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IRS Nets Offshore Data From 77,000 Banks, 70 Countries In FATCA Push

An astounding 77,000 banks and financial institutions—even some in Russia—have registered under [FATCA](#)—the Foreign Account Tax Compliance Act. America’s global tax law requires foreign banks to reveal American accounts holding over \$50,000. Non-compliant institutions could be frozen out of U.S. markets, so everyone is complying. The fact that 77,000 banks have registered and some 70 countries are providing government help to the IRS means almost no foreign account is secret.


And as the scramble of U.S. persons with accounts gets into high gear, the IRS has published a searchable list of financial institutions. See [FFI List Search and Download Tool](#); plus a [User Guide](#). Countries on board are at [FATCA – Archive](#). With Swiss bank deals, prosecutions, summonses, and now FATCA, the IRS has quicker, better and more complete information than ever.

Foreign Financial Institutions (FFIs) must report account numbers, balances, names, addresses, and U.S. identification numbers. There is 30% withholding on anyone who doesn’t report. With teeth like never before, Americans must report [worldwide income](#) and many must file IRS [Form 8938](#) to report foreign accounts and assets.

HIDING UNDECLARED INCOME OFFSHORE?
WE ARE CLOSING IN ON YOU.

New international agreements will let us see more information about your overseas accounts. If you've declared all your income you have nothing to worry about. But if you haven't, and we catch you, you'll have to pay your undeclared tax, a penalty of up to double the tax you owe and you could even go to prison.
So come to us before we come to you.

For more information go to hmc.gov.uk/offshoredisclosure

 HM Revenue & Customs

(Photo credit: HM Revenue & Customs)

Separately, U.S. persons with foreign bank accounts exceeding \$10,000 must file an FBAR by each June 30. Tax evasion can mean five years in prison and a \$250,000 fine. Filing a false return can mean three years and a \$250,000 fine.

FBAR failures can mean fines up to \$500,000 and prison up to ten years. *Non-willful* civil FBAR violations mean a \$10,000 fine. Willful FBAR violations can draw the greater of \$100,000 or 50% of the account for each violation (and each year is separate). The numbers add up fast, exceeding the 27.5% Offshore Voluntary Disclosure Program penalty, as reported here: [Court Upholds Record FBAR Penalties, Exceeding Offshore Account Balance.](#)

The ink is hardly dry on Credit Suisse's guilty plea to U.S. tax charges. But the penalty must still smart. The bank agreed to a record \$2.6 billion fine for actively helping Americans hide money to avoid taxes.

With UBS, Credit Suisse and a dozen banks still under criminal investigation by the Justice Department, that is only a drop in the international bucket. And more banks are lining up, causing many account holders to wonder [What To Say When \(Not If\) Your Offshore Bank Asks, 'Are You Compliant With IRS?'](#)

Already, more than 40,000 account holders have participated in the IRS program, and the smart money suggests resolving any unresolved issues. U.S. account holders who aren't compliant have limited time to get to the IRS before names are disclosed. And it's clear that the IRS' preferred choice is for account holders to go into the Offshore Voluntary Disclosure Program, also known as the [OVDP](#).

It involves reopening up to 8 tax years, and paying taxes, interest and penalties, but no prosecution. It is a good deal compared to the alternatives, but some account holders balk at the penalty that equals 27.5% of the highest balance in the offshore accounts. Some people are willing to pay the taxes they owe, but not the 27.5% penalty.

As a result, some people want to amend their taxes and file FBARs outside the OVDP. The IRS calls this a "[quiet disclosure](#)" and [IRS Hunts Quiet Disclosures, First Time FBARs](#). That might mean prosecution or large civil FBAR penalties.

The safest choice is the IRS [OVDP](#) program. For some, though, one of the forms of relief provided in the IRS frequently asked questions may be available. After all, the [IRS Gives Big Break To Some Offshore Account Holders](#).

FATCA is making banking transparent virtually worldwide. In fact, with the help of the U.S. Congress and the U.S. Department of Justice, arguably, the IRS should have a new slogan: Today Switzerland, Tomorrow the World.

Contact me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.