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An American Job Growth Plan: Why Easing the Tax Regulatory Burden on Americans Working Abroad Encourages Exports and U.S. Job Growth

The Policy Goals of FACTA and FBAR Are Appropriate, But Need Reform

- FACTA was enacted due to concerns about tax evasion on overseas funds.
  - The concern is that applying FACTA to such a broad scope of accounts rather than ones that are likely to be evading taxes leads to a regime where benign mistakes or oversights by innocent U.S. taxpayers leads to enormous penalties and consequences without targeting the actual problem.
  - FATCA requirements on FFIs has led some financial institutions to close out U.S. citizens' bank accounts due to "onerous" U.S. regulations in order to avoid complications and costs associated with such accounts
- Preliminary data cited by the National Taxpayer Advocate "suggests that those taxpayers who are following the FATCA filing requirements are generally compliant with respect to their overall tax obligations.
- The unintended consequences of FATCA and FBAR reporting requirements are severe:
  - Targeted too broadly and hit bona fide Americans who live and work abroad;
  - FATCA imposes several discriminatory burdens on Americans living overseas, making it that much harder on them to do business abroad;
  - Criminalize inadvertent or unintentional reporting errors; and,
  - Create additional costs to the government for processing the similar information twice and enforcing reporting compliance.

Immediate Fixes Are Needed:

- Require one reporting form to be shared by the I.R.S. and the Treasury Department. This is a proposal endorsed by the U.S. Taxpayer Advocate and similar to proposals by the GAO.
- The asset threshold of individual reporting should be raised from $50,000 to $200,000.
- Life insurance policies and pension funds should be excluded from reporting requirements.
- The reporting threshold for overseas investments should be raised from 10 percent to 50 percent.

Congress should require independent annual audit of the impact of FATCA and FBAR on the U.S. economy. Along these lines, the U.S. Taxpayer Advocate suggests that the costs of FATCA to the IRS and others complying with it may equal or exceed the expected revenue raised.

The FEIE Supports U.S. Jobs and U.S. Exports

- The Foreign Earned Income Exclusion (FEIE), contained in IRC Section 911, mitigates the double tax burden by exempting a portion of foreign-source income from U.S. taxes.
  - The FEIE makes it more affordable for U.S. companies to deploy American employees overseas and allows American workers already living overseas to compete for jobs in foreign markets. Without the FEIE, many of these U.S. citizens could not afford to live and work overseas.
- Eliminating the FEIE would impose greater costs on the companies who employ U.S. workers because the additional tax burden is often paid by companies operating overseas.
- The U.S. cannot export goods without having citizens abroad, and fewer Americans working abroad would mean fewer exports and fewer jobs in the U.S.

Congress Should Enact Residence Based Taxation (RBT) in Tax Reform

As Congress continues to work towards comprehensive tax reform and making U.S. companies more competitive abroad, it should consider parallel competiveness issues for its citizens working abroad and discontinue the present system of taxation of overseas Americans.