FACTCOALITION

Financial Accountability & Corporate Transparency

FACT Sheet: Foreign Account Tax Compliance Act (FATCA)

Every year, your employer, bank, the Social Security Administration, and anyone holding or investing your savings, sends you and the Internal Revenue Service (IRS) information about your accounts. This is a long-standing U.S. practice that combines patriotism and accountability and has created a culture of tax compliance.

However, for U.S. citizens living abroad and wealthy individuals with accounts in foreign banks, there was little accountability. While most Americans with foreign bank accounts paid the taxes they owed, some did not. For those, FATCA was passed.

What FATCA Does

- FATCA requires foreign banks and other foreign financial institutions with accounts for U.S. clients to disclose to the IRS certain information about those accounts.

- FATCA applies to wealthier individuals. There are no additional individual reporting requirements on foreign bank accounts with less than $200,000 ($400,000 for couples) for those living abroad. For individuals living in the U.S., the thresholds is for offshore accounts with $50,000 ($100,000 for couples). For banks, the reporting threshold is $50,000 for individual accounts and $100,000 for couples.[1]

- If institutions do not comply, the U.S. can withhold 30% of the foreign banks' U.S. income.[2]

What FATCA Does NOT Do

- FATCA does not impose any new tax on anyone, here or abroad. The taxes are already owed. FATCA disclosures are simply an accountability mechanism to make it harder to cheat.

- FATCA does not impose significant new reporting requirements on bank customers. In fact, many people who have foreign bank accounts have been required to disclose those accounts since 1998, more than ten years before FATCA was adopted.

- FATCA imposes no new reporting requirements on U.S. banks. In fact, it helps level the playing field for U.S.-based institutions since they already have to report on customer accounts.

The Purpose of FATCA: Stopping Tax Evasion

Tax evasion from wealthy individuals using a variety of offshore schemes, including hiding assets in foreign bank accounts, robs the U.S. Treasury of an estimated $35 billion[3] to $70 billion[4] per year.

Documents from one Swiss bank alone described 52,000 U.S. client accounts that hadn't been reported to the IRS.[5] Under a voluntary IRS offshore disclosure program, over 100,000 individuals have admitted

[1] "Summary of FATCA Reporting for U.S. Taxpayers". *Internal Revenue Service*. November 7, 2016 (accessible at https://www.irs.gov/businesses/corporations/summary-of-fatca-reporting-for-u-s-taxpayers).

[2] "FATCA Information for Foreign Financial Institutions and Entities". *Internal Revenue Service.* May 31, 2016 (accessible at https://www.irs.gov/businesses/corporations/information-for-foreign-financial-institutions).

[3] Zucman, Gabriel. "The Hidden Wealth of Nations: The Scourge of Tax Havens". Chicago, IL: *University of Chicago Press*, September 22, 2015 (accessible at http://www.press.uchicago.edu/ucp/books/book/chicago/H/bo20159822.html).

[4] Guttentag, Joseph, and Reuven Avi-Yonah. "Closing the International Tax Gap." In *Bridging the Tax Gap: Addressing the Crisis in Federal Tax Administration*, edited by M. B. Sawicky, 99-110. Washington, D.C.: Economic Policy Institute, 2006.

[5] "A 2nd inquiry hits UBS, now pressed for 52,000 names". *New York Times*. February 20, 2009 (accessible at http://www.nytimes.com/2009/02/20/business/worldbusiness/20iht-ubs.4.20337966.html).

having offshore accounts and paid back taxes and penalties exceeding $10 billion.[6]

FATCA is simply about accountability. It requires foreign banks to provide information on U.S. accounts so that all taxpayers are held equally responsible for paying the taxes we owe.

FATCA Is Not Unique in the World

When the law was first passed, some protested that no other country required this type of disclosure. That is no longer true. As of April 2017, 100 jurisdictions have now committed to share bank account information to combat tax evasion on terms almost identical to FATCA.[7] So even if FATCA were repealed, banks around the world would have to report account information to other countries. FATCA is quickly becoming the global norm for combating offshore tax evasion by wealthy individuals using foreign bank accounts.

FATCA Is Not Blocking Citizens from Getting Banking Services

While, several years ago, some foreign banks did close accounts held by Americans or stopped opening new accounts for Americans in order to avoid FATCA's compliance requirements, there appears to be no country in which Americans are unable to find banking services. Today, thousands of foreign banks have made the changes needed to comply with FATCA and the OECD information exchange model, and are fully equipped to handle American clients. One hundred and thirteen jurisdictions have entered into FATCA agreements with the U.S.[8], and 100 countries have committed to FATCA-style information exchanges, which means Americans are no longer of special concern.

Citizens Are Not Leaving in Droves Because of FATCA

According to the U.S. State Department, 9 million U.S. citizens live abroad.[9] The number of people who denounce their citizenship each year is minimal, approximately .05% (less than one tenth of one percent) in 2015. There is little beyond anecdotal evidence to suggest that even that tiny percentage is uniformly leaving because of FATCA.

FATCA Does Not Violate Privacy Laws

Some countries have laws limiting financial institutions from sharing account information without the customer's written consent. As a result, the United States has negotiated agreements with their governments to ensure that those banks can make FATCA disclosures without violating any law[10], and some foreign banks are requesting that consent directly from their American clients – clients who should be reporting this information to the IRS already.

Tax Evasion Is a Serious Crime and the Victims Are Honest Taxpayers.

We are the ones that have to pay the bill, when other taxpayers shirk their civic responsibility. FATCA is not a complicated law. It simply ensures that all U.S. taxpayers operate under the same transparency requirements when it comes to their financial accounts, and that all are held equally accountable for paying the taxes they owe.

For more information, please contact Clark Gascoigne at cgascoigne@thefactcoalition.org.

[6] "Offshore Voluntary Compliance Efforts Top $10 Billion; More Than 100,000 Taxpayers Come Back into Compliance". *Internal Revenue Service*. October 21, 2016 (accessible at https://www.irs.gov/uac/newsroom/offshore-voluntary-compliance-efforts-top-10-billion-more-than-100000-taxpayers-come-back-into-compliance).

[7] "AEOI: STATUS OF COMMITMENTS (100 jurisdictions have committed)". *Organisation for Economic Co-operation & Development.* April 10, 2017 (accessible at https://www.oecd.org/tax/transparency/AEOI-commitments.pdf).

[8] "Foreign Account Tax Compliance Act (FATCA)". *U.S. Department of the Treasury.* March 29, 2017 (accessible at https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx).

[9] "CA By the Numbers". *Bureau of Consular Affairs*. June 2016 (accessible at https://travel.state.gov/content/dam/travel/CA_By_the_Numbers.pdf).

[10] "Citi FATCA Education Series Session #2". Citibank. 2013 (accessible at: http://www.citi.com/transactionservices/home/about_us/online_academy/materials/docs/fatca_intergovernment.pdf).