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Panama Papers Expose Celebs, Politicians, Billionaires With Offshore Tax Havens Despite FATCA

The Panama Papers–the biggest leak of financial data in history–has blown the lid off offshore tax havens, again. This time, those in the limelight include twelve current or former world leaders, many celebrities, and wealthy persons who are using offshore tax havens to hide their wealth. In scope, this is bigger than Edward Snowden's leak, with billionaires outed for stashing and hoarding offshore wealth. The Panama Papers is part of a leak of 11 million files, even implicating Russian president Vladimir Putin's inner circle, as well as high-placed Brits.

From a law firm in Panama, the data came to *Suddeutsche Zeitung* in Germany from an anonymous source, which shared it with the International Consortium of Investigative Journalists. A good summary of names and details can be found here: billionaires and celebs exposed by the Panama Papers. The bombshell comes at a curious time, when talk of tax havens now is oddly turning to America. America? Yes, ironically, numerous reports say that the world's favorite tax haven is the United States.

FATCA, the Foreign Account Tax Compliance Act, was enacted in 2010, and 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.

Given the IRS fixation on that topic, you might *assume* the U.S. would join in, but it has not. 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 seems hardly controversial, but what 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." The idea goes back to 2012, when the Government Accountability Office reported on the potential for using passports to collect taxes.

Now that it has become law, the State Department will start blocking Americans with 'seriously delinquent' tax debts. That means anyone the IRS certifies as having a seriously delinquent tax debt in an amount in excess of $50,000. Administrative details about how it will be administered remain scant. Yet it could mean that the State Department will rescind existing passports of people who fall into that category. No trip to Panama, it seems.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.