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Actor John Malkovich Wins Libel Suit Over False Tax Story, As FATCA Disclosures Continue

Actor [John Malkovich](#) has won a lawsuit against the French daily paper *Le Monde* over the paper's false reports claiming that he had a secret Swiss bank account. In February 2015, *Le Monde* falsely wrote that Malkovich had an account with HSBC's Swiss private banking arm. Lawsuits are not easy, and libel suits in particular are notoriously hard to win, especially for someone in the public eye. Yet a French court has now ordered *Le Monde* and two of its reporters, Gerard Davet et Fabrice Lhomme, to pay Mr. Malkovich €14,000 in fines and damages.

That is a small amount of money compared to the cost, inconvenience, and uncertainty of collecting it. In that sense, Malkovich is to be commended for going after the paper to clear his name. It may also be a sign of the times. Being accused of having a secret offshore bank account could draw public ire, even if the accusation is untrue. At the time he filed suit, Malkovich's Paris attorney Herve Temime said that his client blamed *Le Monde* for "the considerable damage inflicted on his honor" in linking him to an alleged HSBC tax evasion scheme. The lawyer said Malkovich was "profoundly shocked that his name could be denounced this way."



John Malkovich arrives at the LA premiere of "Red 2" at the Westwood Village on Thursday, July 11, 2013, in Los Angeles. (Photo by Jordan Strauss/Invision/AP)

Hidden accounts are now nearly universally decried. Revelations from the Panama Papers also make clear that no one wants to be called a tax cheat. Much of the current culture of transparency dates to 2009. The offshore banking industry was roiled by the IRS investigation of UBS. In 2009, UBS admitted that it had helped tens of thousands of Americans evade U.S. taxes. UBS paid a \$780 million fine and named names. Then, many thousands of Americans stepped forward to the IRS to pay taxes, penalties and interest on previously undisclosed accounts.

This was a sea change in how offshore banking worldwide was done for generations. And it led to other changes too, none more dramatic than [FATCA](#), the Foreign Account Tax Compliance Act. This massive U.S. law was enacted in 2010, and it has been painstakingly implemented worldwide by President Obama's Treasury Department. It now spans the globe with a network of reporting that is unparalleled in the world. America is requiring foreign banks and governments to hand over secret bank data about depositors. Non-U.S. banks and financial institutions around the world must reveal American account details or risk big penalties.

Offshore banks that do not hand over Americans are withholding at 30% on most transactions. Non-compliant institutions are frozen out of U.S. markets, so there is little choice but to comply. FATCA cuts off companies from access

to critical U.S. financial markets if they fail to pass along American data. More than 100 nations have agreed to the law. Countries must agree to the law or face dire repercussions. FATCA also helped fuel efforts by the OECD to adopt Common Reporting Standards for nations around the world.

The [IRS has warned offshore account holders to disclose before it's too late](#). Under FATCA, banks everywhere want to know [if you are compliant with the IRS](#). The cost of compliance for many people is growing. The IRS has a [list of foreign banks](#) where accounts trigger a 50% (rather than 27.5%) penalty in the IRS's long-running Offshore Voluntary Disclosure Program ([OVDP](#)). It remains the safest program, with amnesty even for willful acts. But for those with the right facts, the IRS [Streamlined program](#) is simpler and less costly.

The Panama Papers also come on the heels of the [IRS getting power to revoke passports](#). Travel would be tough if [your passport is cancelled because you owe the IRS](#). A new section 7345 was added to the tax code by [H.R. 22](#), calling for "Revocation or Denial of Passport in Case of Certain Tax Delinquencies."

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