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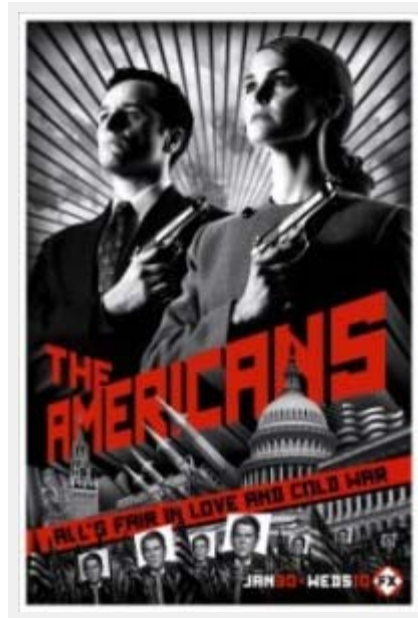
# Worldwide, Banks Make Xmas Gift To IRS: American Account Holders

The U.S. signed six more anti-tax evasion pacts with Bermuda, Malta, the Netherlands, Jersey, Guernsey and the Isle of Man. That ups the total to 18 with 11 more near completion. Some of them are reciprocal, requiring the IRS to disclose foreign citizen accounts in the U.S., but it's clear the reverse is key. Worldwide, banks are identifying Americans and asking if they're right with the IRS.

In fact, banks and lawyer's offices everywhere are abuzz with the scramble to hand over U.S. account holder data. In Switzerland and many other countries, banks are asking their account holders and not giving them much time to act.

Americans are wondering if they should respond, ignore the letters, close their accounts, or what. Please provide your U.S. tax ID and verify that you are fully tax compliant with the IRS.

If you thought you were living off the grid, it can be chilling to hear your secret banker is about to hand you over. [FATCA](#)—the Foreign Account Tax Compliance Act—takes effect in 2014 and the IRS will start penalizing foreign



The Americans

banks if they don't hand over Americans. Most foreign countries and their banks are lining up, so forget bank secrecy. So what are your choices?

In many cases, the bank will close your account if you don't respond favorably. Telling the bank you're compliant even if you're not seems dangerous. The bank or the IRS will find out, maybe not right away, but eventually.

You can fail to respond for a while, but eventually, the bank will close your account. Banks routinely turn over the names of closed accounts too. Indeed, in some cases they do so even more readily than with open accounts. So closure hardly solves the problem.

Joining one of two IRS amnesty programs and so informing your bank is the safest choice. The primary IRS program is the Offshore Voluntary Disclosure Program (OVDP). You pay back taxes and penalties but you will not be prosecuted. The other is the IRS's Streamlined program for some U.S. persons abroad. It is far less expensive if you qualify.

You might think you can fix it all yourself by filing amended tax returns and FBARs and paying any taxes you owe. However, this may be tough to orchestrate. Besides, it is considered a "quiet" disclosure—a correction of past tax returns and FBARs without drawing attention to what you are doing. The IRS warns against it.

Prospectively, one could start filing complete tax returns and FBARs without addressing the past. You could even tell your bank you are complying with IRS rules. Unfortunately, there is a risk your past non-compliance will be noticed. Most people are therefore not comfortable with this one.

Whatever your choices, do not take action without considering your profile, facts, numbers, and risk tolerance. The chances of ending up with a terrible result might be fairly small. However, the downside can be enormous, potentially including a felony conviction and prison term.

Even the financial side of the equation is no picnic. If the case remains a civil case, penalties can eat up more than the entire balance of the account. From that viewpoint, the 27.5% OVDP penalty compares rather favorably. Get some advice and try to get your situation resolved in a way that makes sense for your facts, risk profile, and pocketbook.

*You can reach me at [Wood@WoodLLP.com](mailto: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.*