

April 13<sup>th</sup>, 2013

Dear Rep Adrian Smith and Rep John Larson,

I am writing to ask that the Financial Services Tax Committee of the Ways & Means Committee for Tax Reform to repeal or revise the Foreign Account Tax Compliance Act (FATCA) that is destroying the community of Americans working overseas.

As one of nearly 7 million American citizens living, working and voting from abroad, and contributing to the economic growth of the U.S. economy, FATCA legislation along with FBAR (Foreign Bank Account Report) is having serious negative consequences for those of use working abroad and for the US economy.

American citizens have become pariahs in the international financial community because of FATCA and are being denied financial tools essential for survival.

Business opportunities for Americans overseas are blocked due to the 10% American ownership reporting threshold for start-ups and business ventures

Foreigners are backing away from investments in the US due to the increased oversight, risks and dangers of financial reporting in the United States

FATCA creates a new barrier to U.S. exports as companies, start ups are loath to hire Americans or deal with Americans due to increased exposure to the IRS/Treasury and reporting requirements

FATCA creates systemic risks for the entire international

## **financial community**

### **FATCA puts Americans working overseas at personal and financial risk due to unsecured data transfer of highly sensitive financial and personal information.**

I have been personally affected by this situation: I am a disabled 68 year old naturalized American citizen, married to a Canadian citizen and have resided in Canada since 1988. I pay taxes to my country of residence, Canada, and filed my US taxes every year according to the law. I have never owed any tax to the US because of the foreign tax credits. I have paid cross border tax preparers approximately \$42,000 since 1989 to fill out the US tax returns on my behalf (last year, I received a letter from an established accounting firm in Canada, which stated that they would not be able to prepare my 2011 taxes, or any future tax returns). The cost to continue to hire a cross border accountant going forward is at least 12% of my gross income, which is made up of social security and a minimal amount of interest, and this cost to me will increase as the paperwork for FBARs and form 8938 multiplies, especially when FATCA comes fully into operation.

In October 2009, I read in a Canadian newspaper that there was a requirement to report highest bank balances on a TDF 90---22.1 form annually to the Department of Treasury. None of my tax preparers had ever brought this to my attention. I called the US attorney mentioned in the article, and he suggested that I enter the "amnesty" (I put this in parentheses because in fact it turned out not to be an amnesty but a bait and switch programme – see Nina Olsen's report from the Tax Advocacy Group).

It took my husband (Canadian) and I three and a half months to locate bank statements going back to 2003 . Months later we were asked to photocopy every page of each bank statement including accounts with a few hundred dollars slated for my husband's grandchildren. During the course of the next 23 months, I was treated as if I were a criminal by the IRS, as was my husband, who has never worked or lived in the USA. He was forced to send all his Canadian tax returns to the IRS agent who, in spite of receiving numerous affidavits signed by both of us, did not believe that the amount we transferred into our checking account for less than five minutes in order to buy a draft for the price of our new house, was not his annual income. We spent months going over line by line of every transaction in our checking and other accounts trying to prove the percentage of ownership, and explain all transfers in and out, which occurs frequently in accounts used often on a daily basis.

All this was happening while my brother (my only sibling) was dying of cancer in England, the country of my birth. I was not able to fly to the UK to say goodbye to my brother, nor to attend his funeral, partly because my doctor advised that I was too ill to travel, and also because I was threatened with criminal prosecution if I did not meet an unreasonable deadline to pay the \$78K penalty for not filing FBARs on a timely basis. Once again, I point out that there was no tax owing to the USA. Legal and accounting fees came to just under \$24K, but this does not compare to the "Life Units" I lost that will never get back.

I (or my heirs) will be paying off this huge debt from my remaining (very reduced) retirement savings for the rest of my

life. I believe this is contrary to the Constitution since I would classify this "debt" in the golden age of my life as undue hardship.

One of my doctors who wrote to the IRS requesting that more reasonable deadlines be given because of my health conditions, referred to the final outcome as financial rape. Another doctor diagnosed me with a form of PTSD, and told me that I would suffer with it for a "long time to come". Yet another referred to the history of Americans as bounty hunters. None of these comments are good for the image of the USA.

I live now in fear every year that I get older that I might make a tiny error and be faced with additional fines. Recently I read that FBARs MUST be filed electronically as of July 1<sup>st</sup> 2013. My husband is very wary of identity fraud, and stated that he refuses to comply with this demand. Fines will be very steep. My husband is still very upset that he has to give all his personal financial information (including account numbers, addresses of banks and highest balances) to a foreign government, and this has caused a lot of heartache in our once peaceful life. I know of a number of people who have separated or divorced, or the American partner has been forced to renounce citizenship in order to keep the family together.

I used to be such a proud American, celebrated US Thanksgiving, stood to attention for the National Anthem and always tried to enhance the image of the USA, but when I recount the two year nightmare to friends and other Americans living in Canada (by the way, only one out of 56 knew about FBARs), I am now reluctant to call myself an overseas

representative of the USA. To treat honest American citizens in this fashion and then arbitrarily change the rules midway through the OVDP , stating that anyone who had entered the "amnesty" was "wilful", is abhorrent.

I wonder how Americans residing in the States would feel if they had to divulge, explain, and justify thousands of transactions in their checking and savings accounts, and other investments (and then be accused of hiding money offshore in the State and Country where they currently live, work and bank). FATCA is just another bitter pill to swallow, and is causing discriminatory actions against Americans living overseas (in the financial world and job situations).

Now that Canadians are becoming aware of the existence of FATCA, most are very irate that the estimated \$500 million it may cost each FFI to comply, will indirectly be passed on to them. Proponents of FATCA for overseas Americans are ignoring the existence of privacy laws in Canada and other countries. This is another deep source of concern. It certainly will not help the already tarnished image of the USA when Canadians and citizens of other nations realize that the IRS will be stretching out its arm around the world asking other countries to do its work for them.

Canada is NOT a tax haven as Finance Minister, Jim Flaherty, pointed out in a letter to the New York Times and Washington Post. Income taxes are much higher here than in the USA.

Please repeal or revise FATCA and please seriously consider the RBT proposal submitted by American Citizens Abroad (ACA). A move towards a residence---based system, like the rest of the world, would resolve the issues of FATCA and FBAR while

creating a simpler and fairer system for Americans living abroad and increasing more tax revenue than the current system, which wastes compliance resources for very little return.

I would like to express my appreciation to both of you for listening to the voices of non---resident Americans and learning about the difficulties we face with regard to filing 1040s, FBARs and now FATCA, banking, investing (no mutual funds etc.). America may be the home of the free, but this does not seem apply to those of us who have chosen to live somewhere else.

Thank you again.

Yours sincerely,

Name redacted