



April 24, 2023

The Honorable Ron Wyden
Chairman - Senate Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

**RE: Wyden Investigation Finds Credit Suisse Complicit in Ongoing Tax Evasion by
Ultra-Wealthy Americans**

On March 29, 2023, the Senate Finance Committee published a report summarizing a Democratic staff investigation of the role of Credit Suisse in U.S. tax evasion schemes. Democrats Abroad would like to draw attention to the important difference between the few ultra-wealthy *U.S. residents* holding bank accounts abroad in order to evade taxes and the estimated 9 million ordinary *U.S. citizens who reside outside of the U.S.* and hold bank accounts in their country of residence as part of everyday living.

For Americans living abroad, U.S. bank accounts are the offshore accounts and, for legal reasons, U.S. bank accounts are often not a viable alternative to banking locally. Efforts over the past decade to uncover genuine tax-evaders have had dramatic unintended adverse effects on ordinary working-class Americans residing abroad, who consequently face grave difficulties in maintaining bank accounts in their country of residence.

According to our 2022 report, one out of five people surveyed were unable to open a bank account in their country of residence in the last two years.¹ Our everyday experience is that, given the complexities with compliance with extraterritorial U.S. regulations, banks abroad are often unwilling to offer their services to U.S. citizens. No other nationality – even those on OFAC sanction lists – faces similar difficulties. Foreign companies are even reluctant to hire “U.S. persons” for any position that relates to handling company or customer finances, since that could create obligations towards the U.S. government despite the employer having no other nexus to the U.S. and despite those obligations potentially violating local law.

¹ https://www.democratsabroad.org/2022_report

Our research is consistent with that of several notable finance scholars and tax experts who have found that Americans abroad frequently live in countries where tax is higher than in the U.S., and that people moved abroad primarily for work, family, or education. The higher local tax liability is likely to offset any U.S. tax liability so that no tax is due in the U.S. But demonstrating this often requires hefty preparation fees to comply with reporting obligations far more complex than those common to U.S. residents of similar income.

We would like to clearly distinguish between dual citizenship held by ordinary U.S. citizens residing abroad who disclose both citizenships, and the fraudulent use of a second passport in collusion with individual employees of foreign banks by ultra-wealthy U.S. residents to transfer money to foreign banks while hiding U.S. nationality. The 2022 report compiled by Democrats Abroad found that 3,932 out of 6,854 respondents held more than one nationality.

Dual citizenship – a fundamental and legitimate aspect of personal identity – typically results from circumstances of birth or long-term residence. It enjoys recognition through multiple Supreme Court cases (e.g., *Afroyim v. Rusk*, *Vance v. Terrazas*). U.S. citizens of modest means who reside abroad, even with additional nationalities, are obliged to identify as U.S. persons when opening bank accounts and are frequently refused service even when proactively providing a Social Security number for FATCA reporting.

The Committee’s report focuses on a unique case of individual bank employees conspiring with U.S. residents to fraudulently avoid account-reporting requirements. Dual citizens in general should not be presumed guilty and punished on account of crimes committed by a few. Nor should Senate Finance’s findings be utilized to further justify heavy-handed tax and reporting enforcement policies that disproportionately affect Americans of modest means residing abroad.

While the report characterizes citizenship renunciation as a means for the ultra-wealthy to evade U.S. taxes, it is important to keep in mind that U.S. citizens have the right to renounce that citizenship. The vast majority of those who have renounced U.S. citizenship since the passage of FATCA are middle-class individuals who have resided abroad for a long time or have no substantial connection to the U.S.^{2 3} They have done so not to “avoid their fair share of taxes” but as a last resort due to an increasingly regressive extraterritorial U.S. tax system which saddles those least able to afford it with massive compliance costs, liabilities, and denial of essential services.

² Snyder, L. 2019. Dispelling the myth of the wealthy American expat, or are Americans free to live outside the United States? Paper prepared for Progressive Connexions’ 3rd Global Conference, https://www.progressiveconnexions.net/wp-content/uploads/2019/11/LauraSnyder_draftpaper-ver2.pdf.

³ Organ, Paul R. 2021. Citizenship and taxes: Evaluating the effects of the U.S. tax system on individuals’ citizenship decisions, <https://www.irs.gov/pub/irs-utl/21rpcitizenshipandtaxes.pdf>

The Taxpayer Bill of Rights spells out the “right to a fair and just tax system”, yet actions taken to prevent tax fraud by a few ultra-wealthy U.S. residents have created a situation in which U.S. citizens who legally reside outside of the U.S. are *de facto* treated differently from how they would be treated were they residing in the U.S. Often times, U.S. citizen retirees whose retirement income would not be taxed in the U.S. if they lived there, find themselves taxed on their retirement because they happen to live abroad.

According to IRS data from 2020, only 40% of tax returns filed by non-residents (including those from U.S. military and other federal employees stationed abroad) resulted in a tax liability, compared to 73% of returns overall. Of the bottom 52% of returns from non-residents, the average tax liability was \$258. Half of the \$6.4 billion tax liability for people residing outside the U.S. comes from the 1% of returns representing incomes of \$1,000,000 or more. Research conducted by Democrats Abroad in 2019 and 2022 found that the cost of return preparation and filing generally exceeded tax liability.

Democrats Abroad urges the Senate Finance Committee to recognize the enormous problems created for U.S. citizens residing abroad by Treasury regulations and the Internal Revenue Code, and to consider ways to mitigate these problems. We are concerned that the Credit Suisse report will once again result in 9 million innocent U.S. citizens abroad being denied necessary relief while punitive new laws are introduced in hopes of uncovering fraudulent behavior by a few ultra-wealthy individuals. This pattern has played out repeatedly since the 1970s. In a cruel irony, these measures often most severely impact the middle class that they aim to protect, while the wealthy face no denials of service and can afford the high costs of compliance.

We urge the Senate Finance Committee to address the serious and worsening harms inflicted by an Internal Revenue Code that actively penalizes citizens who are not U.S. residents. We seek fair and equal treatment, rather than being denied opportunities to open a bank account or save for retirement. The burden of tax filing should be proportionate to tax liability.

On that basis, we invite Chairman Wyden and Senate Finance Committee staff to attend a Congressional Lunch & Learn session on June 14 – hosted by Congresswoman Dina Titus, Chair of the Americans Abroad Caucus – to learn more about the tax and financial-access problems experienced by Americans abroad. We would also like to meet with you at your earliest convenience to speak further about these issues.

We are ready to engage with Congressional offices to develop and support policies that address problems faced by Americans abroad – who are recognized as an underserved community by the IRS – while still protecting U.S. tax interests.

With virtually all other Americans abroad groups, we share a sense of urgency to address tax issues for U.S. citizens residing abroad, who merely seek equal treatment irrespective of where they live.

Our belief in effective, administrable, and progressive taxation is what motivates the support of Democrats Abroad for Residency Based Taxation.

Please do not hesitate to contact Rebecca Lammers of our Taxation Task Force with any questions about the information and recommendations provided here.

Sincerely,

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