

118TH CONGRESS
2D SESSION

H. R. 10468

To amend the Internal Revenue Code of 1986 to establish an elective residency-based income tax for nonresident citizens of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2024

Mr. LAHOOD introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to establish an elective residency-based income tax for nonresident citizens of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Residence-Based Tax-
5 ation for Americans Abroad Act”.

1 **SEC. 2. ESTABLISHMENT OF ELECTIVE RESIDENCY-BASED**
 2 **INCOME TAX FOR NONRESIDENT CITIZENS**
 3 **OF THE UNITED STATES.**

4 (a) IN GENERAL.—Part II of subchapter N of chap-
 5 ter 1 of the Internal Revenue Code of 1986 is amended
 6 by adding at the end the following new subpart:

7 **“Subpart E—Residency-based Income Tax for**
 8 **Nonresident Citizens of the United States**

“Sec. 899. Election by nonresident citizens of the United States to be subject to residency-based income tax rules.

“Sec. 899A. Imposition of tax on deferred income of certain electing individuals.

“Sec. 899B. Certificates of nonresidency.

“Sec. 899C. Regulations.

9 **“SEC. 899. ELECTION BY NONRESIDENT CITIZENS OF THE**
 10 **UNITED STATES TO BE SUBJECT TO RESI-**
 11 **DENCY-BASED INCOME TAX RULES.**

12 “(a) IN GENERAL.—In the case of any electing indi-
 13 vidual:

14 “(1) RESIDENCY-BASED INCOME TAX.—The
 15 rules of subsection (b) shall apply for the taxable
 16 year for which the election under this section is
 17 made and all subsequent taxable years until such
 18 election is terminated under subsection (d).

19 “(2) APPLICATION OF TAX ON DEFERRED IN-
 20 COME.—The rules of section 899A shall apply as of
 21 the day before the election date (as defined in sec-
 22 tion 899A). A termination of any election under this

1 section shall have no effect on the application of sec-
2 tion 899A.

3 “(b) APPLICATION OF RESIDENCY-BASED INCOME
4 TAX.—In the case of any electing individual, the rules of
5 this subsection are as follows:

6 “(1) IN GENERAL.—Section 7701(b)(1) shall be
7 applied—

8 “(A) by treating any electing individual as
9 an alien individual,

10 “(B) by substituting ‘not’ for ‘neither a
11 citizen of the United States nor’ in subpara-
12 graph (B), and

13 “(C) by treating the United States as in-
14 cluding the possessions of the United States.

15 “(2) MODIFICATION OF SUBSTANTIAL PRES-
16 ENCE TEST.—Section 7701(b)(3) shall applied with-
17 out regard to subparagraphs (B) and (C).

18 “(3) REQUIREMENT OF TAX RESIDENCY.—Not-
19 withstanding section 7701(b), an electing individual
20 shall not fail to be treated as a resident of the
21 United States unless such individual is a tax resi-
22 dent of a foreign country.

23 “(4) TREATMENT AS UNITED STATES PERSONS
24 BASED ON RESIDENCY.—Section 7701(a)(30)(A)

1 shall be applied without regard to the phrase ‘a cit-
2 izen or’.

3 “(5) COORDINATION WITH FATCA WITH-
4 HOLDING.—For purposes of section 1472, an elect-
5 ing individual with a certificate of nonresidency
6 issued under section 899B shall be treated as having
7 established status as an individual who is not a spec-
8 ified United States person.

9 “(6) EXEMPTION FROM CERTAIN REPORTING
10 AND RECORDS REQUIREMENTS WITH RESPECT TO
11 FOREIGN ASSETS AND TRANSACTIONS.—Sections
12 6038D and 6046, and section 5314 of title 31,
13 United States Code, shall not apply.

14 “(7) COORDINATION WITH RULES ON EXPA-
15 TRIATION.—Section 7701(a)(50) shall not be treated
16 as applying with respect to the application of this
17 subpart.

18 “(8) WAIVER OF TREATY SAVING CLAUSE.—
19 The United States waives the application of each
20 saving clause in any United States income tax treaty
21 with respect to electing individuals. For purposes of
22 the preceding sentence, the term ‘saving clause’
23 means any provision which would (but for this para-
24 graph) prevent the electing individual from benefit-

1 ting from a provision of the treaty eliminating dou-
2 ble taxation.

3 “(c) ELECTING INDIVIDUAL.—For purposes of this
4 subpart—

5 “(1) IN GENERAL.—The term ‘electing indi-
6 vidual’ means any citizen of the United States who
7 has in effect an election (made at such time and in
8 such manner as the Secretary may provide) to have
9 the provisions this subpart apply.

10 “(2) CITIZENS BORN ABROAD.—In the case of
11 any citizen of the United States who is born outside
12 the United States, such individual shall be treated as
13 a electing individual until such time as such indi-
14 vidual becomes a resident of the United States
15 under clause (ii) or (iii) of section 7701(b)(1)(A).

16 “(3) EXCEPTION FOR FEDERAL EMPLOYEES.—
17 Notwithstanding any other provision of this subpart,
18 an individual shall not be treated as an electing indi-
19 vidual for any taxable year if such individual is em-
20 ployed by the Federal Government at any time dur-
21 ing such taxable year.

22 “(d) RULES RELATED TO ELECTION.—

23 “(1) MANNER OF ELECTION.—An election
24 under this section shall be made at such time and
25 in such manner as the Secretary may provide and,

once made, is irrevocable (but may be terminated as provided in this section).

“(2) REQUIREMENTS OF ELECTION.—An election under this section shall not be effective unless—

“(A) the tax imposed under section 899A (if any) is paid (or deferred under section 899A(b)) at such time as the Secretary may provide, and

“(B) the electing individual certifies under penalty of perjury that the electing individual has met the requirements of this title for the 5 preceding taxable years and submits such evidence of such compliance as the Secretary may require.

“(3) TERMINATION OF ELECTION.—An election under this section—

“(A) shall be terminated as of the close of the taxable year preceding any taxable year (with respect to which the election would otherwise apply) for which the electing individual is a resident of the United States under clause (ii) or (iii) of section 7701(b)(1)(B), and

“(B) may be terminated by the electing individual at such time and in such manner as the Secretary may provide.

1 “(e) SPECIAL RULE FOR SHORT-TERM NONRESI-
 2 DENCY.—If an election under this section by an electing
 3 individual is terminated before the beginning of the fourth
 4 taxable year to which such election would otherwise apply,
 5 subsection (b) shall not apply to any taxable year to which
 6 such election would have otherwise applied.

7 **“SEC. 899A. IMPOSITION OF TAX ON DEFERRED INCOME OF**
 8 **CERTAIN ELECTING INDIVIDUALS.**

9 “(a) GENERAL RULES.—For purposes of this sub-
 10 title—

11 “(1) DEEMED SALE.—All property of a speci-
 12 fied electing individual shall be treated as sold on
 13 the day before the election date for its fair market
 14 value.

15 “(2) RECOGNITION OF GAIN OR LOSS.—In the
 16 case of any sale under paragraph (1)—

17 “(A) notwithstanding any other provision
 18 of this title, any gain arising from such sale
 19 shall be taken into account for the taxable year
 20 of the sale, and

21 “(B) any loss arising from such sale shall
 22 be taken into account for the taxable year of
 23 the sale to the extent otherwise provided by this
 24 title, except that section 1091 shall not apply to
 25 any such loss.

1 Proper adjustment shall be made in the amount of
2 any gain or loss subsequently realized for gain or
3 loss taken into account under the preceding sen-
4 tence.

5 “(b) SPECIFIED ELECTING INDIVIDUAL.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—The term ‘specified electing
8 individual’ means any electing individual if the net
9 worth of the individual as of the election date ex-
10 ceeds the basic exclusion amount in effect under sec-
11 tion 2010(c)(3) as of such date.

12 “(2) NET WORTH.—The term ‘net worth’
13 means, with respect to any electing individual, the
14 excess (if any) of—

15 “(A) the fair market value of all assets of
16 such individual, over

17 “(B) the indebtedness of such individual.

18 “(c) ELECTION DATE.—For purposes of this section,
19 the term ‘election date’ means the first day of the first
20 taxable year to which the election under section 899 ap-
21 plies.

22 “(d) EXCEPTIONS.—

23 “(1) IN GENERAL.—Subsection (a) shall not
24 apply to any interest in the following property of the
25 specified electing individual:

1 “(A) Any deferred compensation item.

2 “(B) Any qualified retirement plan (as de-
3 fined in section 4974(c)).

4 “(C) Any specified tax deferred account.

5 “(D) Any interest in a nongrantor trust.

6 “(E) Any real property located in the
7 United States.

8 “(F) Any real property located outside the
9 United States if, during the 5-year period end-
10 ing on the election date, such property has been
11 owned and used by the specified electing indi-
12 vidual as such individual’s principal residence
13 for periods aggregating 2 years or more.

14 “(2) DEFERRED COMPENSATION ITEM.—For
15 purposes of this subsection, the term ‘deferred com-
16 pensation item’ means—

17 “(A) any interest in a plan or arrangement
18 described in section 219(g)(5),

19 “(B) any interest in a foreign pension plan
20 or similar retirement arrangement or program,

21 “(C) any item of deferred compensation,
22 and

23 “(D) any property, or right to property,
24 which the individual is entitled to receive in
25 connection with the performance of services to

1 the extent not previously taken into account
2 under section 83 or in accordance with section
3 83.

4 “(3) SPECIFIED TAX DEFERRED ACCOUNT.—

5 For purposes of this subsection, the term ‘specified
6 tax deferred account’ means a qualified tuition pro-
7 gram (as defined in section 529), a qualified ABLE
8 program (as defined in section 529A), a Coverdell
9 education savings account (as defined in section
10 530), a health savings account (as defined in section
11 223), and an Archer MSA (as defined in section
12 220).

13 “(4) NONGRANTOR TRUST.—For purposes of
14 this subsection, the term ‘nongrantor trust’ means
15 the portion of any trust that the specified electing
16 individual is not considered the owner of under sub-
17 part E of part I of subchapter J. The determination
18 under the preceding sentence shall be made imme-
19 diately before the election date.

20 “(e) ELECTION TO DEFER TAX.—

21 “(1) IN GENERAL.—If the specified electing in-
22 dividual elects the application of this subsection with
23 respect to any non-readily tradable property treated
24 as sold by reason of subsection (a), the time for pay-
25 ment of the additional tax attributable to such prop-

erty shall be extended until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF EXTENSION.—The due date for payment of tax may not be extended under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the specified electing individual (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), un-

1 less the electing individual corrects such failure with-
2 in the time specified by the Secretary).

3 “(4) NON-READILY TRADABLE PROPERTY.—For
4 purposes of this subsection, the term ‘non-readily
5 tradable property’ means any property other than
6 property which is readily tradable on an established
7 securities market.

8 “(5) SECURITY.—

9 “(A) IN GENERAL.—No election may be
10 made under paragraph (1) with respect to any
11 property unless adequate security is provided
12 with respect to such property.

13 “(B) ADEQUATE SECURITY.—For purposes
14 of subparagraph (A), security with respect to
15 any property shall be treated as adequate secu-
16 rity if—

17 “(i) it is a bond which is furnished to,
18 and accepted by, the Secretary, which is
19 conditioned on the payment of tax (and in-
20 terest thereon), and which meets the re-
21 quirements of section 6325, or

22 “(ii) it is another form of security for
23 such payment (including letters of credit)
24 that meets such requirements as the Sec-
25 retary may prescribe.

1 “(6) WAIVER OF CERTAIN RIGHTS.—No elec-
2 tion may be made under paragraph (1) unless the
3 specified electing individual makes an irrevocable
4 waiver of any right under any treaty of the United
5 States which would preclude assessment or collection
6 of any tax imposed by reason of this section.

7 “(7) ELECTIONS.—An election under paragraph
8 (1) shall only apply to property described in the elec-
9 tion and, once made, is irrevocable.

10 “(8) INTEREST.—For purposes of section 6601,
11 the last date for the payment of tax shall be deter-
12 mined without regard to the election under this sub-
13 section.

14 “(9) SPECIAL RULE IF ELECTION OF RESI-
15 DENCY-BASED INCOME TAX TERMINATES BEFORE
16 PROPERTY IS DISPOSED OF.—In the case of any
17 property with respect to which an election under this
18 subsection has been made, if the election under sec-
19 tion 899 with respect to the electing individual ter-
20 minates before the beginning of the taxable year in
21 which such property is disposed of, this section shall
22 not apply to such property.

23 “(f) SPECIAL RULES.—

1 “(1) TERMINATION OF DEFERRALS, ETC.—In
2 the case of any specified electing individual, notwith-
3 standing any other provision of this title—

4 “(A) any time period for acquiring prop-
5 erty which would result in the reduction in the
6 amount of gain recognized with respect to prop-
7 erty disposed of by the electing individual shall
8 terminate on the day before the election date,
9 and

10 “(B) any extension of time for payment of
11 tax shall cease to apply on the day before the
12 election date and the unpaid portion of such tax
13 shall be due and payable at the time and in the
14 manner prescribed by the Secretary.

15 “(2) STEP-UP IN BASIS.—Solely for purposes of
16 determining any tax imposed by reason of subsection
17 (a), property which was held by an individual on the
18 date the individual most recently became a resident
19 of the United States (within the meaning of section
20 7701(b)) shall be treated as having a basis on such
21 date of not less than the fair market value of such
22 property on such date. The preceding sentence shall
23 not apply if the individual elects not to have such
24 sentence apply. Such an election, once made, shall
25 be irrevocable.

1 “(3) SEPARATE APPLICATION TO EACH ELEC-
2 TION.—In the case of any individual who makes
3 more than 1 election under section 899, this section
4 shall be applied separately with respect to each such
5 election.

6 “(g) TRANSITIONAL RULE.—

7 “(1) IN GENERAL.—This section, and sub-
8 section (a)(2) and (d)(2) of section 899, shall not
9 apply to—

10 “(A) any individual if—

11 “(i) as of the introduction date, such
12 individual meets the ordinary residence
13 test under paragraph (2),

14 “(ii) such individual has not been a
15 resident of the United States (as defined in
16 section 7701(b)(1)(A)(ii)) for at least 3 of
17 the last 5 taxable years ending before the
18 introduction date, and

19 “(iii) such individual certifies under
20 penalty of perjury that the electing indi-
21 vidual has met the requirements of this
22 title for the last 3 taxable years ending be-
23 fore the introduction date and submits
24 such evidence of such compliance as the
25 Secretary may require, and

1 “(B) any individual who has not been a
2 resident of the United States (as defined in sec-
3 tion 7701(b)(1)(A)(ii)) at any time during the
4 period beginning on the later of the date such
5 individual attains age 25 or March 18, 2010,
6 and ending on the date of the enactment of this
7 section (and such individual shall be treated as
8 described in this subparagraph without regard
9 to whether or not such individual has met the
10 requirements of this title at any time).

11 “(2) ORDINARY RESIDENCE TEST.—An indi-
12 vidual meets the ordinary residence test if such indi-
13 vidual is a tax resident of a foreign country and
14 such foreign country is the place where such indi-
15 vidual regularly, normally, or customarily lives.

16 “(3) INTRODUCTION DATE.—For purposes of
17 this subsection, the term ‘introduction date’ means
18 the date of the introduction of the bill which, upon
19 enactment, enacted this section.

20 **“SEC. 899B. CERTIFICATES OF NONRESIDENCY.**

21 “(a) IN GENERAL.—Upon application, the Secretary
22 shall issue a certificate of nonresidency—

23 “(1) to any electing individual if the Secretary
24 determines that an election by such individual under
25 section 899 is in effect, and

1 “(2) to any citizen of the United States born in
2 a foreign country after the date of the enactment of
3 this section.

4 “(b) TERMINATION OF CERTIFICATE.—A certificate
5 of nonresidency issued under this section shall terminate
6 on the first date after such issuance with respect to which
7 the individual to whom such certificate is issued—

8 “(1) is a resident of the United States (as de-
9 fined in section 7701(b)(1)(A)(ii)), or

10 “(2) in the case of an individual described in
11 subsection (a)(1), otherwise ceases to have an elec-
12 tion in effect under section 899.

13 “(c) PUBLICATION OF CERTIFICATE NUMBERS.—
14 The Secretary shall maintain a searchable public database
15 and shall—

16 “(1) promptly upon the issuance of any certifi-
17 cate of nonresidency, update such database to in-
18 clude the certificate number and date of issuance of
19 such certificate, and

20 “(2) promptly upon the termination of any cer-
21 tificate of nonresidency, update such database to in-
22 dicate the termination of such certificate and the
23 date of such termination.

24 “(d) USER FEES.—

1 “(1) IN GENERAL.—The Secretary shall impose
2 a user fee of \$100 per application under this section.
3 Fees received under this subsection shall be available
4 to the Secretary (without need of further appropria-
5 tion) for the costs of processing applications under
6 this section.

7 “(2) INFLATION ADJUSTMENT.—In the case of
8 any calendar year beginning after 2025, the \$100
9 amount in paragraph (1) shall be increased by an
10 amount equal to—

11 “(A) such dollar amount, multiplied by

12 “(B) the cost-of-living adjustment deter-
13 mined under section 1(f)(3) for such calendar
14 year determined by substituting ‘2024’ for
15 ‘2016’ in subparagraph (A)(ii) thereof.

16 If any increase under the preceding sentence is not
17 a multiple of \$5, such increase shall be rounded to
18 next lowest multiple of \$5.

19 “(e) REFERENCES.—Except where the context clearly
20 indicates to the contrary, any reference in any provision
21 of law to a certificate of nonresidency issued under this
22 section shall include only such certificates which have not
23 been terminated.

1 **“SEC. 899C. REGULATIONS.**

2 “The Secretary shall prescribe such regulations or
3 other guidance as may be necessary or appropriate to
4 carry out the purposes of this subpart.”.

5 (b) CLERICAL AMENDMENT.—The table of subparts
6 for part II of subchapter N of chapter 1 of such Code
7 is amended by adding at the end the following new item:

“SUBPART E—RESIDENCY-BASED INCOME TAX FOR NONRESIDENT CITIZENS
OF THE UNITED STATES”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to elections made after the date
10 of the enactment of this Act for taxable years ending after
11 such date.

12 **SEC. 3. PARTICIPATING FOREIGN FINANCIAL INSTITU-**
13 **TIONS PROHIBITED FROM DISCRIMINATING**
14 **AGAINST NONRESIDENT UNITED STATES**
15 **CITIZENS.**

16 (a) IN GENERAL.—Section 1471(b)(1) of the Internal
17 Revenue Code of 1986 is amended by striking “and” at
18 the end of subparagraph (E), by striking the period at
19 the end of subparagraph (F) and inserting “, and”, and
20 by inserting after subparagraph (F) the following new
21 subparagraph:

22 “(G) not to have policies or practices that
23 discriminate against opening or maintaining fi-
24 nancial accounts for individuals who are citizens

1 of the United States and residents of the coun-
2 try in which the financial account is to be
3 opened or maintained.”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall take effect on the date of the en-
7 actment of this Act.

8 (2) TRANSITION RULE.—During the 1-year pe-
9 riod beginning on the date of the enactment of this
10 Act, an agreement shall not fail to be treated as de-
11 scribed in section 1471(b)(1) of the Internal Rev-
12 enue Code of 1986 solely by reason failing to include
13 the requirement of subparagraph (G) thereof if the
14 institution entering into such agreement satisfies
15 such requirement at all times during such period
16 without regard to whether such requirement is in-
17 cluded in such agreement.

○