



FACTCOALITION

Financial Accountability & Corporate Transparency

April 25, 2017

Member of Congress
U.S. House of Representatives
Washington, DC 20515

RE: Oppose H.R. 2054/S. 869; Protect the Foreign Account Tax Compliance Act (FATCA)

Dear Member of Congress,

We write on behalf of the Financial Accountability and Corporate Transparency Coalition (FACT Coalition) to urge you to oppose H.R. 2054/S. 869. The purpose of this bill is to repeal the Foreign Account Tax Compliance Act (FATCA), an important tool to combat tax evasion by wealthy individuals who fail to report to the Internal Revenue Service (IRS) income related to foreign accounts, as has long been required by U.S. law.

The FACT Coalition is a non-partisan alliance of more than 100 state, national, and international organizations working toward a fair tax system that addresses the challenges of a global economy and promoting policies to combat the harmful impacts of corrupt financial practices.¹

The 2010 law requires foreign banks and other foreign financial institutions holding U.S. client accounts to report certain information about those accounts to the IRS. This is information that those accountholders should already have been reporting but often were not, as shown by a series of offshore tax evasion cases over the years. For example, prior to passage, Switzerland's largest bank, UBS, paid a \$780 million penalty and pled guilty to helping tens of thousands of U.S. clients (who did not disclose their accounts as required by U.S. law) evade U.S. taxes. UBS opened Swiss accounts for these clients without disclosing the accounts to the IRS, as was required under UBS's Qualified Intermediary agreement with the U.S.² To combat that type of misuse of foreign accounts, FATCA created transparency measures that parallel the transparency measures that have long applied to U.S. taxpayers with domestic accounts.

Every year, your employer, your bank, the Social Security Administration, and anyone holding or investing your savings sends you and the IRS information about your accounts. This long-standing U.S. enforcement process combines patriotism and accountability to create a culture of tax compliance. This sensible approach has allowed us to pay for national priorities such as defense, education, and infrastructure. It is a necessary practice that ensures everyone is playing by the rules.

¹ For a full list of FACT members, see: <https://thefactcoalition.org/about/coalition-members-and-supporters/>

² "UBS Enters into Deferred Prosecution Agreement". *U.S. Department of Justice*. February 18, 2009 (accessible at <https://www.justice.gov/opa/pr/ubs-enters-deferred-prosecution-agreement>).

According to the IRS, tax compliance in the U.S. is upwards of 80%.³ Many experts attribute that high rate, in part, to third party reporting requirements that ensure information is shared about taxpayer assets and income.⁴ In contrast, the lack of tax compliance is often cited as one of the leading causes of financial woes in economically struggling nations. We are, as a country, engaged in a robust debate around tax rates, exemptions and structures, but few would argue that a goal of tax reform should be to make it easier to illegally evade taxes. And yet, repealing FATCA would do just that.

FATCA does not impose any new tax on any individual, here or abroad. Put simply, with or without FATCA, U.S. taxpayers with money in foreign banks would still owe taxes — and many were required to disclose their accounts long before FATCA was adopted.⁵ The only difference would be that, if FATCA were repealed, foreign accountholders would be at far less risk of being caught.

FATCA disclosures apply only to wealthier individuals. Additional individual reporting requirements apply only to foreign accounts holding more than \$50,000 for individuals and \$100,000 for joint-filing U.S. residents holding offshore accounts. For those living abroad, the thresholds are more than \$200,000 for individuals and \$400,000 for couples.⁶ For the foreign banks, the reporting requirements are for accounts with more than \$50,000.

FATCA also levels the playing field between U.S. and foreign financial institutions. For years, U.S. financial institutions complied with legal requirements to report account information for U.S. taxpayers to the IRS, while foreign financial institutions did not. Law-abiding U.S. banks were forced to compete against foreign banks that allowed wealthy U.S. clients to open foreign accounts without disclosing them to the IRS. FATCA ended that unfair competition by imposing a meaningful penalty on foreign financial institutions that failed to disclose their U.S. client accounts. Repealing FATCA would reinstate not only the foreign bank secrecy that disadvantaged U.S. banks, but also the secrecy incentives that encouraged wealthy U.S. individuals to move their money and assets offshore.

Opponents of FATCA have sometimes raised concerns regarding the costs of FATCA compliance. In fact, those costs are borne by foreign banks and put them on par with U.S. banks that already bear the same reporting responsibilities and costs. In a letter to Congressional leadership, groups opposed to FATCA wrote that “the global economy would come to a grinding halt” if FATCA-style reporting were adopted more widely.⁷ However, FATCA-style standards are already being put in place by 100 other countries

³ “The Tax Gap: Tax Gap Estimates for Tax Years 2008-2010”. *Internal Revenue Service*. April 4, 2017 (accessible at <https://www.irs.gov/uac/the-tax-gap>).

⁴ Slemrod, Joel. “Tax Compliance and Enforcement: New Research and Its Policy Implications (Working Draft)”. *University of Michigan*. January 16, 2016 (accessible at http://webuser.bus.umich.edu/jslemrod/Tax_Compliance_New_Research_012016.pdf).

⁵ “Report of Foreign Bank and Financial Accounts (FBAR)”. *Internal Revenue Service*. February 27, 2017 (accessible at <https://www.irs.gov/businesses/small-businesses-self-employed/report-of-foreign-bank-and-financial-accounts-fbar>).

⁶ “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>).

⁷ “Coalition of 23 Groups to Congress: Include FATCA Repeal in Tax Reform”. *Center for Freedom and Prosperity*. March 21, 2017 (accessible at http://freedomandprosperity.org/files/2017-FATCA_repeal_coalition_ltr.pdf).

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that, just like the United States, seek to crack down on tax evasion through foreign bank accounts.⁸ The new laws are kicking in this year with those countries unconcerned about any ill effect on the global economy. FATCA-style information exchange is quickly becoming the global norm.

The initial costs to establish new systems to automate FATCA reporting requirements have already been spent and cannot be avoided since, even if FATCA were repealed, foreign banks would still have to comply with the information exchange laws in other countries. The cost savings argument was never about U.S. banks and, now, is less relevant for foreign banks.

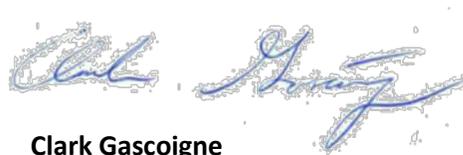
Tax evasion is a serious crime, and the victims are honest taxpayers. Economists estimate that offshore tax evasion by wealthy U.S. individuals robs the U.S. Treasury of between \$35 billion⁹ and \$70 billion¹⁰ each year. As we engage in a broader tax reform debate, we should be focused on closing loopholes and tightening anti-evasion measures, not loosening them.

H.R. 2054/S. 869 takes us in the wrong direction, and we strongly urge you to oppose the bill. We appreciate your consideration of our views. For additional information, please feel free to contact Clark Gascoigne at cgascoigne@thefactcoalition.org.

Sincerely,



Gary Kalman
Executive Director
The FACT Coalition



Clark Gascoigne
Deputy Director
The FACT Coalition

⁸ "AEOI: STATUS OF COMMITMENTS (100 jurisdictions have committed)". *Organisation for Economic Co-operation and Development*. April 10, 2017 (accessible at <https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>).

⁹ 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>).

¹⁰ 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.

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Coalition Members and Supporters

Organizational Members

National/International

ActionAid USA
Americans for Democratic Action
American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)
American Federation of State, County and Municipal Employees (AFSCME)
American Sustainable Business Council
Campaign for America’s Future
Center for Economic and Social Rights (CESR)
Citizens for Responsibility and Ethics in Washington (CREW)
Citizens for Tax Justice
EarthRights International
EG Justice
Enough Project
Fair Share
Fair Share Education Fund
Financial Transparency Coalition
Friends of the Earth U.S.
Global Financial Integrity
Global Witness
Government Accountability Project
Institute for Policy Studies – Program on Inequality and the Common Good
Institute on Taxation and Economic Policy
JPIC Ministry – Missionary Oblates
Jubilee USA Network
Leadership Conference of Women Religious
The Main Street Alliance
National Priorities Project
New Rules for Global Finance
OpenTheGovernment.org
Oxfam America
Pacific Environment
Polaris
Project On Government Oversight (POGO)
Public Citizen
Sargent Shriver National Center on Poverty Law
Service Employees International Union (SEIU)
Small Business Majority
Tax Justice Network USA
U.S. Public Interest Research Group (PIRG)
U.S. Public Interest Research Group (PIRG) Education Fund
U.S. UNCUT

State/Local

Arizona

Arizona Fair Share
Arizona Public Interest Research Group

California

California Fair Share
California/Venezuela Region – Religious Sisters of Charity
California Public Interest Research Group
Jubilee Bay Area
Main Street Alliance of California

Colorado

Colorado Fair Share
Colorado Main Street Alliance
Colorado Public Interest Research Group

Connecticut

Connecticut Fair Share
Connecticut Public Interest Research Group

Delaware

Delaware Americans for Democratic Action (Delaware ADA)

Florida

Florida Fair Share
Florida Public Interest Research Group
Main Street Alliance of Florida

Georgia

Georgia Fair Share
Georgia Public Interest Research Group

Idaho

Idaho Main Street Alliance

Illinois

Citizen Action / Illinois Illinois Fair Share
Illinois Public Interest Research Group

Iowa

Iowa Citizen Action Network
Iowa Citizens for Community Improvement

Iowa Fair Share
Iowa Farmers Union
Iowa Main Street Alliance
Move to Amend – Iowa Chapter

Kentucky

Kentucky Fair Share

Minnesota

Main Street Alliance of Minnesota
Minnesota Fair Share

Maine

Maine Small Business Coalition

Maryland

Maryland Fair Share
Maryland Public Interest Research Group

Massachusetts

Massachusetts Fair Share
Massachusetts Public Interest Research Group

Michigan

Michigan Fair Share
Michigan Public Interest Research Group

Missouri

Missouri Public Interest Research Group

Montana

Montana Fair Share
Montana Small Business Alliance

Nevada

Nevada Fair Share

New Hampshire

New Hampshire Fair Share
New Hampshire Public Interest Research Group

New Jersey

New Jersey Main Street Alliance
New Jersey Public Interest Research Group

New Mexico

New Mexico Public Interest Research Group

North Carolina

Fair Share in North Carolina
North Carolina Public Interest Research Group

North Dakota

North Dakota Fair Share

Ohio

Ohio Fair Share
Ohio Public Interest Research Group
Main Street Alliance of Ohio

Oregon

Jubilee Oregon
Main Street Alliance of Oregon
Oregon Fair Share
Oregon State Public Interest Research Group

Pennsylvania

Pennsylvania Fair Share
Pennsylvania Public Interest Research Group
SEIU Local 668, Pittsburgh, PA
UFCW Local 23, Western PA

South Carolina

South Carolina Small Business Chamber of Commerce

Texas

Texas Fair Share
Texas Public Interest Research Group

Vermont

Main Street Alliance of Vermont

Virginia

Virginia Fair Share
Main Street Alliance of Virginia

Washington (State)

Main Street Alliance of Washington
Washington Public Interest Research Group

Wisconsin

Wisconsin Fair Share
Wisconsin Public Interest Research Group

Individual Supporters

Eileen Appelbaum, Senior Economist, Center for Economic and Policy Research
Dean Baker, Co-Director, Center for Economic and Policy Research
Elise J. Bean, former Staff Director and Chief Counsel of the U.S. Senate Permanent Subcommittee on Investigations
William K. Black, Assoc. Professor, Economics & Law, University of Missouri – Kansas City
Charles Davidson, Executive Director, Kleptocracy Initiative, Hudson Institute
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