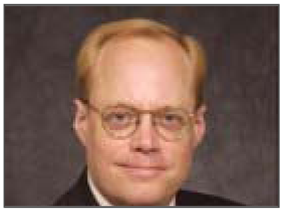
Forbes



Robert W. Wood
THE TAX LAWYER

Nov. 13 2012

U.S. Is Doing FATCA Deals With 50 Countries!


Image via wikipedia

Does the U.S. have FATCA fever? You bet. FATCA, the Foreign Account Tax Compliance Act, requires foreign banks to report U.S. account holders to the IRS. Some must even withhold and pay 30% over to the IRS. FATCA does it with a stick not a carrot, harshly punishing foreign banks that don't comply.

Think of it as the IRS enlisting every bank as its agent. It's controversial but already having an impact. And the IRS is digging in with gusto. A U.S. Treasury press release trumpets that the U.S. is engaging with more than 50 jurisdictions in its international tax compliance push. The U.S. already completed a bilateral agreement with the U.K.

What's more, the U.S. is finalizing intergovernmental agreements with France, Germany, Italy, Spain, Japan, Switzerland, Canada, Denmark, Finland, Guernsey, Ireland, Isle of Man, Jersey, Mexico, the Netherlands, and Norway.

That's just the short list. The feds also have an "active dialog" with: Argentina, Australia, Belgium, the Cayman Islands, Cyprus, Estonia, Hungary, Israel, Liechtenstein, Malaysia, Malta, New Zealand, the Slovak Republic, Singapore, South Korea, and Sweden.

The U.S. expects many deals by year-end. Want even more international alphabet soup? The U.S. is discussing "viable options for intergovernmental cooperation" with Bermuda, Brazil, the British Virgin Islands, Chile, the Czech Republic, Gibraltar, India, Lebanon, Luxembourg, Romania, Russia, Seychelles, Saint Maarten, Slovenia, and South Africa.

You may not care too much if all of your income and account disclosures (past and present) are pristine. But if not, you may worry about the global transparency this portends. U.S. citizens and permanent residents must report worldwide income. Plus, if they have signature authority over foreign bank accounts with more than $10,000 at any time during the year they must file an FBAR. See Foreign Accounts? Don't Forget June 30 FBAR Deadline.

Under FATCA, most taxpayers with foreign financial assets worth $50,000 or more must file a Form 8938. See Summary of Key FACTA Provisions. Unlike the FBAR, this form is filed ***with*** your tax return. See IRS Form 8938 Or FBAR? and FBARs & FATCA Form 8938: Maddening Duplication?

Institutions must withhold a 30% tax on payments or transfers to account holders refusing to identify themselves. To avoid withholding, institutions must agree with the IRS to identify U.S. accounts; report to the IRS; and withhold 30% on certain payments to those unwilling to comply.

The law rankles many in the international community. See Are Expats Derailing The FATCA Express? But many nations are getting on board. See 5 nations joining U.S. in tax evasion crackdown. And FATCA's pace is quickening.

In February 2012, the IRS issued proposed regulations implementing FATCA. Then, in July 2012, the Treasury Department released model agreements for information sharing. Next, the IRS tweaked the proposed regulations and set out timelines. See As Foreign Banks Brace For FATCA, You Should Too.

The FATCA regulations should be finalized soon. Still, the U.S. progress with global intergovernmental agreements is astounding. Whether you agree with it or not, the FATCA freight train is gaining momentum. You may want to get out of the way.

Robert W. Wood practices law with Wood LLP, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 Supplement, Tax Institute), he can be reached 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.