

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is an extra-territorial U.S. law which demands that all financial institutions in the world report to the IRS what should be the confidential account information of millions of people that the U.S.A. classifies as U.S. persons, even though they may reside in a country outside of the U.S.A. and hold dual citizenship with that country.

Under U.S. law, U.S. persons are also U.S. taxpayers and must report all income earned in their country of residence, even when they have no U.S. source income and hold no U.S. assets. This is called citizenship-based taxation (CBT) and the U.S.A. is the only country in the world which uses this system (except for a tiny country in Africa called Eritrea).

Who is a U.S. person?

A U.S. person can be a U.S. citizen, a green card holder or a citizen of another country who has a connection to the U.S.A.

Here's how you may have a U.S. connection while living outside of the U.S.A.:

- * born in the U.S.A.
- * born outside the U.S.A. with one or two American parent(s)
- * lived in the U.S.A. for a number of years
- * visited too long in the U.S.A. in any given year
- * married to a U.S. person
- * share signing authority on an account with a U.S. person

Chances are very good that you or someone you know is a U.S. person. That means FATCA affects you personally. You may never have lived, worked or even visited in the U.S.A. and you may never have held a U.S. passport or a green card but you could still be a U.S. person.

What information will FATCA collect?

FATCA requires financial institutions to report annually the identifying numbers on your accounts, the amounts held in your accounts and your account transactions. This reporting does not determine the amount of U.S. tax you might owe because taxes are paid on the income earned from your accounts but FATCA collects all this account information anyway. If you have signing authority on any other accounts (e.g. a joint account with your non-U.S. spouse) then FATCA demands that the same information be relayed to the IRS on those accounts too. These reports go beyond what financial institutions within the U.S.A. provide the IRS. Some degree of financial privacy is awarded to U.S. persons living inside the U.S.A. but not outside.

What will the U.S.A. do with all that information?

The IRS is authorized to hand over the information collected from FATCA compliant financial institutions to a myriad of other U.S. agencies such as the NSA.

Even though you responsibly pay all taxes owed to the country where you live, if the U.S.A. classifies you as a U.S. person it will add you to its own tax base. FATCA will make sure you cannot fly under the radar of the IRS. If you fail to file or make errors on your U.S. tax returns the IRS will impose costly penalties. This extracts wealth from the country where you live and transfers it to the U.S. Treasury.

If enough countries are bullied into complying with FATCA by signing an inter-governmental agreement (IGA) then the U.S. government will have a database of all the people in the world (and their assets) who have any connection, however slight, to the U.S.A. This is something like the recent NSA scandals where the U.S.A. spied on citizens of other countries. FATCA is spying by forced disclosure of financial information.

Doesn't FATCA apply only to the rich?

NO. FATCA impacts ALL U.S. persons whether they be upper, middle or low income. The thresholds for financial institutions to report on your accounts may seem high today but the IRS can lower them at anytime.

Financial institutions (includes banks, credit unions, insurance companies, brokerages) report your accounts to the IRS and then you file U.S. tax forms. The filing threshold for the information form called FBAR (Foreign Bank Account Report) is only 10,000 USD. This threshold is the total of all your accounts (includes chequing, savings, retirement, investments) – not the value on an individual account. This means that even if your income is low you would likely have to file FBAR forms and you will face stiff penalties – up to 500,000 USD and 5 years in jail – if you fail to do so. The IRS can impose these penalties even if a U.S. person does not have enough income to trigger any U.S. tax. FBARs are just one of many types of forms with potential penalties which may be required.

I'm not a U.S. person. I don't have any connection to the U.S.A. What does FATCA have to do with me?

Under FATCA you are presumed to be guilty until proven innocent. If your local bank suspects you are a U.S. person, it will require that you prove that you are not. You might be considered suspicious if you simply have funds go into your account which came from the U.S.A.

FATCA impacts ALL citizens in ALL countries in three ways:

1. ALL financial institutions worldwide are affected by FATCA so the billions they will spend in compliance costs will be passed along to ALL of their customers through higher fees. The financial institutions do not want the expense and hassle of FATCA compliance but the U.S.A. has threatened them with 30% withholding penalties.
2. Your government will bear the cost of the staff and information systems required to implement FATCA in your country and government expenses affect ALL taxpayers.
3. Existing privacy and anti-discrimination laws will have to be downgraded in your country in order to facilitate FATCA. This means that ALL citizens will have fewer safeguards on their financial privacy.

What can I do if FATCA affects me?

First of all, get as much information on this very complex issue as you can and then share it with as many people as possible. Let your political leaders know how FATCA affects you and what actions you want them to take to protect you. FATCA can be stopped but it will take a concerted effort to do it. Visit these websites:

isaacbrocksociety.ca

maplesandbox.ca

repealfatca.com

americansabroad.org (American Citizens Abroad)

aaro.org (Association of Americans Resident Overseas)

