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FATCA Makes Banks Shut Out Americans

Whatever your view on the IRS, it's hard not to be impressed by its foray into global reporting, disclosure, and withholding. After U.S. actions against UBS and others, the IRS began a compliance push like no other. In addition to record victories, the IRS has mounted several successive voluntary disclosure programs to net global income and transparency. See [New IRS Offshore Amnesty Announced: Third Time's A Charm](#).



Image via stltoday.com

The [third IRS program](#) is still underway. It turns out many American citizens and permanent residents were not filing U.S. tax returns or were not reporting their worldwide income. Like it or not—and many do not—the only way to reliably fix the situation and avoid exposure to even worse IRS penalties and possibly even jail is to join the IRS program. See [“Quiet” Foreign Account Disclosure Not Enough](#).

There are many nuances to observe. See [Primer For First Time FBAR Filers](#). But an even bigger development was [FATCA](#), the Foreign Account Tax Compliance Act enacted in 2010. FATCA requires foreign banks to report U.S. account holders to the IRS. After identifying U.S. account

holders, the institutions must impose a 30% tax on payments or transfers to account holders who refuse to identify themselves.

To avoid withholding, an institution must enter into an agreement with the IRS to:

- Identify U.S. accounts;
- Report certain information to the IRS regarding U.S. accounts; and
- Withhold a 30% tax on certain payments to non-participating foreign financial institutions and account holders unwilling to provide the required information.

Foreign institutions that don't sign an IRS agreement will face withholding on U.S.-source interest and dividends, gross proceeds from the disposition of U.S. securities, and pass-through payments. The law has rankled many in the international community, reaching the long arm of the IRS into foreign countries. See [Stripping FATCA From Our Diet](#). In effect, it orders foreign institutions to do the IRS's dirty work. See [Expats Call For FATCA Repeal](#).

That view seemed to threaten the law. See [Are Expats Derailing The FATCA Express?](#) But now FATCA looks secure with [5 nations joining U.S. in tax evasion crackdown](#). Still, some Americans feel the squeeze. Many Americans are finding it difficult to open legitimate new accounts abroad and facing closure of old ones based on their nationality. See [Swiss Expats Caught in Middle of U.S. Tax Conflict](#).

American Citizens Abroad complains that expatriates face an impossible position. See [ACA recommendations for fundamental reform of U.S. tax laws affecting bona fide overseas residents: No. 1 – An alternative to citizenship-based taxation with major economic advantages for the U.S.](#) and [No. 2 – 11 proposals for tax reforms required and applicable within the framework of citizenship-based taxation](#). The IRS has done a good job of delaying FATCA's implementation. See [Fat New Regs Trim FATCA Down to Size](#). Yet a successful repeal effort seems unlikely. Still, don't expect to see everyone embrace FATCA anytime soon.

For more, see:

[Despite FATCA, FBAR Penalties Still Under Fire](#)

[Fat New Regs Trim FATCA Down to Size](#)

[5 Nations Join U.S. In Tax Evasion Crackdown](#)

[Will IRS Get Fat Off FATCA?](#)

[Are Expats Derailing The FATCA Express?](#)

[IRS: Expect Even More Transparent Foreign Accounts](#)

[Happy FATCA Filing Season](#)

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