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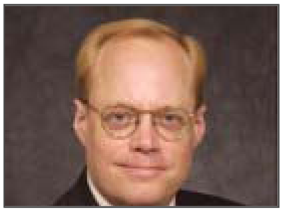

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Even U.S. Banks Must Aid IRS Hunt For Offshore Accounts

Banks worldwide may not like FATCA, the massive American disclosure law. But most banks everywhere are still lining up to comply. After all, if foreign banks *don't* hand over American account holder details, they can face serious repercussions.

Either directly or through the web of Intergovernmental Agreements (some signed, some in the works), foreign banks are complying. That means FATCA is like a loaded freight train moving down some very greased tracks. And just as financial institutions worldwide must comply, so must American depositors. Worldwide, Americans are scrambling to make sure they don't have compliance problems and are reporting correctly.

Surprisingly, though, one of the complaints has been voiced by some *U.S.* banks. Turns out they aren't happy about reporting to the IRS either. The Florida and Texas Bankers Associations filed a court challenge to IRS and Treasury Department rules that force U.S. banks to report on foreign account holders. You can read the complaint here: *Bankers Associations v. IRS -* Complaint.

The rules under attack require U.S. banks to disclose information to the IRS about accounts held by non-resident aliens (of all countries with which the U.S. has a tax treaty or other information exchange agreement). The threshold is low–any such account that earns at least $10 of interest per year must be disclosed. It may not look it, but this rule is part of FATCA too.

Indeed, one of the carrots of FATCA to foreign countries is reciprocity. In effect, the U.S. can make its pitch to foreign nations *less* of a demand. The U.S. can say to other countries, "We'll hand over your tax cheats, if you'll hand over ours." Besides, by comparison to much of FATCA, these rules seem pretty benign. However, the lawsuit claimed that these rules for U.S. banks are too burdensome.

In addition, the lawsuit claimed, having these rules will discourage foreign investment into the U.S., and perhaps could even trigger a withdraw of foreign funds out of U.S. banks. The IRS rules attacked in this lawsuit were published in 2012, and set to go into effect in March of 2014. And now there's nothing to hold them up. A judge has dismissed the lawsuit.

Judge James Boasberg of the U.S. District Court for the District of Columbia said the new rules would cause minimal burdens to banks and customers. Read the opinion. Reacting to this big win for the Obama administration, the Justice Department noted that these rules help the global implementation of FATCA. Treasury and the IRS have insisted that U.S. bank reporting provides reciprocity which they see as critical to implementing FATCA.

The court agreed, upholding the regulations. The court found that the IRS reasonably concluded that the regulations would improve U.S. tax compliance, deter tax evasion, and impose minimal burdens on banks. The court even noted that rational depositors would not withdraw their funds from U.S. accounts. Yes, Big FATCA Wheel Keep On Turnin'.

You can reach me 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.*