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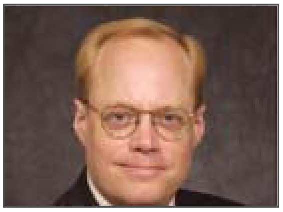

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Vatican Bank Joins 100 Nations In FATCA Offshore Account Hunt

In his annual Christmas messages to more than one billion Catholics, the Pope may have left out something: offshore account compliance. Maybe, but the U.S. Treasury is more than happy to fill in the blanks. Just before Christmas, the Holy See reached the substance of an Intergovernmental Agreement (IGA) to hand over American account details. FATCA is everywhere, and the fact that the Treasury Department now trumpets the Vatican deal should come as no surprise.

The Holy See is not part of the European Union and should not be confused with Vatican City. The Holy See is the ecclesiastical jurisdiction of the Catholic church. The Vatican Bank has had its share of corruption kerfuffles in the past. Indeed, the Vatican Bank isn't exactly transparent, and released its first annual report in 2013.

With transparency comes compliance, and there may well be some accounts held for American clergy that will need to be cleaned up. If accounts are held through entities or via proxies, they still could require disclosure. Presumably the ultimate beneficiaries of the accounts will be known to someone, and that means reporting.

The timing is serendipitous. Pope Francis has suggested that the Vatican Bank could use a makeover. FATCA—the Foreign Account Tax Compliance Act—was quietly enacted in 2010. After a four-year ramp up, America's global tax law is now in effect. Never before has an American tax law attempted such an astounding reach. FATCA requires foreign banks to reveal Americans with accounts over $50,000. Non-compliant institutions could be frozen out of U.S. markets, so everyone is complying.

FATCA grew out of a controversial rule. America taxes its citizens and permanent residents on their worldwide income regardless of where they live. FATCA cuts off companies from access to critical U.S. financial markets if they fail to pass along American data. More than 100 nations—including all that matters—have agreed to the law. Countries must agree to the law or face dire repercussions. Even tax havens have joined up.

The IRS has a searchable list of financial institutions. See FFI List Search and Download Tool and a User Guide. Countries on board are at FATCA – Archive. Even notoriously difficult China and Russia are on board. FATCA's 30% tax and exclusion from U.S. markets would be so catastrophic that everyone has opted to comply. Foreign financial institutions must withhold a 30% tax if the recipient isn't providing information about U.S. account holders. The choice is simple, and that's why everyone is complying.

Foreign Financial Institutions (FFIs) must report account numbers, balances, names, addresses, and U.S. identification numbers. For U.S.-owned foreign entities, they must report the name, address, and U.S. TIN of each substantial U.S. owner. And in what is a kind of global witch hunt, American indicia will likely mean a letter.

FBARs are still required. FATCA just *adds* to the burden, including Form 8938. These forms are serious, and so are the criminal and civil penalties for failing to file them. In some cases, even civil penalties can exceed the offshore account balance.

U.S. account holders who aren't compliant can enter the Offshore Voluntary Disclosure Program. Yet for those not willing to pay the 27.5% penalty—which rose to 50% August 4, 2014 for some banks—the new IRS's Streamlined Program can be a good option for those who qualify. The latter applies now to both foreign and U.S.-based Americans.

Some Americans still want to amend their taxes and file FBARs in a "quiet disclosure" which could bring civil penalties or even prosecution. Thus, caution is clearly in order.

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