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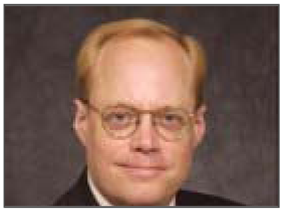

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# FATCA Makes Foreign Banks Report Americans

FATCA—the Foreign Account Tax Compliance Act—generally takes effect in 2013 and the IRS will start penalizing foreign banks in 2014 for failing to comply. The law was enacted in 2010 but remains in the ramp-up phase. Yet foreign banks and governments are on board and more of the law is being applied right now. See 5 nations joining U.S. in tax evasion crackdown.


A man withdraws cash from an ATM of French bank BNP Paribas in Bailleul, France, on Nov. 3, 2011. (Image credit: AFP/Getty Images via @daylife)

**Institutional Reporting.** FATCA requires foreign banks to report U.S. account holders to the IRS. After identifying them, institutions must impose a 30% tax on payments or transfers to any who refuse to step up. Foreign financial institutions (FFIs) must file IRS reports by September 30, 2014.

At first, FFIs must report account numbers, balances, names, addresses, and U.S. taxpayer identification numbers. For U.S.-owned foreign entities, they must report the name, address, and U.S. TIN of each substantial U.S. owner.

U.S. persons living abroad may feel caught in the crosshairs of the U.S. war on undisclosed foreign accounts and income. See Are Expats Derailing The FATCA Express? Many Americans already can't open legitimate new accounts abroad and face closure of old ones. Mortgages are being denied or called, and the squeeze is getting worse. American Citizens Abroad complains that expatriates face an impossible position merely based on their nationality.

On top of annual FBAR TD F 90-22.1 filings for foreign accounts and reporting worldwide income on your taxes, FATCA's Section 6038D requires U.S. taxpayers to report foreign accounts and assets with an aggregate value exceeding $50,000. Required reporting includes:

- Any financial account maintained by an FFI;
- Any stock or security issued by a non-U.S. person;
- Any financial interest or contract held for investment that has a non-U.S. issuer or counterparty; and
- Any interest in a foreign entity. That means taxpayers who purchase foreign real estate through an entity are covered by FATCA as well.

The IRS and Treasury Department are phasing in FATCA to smooth out a bumpy road. See Fat New Regs Trim FATCA Down to Size. Notice 2011-53 is the third guidance on FATCA. The latest is Announcement 2012-42 setting out more timelines. See As Foreign Banks Brace For FATCA, You Should Too.

If you aren't in compliance with these rules, it's time to address them. Global banking transparency is coming very soon.

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