

H.R. 7358 – Tax Fairness for Americans Abroad Act of 2018

The proposal outlined below would effectively end the current citizenship-based taxation system and transition to a system that provides territoriality for individuals – often referred to as residence-based taxation. By taking this first step toward ending the onerous burdens of citizenship-based taxation, Americans will become more competitive in the international job market and free to pursue opportunities around the world.

Under this new system, qualified nonresident citizens will no longer be taxed by the U.S. on their foreign source income while they are resident abroad; however, they will remain subject to tax on their U.S. source income.

Eligibility

In order to obtain qualified nonresident citizen status, an individual must be a nonresident citizen and make an election to be taxed as such. Individuals will make an annual election to certify they remain in compliance with the eligibility requirements.

Under this proposal, a nonresident citizen is defined as an individual that:

- Is a citizen of the United States,
- Has a tax home in a foreign country,
- Is in full compliance with U.S. income tax laws for the previous 3 years, and
- Either:
 - a) establishes that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or
 - b) is present in a foreign country or countries during at least 330 full days during such taxable year

Tax Treatment

Once an individual meets the qualifications to become a nonresident citizen, they may elect to be taxed as a qualified nonresident citizen.

Those electing to be taxed as qualified nonresident citizens will be exempt from taxation on, and shall exclude from gross income, their foreign source income. This includes both foreign earned income (as defined in section 911(b)) and foreign unearned income (defined as income other than foreign earned income that is sourced outside the U.S).

Under this proposal a qualified nonresident citizen will remain subject to tax on any U.S. source income.

While individuals will not be taxed on gain from the sale of foreign personal property attributable to their time as a qualified nonresident citizen, they will still be taxed on any gain attributable to their time as a resident of the U.S. In other words, if an individual holds a foreign asset prior to their election of qualified nonresident citizen status and then sells said asset while they are a qualified nonresident citizen, the individual will only owe U.S. tax on the portion of gain attributable to the period prior to their change in status.