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Incredibly, 48 Nations Embrace FATCA To Reveal U.S. Depositors

FATCA is four years old but it is still being ramped up for its big worldwide rollout July 1, 2014. Foreign banks must hand over the details of American account holders with over $50,000 on deposit or face serious repercussions. Institutions that fail to comply could effectively be frozen out of U.S. markets. The institutions may not like it, but they are complying.

And so are virtually all nations, which is an astounding accomplishment for the U.S. Treasury Department. It is now clear that FATCA is a bigger success than anyone could have imagined. With disclosures, prosecutions and summonses, the IRS is getting quicker, better and more complete information than ever. And FATCA will expand it like a fire hose.

(Photo credit: Images_of_Money)

After foreign institutions identify U.S. account holders, FATCA requires the institutions to impose a 30% tax on payments or transfers to any who refuse to step up and get into full U.S. compliance. At first, Foreign financial institutions (FFIs) must report account numbers, balances, names, addresses, and U.S. taxpayer identification numbers. For U.S.-owned foreign entities, they must report the name, address, and U.S. TIN of each substantial U.S. owner.

Although the Republican Party is backing a FATCA repeal resolution, and there is RepealFATCA.com, FATCA is almost surely here to stay. Now, the U.S. Treasury has given foreign financial institutions 10 extra days to register. In addition to extending registration to May 5 from April 25, the U.S. has confirmed that more and more countries are now FATCA compliant. In particular, this is a big relief for financial firms in Brazil, South Korea and South Africa. Conversely, U.S. depositors who have accounts in such countries may now be more nervous.

But far more important that a mere 10 day delay, the U.S. now says it does not need to insist on the immediate signature on all IGAs, Intergovernmental Agreements. Countries that have FATCA agreements “in substance” with the U.S. will be treated as complying with FATCA. In fact, this is so even if the agreements are not finalized by Dec. 31, 2014.

What is the practical impact of this decision? It increases the number of countries that have intergovernmental agreements with the U.S. to 48. That is up from the 26 agreements that are actually signed. Here are the 26 nations so far, with links to their agreements:

1. Bermuda
2. Canada
3. Cayman Islands
4. Chile
5. Costa Rica
6. Denmark
7. Finland
8. France
9. Germany
10. Guernsey
11. Hungary
12. Honduras
13. Ireland
14. Isle of Man
15. Italy
16. Japan
17. Jersey
18. Luxembourg
19. Malta
20. Mauritius
21. Mexico
22. Netherlands

23. Norway
24. Spain
25. Switzerland
26. United Kingdom

Going from 26 to 48 is huge, and a smart move by the U.S. The announcement allows a country's financial institutions to comply with FATCA via their domestic regulators. Overnight, which nations got added to the prior list of 26?

1. Australia
2. Austria
3. Belgium
4. Brazil
5. British Virgin Islands
6. Croatia
7. Czech Republic
8. Estonia
9. Gibraltar
10. Jamaica
11. Kosovo
12. Latvia
13. Liechtenstein
14. Lithuania
15. New Zealand
16. Poland
17. Portugal
18. Qatar
19. Slovenia
20. South Africa
21. South Korea
22. Romania

Before the announcement, many foreign businesses were unsure how to comply with FATCA by July 1 if their home countries had not yet signed IGA deals with the United States. Now, there is more certainty. And plainly, the list of countries with IGAs is likely to grow further.

Hey, what about China, Hong Kong, Russia and Singapore? The jury is still out.

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.