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U.S. Treasury Gives Fat Dose Of FATCA Compliance Details

You might think that the biggest naysayers about FATCA are U.S. persons living abroad. They may be vocal and feel caught in the crosshairs of the U.S. war on undisclosed foreign accounts and income. See Are Expats Derailing The FATCA Express? However, the larger and more potent voice is from foreign financial institutions and even their governments.

Seal of the United States Department of the Treasury (Photo credit: Wikipedia)

In another big move toward implementing the dreaded FATCA law, the U.S. Treasury Department has spelled out the different ways in which foreign countries and foreign financial institutions can comply with the rules. See 5 Nations Join U.S. In Tax Evasion Crackdown. Although FATCA was enacted in 2010, efforts to implement the law are ongoing. 2013 is going to be a big year for FATCA.

FATCA requires Americans to disclose a certain level of overseas holdings directly to the IRS. More controversially, it requires foreign financial institutions to tell the IRS about offshore accounts controlled by Americans if assets top $50,000. Foreign institutions have been struggling to square FATCA's demands with the privacy and bank secrecy laws in those countries.

Yet FATCA requires it and the IRS will start penalizing foreign banks in 2014 for failing to comply. Even before then, the pressure is on to get the institutions and their governments to work out solutions. The Treasury Department has announced tentative compliance agreements with Switzerland and Japan. Even more promising, Treasury is negotiating with France, Germany, Italy, Spain and Britain to set up arrangements for government-to-government information sharing. See Treasury tells how to comply with offshore account law.

The Treasury Department has offered two ways to structure agreements. One is reciprocal information-sharing between national tax collection agencies. That's only for countries operating under an existing income tax treaty or tax information exchange agreement with the U.S. See Treasury Eyes Funds Hidden Overseas.

What's more, it's unclear if every single country with a treaty could qualify. There were some suggestions the U.S. would agree only if there are "robust" protections in place that the information remains confidential and is used only for tax purposes.

The second type of agreement is one-way information missives. Financial institutions in countries that lack any U.S. agreement will have to report American account holders directly to the IRS. That is more controversial as it involves foreign institutions forking over information directly rather than dealing with their own local regulators who in turn would then deal with the IRS.

Stay tuned.

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