

Congress of the United States
Washington, DC 20515

February xx, 2016

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
320 21st Street NW
Washington, D.C. 20451

Dear Secretary Kerry,

We write to express our concern with the implementation of provisions of Public Law 114-94, the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act, as they relate to U.S. citizens living overseas. Specifically, we are concerned with provisions that call for the denial of issuance or revocation of passport for any individual whose tax debt exceeds \$50,000 and how those will apply to overseas Americans.

Let us make one thing clear: we absolutely support the collection of delinquent tax debts. However, there is a difference between those who are intentionally disregarding their tax obligations, and those who work in good faith to comply but may be caught by the complexity of the code and incur fines or fees.

As you may know, there are roughly eight million Americans living overseas who may be impacted by this law. Our constituents living abroad have expressed concern over how this statute will be implemented, and question what safeguards may be in place to ensure real – not just constructive – notification and appropriate opportunities for appeal before an individual's passport is revoked.

The possession of a valid U.S. passport is essential to normal daily function for an American citizen living abroad. As such, we ask that you strongly consider the unique circumstances of overseas Americans, on an individual basis, when using your discretion to revoke a passport under the statute.

One such example to consider is the different responsibilities faced by American citizens living abroad when filing taxes, compared to citizens who reside in the United States. Since the implementation of the Foreign Account Tax Compliance Act (FATCA), overseas Americans have been subject to additional, duplicative reporting requirements such as Form 8398 and the Foreign Bank Account Report. The complexity, lack of assistance, and delays in correspondence from the IRS when filing these additional documents has resulted in some American citizens incurring higher tax debt because of late, incomplete, or incorrect filings – *despite their good faith efforts*. We would respectfully ask you to consider the difference between these situations and those of

citizens who are willfully and deliberately refusing to comply with the tax code and pay what they owe.

We understand and support the need for the IRS to identify and prevent the potential escape from the U.S. of individuals with seriously delinquent tax debts. There are, however, major differences between revoking the passport of an American citizen living within the United States and an American citizen living abroad.

A valid U.S. passport is often the only acceptable means of identification for establishing or maintaining residency in a foreign city, opening a bank account, obtaining a mortgage, a loan or a marriage license. Furthermore, a passport is generally the only means of leaving and returning to the country where an individual resides abroad. Losing one's passport could mean losing the ability to travel to a place of employment in another country. Such mobility is equivalent, for a resident of the U.S., to the ability to travel from New York to South Carolina or Ohio to Texas. Additionally, lack of a passport would make it difficult, if not impossible, to address a potential delinquent tax debt, as the person's tax records, correspondence with tax authorities, and access to financial accounts are often in the country of residence abroad.

As stated before, we firmly believe that the collection of delinquent tax balances are essential and necessary, and the legal responsibility of both the United States and its taxpayers must be upheld. However, we respectfully request that you carefully consider the unique circumstances of overseas Americans on an individual basis before using your discretion to revoke a passport of a citizen living abroad.

Thank you again for your attention to this request.

Sincerely,

Carolyn B. Maloney
Member of Congress

Mick Mulvaney
Member of Congress