Statement of Roger Conklin, Retired International Sales and Marketing Executive:

The Negative Consequences of Citizenship-based Personal Taxation on the Competiveness of American Companies and the Resulting Destruction of Jobs for American Workers

My name is Roger Conklin. I am 80 and fully retired after a lifetime of professional experience in the telecommunications industry. I have resided for 34 years in Palmetto Bay, FL. The last 45 years of my working career were as an international sales and marketing executive with several companies and, after retirement, as a self-employed consultant. I served as a member of the boards of directors of two U.S. corporations; Banfield (MI) Telephone Company and Northern Telecom (Caribbean Latin America) Corporation, and two foreign subsidiaries of U.S. corporations: Compañía Peruana de Teléfonos S.A. (Peruvian Telephone Company), Lima, Peru of which I was also executive vice president and deputy general manager, and Cook Electric Telecomunicações Ltda., Rio de Janeiro, Brazil. In Peru I testified at hearings conducted by the Peruvian Senate and was a regular participant in intelligence-gathering meetings conducted with U.S.-citizen CEOs and key executives of Peruvian subsidiaries of U.S companies by U.S. Ambassador John Wesley White. I taught telecommunications courses part-time at Universidad Mayor de San Marcos. With my wife and 4 formative-age children I lived and worked abroad four years in Peru and seven years in Brazil. Over my lifetime I have marketed U.S. exports in 98 foreign countries.

Background: The Export Dilemma Confronting American Companies

For 100 years from 1876 to 1975 U.S. trade was balanced. Ninety-five of these were trade surplus years with miniscule deficits the other 5 years. The United States recorded trade surpluses every year during the 1929-1930s depression. The U.S. is still the largest manufacturing nation, producing 24% of the world's GDP, but the U.S. trade deficit accounts for 60% of the total trade deficits of the 130 trade deficit countries. The U.S. share of the 2010 export market is an anemic 8.5%[1]. The United States was the world's largest exporter until bypassed by Germany in 1999, ranking today as No. 3 behind China and Germany (whose 2010 trade surplus was 25% greater than that of China). The largest-ever U.S. trade surplus was $12.4 billion in 1975. Our trade balance dropped abruptly in one year by $18.5 billion to a 1976 deficit of $6.1 billion. This was the kickoff of the downturn in the U.S. trade balance. Since 1975 the United States has never again recorded even one single trade surplus. The cumulative U.S. trade deficit for these past 34 years 1976-2010 exceeds $8 trillion and in spite of the President's 2010 Export Initiative to double exports in 5 years, to date in 2011 through March the U.S. trade deficit continues its upward spiral by $1.5 billion with each passing day.

Although there may be many causes of this sudden transformation of the United States from the world's largest and most successful exporting nation with a consistent job-creating balanced trade into the world's only industrialized nation with a perpetual and massive job-destroying trade deficit, representing 60% of the total trade deficit of the 130 trade-deficit nations in the world, the principal culprits of this massive and totally out-of-control U.S. trade deficit were two specific legislative Acts of the U.S. Congress.

President Kennedy, based on never-substantiated hearsay evidence, was convinced that movie stars and millionaires were living outside the United States to avoid taxation. Congress enacted the Revenue Act of 1962[2] subjecting non-resident U.S.-citizens to U.S. income tax on their foreign income, thus making the United States the only nation to institute extraterritorial "double taxation" of its bona fide foreign resident citizens who were already subject to residence-based territorial taxation on their worldwide income by their host countries. To this day the United States remains the sole nation that taxes its non-resident citizens. Recognizing the vital role of U.S. citizens living and working abroad in selling exports that create jobs and prosperity in the United States and to prevent undue difficulties that would discourage U.S. citizens from accepting employment abroad, this legislation wisely provided for a $35,000 Foreign Earned Income Exclusion for citizens residing abroad 3 years or more and $20,000 for those abroad less than 3 years. It allowed a foreign tax credit for foreign income taxes paid on foreign source income. Adjusted by the Consumer Price Index this 1962 amount of $35,000 would be equivalent to $258,985 in 2011 dollars.[3] Inasmuch as $35,000 in 1962 was nearly 6 times the $6,000 U.S median family income[4] and given the generally lower-than-U.S. cost of living in foreign countries at that time, this exclusion operated to ensure that this new tax did not discourage middle class Americans from living abroad to sell U.S exports, since only a few very wealthy expatriates owed any U.S. federal income tax.

The Tax Reform Act of 1976[5], totally based on the false premise that U.S. citizens working abroad serve no useful purpose in selling U.S. exports, drastically increased their tax. It slashed the foreign earned income exclusion to the first $15,000 "off the bottom" at the lowest marginal tax rate, established stacking by taxing non-excluded income at the higher marginal rate as if there were no exclusion and established new restrictions on the utilization of foreign tax credits to offset tax the U.S. tax obligation. Employer payments to foreign social security and pension funds; non-taxable to U.S. residents, became fully taxable. That same year the tax court ruled that employer reimbursements for extraordinary out-of-pocket expenses and non-cash "payment-in-kind" income incident to employment abroad (which remain to this day tax-free to diplomats and other Federal employees overseas) were taxable income to private citizens. This included tuition for children's education for English-language equivalent to free public schooling in the U.S., coach class air fare for periodic obligatory home leave, allowances for excessive foreign housing rentals, cost of living allowances, security costs in areas of high risk, etc. The tax court ruled that the taxable value of employer-provided housing was its inevitably higher rental value abroad rather than that of similar housing in the U.S.

Prior to enactment, the U.S. Treasury estimated this 1976 legislation would generate an additional $44 million in tax revenue in 1976 and $38 million in subsequent years. Tax returns for 1976 from citizens abroad disclosed their tax obligation had increased by $351 million. Additionally the 1976 taxation of private U.S. citizens' out-of-pocket expense reimbursements tax revenue increase was $65 million for a total revenue increase of $383 million; 8.7 times greater than Treasury has projected.

The tax increase was so massive that hundreds of thousands of Americans living and working abroad, being taxed by two countries, could no longer afford to live and work abroad. They resigned and came home. U.S. companies with fixed price engineering and construction contracts employing significant numbers of U.S.-citizen professionals in the Middle East, in a market then totally dominated by U.S. companies which furnished American-made goods to implement these projects were driven into non-performance penalties. It resulted in breaches of contract and bankruptcies because these companies could neither afford to reimburse their employees' sudden massive tax increase nor pass such additional costs on to their customers. At the time they also found they could not easily replace them with qualified non-U.S. citizen not-subject-to-home-country-taxation professional workers. U.S. dominance of this market was destroyed as this Tax Act crippled the ability of firms employing U.S. citizens to price competitively in this overseas market.

Testimony presented before the House Ways Committee on this legislation in 1978[6] by Mr. Robert M. Gants of the U.S. and Overseas Tax Committee, based on supporting data from the GAO and U.S. engineering and contracting trade associations whose members were impacted by this legislation, confirmed that the bottom-line effect of the 1976 legislation and tax court rulings was that 75% of these companies represented by Mr. Gates now had U.S.-citizen employees whose tax obligations exceeded their salaries, leaving them with less than zero cash upon which to live. Because of this legislation U.S. citizens were cost-wise no longer employable overseas on these kinds of turnkey projects.

My Personal Experience

I was a managing director of Telcon, S.A. a Brazilian-owned company in Rio de Janeiro selling and implementing turnkey telecommunications projects in that country, employing leading-edge U.S.-made telecommunications products; my specific area of expertise. I had been recruited to launch this company after 4 years as executive vice president and deputy general manager of the Peruvian Telephone Company and 4 years in telecommunications executive sales and marketing positions in Brazil employed by the U.S. companies International Telephone and Telegraph Corp. (ITT) and Continental Telephone Corporation. Starting from zero, in two years we had achieved $10 million annual sales of U.S.-made products in Brazil. This resulted from intensive efforts in securing the adoption of U.S. telecommunications standards by the Brazilian government in competition with very active and determined European and Japanese competitors working around the clock to win the standards battle which would have favored their exports and excluded a broad range of U.S. telecommunications products. I established and maintained contacts at the highest levels and with the decision-makers in the Brazilian Ministry of Communications and Telecomunicaões

Brasileiras - Telebrás, the government holding company that controlled the telephone company monopolies in Brazil's 26 states and the Federal District in Brasilia. I was a frequently-invited speaker at Brazilian national and state telecommunications seminars, an active contributing participant in Brazil's professional standardization committees and was regularly invited to make presentations of both the U.S.-made products I represented as well as the merits of U.S. technical standards over those of European and Japanese competitors. Because of my wide range of experience and knowledge of worldwide telecommunications practices I was informally consulted for advice and recommendations based on my personal experience and obligingly supplied U.S. standards information which served as the basis for the preparation of Brazilian specifications in Portuguese that not only saved them valuable time during a period of accelerated expansion of the Brazilian telecommunications network but, most importantly, of major importance to the United States, my recommendations insured that these Brazilian specifications were based on U.S. standards that would facilitate successful penetration of that market by U.S. suppliers in general and not just those I represented. I made the arrangements and accompanied several high-level Brazilian delegations on fact-finding trips to the U.S. to attend telecommunications trade shows, technical society meetings and visits to telephone company laboratories and telephone operating companies whose practices and the U.S. products they employed served as models for adoption in Brazil.

All of these contacts and professional achievements were accomplished over extended periods of time by cultivating local contacts and friendships. It could not have been accomplished if I had not resided in Brazil be able to be in a Rio customer's office within 30 minutes or fly to and attend meetings in Saõ Paulo and Brasilia with 2-3 hours notice.

When President Ford signed the Tax Reform Act of 1976 on Oct. 4 (made retroactive to Jan. 1) my combined Brazilian and U.S. tax obligation increased from its previous starting point of 10% more than any other non-American Brazilian resident with my exact same earnings and family status to 81% more. I shockingly discovered that I and my family could not survive this increase in my total tax obligations. Because of this tax increase and the radical differences between the U.S. and Brazilian tax systems, my compensation would need to be increased by a totally non-competitive 210% in order to net the after-tax income I needed just to survive. My Brazilian employer could not afford to give me such a raise. An identical dilemma faced many other U.S. citizens in Brazil (ranchers, newspaper publishers, university professors, restaurant owners, teachers, missionaries, airline pilots and those of every other profession. It made us all unemployable in Brazil. My wife taught high school math at the American School in Rio de Janeiro where 95% of the students were Americans at that time. In 2010, the percentage of American students, with so few left in Brazil, had dropped to 15%[7] with an estimated 1/3 of these being dual U.S. - Brazilian citizens for reasons of place of birth or nationality of one of their parents.

U.S. tax laws require that taxes on foreign currency income be paid in U.S. dollars. Since my compensation was 100% in Brazilian currency, even if I had been able to afford this massive tax increase, which I could not, I could not legally convert my local currency income into dollars to pay the IRS. Reeling from the world petroleum crisis, Brazil at that time had strict controls on the exchange of its currency by residents for any foreign currency because of a massive shortage of dollars required to pay for the imported petroleum to keep the country running. Applications to the Brazilian Central Bank by U.S. citizens for dollars to exchange for local currency to remit to the IRS for this purpose were immediately rejected. Brazil considered it a violation of its sovereignty for the United States or any other foreign country to levy and collect taxes on income earned in Brazil by its residents. Dollars could be obtained on the black market at a significant premium, but such transactions were prohibited under Brazilian exchange control laws and persons violating these laws faced criminal prosecution for which the penalties included fines, imprisonment and confiscation of assets. The removal of dollars from Brazil for the unauthorized payment of taxes to a foreign government was categorized by Brazilian monetary authorities as illicit money laundering. Although IRS regulations allow the deferral of payment where foreign government exchange controls prohibit it and the taxpayer does not have funds outside of the controlled-currency country, these rules are unworkable for individuals residing in such countries since they define income to be "unblocked" when it is used in the same foreign country for any personal expenditure (e.g., food, clothing, rent, etc.) thus causing U.S. taxes to become immediately due and payable in U.S. dollars, even when there is no legal way for the person to obtain dollars to make such tax payments. U.S. citizens in controlled currency countries are obligated by U.S. tax law to violate laws of their host country and, in effect, choose which country's prison system they believe they stand the best chance of surviving.

After exploring all alternatives, including traveling to Chicago where I meet with an IRS official about the effects of and compliance with this legislation; I concluded I had no choice but to resign my position and return to the United States to seek new employment. An interim managing director was appointed to close out existing contracts and shut down the business. News of my resignation traveled fast and a French company with no previous presence in Brazil moved in to take advantage of my work in opening this market. Its French managing director was subject only to Brazilian income tax, since France, like every other nation except the United States, does not subject its overseas citizens to home-country taxation.

Within eight years of my departure, that French company, building on the solid market foundation which I personally had laid, was responsible for $1 billion per year in French exports to Brazil while U.S. exporters' share of this market dropped to almost zero. When I left Brazil to return to the United States an effective advocate and voice for U.S. products and standards in the then booming Brazilian market was lost. The task facing my Japanese and European competitors in insuring their success over American competitors was made a lot easier from the moment of my departure. Slowly but surely, the U.S. based standards which I'd convinced Brazil to adopt were changed through the efforts of European and Japanese competitors who no longer had to contend with any real American competition. Having Americans present in foreign markets is absolutely essential to capturing export sales.

Following voluminous complaints from U.S. citizens, both still abroad and those forced by this legislation to return to the U.S., as well as from their U.S. employers whose overseas turnkey projects, export product sales and customer support were negatively impacted as a direct consequence of the Tax Reform Act of 1976, the Tax Reduction and Simplification Act of 1977[8] postponed the effective date of the sections 911 and 912 foreign earned income provisions to January 1, 1977. But this action occurred far too late. The irreversible damage had already been done because most U.S. citizens abroad whose jobs and careers had already been unmercifully and thoughtlessly destroyed by the 1976 legislation had thrown in the towel and returned home. By the time this delayed-effective-date legislation was enacted many overseas positions had already been either eliminated or filled by local or 3rd country nationals.

The General Accounting Office issued a report to Congress entitled "Impact of Changes in Taxation of U.S. citizens Employed Overseas[9] dated Feb. 22, 1978" It concluded that the tax increase on U.S. citizens employed abroad would result in the return of many citizens to the U.S. which would seriously reduce the competitiveness of U.S. industry abroad. It stated that the tax changes could result in lost contracts and/or in the replacement of Americans with foreign nationals, with possible adverse effects on U.S. exports. The indirect costs of employer tax reimbursements to affected employees, where available, would be treated as taxable income by *both* the host governments and the United States. Concern was expressed with respect to the increased complexity and cost of preparing returns as well as "convulsion and apprehension" over how U.S. employees abroad would be treated from a U.S. tax standpoint. The inevitable effect, the full impact of which could not be objectively measured, would most certainly be a reduction of U.S. gross national product, U.S. exports and domestic employment. The GAO was absolutely correct in its predictions, but little did the GAO realize in 1978 just how seriously detrimental those effects would be to the competitiveness of U.S. exports in the world market. The $29.8 billion merchandise trade deficit in 1978 had increased to $847 billion by 2007.

On February 23 and 24, 1978, having returned home, I was one of 104 persons testifying before the House Ways and Means Committee at the hearing on "Proposals Relating to Sections 911 and 912 Of The Internal Revenue Code Dealing With Earned Income From Sources Outside The United States." At the conclusion of my testimony Rep. Joe D. Waggonner Jr. (D, LA) stated: "I just want to say, Mr. Conklin, it is admirable on your part, having lost your shirt, so to speak, as you did as a result of our inconsiderate action here in Congress, to come and try to tell U.S. what you have done firsthand, what your experience has been with just the hope that we will rectify it for others. You could not have said it better."

The then-president of the Bechtel Corporation George P. Shultz; (also formerly Secretary State, Secretary of Labor and Secretary of the Treasury), sat next to me at the same witness table and also testified. He stated that the GAO February 22, 1978 report confirmed the case of one of Bechtel's engineers in Saudi Arabia with a $40,000 salary who, under the Tax Reform Act of 1976, was subjected to a U.S. tax of $51,000, and that this taxation "makes it very difficult for an individual American to be competitive[10]."

Subsequent Developments

Congress subsequently voted for a complete elimination of the Foreign Earned Income Exclusion and replaced it with a series of deductions for U.S. citizens working abroad, under the Foreign Earned Income Act[11] of 1978. This replaced provisions of the Tax Reform Act of 1976 which, in effect, never went into effect.

In 1981, the Comptroller General of the United States issued a "Report to Congress of the United States – American Employment Abroad Discouraged by U.S. Income Tax Laws,[12]" which included the following summary:

> "To adequately promote and service U.S. products and operations in foreign countries, U.S. companies employ a large force of U.S. citizens abroad. GAO surveyed a group of major U.S. companies which reported that U.S. tax provisions established by the Foreign Earned Income Act of 1978 are a major disincentive to employment of U.S. citizens overseas.
>
> "GAO found that the Act did not meet its goal of relieving taxes on income reflecting excessive costs of living abroad for the employees of these companies. Further, tax returns are difficult and expensive to prepare under the Act's complex rules.
>
> "Most of the companies surveyed reimburse U.S. employees abroad for excessive taxes, making them more costly than citizens of competing countries, who generally are not taxed by their home countries. The greater costs have led these companies to favor third-country nationals.
>
> ***"GAO urges that Congress consider placing Americans working abroad on an income tax basis comparable to that of citizens of competitor countries."***

The President's Export Council's unanimous Report to President Carter of December 10, 1979 stated:

> "***Work should begin immediately to encourage enactment of a new tax law to put Americans working overseas on the same tax footing as citizens from competing countries***."

The membership of that President's Export Council included Sen. Jacob Javits (R, NY) and Adali Stevenson (D, IL); Congressman Bill Alexander (D, AR): Governor George Busbee (D, GA); Paul Hall, President of the Seafarer's International Union of North America, Ms. Herta Lande Seidman, Deputy Commissioner, New York State Department of Commerce along with the board chairmen and CEOs of five large American corporations. The Council chairman was Reginald Jones, Chairman and CEO of General Electric Co. It was an objective bi-partisan committee of legislators, labor and business leaders and government officials who clearly recognized and accurately diagnosed the Achilles Heel in U.S. tax law that had created a massive non-competitive situation for U.S. citizens abroad who play a key roll in U.S. exports and domestic job creation. Faced with a skyrocketing trade deficit resulting from legislation impacting the competitiveness of U.S. citizens and U.S. companies to whom these individuals' expertise and knowledge for overseas deployment was critical to their ability to compete. Both the Comptroller General's 1981 report and the 1979 President's Export Council clearly saw the handwriting on the wall which revealed that unless the U.S. changed its tax legislation to treat its citizens living and working abroad the same way that all of our major trade competitors threat theirs, the export sales for which these individuals were absolutely indispensible and upon which tens of millions of domestic jobs depend, were destined to deteriorate. Unfortunately both the GAO and President's Export Council reports were not only ignored by that Administration and Congress but by every Congress and Administration since. The longer they are ignored the worse our deficit gets. There have been a plethora of changes to the Tax Code with respect to the taxation of non-resident citizens over the intervening years, most focused on the false presumption that U.S. expatriates consist of wealthy tax evaders rather than the reality of hard-working middle class citizens. None of these changes have addressed the fact that the double taxation of U.S. citizens abroad has destroyed the export competitiveness not only of U.S. companies, but also of U.S. citizens in foreign labor markets. This taxation of bona fide U.S. expatriates represents a massive trade barrier against U.S. exports created by our own government, not by China or any of our other trade competitors. Meanwhile the job-destroying U.S. trade deficit continues to grow unabated. Does anybody in Washington really care? It seems not.

Trade Competitiveness and Citizenship-Based Taxation

Congress needs only to compare how this citizenship-based tax policy has destroyed American jobs manufacturing for export while competing high-wage industrialized countries are experiencing record trade surpluses along with record low unemployment rates. Last year the United States recorded a $646 billion trade deficit. Our current unemployment rate is 9%.

One of our largest competitors, Germany, with a population and an economy only about one-fifth the size of that of the United States, last year exported more than the United States and recorded a $208 billion trade surplus; an 18.5% increase over 2009. In spite of the recent financial crisis it also experienced its lowest unemployment rate since the reunification of East and West Germany 18 years ago. On a per-capita basis Germany imported 2.2 times more than the United States, but its per-capita exports were 4.3 times greater than those of the United States. And although its per-capita imports from China were $1,266 compared to $1,204 for the United States, its per-capita exports to China were 7.9 times greater than those of the United States ($882 as compared to $112). And this occurred in spite of Germany's significant price disadvantage, with the Euro appreciating by 45% against the dollar over the past 8 years. Had U.S. per-capita exports to China equaled those of Germany, the U.S. 2010 $273 billion trade deficit with China would have been reduced by 98.2% to a trivial $5 billion.

Even tiny Switzerland, with an economy and population less than 1/10th the size of Germany, has a 3.1% unemployment rate, a 2010 trade surplus of $20.8 billion and a trade surplus with China, in spite of the fact that the Swiss Franc appreciated 69% with respect to the dollar over those same 8 years. Switzerland is currently negotiating a free trade agreement with China which, when signed, will most assuredly further erode the meager U.S. share of China's import market.

Price is only one of many factors in capturing export markets. Except for some commodities, most products are not "bought." They have to be sold. And that takes feet on the ground accomplishing all of the many tasks that it takes to capture sales in the export market, most importantly of which includes developing personal relationships and business networks. All of our trade competitor nations encourage this activity for their citizens. But the United States has deliberately chosen a tax policy that stifles such activity and keeps our citizens, employed or not, at home.

It should not pass unnoticed that the recent successful taking-out of Osama Bin Laden was accomplished by the U.S., not using foreign mercenaries or friendly foreign military forces, but by U.S. Navy Seals under the command of U.S. citizen Naval officers. Just as military success requires "boots on the ground," successful U.S. exports do too. Until Congress removes the tax barrier it has erected against our own citizens that have decisively tipped the international market playing field against our businesses and citizens by making them uncompetitive for employment abroad selling U.S. products and capturing foreign markets that create American jobs manufacturing for export, this trade deficit problem will remain unresolved.

Purpose of citizenship-based taxation

By no stretch of the imagination can this unique-to-the-U.S. citizenship-based taxation be described as for the purpose of increasing U.S. tax revenues, for the following reasons:

1. **It is <u>Not</u> to Enhance Tax Revenue**

Every U.S. citizen resident abroad whose total gross income is equivalent $9,350 or more must file a U.S. tax return. This includes non-English speaking dual-citizens born abroad to a U.S.-citizen parent who have never held a U.S. passport, never visited the U.S. and who are likely unaware of their U.S. citizenship and tax obligations.

If the U.S. citizen lives in a country whose tax system mirrors that of the U.S. and its tax rates are as high as those of the U.S. then the taxes paid to that country provide foreign tax credits that totally offset and fully satisfy the person's U.S. tax obligation. The overseas citizen is required to establish and maintain much more detailed records (including foreign currency income and asset values converted to dollars at constantly-changing exchange rates) than a U.S. resident and file complex tax returns, even though, after foreign tax credits, he may owe zero U.S. tax. High cost professional tax assistance is necessary to accurately prepare the several unbelievably complex forms, even to substantiate that no U.S. tax is due. **The revenue produced for the U.S. Treasury in these cases is zero.** So by no stretch of the imagination can this be defined as a tax to enhance revenue of the U.S. Treasury.

2. The Short End of the Stick With Very Different Foreign Tax Systems

The tax systems of most other countries are very different from the U.S. system. Certain income taxed by the U.S. is not taxed by other countries and vice versa. Some countries do not levy or have low income tax rates. They raise their tax revenue through high consumption and other types of taxes that do not exist in the United States. Many countries do not tax capital gains, but instead levy an annual wealth tax on the value of the person's assets. The U.S. citizen abroad gets hit by both. Except for real estate taxes these non-income based taxes, although often higher than an income tax would have been, are neither deductible nor creditable in the United States. So the U.S. citizen in such countries is fiscally punished by U.S. tax law for the act of living in a country with a tax system different from that of the United States. U.S. citizenship-based taxation destroys the ability of U.S. persons to be competitive for employment outside of the U.S. unless they choose to accept a much lower standard of living than their co-workers. It also arguably deprives U.S. citizens of the right guaranteed in Article 13 of the UN Universal Declaration of Human Rights to insure that everyone has the right to leave any country, including his own.

3. A Tax That Destroys Far More Tax Revenue Than it Generates

Citizenship-based taxation has not only resulted in the destruction of tens of millions of American jobs manufacturing for export, but it also destroys far more tax revenue than it generates. Using the oft-cited Commerce Department rule of thumb that each $1 billion of U.S. exports creates 10,000 to 15,000 American jobs, [13]-[14] last year's $646 billion merchandise trade deficit, and was equivalent to the destruction of, as a minimum, some 6 million U.S. jobs. The annual tax revenue collected by the IRS from U.S. citizens and non-citizen permanent residents living abroad totals approximately $5 billion per year. However, the domestic tax revenue that failed to be generated by the $646 trade deficit, at 18% of GDP, was $116 billion; for a net tax revenue loss of $111 billion directly resulting from the double-taxation of U.S. citizens which renders them non-competitive for overseas employment promoting U.S. exports.

4. A Tax That Bars Small U.S. Businesses from Competing In the Export Market

U.S. small businesses are often formed as flow-through entities or sole proprietorships. Such businesses employ far more persons in total than do large corporations. However, U.S. tax laws act as an effective deterrent to such non-corporate businesses to export and expand abroad. To set up an export sales business abroad they must establish an accounting system in local currency in compliance with local legal and tax regulations. Few can afford to gross-up the salaries of U.S. citizen employees who they might wish to send overseas to open a new export market sufficient to compensate them for the additional cost of this double taxation by the U.S. In addition, the income tax and information-reporting complexities involved in attempts to expand abroad carry a costly tax and compliance price tag, often negating any profit margin such businesses might have expected from foreign expansion opportunities. Add to all this the now onerously enforced foreign bank account provisions and new withholding-related provisions that have now made it nearly impossible for a U.S. small business owner or U.S. citizen to open a bank account in a foreign country, without which no business or person can pay for local expenses and operations.

Being owned more than 10% by a U.S. person U.S. tax laws require that they must set up and maintain a second accounting system in equivalent U.S. dollars in accordance with U.S. generally accepted accounting principles (GAAP) and a third system under U.S. tax principals, for all other purposes under the U.S. Tax Code. Foreign currency values must be translated into U.S. dollars in accordance with extremely complex rules, and in addition to paying foreign taxes they must file U.S. tax returns and pay taxes U.S. on the same already-taxed-once income by the foreign country even though no profits are remitted back to the U.S. These are tasks that require highly competent professional accountants affordable only to large corporations in order avoid fines and IRS penalties for even the most insignificant inadvertent errors. And they may, at great expense, be required to translate into English and travel with their complete accounting documentation to the U.S. for IRS audits.

Contrast this with the situation of the foreign small business entrepreneur selling his home-country products in either the U.S or in a foreign country. Since other countries employ territorial tax rather than citizenship-based taxation systems, he is never taxed on his foreign business income. He is also able to deploy an army of sales personnel to live in a new potential market for years to develop contacts and business networks for selling his home-country produced products without the additional financial burden of having to gross-up salaries to compensate double taxation by his home country or that his sales personnel will have to accept a lower after-tax standard of living in their new country of residence. He has no trouble opening foreign bank accounts. The playing field is tipped, not by foreign laws or regulations, by our own tax and other laws so steeply as to totally discourage small U.S. businesses from even thinking about the export market.

Recommendation to the House Ways and Means Committee

Based on this testimony and the evidence herein presented I recommend that the Committee commission the GAO to update the Comptroller General's Report to Congress "American Employment Abroad Discouraged by U.S. Income Tax Laws" ID-81-29 dated February 27, 1981, and that Congress act to adopt residence-based taxation and rescind citizenship-based taxation of income of nonresident individuals enacted by The Revenue Act of 1962 in order to level the competitive playing field for the business income of individuals, regardless of whether that income consists of wages and salaries or product sales. Nonresident citizens should be taxed by the U.S. in the same manner as nonresident aliens. This is how other nations treat their citizens living abroad, even when, unlike the United States, they provide uncompensated foreign emergency evacuation assistance or other government services. The U.S. must enhance their ability to compete in world markets. Failure to enact this change will leave U.S. citizens and companies shackled with a non-competitive job-destroying ball and chain that neither the citizens of any other country nor their businesses have to bear. It makes more sense to put Americans back to work doing the jobs for which they are already trained making products being sold abroad than it does to spend large sums of money to retrain them to for a new job and have them joined the ranks of the already-trained for that new job, but who remain unemployed because there are no job openings.

---

[1] Central Intelligence Agency, The World Fact Book, https://www.cia.gov/library/publications/the-world-factbook/index.html.
[2] PL 87-834
[3] http://data.bls.gov/cgi-bin/cpicalc.pl
[4] http://www.schamenek.com/charlie/opinions/incomes.html
[5] PL 94-455 Tax Reform Act of 1976, Oct. 4, 1976
[6] Transcript of Hearings Before The Committee on Ways and Means, House of Representatives, 95th Congress, Second Session on Proposals Relating to Sections 911 and 912 Of The Internal Revenue Code Dealing With Earned Income from Sources Outside the United States, Feb. 23-24, 1978 - Serial 95-68, pg. 34.

[7] Escola Americana do Rio de Janeiro, 2010 Annual Report
[8] Tax Reduction and Simplification Act of 1977, PL 95-30, Sec. 302, 91 Stat. 126 (1977)
[9] GAO Report ID-78-13, February 21, 1978
[10] Transcript of Hearings Before The Committee on Ways and Means, House of Representatives, 95th Congress, Second Session on Proposals Relating to Sections 911 and 912 Of The Internal Revenue Code Dealing With Earned Income from Sources Outside the United States, Feb. 23-24, 1978 - Serial 95-68, pg. 232
[11] Foreign Earned Income Act of 1978, PL-95-615, November 8, 1978
[12] GAO Report ID-81-29, February 27, 1981
[13] Testimony before the House Subcommittee on International **M**onetary Policy http://commdocs.house.gov/committees/bank/hba92336.000/hba92336_0f.htm.
[14] Patric Hale, *It's The Economy Stupid,"* Capital Markets LLC, Greenwich, CT 2008, pg. 32