high paying jobs as well as intellectual property back to the United State

Thank you again for allowing me the opportunity to submit comments and I look forward to discussions with you and the Members of your Committee in the near future.

Sincerely,

Gary Shope
Chief of Staff to the President
Patheon

Wednesday, October 26, 2016 at 10:59:03 AM Eastern Daylight Time

Subject: Hearing on fundamental tax reform
Date: Friday, March 18, 2016 at 4:52:33 PM Eastern Daylight Time
From: Paul Livingston
To: waysandmeans.submissions@mail.house.gov

% Ways and Means Committee,
Subject: Hearing on fundamental tax reform

This is a ³**Profiles in Courage**² moment for the Ways and Means Committee

Yes, I am angry and I pray to God that these hearings are open, fair and best for the USA citizens and that special interests, lobbyists and political parties are set aside. I hope the hearings start first with the fundamental root cause of our present tax problems. The root cause is the 16th Amendment that enables direct taxation of We the People, thus the government has huge power with taxation without limits and We the People have lost Freedom, Liberty and Civil Rights as protected by our Constitution before the passage of the 16th Amendment.

The 16th Amendment enables the first legal income tax, the IRS, taxes on jobs and tax withholding. A graduated income tax is the second requirement for a communist state per the *Communist Manifesto* by Karl Marks. The 16th Amendment must be repealed. Who on the Ways and Means Committee wants to defend the 16th Amendment?

Our present tax code is based on taxing production as in income, savings and investment. A very bad idea. In the chicken v. egg argument, production must come first and before consumption. Without production there is nothing to consume, to buy and nobody has anything to buy with. Without production there is no trade and commerce and they can never start without first having production. It is production that improves the standard of living for the country and builds the tax base. Wealth is created by producing more than consuming. Thus savings is required, but it is taxed and punishes good behavior. So let's end the bad practice of taxing production. Who on the Ways and Means Committee does not want a bigger tax base?

Debt is negative, not a good thing. All debt comes at a price called interest and has an end date. It must be paid off and perhaps with a new debt. Debt is a way to fulfill future purchases today, thus reducing tomorrows demand. Personal debt is paid off with future production. Government debt is paid off with future tax revenue. But our federal tax code rewards debt and bad behavior. Who on the Ways and Means Committee wants to reward bad behavior?

Let it be understood, as economists agree, that for any business their taxes, license fees, regularity requirements, etc. are added expenses that businesses get the money to pay for from higher prices that are finally paid by the final consumer as a regressive and hidden sales tax. In other words, I understand that ³Taxing big oil means we pay more at the pump.² The USA has the highest business taxes in the world and the final consumers, We the People, are paying the price in higher prices, lost jobs and lower stock dividends. Let¹s end this very bad tax practice.

Please consider the following problems and note that taxes are a discouragement, a burden, a

punishment. See below for the one solution to all these problems.
1. An IRS investigation does not involve a judge and jury, thus resulting in a loss of Civil Rights. The IRS is used for political purposes and needs to be eliminated. The federal tax code has grown to over 74,000 pages. Nobody understands the code, it's too large to administer, full of loop holes and encourages bad practices.
2. Direct taxation discourages labor and creativity by taxing production, income, savings and investment. We want more jobs, but have a regressive tax on jobs of 15.3%, shared 50/50 by the employee and the employer. Production is what creates more jobs, a vibrant economy, improves the standard of living and builds a larger tax base, but we tax production.
3. The 47% think they are not paying federal taxes, but in fact they are paying over $0.28 per dollar in embedded business taxes as a hidden regressive sales tax. You see all taxes, fees, etc. to businesses are costs that raise prices and are passed onto the next buyer until finally paid by the final consumer.
4. The USA has the highest business taxes in the world thus raising the prices for USA goods, but imported goods do not carry that same high tax burden. Would you like Made in USA and imported goods taxed the same in our country?
5. Federal taxes are based on jobs, companies and capital; thus driving them out of our economy and also discouraging them from entering.
6. Federal tax withholding reduces spendable income and take home pay.
7. "United we stand, divided we fall" and our tax code divides us into classes.
8. We spend some $431 billion per year to just comply with the tax code. That is an expensive stay our of jail card that adds no wealth.
9. The "underground economy including illegal aliens" is estimated to be over $2 trillion and goes untaxed.
10. Tax evasion is a $0.6 trillion problem and growing.
11. There are many who cheat or don't even file a tax return.
12. The tax code hurts most the impoverished and lower incomes while the deductions and exemptions are of most help to the wealthy.
13. And wouldn't it be nice to put the care and feeding of the family before paying federal taxes?
14. The Washington beltway commodity is the federal tax code as it is bought and sold by the lobbyist, special interests and politician. Hence the growth of "Crony capitalism".

Today we are infected with "tax cancer", a deadly spreading evil.

Would you like a solution to all of these problems? Flat taxes and rate changes are not the answer as they still tax labor and creation, need the IRS with annual tax filing, tax withholding and most still tax jobs. A flat tax may make it easy to file your income tax, but we have been there before and politicians know the tax system will quickly revert back to its old ways. The value added tax (VAT) is another new tax without eliminating any old taxes. It is called a consumption tax but still taxes businesses and opens up a whole new play ground of taxation for the politicians, lobbyists and special interests. Both the flat tax and the VAT still need the 16th Amendment and are not solutions to the real problems.

America's Big Solution is called the FAIRtax ®, a bill of 132 pages (double spaced) in Congress HR 25 / S 155 that does address all of the problems mentioned above. There are now 81 in Congress supporting the FAIRtax (74 House and 7 Senate). The FAIRtax is real "replace and repeal" tax reform. It abolishes all federal personal, gift, estate, capital gains, alternative minimum, Social Security, Medicare, self-employment, and corporate taxes and replaces them with one simple, visible, federal retail sales tax collected by existing state sales tax authorities. The FAIRtax is easy to understand, has no tax loopholes and one tax rate. It collects the same tax revenue with a progressive sales/consumption tax on new goods and services of $0.23 per dollar. The FAIRtax has only one tax break, called a Prebate that is a monthly tax rebate based on family size. The Prebate helps most the impoverished and lower income and decreases in value as income and wealth increase. The Prebate makes the FAIRtax a progressive tax plan. The FAIRtax promises real long term growth for jobs and the economy. The 16th Amendment would be repealed with companion legislation. Learn more, join the grassroots cause and contribute at FAIRtax.org.

This is a ³**Profiles in Courage²** moment for the Ways and Means Committee. Please do the right thing for us, our families and a better future for the USA.

"Immediate action, join the 1040 Club."

Understand, Join, Contribute and Recruit

Paul Livingston
N.E. Florida District Director
Jacksonville, FL
paulforfairtax@yahoo.com
904-735-7565 mobile

The Honorable Kevin Brady
Committee On Ways and Means
Washington D.C.

Dear Congressman Brady,

On behalf of the millions of Americans living abroad, I urge you to support repealing the following laws: Foreign Accounts Tax Compliance Act (FATCA), Citizen Based Taxation (CBT) and Foreign Bank Account Reporting (FBAR).

I am representing myself on this matter.

Name: Reginald Callaway
Address: Archemerberg 11, 3825 RL, Amersfoort, The Netherlands.
Phone: +31-6 46 10 17 00

In 2010, Congress passed the Foreign Account Tax Compliance Act (FATCA) to combat what it thought was U.S. taxpayers not fully disclosing the extent of financial assets held overseas. FATCA imposes burdensome reporting obligations on U.S. taxpayers and foreign financial institutions (FFI) worldwide. The penalties for noncompliance can exceed the value of the unreported assets.

As a result, many FFI are closing U.S. citizens accounts in response. I personally have been refused banking services at several financial institutions such as at ING bank and deVere. I am allowed checking at KBC bank, but that is it. The bank will not allow me to open other wealth creating products such as mutual funds or whole life insurance policies. To make matters worse, my USAA credit union back in the U.S. will not allow me to trade in mutual funds nor in other banking products such as money markets all because I have an overseas address.

Complying with U.S. tax laws is costly for overseas taxpayers. To implement FATCA, the Obama administration aggressively entered into Intergovernmental Agreements (IGA) with many nations. The stick being 30% withholding tax on companies for not agreeing to the U.S law. FFI now must also engage in FATCA reporting on U.S. taxpayers. All told FFI alone are spending over $100 billion on FATCA compliance.

Because reporting is so complicated I have had to hire several certified public accountant professionals to file local (foreign) and U.S. taxes. In 2015, I spent $2660 paying accountants to complete my taxes and not a cent of that was paid into the U.S. Treasury.

U.S. tax laws are written with compliance in mind and not security. The entire burden for data security rests on the overseas U.S. taxpayer. If breaches occur, the taxpayer is on his own. FATCA and FBAR reporting for U.S. persons abroad often requires they engage with tax preparers over the Internet or with unscrupulous entities who are only wanting to take your money. I've shared several years worth of tax data with a tax preparer over the Internet who has very little experience with network security. They have never had a third party audit to verify their security arrangements, yet the IRS lists them as bonafide tax accountants. The lack of tax data security laws should be enough to repeal FATCA and FBAR. Security threats are real and could impair the U.S. taxpayer forever, depending on the level of breach.

Since the U.S. government has engaged IGAs with many countries, host nation CPAs must collect U.S. taxpayer information and report it back to the Central Bank of that nation. In 2015, I ran into a local tax account who failed to properly report my U.S. income. I pointed out the error, but rather than correct the filing, he threatened to sue me if I did not pay his invoice of $2000. I had to rehire another tax accountant to properly file my tax documents. U.S. taxpayers bear significant burdens in filing tax forms, but the U.S. government provides no remedies to resolve improper tax filings.

Three years ago I had to abandon plans to engage in a partnership due to the fact it would have opened up the "partners" to financial disclosures. FATCA requires full disclosures of financial assets to partnerships.

I am married to Belgian national and we must keep our bank accounts separate. Having a joint bank account would expose her to overreaching, unfair U.S. tax laws. Like in the partnership, FATCA requires full disclosure of financial assets. Naturally, this can be problematic in the event of her passing.

The U.S. government chooses not to recognize how FATCA and FBAR legislation has negatively impacted Americans abroad, relegating them to second-class status. I urge you to repeal FATCA, Citizen Based Taxation and FBAR. I, like the 8.7 million other Americans who live overseas, are not evading taxes. Why demand tax filings of people who don't benefit from the proceeds such as roads, health care or schools?

Sincerely,

Reginald Callaway

Reginald Callaway

March 21, 2016

Public Submissions For Record

Chairman Charles Boustany (R-LA)
House Ways and Means Committee
Hearing on Fundamental Tax Reform Proposals
Tax Policy Subcommittee

Dear Chairman Boustany:

Americans believe that our tax code is unfair, favors the rich and special interests and is fundamentally broken. There is sufficient evidence too that the Federal Government and the Internal Revenue Service have not been in legal compliance with our nation's tax laws, U.S. Constitution, Supreme Court decisions, Statutes at Large, United States Code (Internal Revenue Code [26 USC]), and Code of Federal Regulations [CFR]. For these reasons, support data provided below, I am in favor of a new alternative tax plan, The Fair Tax, based on collection of tax revenue through consumption at the final point of sale.

I will attempt to focus my attention here on WHY the current tax system is broken from a legal standpoint. (In order to offer support of any alternative [new) tax plan, such as the ***Fair Tax***, or ***Flat Tax***, it is vitally important to know why the current system is non-compliant from what the law authorizes in the U.S. Constitution).

A) **The U.S. Federal Constitution recognizes two great classes** of federal taxation in America, **DIRECT** and **INDIRECT**, to wit:
1) The *"Sixteenth Amendment"* only authorized an **INDIRECT** [levy of] **TAX** on income.
2) Apportionment requirement is cited twice in the U.S. Constitution;
3) The *16th Amendment* does not provide an exception to the constitutional rule of apportionment for direct taxes. Such taxes must be levied according to the constitutional rule of uniformity.
4) Any income tax which is inherently a direct tax is outside (without) the scope of the *16th Amendment*, and therefore must be apportioned among the several States according to population.
5) Income taxes on wages and salaries are direct taxes and must be apportioned among the several States.
6) **See:** U.S. Supreme Court: Brushaber v. Union Pacific Railroad; Stanton v. Baltic Mining Co. and Pollock v. Farmer's Loan and Trust Company.

B) **Operational Practice of the I.R.S.:** Under which legal authority (Standards of Law) does the federal government justify their **enforcement powers** to collect income taxes?
1) *Sixteenth Amendment* - income taxes (Does not have enabling enforcement clause);
2) Article I, Section 8, clause 18 - impost, duty or excise (Pursuant to Necessary and Proper enabling enforcement clause).

The ***Fair Tax*** requires INDIRECT payment of the tax by way of *"Withholding Agents"* whom are in this sense retail business throughout America. **The Flat Tax alternative**, would be DIRECT, as shown above, is **UNCONSTITUTIONAL**. ***(The income tax described in the tax code (Subtitle A of the IRC) actually require the "Withholding Agent" and the Federal Employer in Subtitle C, not individual American citizens, to be "MADE LIABLE" to pay the federal income tax collected from individuals).***

26 U.S. Code § 1461 - Liability for withheld tax (Withhold Agent)

Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

The missing role of the *"Withholding Agent"* cited in the tax code under Subtitle A of the IRC, described above is the real cause and effect of WHY the abuses exist in the current system.

It is my view, that the ***Fair Tax*** alternative would best solve most of these sticky legal issues the Tax Policy Subcommittee will be faced with. The ***FairTax bill - HR25***, would dramatically simplify the collection of tax by eliminating all income tax and simply applying a national retail sales tax at the final point of retail sale. It would be more difficult for the American citizen to be abused with the ***Fair Tax***, a tax collection by an INDIRECT procedure, than our current system and would broaden the tax base to include the black market economy and tourism in the United States. It would allow products produced in the United States to compete fairly with those produced abroad and bring an estimated 16 million new non-farm jobs to the US within the first year of implementation.

I would like to urge the House Ways and Means Committee to pass the FairTax HR25 out of committee and on to the House floor.

Sincerely,

Ronald K. Evans
District Director, FAIR TAX
District 15
Web: www.FAIRTax.org
4445 Valley Avenue, #F
Pleasanton, CA 94566
Phone: (925) 425-9592

EXHIBITS

Table 3-2: Versions of Proposed Sixteenth Amendment prior to approval

Version	*Text of proposed Amendment*	*Vote on proposed amendment*
Senate Joint Resolution (S.J.R.) No. 25	"The Congress shall have power to lay and collect taxes on incomes and inheritances."	Rejected
Senate Joint Resolution (S.J.R.) No. 39	"The Congress shall have power to lay and collect ***direct***[emphasis mine] taxes on incomes without apportionment among the several States according to population." [44 Cong.Rec. 3377 (1909)]	Rejected
Senate Joint Resolution (S.J.R.) No. 40	"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." [This is the version of the Sixteenth Amendment we have now]	Approved

Legislative Intent of 16th Amendment

CONGRESSIONAL RECORD - SENATE - JUNE 16, 1909

[From Pages 3344 – 3345]

The Secretary read as follows:

To the Senate and House of Representatives:

It is the constitutional duty of the President from time to time to recommend to the consideration of Congress such measures, as he shall judge necessary and expedient. In my inaugural address, immediately preceding this present extraordinary session of Congress, I invited attention to the necessity for a revision of the tariff at this session, and stated the principles upon which I thought the revision should be affected. I referred to the then rapidly increasing deficit and pointed out the obligation on the part of the framers of the tariff bill to arrange the duty so as to secure an adequate income, and suggested that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among them I recommended a graduated inheritance tax as correct in principle and as certain and easy of collection.

The House of Representatives has adopted the suggestion, and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of the debate indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the imposition of a general income tax, in form and substance of almost exactly the same character as, that which **in the case of Pollock v. Farmer's Loan and Trust Company (157 U.S., 429) was held by the Supreme Court to be a direct tax, and therefore not within the power of the Federal Government to Impose unless apportioned among the several States according to population.** [Emphasis added] This new proposal, which I did not discuss in my inaugural address or in my message at the opening of the present session, makes it appropriate for me to submit to the Congress certain additional recommendations.

Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency. The decision of the Supreme Court in the income-tax cases **deprived the National Government of a power**which, by reason of previous decisions of the court, it was **generally supposed that government had**. It is undoubtedly a power the National Government ought to have. It might be indispensable to the Nation's life in great crises. Although I have not considered a constitutional amendment as necessary to the exercise of certain phases of this power, a mature consideration has satisfied me that an amendment is the only proper course for its establishment to its full extent.

I therefore recommend to the Congress that both Houses, by a two-thirds vote, **shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government** without apportionment among the States in proportion to population.

This course is much to be preferred to the one proposed of reenacting a law once judicially declared to be unconstitutional. For the Congress to assume that the court will reverse itself, and to enact legislation on such an assumption, will not strengthen popular confidence in the stability of judicial construction of the Constitution. It is much wiser policy to accept the decision and remedy the defect by amendment in due and regular course.

Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency, but by putting on the statute book a law already there and never repealed will simply be suggesting to the executive officers of the Government their possible duty to invoke litigation.

If the court should maintain its former view, no tax would be collected at all. If it should ultimately reverse itself, still no taxes would have been collected until after protracted delay.

It is said the difficulty and delay in securing the approval of three-fourths of the States will destroy all chance of adopting the amendment. Of course, no one can speak with certainty upon this point, but I have become convinced that a great majority of the people of this country are in favor of investing the National Government with power to levy an income tax, and that they will secure the adoption of the amendment in the States, if proposed to them.

Second, **the decision in the Pollock case left power in the National Government to levy an excise tax, which accomplishes the same purpose as a corporation income tax** and is free from certain objections urged to the proposed income tax measure.

I therefore recommend an **amendment to the tariff bill Imposing upon all corporations and joint stock companies for profit**, except national banks (otherwise taxed), savings banks, and building and loan associations, **an excise tax** measured by 2 per cent on the net income of such corporations. **This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.** [Emphasis added] I am informed that a 2 per cent tax of this character would bring into the Treasury of the United States not less than $25,000,000.

The decision of the Supreme Court in the case of Spreckels Sugar Refining Company against McClain (192 U.S., 397), seems clearly to **establish the principle that such a tax as this is an excise tax upon privilege and not a direct tax on property**, and is within the federal power without apportionment according to population. The tax on net income is preferable to one proportionate to a percentage of the gross receipts, because it is a tax upon success and not failure. It imposes a burden at the source of the income at a time when the corporation is well able to pay and when collection is easy.

Another merit of this tax is the federal supervision, which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidentally able to possess the Government and the stockholders and the public of the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.

I recommend, then, first, the adoption of a joint resolution by two-thirds of both Houses, proposing to the States an amendment to the Constitution granting to the Federal Government the right to levy and collect an income tax without apportionment among the several States according to population; and, second, the enactment, as part of the pending revenue measure, either as a substitute for, or in addition to, the inheritance tax, of an excise tax upon all corporations, measured by 2 percent of their net income.

Wm. H. Taft

Subject: Submission to the House Ways and Means Tax Policy Subcommittee of the Committee on Ways and Means
Date: Monday, March 21, 2016 at 8:38:55 AM Eastern Daylight Time
From: Sophie Corlett
To: waysandmeans.submissions@mail.house.gov

Dear Sirs

I would like to make a submission to the House Ways and Means Tax Policy Subcommittee of the Committee on Ways and Means in advance of Tuesday's hearing on ³Fundamental Tax Reform Proposals².

I would like to express my support for a simpler, residency-based taxation system (as opposed to citizenship based taxation) and - more importantly for me - an amnesty for all ³accidental Americans². I am a British lawyer and have no direct connection to the US. I am however married to an accidental American and now find our family, our income, our assets and - it is not an exaggeration to say - our very existence as a family threatened by the extraterritorial reach of the US tax system. I will not ask you to take your time now to read my story - you can read it along with the stories of the many, many other innocents caught in the crossfire at www.facebook.com/USAccidental.

I am however asking the US government to urgently recognise the predicament of accidental Americans and and grant them a full amnesty on a no-tax, no-penalty and no-fee basis, and a quick unbureaucratic exit from unwanted, unrequested US citizenship on these terms:

Those who at birth were dual citizens of the US and of a foreign state and:

? at all times and up to the date of their expatriation remained citizens of another state;
? never resided in the US after attaining the age of 18 and a half;
? never held a US passport, or only held a US passport for the purposes of leaving the US or because the US State Department required them to travel into and out of the US on a US passport, or who held a US passport as a minor and did not renew or ceased to renew the US passport as an adult;
? relinquish their US citizenship within a period of 2 years following 1 January 2016 or in the two year period following the date on which they discovered their US citizenship;
? certify under penalty of perjury compliance with all US federal tax obligations that would have applied during the 5 years preceding the year of expatriation as if they had been a non-resident alien during that period, may exit the relationship with the US on a no fee, no penalty and no tax basis.

If you would like to receive a testimony from me, or would like any more information, please do not hesitate to contact me.

Yours faithfully,

Sophie Corlett

Wednesday, October 26, 2016 at 10:15:26 AM Eastern Daylight Time

Subject: Tax proposal submission
Date: Tuesday, March 22, 2016 at 3:17:56 AM Eastern Daylight Time
From: Todd Stoudt
To: waysandmeans.submissions@mail.house.gov

The tax issues for Americans living outside the US are many, varied and exceedingly complex. Since learning of FATCA, FBAR and Citizenship Based Taxation (CBT) a couple of years ago, I have struggled to find a way to explain them to others who have yet to have their own "OMG Moment"". Focusing only on the regulatory issues has not been sufficient to convey the monstrosity of these three policies, the need for them to be arrested. So, instead of telling only of the requirements, how they violate various amendments to our Constitution and how, legal or not, they are impossible to comply with regardless of intent, permit me give a narrative that portrays the realities of FATCA/FBAR and CBT and why immediate action is required. First I'll my background to show how I came to reside in Japan and unknowingly trapped in a tax and reporting nightmare. After this I will provide the narrative that follows my situation as closely as I am comfortable with. Then I will relate how I learned of FATCA, FBAR and CBT followed by an explanation of how these violate various amendments to our Constitution and the effects these will have on the homeland. Lastly I will give my recommendations for solving these issues.

At the age of 17 I joined the U. S. Navy through the delayed entry program and shipped out to boot camp at 18. Enlisting into the six year enlistment program, I was honorably discharged at 24. The last 2 and a half years of my enlistment had me serving aboard a US Navy vessel home ported in Japan.

After being discharged, I attended college and was soon back in Japan, first as a student at an American university that was then operating a campus here for one school year then again as a foreign exchange student at Meiji University for one calendar year. After graduating in 2000 I returned to Japan once again as an English conversation teacher at a large English conversation school. My intent was to stay 3 to 5 years and return to the US, studying Japanese language and other Japanese related topics in my free time.

Along the way I met a local woman, fell in love and married. Japan has been my place of residence since 2000. I have spent most of my adult life in Japan and have been granted a Permanent Resident Visa by this nation. I pay income tax to the county and city in which I reside.

For the first couple of years resident in Japan, I filed income tax returns to the US. I did so not because I had knowledge that I must even though living overseas, rather I thought it may cause difficulty once I returned home and resumed working in the US with a several year long blank in tax return filings. Thought it would be easier to stay in the system.

Filing from overseas was a lot more difficult than filing from within the US. Although the IRS did send me tax forms and instructions, they did not send all that was required. Getting forms and instructions are very difficult for us living overseas. Trips to the Embassy, the only place where civilians may procure forms, etc necessitate taking a day off, as close to an impossibility as possible without actually being impossible for most working for Japanese companies. Additionally, phone calls to the IRS were inevitably required to clarify one point or another. These were not toll free, as they came from overseas and had to be made during office hours in the US, meaning in the middle of the night here in Japan. Each year, I would ask the IRS via phone call if the forms I was submitting were all that were required and the IRS always answered "yes". Never was I informed of the need to file a FBAR. Never even knew of its existence until a very short time ago.

At one point, a new requirement came in the form of a letter attached to the front of the instruction booklet sent to me by the IRS. Many I have spoken to since have told me that this requirement did not apply to me, yet there it was in writing in the envelope the IRS sent directly to my address in Japan. This requirement was confirmed twice during two different late night phone calls to the IRS. I was then required to report the exact amount paid each month in US dollars and write an essay explaining how I came up with the US dollar amount from the local currency. This was a monumental undertaking for me. Not having any knowledge of this requirement before hand, I had to research what the exchange rate was on each day I received a payment and use that exchange rate to calculate the exact amount in US dollars received as renumeration, commuting costs and all deductions. This greatly increased the number of computations needed and thus the opportunity to make a mathematical error. Each error carried the weight of a $10,000 fine. The task made even more difficult by the fact that my manager had not issued a monthly pay slip for three months the previous tax year. Without the aid of my own computer, nor even a calculator, it took over a week of all day, every day work to complete my US income Tax return for that year. Despite my best efforts, I sent it off with great fear that there must be at least one error and that I would be fined huge amounts of money, more than I would be able to pay. With a yearly salary of ¥30,000 and living in what was at the time the most expensive city in the world for expats, that was an awful lot of paperwork to be required to show that I did not earn enough to owe taxes to the US and yet be under threat of massive fines for inadvertent errors.

That was the work load with just one employer, one pay day a month and just one bank account. After working with that company for two and a half years, I started working for multiple entities. A common feature in Japan is that the employer often tells the employee which bank the company will pay the employee through direct deposit. Such was the case with many of my employers. Thus, I ended up having accounts in five different banks for my nine employers to deposit my pay into. Additionally, I have had as many as six different paydays a month. The time required to do and check and double check the numerous computations of yen to dollars for each payday times six for each month times twelve for the entire year was and remains far more than I can do without quitting all my jobs and devote my life to income tax filing compliance, again with no tax owed but with the risk of massive fines for inadvertent errors and omissions. That may sound like an exaggeration, but it is not. Here is what the IRS Taxpayer Advocate Service (TAS) stated on the complexity in the IRS Taxpayer Advocate Service Annual Report to Congress 2011 Vol.1 (IRS TAS ARC 2011 VOL.1) page 132.

The complexity and administrative detail of the international reporting requirements are overwhelming.

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That is the back ground of my story. To help illustrate the reality of being an American living overseas and married to a non US Citizen, the following is a narrative of how things would have been if I were 100% compliant. It is long but the human element of the reality of the U.S. Expat married to a non US citizen needs to be known. The names and some details of actions are fictitious. The numbers, requirements and results are accurate to the best of my knowledge and understanding.

It is 2010. John Q. Public (J) is an American citizen and has been living in Japan since late 2000. He has recently received his Permanent Resident Visa, similar in concept to the "Green Card" of his homeland. His annual income is now $40,000. He teaches English for 9 different employers who pay into his accounts in three different banks as needed to fulfill his various employers payment conditions and another as a joint account with his wife, a Japanese citizen. He has another account at the behest of his wife. None of his other banks operate ATMs in their area which makes it difficult to access money on weekends and holidays. This fifth account is supposed to be accessible through the local ATMS. His companies pay him on six different days of the month. Each day has a different exchange rate. All employers pay in the local currency, Japanese yen.

Kaoru Public (K), J's wife. She is a Japanese national and she and her husband live in her homeland. One of only a handful of women in the engineering department of her tech. school, she none the less earned one of the highest GPAs in Classical Japanese. When she and J first met, she was looking for employment with a large multinational firm in the hopes she could realize her full potential. K was hired as just an OL, Japanese for "office lady", but would soon find herself in positions of increased responsibility and renumeration.

By 2010, J & K have been married for 5 years. The first year was especially rough. J left his full time position to seek greater opportunities as a "freeta", Japanese slang the meaning of which includes " freelance", English teacher. He works from 9 am until 11-11:30 each night. His earnings do not cover his expenses which include his college loan debt, local taxes and the family expenses.

K is heavily engaged in an important project at work. She works 188 hours or more of over time each month for the the first ten months of the marriage then in the States for three months. J, the American, has to fly from Japan to the U.S. to spend his first anniversary with his wife, who is Japanese but living in The US. This causes lots of chuckling and head shaking among family and friends in both countries.

J & K spend very, very little time together as newly weds. It would be a very lonely time for them both. At least K's hard work and effort paid off. Her company paid every single yen she earned in overtime, a rarity in Japan. With her full overtime pay, semiannual bonus and regular salary, her payment on the bonus month was five times J's yearly income. This clearly demonstrated for both that it was K who had the greatest earning potential.

After K's return from abroad, they discussed their future and decided to stay in Japan. Having made this decision, the money they were paying for their rental apartment seemed to be a waste of money. K had recently received a promotion as a result of her hard work on the previous year's project. With the accompanying pay raise and her savings from a decade of working full time before marriage and unencumbered with college loan debt as was her husband, this was an easy decision for her. J agreed but plain did not have the money. All of his income going to expenses and paying off his college loan. They came to an agreement and they bought their home later that year. J's name is not on the deed however, for the simple fact that Japanese law prevented it. A certain percentage must be paid by someone before they can have their name on the deed. Or so K told J. So J would pay K a certain amount each month towards the mortgage and another certain amount to the joint account towards the family living expenses. J's contributions, although far less than K's, left him basically penniless after paying his local taxes and his school loan payment.

Although agreed upon, even suggested by K, the financial arrangement caused friction in the marriage. J was always away at work and not able to help with the house work and his financial contributions not really covering his cost to the family expenses. Slowly, J started moving up the ladder by landing better and more secure part time positions in universities and better company jobs. Although his working hours increased, his commute time was drastically reduced. Finally, he was able to be less of a burden and actually a net contributor to the marriage, though just.

A major point of friction remained. K could not understand why each and every May J had to waste the "Golden Week" vacation doing his taxes for his home country. After all, it takes him only an afternoon to do his Japanese income taxes and those are in Japanese. Why does it take days and recently much longer than a week for him to do his taxes for the US, they are in English. Besides, he pays his taxes in Japan, where he lives and has never owed any taxes to the U.S., he doesn't earn anywhere near enough. Who ever heard of such a thing? Just a complete waste of time.

It used to take only a couple of days for J to complete his US tax return, then all of a sudden, when he and K were still dating, the rules changed. Within the packet of forms and instructions sent by the IRS was a letter stating that J now had to compute the actual US dollar amount received on each and every payday. As the exchange rate differs each day, this greatly increased the work load and time to prepare his tax return and the chances for error and thus huge fines. He had promised to travel over Golden Week with K as they had done in the past but this year the new changes were so complex and required so much extra documentation that he ended up spending the whole of Golden Week on his US income tax return. At that time, J had but one employer and only one pay day a month and only one bank account in Japan. Their relationship very nearly came to an end that year over J's need to file complex tax returns to a far off land.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Each year thereafter J did his best to prepare for his U.S. Income tax return as much as possible in advance so that he could keep his yearly promise of spending Golden Week with his soon to be wife. Yearly changes to the tax rules rendered most of this advance work useless and he would have to start anew once the year's instructions and forms were finally in his hand. Year after year, the ever changing and increasing filing requirements forced him to break his promise to his wife.

It is now 2012. J still works long hours. Most of his income goes to pay off college loans totaling $33,000 but will soon be paid off, pay his portion of the mortgage and what he can towards living expenses. K has just finished her Master's degree and is really, really looking forward to the promised Golden Week vacation. J has just about killed himself getting what he could get done on his tax return so that he could live up to this promise of a Golden week vacation. During K's Master's course, J did all the house work while working his usual hours. 2 to 4 hours of sleep per night was all he could get. There were many days of not even going to bed at all, especially as he tried to get his taxes prepared.

Finally, J sits down to do his taxes and discovers yet another new form, the FBAR. "Now what?"he wonders. Not able to make heads nor tails out the outrageous requirements, he goes on line and to his audible horror discovers that he must report the highest monthly balances of all his accounts in US DOLLARS!!!! FOR THE PAST SIX YEARS! INCLUDING THE JOINT ACCOUNT WITH HIS WIFE! Where did this come from. Each year required several overseas phone calls in the middle of the night Japan time to the IRS to clarify this or that point. Each time calling, J asked if any thing else was required of him to complete his tax returns and not once was he informed of FBAR. He now has five accounts, nine employers and receives his meager earnings on six different days of the month.

These information returns are to be sent to the the Financial Crimes Division of the IRS. Any error will be considered possibly criminal and a $10,000 fine assessed for each and every error. As these information returns require much of the same information on the actual tax returns themselves and will be matched with previous returns, any error on the tax returns will also incur a $10,000 dollar fine. "Due to the complexity of the now 7000 pages of instruction, professional help is strongly recommended." Panicked searching reveals the it will cost J a minimum of $12,000 dollars for a tax professional to prepare the required 6 years of information returns alone. As these must be accurate under the new rules and match his tax returns for the previously filed five years which were filed under the old rules, amended returns are strongly suggested. "Another $12,000 for the tax returns plus the $12,000 for the FBAR info returns, for $24,000 dollars I can get you all squared away with the IRS. Next year and every there after it should cost only you only $2000 to $4000...unless the IRS changes the rules again (chuckle, chuckle, chuckle).

That is what compliance means for most, nearly 80% of the U.S. Expat community, according to American Citizens Abroad.

All the actions ascribed to J are accurate until the point in the narrative broken with "XXXXXXX". After that, J has NOT filed any US income tax returns. He never really made the decision not to in fact each year for several years thereafter he tried to do his tax returns and spent huge amounts of time so trying, but was able to complete them. Work requirements had to be met if he were to remain employed. Additionally, the chances for making errors that would bring fines far in excess of his ability to pay were so great that it would be foolish to expose himself to them. The choices he had were to 1. quit work and dedicate his life to his tax returns, to prove that he did not earn enough to owe taxes to the US and end up divorced and homeless. 2. Work himself to death, using 100% of his earnings and still needing to use his wife's assets to pay for a tax professional to do his returns and end up divorced, homeless and after using every yen he could earn to pay for a tax professional, dead. 3. Continue working and paying taxes to the country of his residence and college loans and as much as he could to his family account and ignore the unjust demands of his far off native land.

Faced with these circumstances and choices, what would you do?

Again, to illustrate more clearly the burden placed upon individual taxpayers, here is what the IRS Taxpayer Advocate Service (TAS) stated on the complexity in the IRS Taxpayer Advocate Service Annual Report to Congress 2011 Vol.1 (IRS TAS ARC 2011 VOL.1) page 132.

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These 7,322 pages are in addition to what US residents must deal with for we have to fill those out too. Yes, for me to sort through these instructions, changed every year, would require me to quit all of my jobs. Not being able to complete my tax returns in such a manner as to avoid huge penalties for unintentional errors without choosing either option 1 or 2 above, only the third remained. This option became fact only after several years of trying to complete my returns. Eventually this issue faded into the background, ever present but not the focus of my concerns.

This issue jumped back into focus a couple of years ago when the time came to renew my passport. The application I down loaded from the Tokyo website contains several statements that violate various US laws. First, there is this statement, "The Department of State must provide your SSN and foreign residence information to the Department of Treasury. If you fail to provide the information, you are subject to a $500 penalty enforced by the IRS. ". This is a clear cut violation of Due Process as protected by the Fourth Amendment to the Constitution. Such information can not be shared between departments except for the purpose of administration, which these ckearly are not, with proving probable cause and obtaining the appropriate court order.

Then there is this statement, "Your Social Security Number will be provided to Treasury , used in connection with debt collection and checked against lists of persons ineligible or potentially ineligible to receive a U.S. Passport, among other authorized uses.". The right to leave one's country, either permanently or temporarily is an internationally recognized human right, one which our country, the United States of America supports with laws, international treaties and Human Rights Complaints against nations that refuse this right to their citizens. There can be no eligibility to exercise a right as rights require no such eligibility. In short, if one can be eligible or ineligible for something, that something is not a right. If something is a right, one need not be proven eligble to exercise it. Eligibility and Right are mutually exclusive terms. This action also violates the Fourth amendment.

And then we have the following, (emphasis in bold mine) "Your social security numbers will be provided to the U.S. Department of Treasury and failure to provide it may subject you to a penalty, as described in the Federal Tax Law provision. It also may be used for identification verification for passport adjudication and in connection with debt collection, among other purposes as authorized and generally described in this section. PROVIDING YOUR SOCIAL SECURITY NUMBER AND OTHER INFORMATION REQUESTED ON THIS FORM OTHERWISE IS VOLUNTARY, BUT FAILURE TO PROVIDE THE INFORMATION REQUESTED ON THIS FORM MAY RESULT IN PROCESSING DELAYS OR THE DENIAL OF YOUR U.S. PASSPORT APPLICATION". "Voluntary" you say?

The following bold is from the application, not mine.

"CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION: Failure to provide the information requested on this form may result in Passport Services' refusal to accept your application or result in the denial of a U.S. Passport."

For myself and others who are lawfully living overseas, this document reads, 'The applicant will provide the following information and allow us to use it illegally or risk having the right to travel and reside outside the borders of the homeland illegally revoked'. My Permanent Residence Visa requires that I maintain a valid passport. The revocation of my passport would immediately tear myself away from my family, home and employment, causing irrevocable negative changes to my rights and privileges to reside with my family in our home and to the positions I worked hard over a number of years to secure. Again, without due process nor any taxes owed.

Recent changes in U.S. Tax law and/or IRS rules of which I had no way of even conceiving that such rules could exist in a country founded upon "No Taxation without Representation" over night made myself noncompliant with FBAR. Learning of this after the fact, the only way to become compliant is to spend more money than I have earned since graduating from college and worse, spy on my non U.S. citizen spouse whom the IRS refers to as a "Nonresident Alien".

FBARs were originally intended and implemented for persons RESIDING in the US who had accounts outside of the U.S., not for US citizens LIVING OUTSIDE the US. . Every year I have filed my tax returns from Japan various issues would arise that would require a phone call to the IRS. Each and every year I specifically ask if anything else was required and not once did the IRS inform me of this requirement. Yet, I am now subject to excessive fines as noted here, on page 191 of the IRS TAS ARC 2011 Vol. 1.

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U.S. taxpayers abroad who do not comply with complex information reporting require– ments are subject to financially devastating penalties that often are not commensurate with the tax liability at issue. these penalties may range from $10,000 per violation to the greater of $600,000 or 300 percent of the foreign account balance for willful failures continuing over a six-year period.[1] the National taxpayer advocate is concerned about an apparent shift in the irS's approach to the application of these civil penalties. although the irS's longstanding policy is to use penalties "to encourage voluntary compliance,"[2] there are indications the irS may have used penalties as leverage against taxpayers who have entered into voluntary disclosure programs, often penalizing those who are trying to become compliant.[3]

I had five different accounts for the reasons cited above. Due to the joint account with my wife which contained money she earned and paid taxes on in Japan the aggregate of my accounts was greater than $10,000. So, my fine for not filing forms that I had no way of knowing about are a minimum of $10,000 times 5 (the number of bank accounts I had) times six years equals $300,000. Not because I owe taxes, because I did not spy on my wife's financial information as required due to our joint account.

The worst has yet to be described. FATCA is having the biggest, most immediate effect. This law gives banks two choices, give the Treasury Dept. of the U.S. all information on anyone who might possibly be a US Person (without probable cause or warrant, the legally required Due Process protected by the 4th amendment of the Bill of Rights) or be fined 30% of all U.S. derived income. Banks however, have decided upon a third option, they are not allowing Americans to open new bank accounts and closing accounts currently held by U.S. Persons, thus relieving themselves of the burden of collecting, safe storing and transmitting this information.

It is this last point that currently is my biggest concern. All of my several employers pay with direct deposit only and will not pay with cash and paychecks do not exist in Japan. If my bank account is closed, I become unemployed and unemployable over night. Worse, if my wife who now carries a non local surname has her account closed or frozen, as has occurred in Europe and elsewhere, we will be homeless long before year's end for we will be unable to make any of the payments needed to keep a home or rent an apartment.

That is the reality I and every other American living out side the US face. Was this the intent of Congress when FATCA was passed?

FBAR now requires all US Persons to report all accounts they have signature authority over if they total $10,000 in aggregate. For those who have signatory authority for their Japanese employer, they must report that account to the U.S. IRS, thus breaking the trust placed upon them by their employer, most likely violating the terms of their contract and violate Japanese law. If the US Person shares an account with their non US citizen spouse, they must also report that account to the U.S. IRS, violating the trust of their spouse. If a US Person handles the account of, for example, the local children's group, if the accounts of the US person are over $10,000 in aggregate, this too must be reported, violating the trust of their friends, neighbors and the parents of their children's friends, and again, possibly Japanese law. And again, with no taxes owed.

FBAR places the burden of deciding which set of laws to obey and any decision means that one set of laws or the other must be broken. Should a US Person follow the law of the country they reside in, they are breaking the law of their far off homeland. If they choose to follow the law of their far off homeland, they must break the law of their the country they reside in and the faith and trust of family, neighbors, friends, business partners and employers. With FATCA, the threat of being permanently financially ruined for following local law has become real. This is wrong! It is morally wrong! It is ethically wrong! As it breaks US law, local law and international law, it is legally wrong as well. There is no justification for any of this.

Let's explore this further. Let's say I have two children, a son and a daughter, born in Japan to a Japanese mother whose births have not been registered at the U.S. Embassy. They are Japanese and Japanese only to everyone in the world except the US government because their father is or was an American. Yet, because their father is or was an American citizen, their bank accounts must also be reported to the U.S. and if they are more successful than their father, they will owe tax to the U.S., a foreign land to them. If they marry their childhood sweethearts, Japanese both with no taint of US Personhood, then my children are obliged by US law to report/spy on their Japanese spouses' accounts. When promoted to a position of signatory authority over company accounts of their Japanese companies, they too will have to decide which set of laws to break, those of their homeland or those of their father's homeland. Now with FATCA, honoring the laws of their homeland and land of residence over the laws of their father's could destroy them and their families financially. My daughter may be able to escape the horrible consequences of having an American father after she marries as she would take the family name of her Japanese husband. My son would not be able to escape and worse pass the curse of US Personhood to his Japanese wife and Children. In reality, after a few cases appear in the news, my employers and my children's employers will just let us go and hire no more US Persons.

What would be your reaction if the situation was reversed, the Japanese government demanding that Japanese citizens and their descendants resident in the U.S. violate U.S. law by sending such financial information on their non Japanese spouses, employers, business partners and any community group they may be treasurer of to Japan and Japan punishing the Japanese who didn't? How would American banks and companies react to that?

That is how FATCA/FBAR and Citizenship Based Taxation violate the laws of the nations where US persons reside. However, FBAR (as applied to Americans living overseas), FATCA and Citizenship Based Taxation as a whole also violate various US laws and constitutional amendments. Here are some examples of how they do so.

FATCA/FBAR violate the following amendments of the US Constitution, 4th, 5th, 6th, 8th and 14th. They violate the fourth amendment by bypassing due process. They are general warrants and are prohibited by US law. As it would be a violation of the 14th Amendment, equal protection, to require residents of New Jersey to provide information on their local accounts and assets that residents of Wyoming are not required to provide, so too is it a violation to require U.S. citizens living abroad to submit the information return, FBAR, on their local accounts while not requiring residents of the U.S. to do so. Having to submit these to the Financial Crimes Division of the IRS for each and every small, inadvertent, unintentional error to be found a violation with a minimum fine of $10,000 per error violates the fifth amendment as well as the 8th amendment protecting against excessive fines. If brought to trial, we can not have a jury of our peers as US courts to not hear cases in the various lands US expats reside in. As no homelanders face any of these laws, they are not our peers in these matters, thus violating the sixth amendment. And all of this with no tax owed.

Taxation without representation. Some may argue that American's living overseas indeed have representation in the Representatives and Senators from our home districts. This is false. First, on a practical note, many offices of the above do not accept correspondences from overseas ISPs. Each state has two Senators and a number of Representatives based on the population of each state as determined by the US census. The reason is clear, the residents of New York State have different concerns and needs than the residents of Iowa. Thus each state sends Representatives and Senators to the National Delegation to represent the concerns of those living in each district and state. The estimated 7 million Americans living outside the boundaries of our native land have no such representation. My concerns are not the same as my former neighbors in my home town nor not even the same as my parents. They do not need to report all their assets to the Financial Crimes division of the Treasury Dept.. I do. They are not required to send sensitive personal financial information of their spouses to a foreign land under penalty from that land. I am.

Additionally, as American citizens living overseas are not counted in the US census and the US census is used to determine the number of seats in the Congress for each state, Americans living outside the country are not counted with in our home districts and are thus without representation.

Voter fraud is another concern for those like myself with permanent resident visas. If one is acknowledged to be legally resident in one location can they vote in another? Conversely, If one claims to be resident in their so called home district so that they can vote, can they then claim the Foreign Earned Income Credit?

For those who remain unconvinced on this point, surely they can not honestly believe that our "Nonresident Alien" spouses have representation in the U.S. Legislature, nor our non U.S. Citizen business partners with whom we may share an account, nor our companies or other organizations we may have signature authority over the accounts of. Yet, their financial information is required to be sent to the IRS by any U.S. person who may have earned the trust of their hosts to have been given signing authority of accounts within these organizations.

How about our children born overseas? Who represents them? The U.S. claims them as citizens owing taxes to a land that is foreign to them and from which they derive no benefit yet they have no representation. These "accidental Americans" being citizens then bring the same curse of US Personhood to their Nonresident Alien spouses and children. Yes, curse. My country, the United States of American, the country I served in the military to protect for six years has turned one of the greatest gifts on Earth, US Citizenship into a curse for those of us who exercised our right to live outside the borders of our homeland.

However, those of us living overseas are not the only ones who will be harmed. Here is how these laws hurt the home land.

These are emails sent to me by a friend who also teaches English in Japan. He is a British national, his wife Japanese and their child dual. Collectively, they are a real life example of the very broad negative effects of FATCA/FBAR.

2014 Jan 06

Wow

This is getting ridiculous-I have to answer about dollar assets I have to my British stockbroker IN BRITAIN or they'll freeze my account

Also, do I live or even visit America and how many days a year I go there

D

2014 Jan 09

Sample questions:

Do you have one US parent?

Were you born in the US?

Do you have any US assets?

Do you work for a US created corporation ?

If yes then you need to fill in a form for US tax information

2014 Nov 02
Hello J
Looks like you were ahead of the game.Japan has joined a tax agreement with the US and as a result I am persona non grata worldwide.
My overseas share dealing account in the UK is being closed down and I have to get out of Dodge. I phoned a US trading company and they won't deal with Japanese residents; even banks in Luxembourg won't go near anything Japanese as they have to report to the Japanese Govt.
It's quite ironic really as Japanese banks themselves are not so keen on me either.
Welcome to the brave new world of globalisation (for the filthy rich with personal accountants).
Cheers
D

An overseas bank which has an account of a Japanese resident must now send details of that account to Japan and those countries now include Australia which has also signed up to the agreement.
Any country signed up to the agreement can demand that foreign banks send them info on residents who have accounts with them ,which means for the banks it's too much trouble to bother with so just refuse them accounts.
Japan signed the law in 2012 and it came into effect in July 2013.
Cheers
D

In fact technically you are not even allowed to ACCESS the website of an overseas bank from Japan
One bank sent me a mail by error which stated:
"This is not allowed to be sent to Japan".

D

He has told his brokers to not invest in anything that might even possibly be connected to the US. The amount of paperwork he would be required to do if he did invest in America is not worth it in his estimation. And he most certainly does not want his financial information nor that of his wife and child to be sent to what is a foreign government to them.

He is not alone. Below is taken from the London based U.S. tax and Financial Services website, FATCA FAQ, ustaxfs.com.

This organization is advising financial institutions in Great Britain to avoid not only investors by Americans and accounts held by US persons but also investing in the US.

What part does FATCA play in Great Britain and other countries joining the Chinese Asian Infrastructure Investment Bank (AIIB)? I can not imagine that being extorted by the US to enter into the FATCA IGAs did not play a role. Friends do not extort friends. FATCA does just that and soon there after many of our friends join the AIIB.

Other negative effects. The IGAs the Treasury Dept. offered to world are reciprocal agreements. Despite Treasury not having the authority to compel US banks to provide the same information to foreign governments that they are required to supply to the US, Treasury has signed agreements stating that US banks will reciprocate.

One of two outcomes, which have already begun, are likely. Foreign governments will begin demanding all the same information on anyone they deem a "citizen for tax purposes" in the US and elsewhere as the US requires them to provide on US Persons living in their countries. France now has its own FATCA like law. Sweden is currently requesting information on its citizens from the US and elsewhere. Japan now requires banks worldwide to provide FATCA like reporting on accounts held by residents of that country. Imagine Germany, Ireland, France, every nation demanding all this information on everyone in the US with ancestry from these countries and those who have joint accounts with them. Not good for the US, our citizens nor those who fled tyrannical governments.

Will US banks do as banks around the world are doing and refuse to do business with persons of overseas decent to prevent them from having to break US privacy laws and the huge costs involved of collecting, storing and transmitting this data? Or will every US resident have to cover the costs with higher taxes and those lucky enough to retain their bank accounts having greatly increased banking fees?

The other possible outcome is the US not giving this information as it agreed to thus violating its end of the agreements it extorted the rest of the world into in the first place. Also not good, further isolating the US and earning for itself universal hate, distrust with no one wanting to help it nor deal with it nor its citizens. Not far fetched, it is already happening, as cited above.

It is reported that the supporters of FATCA are saying that those who wish to repeal FATCA are on the side of tax cheats. Am I a tax cheat? Is my Japanese wife? How about our infant child? Are all US citizens living overseas tax cheats merely for exercising our right to live out side our homeland? Are all of our non US citizen spouses and children? FATCA penalizes, either directly or indirectly, all Americans living overseas and anyone with whom we have any financial ties, tax cheat or not.

Is the above what the legislature envision the results of these policies to be? If so, congratulations. Mission accomplished. No need to change anything in regards to these issues. If these realities differ from the desired outcome, the need for action is clear.

The solution to all of these issues is so utterly simple as to cause wonder as to how a nation so conceived as the United States could ever have come up with, let alone implement such travesties upon its own citizens. No taxation without representation. Follow the Constitution, it is law. Repeal FATCA, it violates the law. Return FBAR to its original purpose of reporting the overseas accounts of residents of the U.S.. End citizenship based taxation. Leave that to Eritrea and possibly North Korea. We need not be numbered in their company.

Note: I suspect that there must be errors in my account of some of these requirements that may be found with staff research. However, the account given is as I understand it from what I can find on my own between classes, while riding the train to work, etc. We living overseas do not have the benefit of taxpayer funded research staff and get by the best we can with very limited resources. Therefore, accurate or not, the above account is my reality.

This was also submitted be myself last year, to no avail. I wonder if you folks actually take your jobs, the trust placed upon you by the American people and the Constitution to which you have sworn to uphold and protect seriously.

Sent from my iPad

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The Honorable Charles Boustany
Chairman, House Ways and Means Tax Policy Subcommittee

20 March 2016

RE: Input for Hearing on Fundamental Tax Reform Proposals, 22 March 2016
RESIDENCE BASED TAXATION – THE WAY FORWARD

Dear Chairman Boustany,

As a voter and a taxpayer, I thank you both sincerely for leading this effort to seek input on much needed tax reform. The purpose of this letter is to provide my suggestions for reforming our outdated and grossly unfair citizenship-based system of taxation which inflicts undue harm on the eight million American citizens living overseas and undermines the competitiveness of American workers and American-owned businesses abroad.

I have lived outside the US continually since 1993. In these 23 years I have filed tax returns and paid all applicable tax in both the US as well as in the other countries where I have lived. To be clear, I do not object to paying tax where I live and earn income as I see this as a civic obligation. However, it violates all reasonable standards of fairness to have to pay tax to a country where I have neither lived, nor derived any income for over two decades, simply because I happened to be born there. **Taxation should be based on residence, not citizenship.**

Since leaving the US, I have had no US-source income, nor have I ever owned a home there. Nonetheless, I have had to pay hundreds of thousands of dollars in federal income tax – *over and above an even larger sum to the countries where I have been resident*. This is an outrage. I do not come from a wealthy family; I have a family to provide for, a son to educate without the benefit of American public schools, aging parents to support and my own retirement to fund without the benefit of being eligible for Social Security. This is the injustice of citizenship-based taxation.

Of all the countries in the world, only the United States *and Eritrea* impose tax based on citizenship rather than residence. From my own personal experience, I have seen first hand how our system puts US workers at a disadvantage with respect to job opportunities overseas, discourages Americans from opening business overseas and penalizes us through double taxation. Moreover, the cost of administration and enforcement of US expatriate tax returns doesn't even justify the marginal revenue collected by the IRS from expatriate Americans. It is government overreach at its very worst. The situation has become so bad that thousands of otherwise patriotic Americans resident overseas are now filing to give up their citizenship.

CC: Representative Kevin Brady, Chairman, House Ways and Means Committee
Representative Keith Ellison, Minnesota 5th District
Senators Al Franken and Amy Klobuchar, Minnesota

My suggestions for your respected committee and the Congress at large are as follows:

- **Adopt the Residence Based Taxation (RBT) proposal**, previously submitted by Americans Abroad to the Senate Finance Committee. (*https://americansabroad.org/files/6513/6370/3681/finalsubrbtmarch2013.pdf*)

  Simply put, American citizens who are permanently resident overseas should not be required to pay federal income tax on income, dividends and capital gains earned outside the United States. Benefits would include:

  1. Eliminate the injustice of double taxation faced by millions of Americans working overseas;
  2. Enhance the competitiveness of American workers and American-owned businesses overseas;
  3. Encourage both American and foreign owned businesses to hire Americans in overseas operations;
  4. Reduce the administrative burden on the IRS with minimal impact on revenues collected;
  5. Bring our tax policy into line with the rest of the OECD and broader international community.

- **Exempt American citizens resident overseas from FATCA and Foreign Bank Account Reporting (FBAR) requirements.** Citizens who can prove full time residence outside the United States for the majority of the tax year have perfectly legitimate reasons for holding foreign financial accounts and should not be required to report them to the IRS or US Treasury.

Thank you sincerely for your consideration and for your service.

Tony B Graham
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+971-56-613-9892

CC: Representative Kevin Brady, Chairman, House Ways and Means Committee
Representative Keith Ellison, Minnesota 5th District
Senators Al Franken and Amy Klobuchar, Minnesota

20 March 2016

House Ways and Means Committee

Subject: Tax Reform: FATCA and Citizeb-based taxation (CBT)

Dear Committee,

FATCA and CBT are totally unfair abominations and should be repealed. The US government should raise taxes on the rich and prohibit tax inversions by corporations.

Sincerely,

Victor Rush

Toledo, Ohio