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Expats Call For FATCA Repeal

Few outside the IRS are fans of [FATCA](#), the Foreign Account Tax Compliance Act. That's especially true of those outside the U.S. It's no surprise that American Citizens Abroad (ACA) has launched a campaign to repeal FATCA, and their paper can be found [here](#). In a [letter](#) to Treasury Secretary Geithner and IRS Commissioner Shulman, the organization claims FATCA works against the interests of the U.S.



Among other claims, ACA says FATCA causes dual-nationals to renounce U.S. citizenship, exacerbates our competitive disadvantages viz. China, and turns American citizens overseas into pariahs. The British Banking Association has called FATCA unworkable, while Japanese and Australian banks have stated they won't comply. Besides, ACA argues, IRS and Justice Department victories against UBS and others makes FATCA no longer necessary for disclosure or tax compliance.

FATCA requires foreign banks to report U.S. account holders to the IRS starting in 2013. After identifying U.S. account holders, the institutions must impose a 30% tax on payments or transfers to account holders who refuse to identify themselves. As [announced](#) by IRS Commissioner Doug Shulman, to soften the blow, the IRS issued [Notice 2011-53](#) to phase in the law. Foreign financial institutions (FFIs) and U.S. withholding agents are given extra time to implement systems to comply.

To avoid withholding, an institution must enter into an agreement with the IRS to:

- Identify U.S. accounts;
- Report certain information to the IRS regarding U.S. accounts; and
- Withhold a 30% tax on certain payments to non-participating FFIs and account holders unwilling to provide the required information.

Foreign institutions that don't sign an IRS agreement will face withholding on U.S.-source interest and dividends, gross proceeds from the disposition of U.S. securities, and pass-through payments.

FATCA vs. FBAR? Separate and apart from FBAR [TD F 90-22.1](#) filings, Internal Revenue Code [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.

FATCA's requirement to report any 10% U.S. ownership in a foreign non-listed company or partnership keeps Americans out of partnerships with foreigners, says ACA. ACA also claims the requirement to report foreign assets on Form 8938 discriminates against Americans abroad, duplicating FBAR filings. The penalties for errors or non-filing are confiscatory, potentially gutting 100% of an individual's assets even when no U.S. taxes are due. This is cruel and unusual punishment, says ACA.

For more, see:

[Analysis: Critics say new law makes them tax agents](#)

[FBAR And FATCA Haters Unite](#)

[International Council of Securities Associations Letter Regarding Implications of FATCA](#)

[Beware Foreign Trust Reporting to IRS](#)

[Are You Getting Enough FBAR?](#)

[Please Sir, Can I Have Some More FATCA?](#)

[Stripping FATCA From Our Diet](#)

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