



Unintended Consequences: The REAL Impact of the Foreign Account Tax Compliance Act

FATCA, THE FOREIGN ACCOUNT TAX COMPLIANCE ACT, PASSED IN MARCH 2010, TARGETS THOSE WHO EVADE PAYING TAXES BY HIDING ASSETS IN UNDISCLOSED FOREIGN BANK ACCOUNTS

- Requires Foreign Financial Institutions (FFI) to provide annual reports to the IRS, starting January 1, 2013, on the account balances and total debits and credits of any account owned by a U.S. person. The U.S. will impose a 30% withholding tax on all U.S. source transfers to non-complying FFIs
- Requires American citizens who have financial assets held by an FFI with a value in excess of \$50,000 to complete a new Form 8938 to be filed with their 2011 tax return
- Requires any non-listed foreign company or foreign partnership with 10% U.S. person ownership to report to the IRS

FATCA NEGATIVELY IMPACTS THE ECONOMIC INTERESTS OF THE U.S., REDUCES JOB GROWTH AND DECREASES EXPORTS

- Faced with the reporting demands imposed on an FFI by FATCA and the fear that it might be deemed "non-complying" and penalized 30% of its US sourced income, many FFIs and their clients may decide to liquidate all U.S. investments. For instance, in its submission to Treasury on FATCA regulations, the Japanese Bankers Association stated very clearly: *"In the event that the implementation of FATCA is not practically feasible for the Japanese financial services industry, it would result in substantial confusion in the industry and could ultimately lead the Japanese financial institutions to withdraw their investment from U.S. financial assets."*
- Risks backlash and reciprocal laws from foreign governments
- Creates a major handicap for U.S. businesses in establishing foreign banking accounts for exports
- Cuts American businessmen off from entrepreneurial business opportunities with foreigners

FATCA PENALIZES AMERICAN CITIZENS RESIDING OVERSEAS AND BLOCKS BANKING ACCESS

- Many FFIs are already refusing Americans as clients; this trend will accelerate as the deadline approaches, yet Americans cannot operate in a modern economy without access to foreign banks. Many Americans living abroad have already had difficulty maintaining US financial accounts in the absence of a bona fide address in the United States
- Compliance will be time-consuming and costly due to the complexity of the new law and the difficulty in determining what must be reported
- Penalties for incorrect filing are excessively harsh, even confiscatory and discriminatory

OAW RECOMMENDS

- Repeal FATCA or issue a rulemaking that specifies the following:
 - o Exclude U.S. citizens who are bona fide residents abroad from FATCA reporting
 - o Increase the threshold for an individual's reporting to \$200,000, not \$50,000, as FATCA reporting includes life insurance contracts and pension funds as well as bank accounts, or maintain the \$50,000 threshold, but exclude the reporting requirement on life insurance policies and pension funds
 - o Increase the reporting requirement threshold for foreign corporations and partnerships to 50% ownership by a U.S. person, not 10%
 - o Institute an independent cost/benefit audit of FATCA's impact on the IRS, Treasury and the U.S. economy



contact@aaro.org
www.aaro.org



USLiaison@fawco.org
www.fawco.org



www.AmChamMENA.org
MENA@amcham.org.eg

American Citizens Abroad
The Voice of Americans Overseas

Info.aca@gmail.com
www.americansabroad.org