



Overseas Americans Week – February 2016

Report from Washington

by Ellen Lebelle

AARO organized Overseas Americans Week into two separate weeks this year. Ellen Lebelle, Vice-President and Tim Ramier, Chair of the Tax Committee were joined by Cora Lee Finley, former Treasurer of FAWCO, for the first week early in February, followed by John Fredenberger, former Chair of the Tax Committee and member of the AARO Advisory Council, and Neil Kearny, Board member, in the second delegation. We chose a key topic—the passport revocation amendment in the FAST Act—and key offices to visit.

Americans Abroad Caucus

Each OAW starts with visits to the offices of the co-Chairs of the Americans Abroad Caucus. We began by meeting with Natalie Binkholder, Representative Mick Mulvaney's (R-SC) Deputy chief of Staff and liaison for the caucus. Our next meeting was with Max Whitcomb, Representative Carolyn Maloney's (D-NY) caucus liaison. The draft of the letter about the passport revocation was not yet ready for publication but has since been distributed. Available on AARO's website, we urge members to encourage their Representative to sign it. Why did the amendment allowing passport revocation get past the vigilance of the caucus before it was voted on? Natalie Binkholder explained that bills get sent to members' offices roughly 36 hours before the vote. While a bill is parsed out to all for detailed reading; not all staffers focus on all the issues, so some things slip by. Laws are passed and signed, and then regulations are created at the agency level. Often, the agencies are at the origin of the bills.

We also asked about HR3078, the Commission on Americans Abroad Act, which stalled in getting co-sponsorship and has not yet passed a committee. Max Whitcomb did not anticipate passage out of committees during this session of Congress, but there will be a renewed effort in the next session.

During the separate weeks in D.C., our delegations met with the caucus-liaison staff members in the offices of Donald Beyer (VA), Michael Capuano (MA), André Carson (IN), Gerald Connolly (VA), Jim Clyburn (SC), Susan Davis (CA), Elizabeth Esty (CT), Kay Granger (TX), James McGovern (MA), Grace Napolitano (CA), Loretta Sanchez (CA), Janice Schakowsky (IL), Dina Titus (NV), and Chris Van Hollen (MD). The caucus is overwhelmingly filled with Democrats; though our issues are non-partisan. We also met with staffers in the offices of several potential members of the caucus. These are Representatives who were brought to our attention by AARO members because they had responded to letters sent to them. We were told, again and again, that letters from constituents are READ! If we were unable to schedule appointments at all the caucus members' offices, we made sure that they all had copies of our position papers.

Other Meetings on the Hill

All of the delegates met with their own Senators and Representatives, including Nancy Pelosi's (CA) office in the Capitol. We also made an effort to meet with the staff members of all of the Senators (then) running as candidates for their parties' nominations and were able to meet with the offices of: Ted Cruz, Rand Paul, Marco Rubio, and Bernard Sanders.

Unfortunately, the tax expert in Sen. Paul's office who had met with our delegation in 2015 has moved on, but we had a good meeting with Paul's foreign policy expert, who looked at our tax issues from the bilateral tax treaties angle and was deeply concerned about the potential problems of passport revocation for citizens living overseas. Sen. Paul is in favor of repealing FATCA and is in favor of residence-based taxation.

In Sen. Cruz's office, we met with the tax expert and deputy legislative director, who was appalled to learn of the potential problems passport revocation could lead to for citizens living overseas. The Senator is in favor of residence-based taxation.

We met with the Legislative Correspondent in Sen. Rubio's office. The Senator supports territorial taxation for corporations and, by analogy, residence-based taxation. He is very familiar with Sen. Mike Lee's stance on FATCA and the tax issues for Americans overseas.

In Sen. Bernie Sanders' office, his staff member, who works mostly on budget committee issues, was non-committal as to the Senator's position, but was sincerely interested in the implications of citizenship-based taxation, and of FATCA, on overseas Americans. He seemed impressed by the fact that not all countries run on income tax alone—that VAT is high and/or there are social assessments in some countries for which there is no tax credit. He also asked about bank discrimination and about bank compliance. (The Senator has since come out in favor of same-country exclusion for FATCA and residence-based taxation.)

Off the Hill

We met with Heitor David Pinto, an active participant in the Facebook group "American Expatriates", who is very knowledgeable on issues facing overseas Americans. He attended a Congressional committee meeting on estate taxation, and we were very impressed with his comments. Pinto has an excellent grasp of the problems of Americans not residing in the U.S. and is a great resource.

The Tax Foundation has been analyzing the tax reform positions of the presidential candidates. Although they have published articles on FATCA and citizenship-based taxation, the taxation of non-resident citizens and green card holders is not one of the main issues covered in their comparison chart.

We met with Stephen Entin, an economist, and Scott Greenberg, an analyst who explained that they needed more data on the effects of FATCA and academic papers on citizenship-based taxation.

The new Vice President on Tax Policy at the American Bankers Association received our delegation. He is very familiar with FATCA compliance issues in the US, and was interested in

learning how it affects us abroad. We also informed him of the U.S. banking and brokerage discrimination against us.

The Taxpayer Advocate Office is an obligatory stop during OAW. Our remarks are always well received and find their way into the annual report. We regret that there is no longer any IRS presence abroad—neither offices nor a hotline. As there is an automatic extension for filing our tax declarations until June 15, we suggested that that date also apply to the payment. That is, there should be no penalty applied when we cannot calculate the payment by April 15.

There is a form, 4868, to extend the filing deadline until October 15, but one must write a letter to extend it to December 15, so we requested that the form be allowed. Finally, we pointed out yet again that the Net Investment Income Tax, a 3.8% assessment on worldwide income for incomes of over \$200K or taxes of over \$30K is unfair and needs qualification.

At the State Department, representatives from the Consular Services and Passport offices were attentive to the presentation of the possible complications of denying a passport to a citizen living outside the U.S. We reiterated our position that the Secretary of State needs to consider overseas Americans, particularly if the Secretary of the Treasury requests passport revocation.