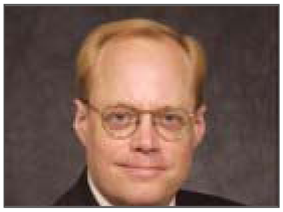
Forbes



Robert W. Wood

THE TAX LAWYER

Feb. 14 2013

US And Switzerland Sign New FATCA Agreement

FATCA—the Foreign Account Tax Compliance Act—was passed in 2010 but only now is ramping up. Recently, a whopping 500 plus pages of Treasury Final Regulations are keeping tax lawyers and compliance officers busy. Now, yet another agreement has been signed tightening FATCA's grip. Switzerland, one time home of the secret bank account, has signed a bilateral agreement with the US government "to Improve Tax Compliance, Combat International Tax Evasion and Implement FATCA."

BERLIN, GERMANY - JULY 16: The Swiss flag flies over the Swiss Embassy as the German flag flies over the Reichtsag behind on July 16, 2012 in Berlin, Germany. Authorities in the German state of North Rhine-Westphalia announced recently that they had bought a data CD containing the names of 1,000 German citizens who are using a Switzerland-based bank to evade paying taxes in Germany. The announcement is not the first instance of German tax authorities buying similar CDs, and as a consequence of the incidents Germany and Switzerland have reached an agreement over the assets of German citizens deposited in Swiss banks, though the agreement has not yet become law. (Image credit: Getty Images via @daylife)

While inking the deal is no surprise, it's one more sign that FATCA is a steam roller. Switzerland is one of eight countries that signed or initialed intergovernmental agreements which implement FATCA. The U.S. initialed an agreement with Italy on January 24. Norway has joined the U.K., Mexico, Denmark, Ireland, Switzerland, and Spain with signed or initialed agreements. The U.S. is working with 50 countries to curtail offshore tax evasion, and more signed agreements are expected soon. See U.S. Is Doing FATCA Deals With 50 Countries!

Institutional Reporting. Information reporting and withholding is the heart of FATCA. At first, Foreign financial institutions (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. After identifying U.S. account holders, institutions must impose a 30% tax on payments or transfers to any who refuse to step up. FFIs must file IRS reports by September 30, 2014.

The Final Regulations include a step-by-step process for U.S. account identification, information reporting, and withholding by FFIs. Under one type of agreement, FFIs can report FACTA data to their own governments who then exchange information with the IRS. Under the second type of agreement, FFIs must register with the IRS and report FATCA data directly. Either way, the IRS receives information about U.S. account holders. See the FATCA page at IRS.gov.

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. Bottom line? Global banking transparency is coming very soon.

Robert W. Wood practices law with Wood LLP, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 Supplement, Tax Institute), he can be reached 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.