



Access, Notification, and Due Process Issues

Americans residents abroad are denied timely access to essential government services due to the inability of administrative agencies to implement access and notification procedures that take into account the situation of Americans abroad.

As a consequence, an increasingly greater number of Americans abroad encounter difficulty in obtaining guidance or confirmation of their situation with respect to Social Security. The elimination of consular services, notably IRS offices, that formerly could bridge this access gap in areas such as taxation, has contributed to these communication issues.

Americans abroad are also increasingly concerned about the dire consequences of late or failed notifications, in particular, in the taxation and financial reporting areas which potentially could result in passport revocation and civil and criminal liability being imposed without due process.

These problems do not result from an intention of any administrative agency or their personnel to limit the access to which Americans abroad are entitled or the notifications to which they have a right. On the contrary, in our experience administrative staff when they can be reached do what is in their power to attempt to assist Americans abroad. However, we have also noted that their power to do so is often limited by IT deficiencies and inadequate attention to whether Americans abroad could fit into systems which were designed solely for Americans resident in the US. For example, access to services and benefits have been seriously delayed due to routine gaps such as the fact that most Americans' abroad telephone numbers have too many digits to be entered into the agency system.

We, therefore, ask Congress in its oversight function, the State Department and relevant administrative agencies to ensure satisfactory access and notification for Americans abroad and in particular:

Social Security and Medicare

- Section 419 (c) of Public Law 108-203, the Social Security Protection Act of 2004, requires State and local government employees to disclose the effects of the Windfall Elimination Provision and the Government Pension Offset to employees in jobs not covered by Social Security. This alert should be extended to non-resident Americans with foreign earnings. The IRS can do this by: (1) adding this information to Form 2555; (2) notifying people who file Form 2555 for the first time about the possible consequences of the Windfall Elimination Provision.
- Americans abroad encounter Social security and Medicare access issues because they lack a US residence address. This restriction should be lifted.
- Americans abroad should be permitted to access their earning records and make online applications for Medicare. Currently, Social Security is not allowed to open accounts in the absence of a US residence address. Online documents and guidance for Medicare and Social security should be updated to provide guidance for Americans abroad.

- Access to guidance from social security personnel by telephone should be expanded and personnel trained to deal with issues affecting Americans abroad
- The Office of International Programs (OIO) currently is inaccessible by direct telephone or email and messages are not returned.
- Fields compatible with foreign addresses and telephone numbers should be available in all available forms.
- Medicare should assure that the verification services used by pharmacies can handle foreign addresses of part B subscribers. This is currently not the case and as a result services for covered acts such as vaccinations are denied.

Taxation

Cases of delay or non-receipt of correspondence (for example, tax refund checks) and notifications from the IRS are a problem. These issues are in part caused by the practice in many cases of the IRS to use US methods of communicating, for example, only using first class US postage for mail abroad.

Important notifications, most notably of issues relating to tax delinquency which may now result in passport revocation, should be sent by registered letter or some other mechanism to ensure effective notification consistent with due process.

Improved telephone service and responsiveness from the IRS is needed to handle the complicated issues faced by Americans resident overseas particularly following the closure of all IRS offices abroad.

Banking and Investment Opportunities

The Foreign Account Tax Compliance Act (FATCA) has caused both foreign and US banks to deny access to banking and financial services to Americans overseas. Banks in the US have closed accounts, including long-term credit cards, of US citizens often on short notice, because of a lack of a US-based address. Credit agencies refuse to consider the creditworthiness of Americans who are living or have lived abroad causing significant difficulties for Americans presently residing abroad and those who return from foreign assignments.

Americans living and working overseas should have the right to essential banking, credit evaluation and investment services where they reside and in the United States and not be subject to discriminatory practices that hinder their employment opportunities, ability to save for retirement and obtain credit.

US banks and credit agencies should be prevented from discriminating against US citizens solely because they have or once had a foreign address.

Citizenship

Americans abroad need, but do not currently have, responsive information and assistance when seeking to obtain citizenship for their minor children. USCIS employees in the US are unreachable by phone and consular officers are not involved in the application process. Telephone access to the US and the involvement of consular officers should be implemented.