

US Treasury Dept 'slams door on Same Country Exemption' for expat Americans

By: Helen Burggraf | 05 Jan 2017



American expatriates around the world reacted with frustration on Wednesday to the news that the US Treasury Department had formally ruled out a proposal by expatriate groups that would have exempted US expats from their FATCA information reporting obligations in the foreign countries in which they are currently living.

The fact that the US Government had decided against adopting the so-called Same Country Exemption, or SCE, was delivered to the exemption scheme's supporters in the form of the publication of the Treasury Department's final regulations governing the Foreign Account Tax Compliance Act, which didn't contain the proposed clause. FATCA is a recent piece of US legislation that was introduced in an effort to put an end to the use by American citizens of foreign bank accounts to evade US tax.

Same Country Exemption had been proposed and advocated by the Washington-based American Citizens Abroad, as well as other US expat advocacy groups, in response to the global problem American expats have been having in being able to obtain and keep bank accounts in foreign countries. The problems arise because non-US financial institutions say that it doesn't pay to for them have American expats as clients, because of the hassle and costs involved in providing the US tax authorities with the bank account details of these clients, as the Foreign Account Tax Compliance Act obliges them to do. They are also said to be concerned that the US could hit them with punitive financial penalties – as it has done in the past – if they were found at any point to have undeclared bank accounts belonging to American citizens on their books.

In deciding not to grant the SCE, however, US officials reportedly felt that the potential risk of expat Americans using their “same-country” bank accounts to avoid their US tax obligations was ultimately too great to be able to grant them such an exemption – in spite of the inconvenience this would result in, as it already has, for many of the estimated 8.7 million American expats across the globe.

'Final indignity'

Among the places expats turned to vent their anger on Wednesday, as the news about the Same Country Exemption came out, was the Isaac Brock Society website, where a regular blogger who goes by the name USCitizenAbroad referred to the decision as the “final indignity perpetrated by...Barack Obama”.

The Isaac Brock Society

(<http://www.internationalinvestment.net/products/tax/isaac-brock-society-blog-canadian-accidental-americans-becomes-global-info-resource/>) is a Canadian website that was founded in 2011 by a number of Canadian-Americans who were fed up with the way FATCA and other relatively

new US laws aimed at curtailing tax evasion were costing them money and causing them problems. President Obama had signed FATCA into law in March, 2010, in the wake of the global financial crisis.

In a statement on its website,

(<https://www.americansabroad.org/news/treasury-department-slams-the-door-on-same-country-exemption-for-americans-abroad/>) the ACA said it was “disappointed” that the US Treasury had failed to adopt its idea for “correcting the problem of ‘foreign financial account lock-out’”, and thus had “[slammed] the door on [the] Same Country Exemption” proposal.

It noted that it had been working on the proposal for more than two years, and had engaged directly with the Treasury Department “on several occasions, most recently a little over two months ago”.

“In denying the request for SCE, the Treasury Department’s final FATCA regulations focused solely on the risk of US tax avoidance,” the ACA added.

“The Treasury Department and the IRS have also decided that the risk of U.S. tax avoidance by a US taxpayer holding an account with an FFI [foreign financial institution] exists regardless of whether the US taxpayer holds an account in his or her foreign country of residence or another foreign country.

” The regulations say nothing about the problem of lock-out. They fix only on the un-quantified and un-weighted risk that what must be a relatively small population of US taxpayers residing in a foreign country and banking at their local bank might evade US tax.

The regulations do not say whether, and, if so, to what extent, Treasury Department took into consideration the widely-admitted fact that FATCA continues to put the community of 8 million Americans overseas at risk of lock-out from access to financial accounts needed for the management of basic living expenses, [including] paying bills, paying rent [and] receiving paychecks.

“[But] the problem of foreign financial account lock-out exists, and it has been proven that the FATCA rules are one of the root causes.”

ACA said it would continue to advocate for the adoption of SCE in the FATCA regulations, “as new assignments are made with the in-coming administration and the regulations are revisited”, and that it would also work with the new Congress and, in particular, the Americans Abroad Caucus to address the problem.

It also reiterated its argument that the US should join the rest of the world in adopting a residence-based system of taxation, rather than its current citizenship-based system, something that a growing number of American expats, including many of the Isaac Brock Society website’s contributors, are also campaigning for.

Measure of desperation

One measure of the desperation on the part of many expatriate Americans to obtain bank accounts and mortgages while abroad is that the [ACA last year \(http://www.internationalinvestment.net/regions/amer-citz-abroad-to-help-expats-with-banking-needs/\)](http://www.internationalinvestment.net/regions/amer-citz-abroad-to-help-expats-with-banking-needs/) was moved to set up a partnership arrangement with the US State Department Federal Credit Union (SDFCU) to provide such expats with US-citizen-friendly banking services. The SDFCU is like a bank for US government employees located in the US as well as abroad, and because of its State Department links is unaffected by the commercial pressures that ordinary deposit-taking, high-street banks face.

In October the ACA/SDFCU bank account won the ACA the title of “Best International US Services Provider” at this publication’s 2016 International Fund and Product Awards event in London.

Explaining why the ACA felt it had to get involved in the business of banking, ACA executive director Marylouise Serrato said the organisation had “identified a pressing need in the overseas community”, and had set out to address it.