

Fact Sheet #3 for War Tax Resistance Counselors

Passports, Citizenship, Living Abroad

This fact sheet touches on topics that have come up in the war tax resistance network but about which we have few specific stories. Please contact the NWTRCC office if you have experiences that shed light on any of these topics.

Passport Applications and Travel

In December 2015, Congress passed a long-awaited highway funding bill that tucked some IRS-related revenue provisions into the massive document. One provision, now in effect, allows the State Department to block renewal, issuance of new passports, or possibly rescind passports of people with more than a \$50,000 tax debt (including interest and penalties). The IRS is required to have sent many notices, and either attempted to levy accounts or filed a lien against a taxpayer, and advised that a passport may be revoked before they send names of seriously delinquent taxpayers to the State Department, which has the power over passports.

\$50,000 is a fairly high debt, and somewhat unusual among war tax resisters. As of this writing we have not heard from anyone in our network who has run into problems with their passport application or travel in and out of the U.S., and we do know of many war tax resisters with debts to the IRS who travel. But this is a new issue, so stay tuned.

Federal Tax Law on Passport Application Instructions

Section 6039E of the Internal Revenue Code (26 U.S.C. 6039E) requires you to provide your Social Security Number (SSN), if you have one, when you apply for a U.S. passport or renewal of a U.S. passport. If you have not been issued a SSN, enter zeros in box #5 of this form. If you are residing abroad, you must also provide the name of the foreign country in which you are residing. The Department of State must provide your SSN and foreign residence information to the Department of Treasury. If you fail to provide the information, you are subject to a \$500 penalty enforced by the IRS. All questions on this matter should be directed to the nearest IRS office.

Other Uses of Social Security Numbers

In addition to reporting your Social Security Number to Treasury and using it in connection with debt collection, the State Department checks Social

Security Numbers against lists of persons ineligible or potentially ineligible to receive a U.S. passport.

This provision would apply only if a resister is subject to an outstanding federal arrest warrant for a felony or subject to a criminal court order or condition of probation or parole which forbids foreign travel (22 CFR §51.70(a) (1) & (2)). Given the rarity of the criminal prosecution of war tax resisters, this should not be a concern. (At any rate resisters will undoubtedly know if they are subject to an arrest warrant or criminal court order before they apply.)

In other cases, U.S. citizens who are pulled over at the border and subjected to a more in-depth interview may find that information about tax debts from publicly filed liens is brought up. Border officers have no power to collect taxes, but questions may be asked about your tax status.

One ongoing source of good information about freedom to travel is The Identity Project, papersplease.org. The author follows all manner of rules and regulations related to passport issues, overuse of social security numbers and IDs, border crossings, etc.

Immigration

Those applying for permanent resident status in the U.S. are required to provide certain tax information with their application, which is passed on to the IRS. They must include their Social Security number or individual tax identification number and disclose information about whether they were required to file tax returns in the previous three years. The law also requires applicants to provide “such other information” as the IRS may prescribe. Failure to provide this information could result in a penalty of \$500, unless reasonable cause is shown for not providing it. It is unclear if an application will be denied that does not include tax information.

A relevant case arose in WTR counseling recently:

A long-time “off-the-grid” nonfiler involved in a long-term relationship with a partner living in the U.S. on a work visa called. His partner reached a point in her career where she needed permanent resident status for more satisfying employment. In order for him to sponsor her, the government requires proof of finances. Given their commitment to each other and with children involved in the family he was not prepared to sacrifice his relationship. NWTRCC

referred him to a lawyer's network, and he expected to file for recent years and settle with the IRS in order to complete the application process.

In some cases it is possible that a third party could handle the sponsorship application with their own financial information.

Leaving and reentering the U.S. is a serious concern for non-citizens. With federal agencies sharing more information, war tax resistance (especially if you have a tax debt) could come up in questioning. Border interviews are not only for harassment but also where people get sent back.

In all cases involving immigration and citizenship issues, great care must be taken. Consulting an attorney who is knowledgeable about citizenship and immigration issues (and sympathetic to civil disobedience if possible) is almost always necessary. It is important to note that since 2001 the government's immigration policy has been so unpredictable and aggressive that any action deemed illegal can trigger potential deportation. Please share helpful information with NWTRCC.

Living Abroad

See the Federal Tax Law quoted above regarding the reporting of information to the Department of Treasury. The government has a high priority on making sure U.S. citizens are not living abroad to avoid paying U.S. taxes.

According to IRS regulations (and unlike most other countries), United States citizens living abroad are required to file annual U.S. income tax returns and must report their worldwide income if they meet the minimum income filing requirements for their filing status and age (generally the same as if you lived in the U.S., see irs.gov for details). Taxpayers can choose each tax year to take the amount of any qualified foreign taxes paid or accrued during the year as a foreign tax credit or as an itemized deduction. You can change your choice for each year's taxes.

Therefore, U.S. citizens living abroad have the opportunity to choose whether and how they participate in war tax resistance if they file and or intentionally choose not to file.

Tighter law and citizenship: It is getting more difficult to hide from the IRS. U.S. citizens with accounts abroad are supposed to file a form if the total of all their accounts tops \$10,000 anytime during a year (interest gained is supposed to be reported anyway), and there are hefty fines for ignoring these rules. For larger amounts held outside the U.S. (seems to be about a \$50,000 threshold), Congress passed the Foreign Accounts Tax Compliance Act in 2010, requiring foreign banks to report accounts (bank, retirement, mutual funds, etc.) held by American

citizens. More than 70 countries have agreed. (See irs.gov or other websites, or consult a local expert for exact guidelines.) The wealthy are the main targets of increased U.S. enforcement of tax laws abroad, but it's important to be aware that anyone can get caught in the net.

One repercussion of the 2010 law is a jump in the number of people renouncing U.S. citizenship from a decades-long average of 500 to nearly 3,000 in 2013.

One thing leads to another. The spike in renunciation of citizenship applications led the State Department to announce a huge increase in the fee it charges to process these applications. On September 12, 2014 the cost jumped from \$450 to \$2,350. The State Department said that the process to officially give up a U.S. passport is lengthy, involving two interviews to make sure the individual understands the consequences of this action. ("Renunciation" is distinguished from "relinquishing" citizenship, which involves no fee. Anyone considering these options should refer to documents available online or to U.S. Consulates around the world.)

Most who renounce citizenship have already established residency in another country. For many in our network the move may have had political motivations, including not wanting to pay such a high percentage of taxes to the U.S. war machine.

Another choice involves thinking beyond states and renouncing U.S. citizenship to live stateless within the U.S. Without a social security number, employment is challenging. Without a passport, travel abroad is impossible, but the arguments for rejecting the state are powerful. For the perspective of someone in the war tax resistance network on this topic, see *The Sovrien: An Exploration of the Right to be Stateless*, by Clark Hanjian, <https://sites.google.com/site/clarkhweb/home/sovrien-clark-hanjian-stateless>.

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