

RELEASE IN PART
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September 8, 2010

The Honorable Hillary Rodham Clinton
Secretary of State
U. S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Hillary:

I apologize for intruding into your enormously critical, busy and pressured schedule. But this is a matter of great personal importance to me and hopefully will help prevent clearly avoidable mischief impacting counselor employees of the Argentine Republic, and perhaps others. In this instance the matter at hand involves my dear friend [redacted] has for many years served as [redacted]
[redacted]

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I am not here acting as an attorney but only as [redacted] friend and as an interested and concerned citizen.

Enclosed is a copy of Andrew Bernknopf's letter addressed jointly to Ambassador Vilma Martinez at the Embassy of the United States in Argentina and The Honorable D. Héctor Marcos Timerman, the newly installed Foreign Minister of the Argentine Republic. Andrew (and his firm) are among the most prestigious tax lawyers in the country and represent [redacted]

Here, for your convenience, is a summary of the situation as briefly as I can put it:

1. [redacted] is and has been employed by the Foreign Ministry of Argentina for some 25 years. [redacted]
[redacted] When he was first posted to the United States in 1988 [redacted], he was not a permanent resident of the United States.

2. Since 1853 there has been a Treaty of Friendship, Commerce and Navigation between Argentina and the United States ("Treaty"). Article 11 of the Treaty provides, in pertinent part (and in the somewhat arcane language of that time), that:

" The Diplomatic Agents and Consuls of the Argentine Confederation shall enjoy, in the

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territories of the United States, whatever privileges, exemptions and immunities are, or shall be, granted to agents of the same rank, belonging to the most favored nation; and, in like manner, the Diplomatic Agents and Consuls of the United States, in the territories of the Argentine Confederation, shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions and immunities are, or may be, granted in the Argentine Confederation to the Diplomatic Agents and Consuls of the most favored nation."

3. Accordingly, pursuant to the Treaty, employees of Consulates of Argentina were exempt from tax on their foreign source income - - until now.

4. In 1990, [] being advised that it would not affect his tax situation in this country, applied for and received a green card. His engagement by and services for the Argentine Republic were not affected thereby.

5. Reasonably and understandably believing that he was exempt from federal taxation on his foreign service income, [] has not paid United States income taxes on such income to date.

6. Some time in 2006 the Internal Revenue Agent (stationed in Puerto Rico) who evidently has jurisdiction in this area, reversed the position of the Internal Revenue Service, which had been unchanged for well over a century. His action was taken, despite the IRS letter dated March 27, 1995 (exemption confirmed by IRS to Argentine Embassy) and Revenue Ruling 75-425¹ (confirming exemption). Until the recent IRS action, employees of the Argentine Consulates acted in reliance on what the Treaty, regulations and law previously were understood to provide.

7. In March of this year, the State Department issued a certification pursuant to IRC 5893(a) that American employees at the Embassy and Consulates in Argentina and administrative and technical staff were exempt from taxation in Argentina so long as they were not permanent residents of Argentina when hired. That is the predicate for equal treatment of Argentine employees at the Embassy and Consulates of Argentina in the United States. A copy is attached to the Bernknopf letter (which also questions whether such a certificate is even necessary to effectuate the terms of the Treaty).

¹ Copies of IRS letter dated March 27, 1995 and Revenue Ruling 75-425 are attached to the Bernknopf letter.

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8. The tax exposure to [redacted] (as it may be to other consular employees of the Republic of Argentina in America) is horrendous, distressing, and could not be foreseen. It is unjust and inappropriate.

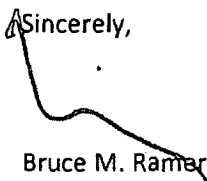
9. The "easy" cure for this inequity is a bilateral agreement between the United States of America and the Republic of Argentina correcting and clarifying the situation. We understand that similar agreements have recently been entered into between the United States and each of Germany, the United Kingdom and Spain.

In conclusion: we ask that such a bilateral agreement be promptly entered into between the United States and Argentina in order to correct this horrendous situation, as requested in the Bernknopf letter. I ask for your leadership and support of that solution.

I convey my warmest personal regards. To be clear, I am not writing this letter in any way on behalf of any organization, including the American Jewish Committee with which, as you may recall, I have long been active.

My deepest appreciation for your assistance.

With highest respect and admiration.

Sincerely,

Bruce M. Ramer

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Encl.

cc: The Honorable Vilma Martinez
Foreign Minister D. Héctor Marcos Timerman
[redacted]
Andrew Bernknopf, Esq.

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