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THE TAX LAWYER

TAXES | 8/23/2013

FATCA Registration Goes Online

There has been widespread criticism of FATCA by U.S. persons abroad. In contrast, many foreign financial firms have been relatively quiet. Such firms may grumble, but must figure they have no choice but to comply with the massive reporting law.

FATCA has its roots in the IRS jihad for foreign income and offshore account disclosures. FATCA requires foreign banks, investment funds and insurance companies to report American offshore accounts worth more than \$50,000. Enacted in 2010, it is finally set to take effect in 2014.



The U.S. Treasury Department last month [postponed the start of FATCA](#) from January to July 2014. A key part of the law involves non-U.S. banks and financial firms. Even if they have no U.S. offices, foreign banks and other institutions are asked to do their part in reporting to the IRS on Americans.

Controversially, FATCA imposes severe penalties on any that don't comply. Foreign financial institutions that fail to comply with FATCA face a 30-percent withholding tax on their U.S. source income. This penalty is viewed as a kind of death sentence, effectively freezing them out of U.S. financial markets.

To ease the tensions over a U.S. law that reaches deep into the pockets of foreign institutions, the U.S. government has negotiated intergovernmental agreements (“IGAs”) with many countries. Such IGAs enables foreign banks to turn over U.S. tax dirt to their **own** governments, which then will give it to the IRS. For many foreign institutions, that is more palatable than ratting out customers directly to the IRS.

This crucial stage of reporting on Americans involves U.S. account holder data. The IRS will start collecting customer account information from foreign institutions in 2015. In the meantime, though, the IRS has launched an online registration program for financial firms around the world to comply with the law.

The registration process is accessible on [the IRS website](#). To register, a firm gives the IRS its name, mailing address, any branch offices and other basic information. The IRS will not start approving registrations until 2014. Foreign financial institutions must register by April 25, 2014, to avoid FATCA’s withholding penalties.

In June 2014, the IRS is to publish a list of all the institutions that are complying with FATCA. As with the other major FATCA implementation hurdles, the commencement of online registration is a major milestone for the massive reporting law. Many foreign institutions can now more readily develop and fine-tune their software and reporting protocols based on the types of information the IRS will require.

Some of the dollar estimates of the systems required to implement FATCA are [staggering](#). Although much is clear about which institutions must register, there is much that remains fuzzy. For example, some U.S. equipment manufacturers have finance arms abroad to finance their equipment. It is not yet clear if they must register.

On these and other points, there will be much scrambling over the global law. But it is astounding that the Obama administration and the U.S. government more generally have already come so far in implementing this astonishingly powerful law.

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.