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Fact Sheet: The Foreign Account Tax Compliance Act (FATCA)

The Foreign Account Tax Compliance Act – or FATCA – is a financial disclosure and transparency law, developed to help the U.S. government to crack down on tax evasion by U.S. taxpayers who hold investments in offshore accounts. The law works by requiring foreign financial institutions (FFIs) to file annual reports to the IRS on U.S.-owned accounts.

Rationale for FATCA

The discovery in 2009 of 52,000 American accounts totaling $14.8 billion in previously unreported assets held at the Swiss bank, UBS, served as a wake-up call to legislators. FATCA was developed in response to this increased awareness of the magnitude of international individual tax evasion, which costs the U.S. an estimated $40 to 70 billion in lost revenue annually. It is critical to note that each dollar lost to evasion by tax cheats represents another dollar that must be made up by honest taxpayers or another dollar cut from critical public investments. Historically, it was relatively easy for individuals with financial accounts held offshore to conceal their assets from the tax authorities. This changed with the introduction of FATCA, under which offshore accounts are subject to a level of scrutiny necessary to ensure these U.S. accountholders are tax compliant.

How FATCA Reporting Works

The key components that make FATCA an effective and enforceable law are the new reporting requirements and enforcement mechanisms that apply to FFIs and certain U.S. taxpayers:

- Individual Reporting Requirements: U.S. taxpayers with specified offshore financial assets that exceed certain thresholds must report those assets on their annual tax return. Generally speaking, individuals living in the U.S. with qualifying assets of $50,000 or more at the end of the year and individuals living abroad with qualifying assets of $200,000 or more, must report on those accounts. These thresholds double for joint-filers.
- FFI Reporting Requirements: If a FFI has U.S. clients, the institution must undertake due diligence to identify U.S. accountholders and report certain identifying and financial information to the IRS. FFIs do not need to report on low-value (>$50,000) depository accounts, although any FFI may choose to waive this exemption. FFIs who fail to comply with FATCA are subject to a 30% withholding tax on many U.S.-source payments.

Revenue Impact of FATCA

In 2010, the Joint Committee on Taxation estimated FATCA would generate $8.7 billion over the next decade. More recently, the IRS announced over 100,000 taxpayers have come back into compliance through its voluntary disclosure programs, raising $10 billion. This uptick in voluntary disclosure has been attributed in part to taxpayer reaction to FATCA.

The Future of FATCA

At its core, FATCA is a tax compliance law, designed to help ensure that every American taxpayer, no matter where they choose to earn income or store their financial assets, is paying the correct amount of tax. Despite this, FATCA's detractors have been calling for a full repeal since its implementation. A repeal of FATCA would be counterproductive, reverting us to a pre-FATCA status quo of having little recourse to combat international individual tax evasion. Energy should instead be focused at improving and strengthening FATCA, such as the reforms proposed in the "Stop Tax Haven Abuse" Act of 2017.

For more on FATCA read our full report "Foreign Account Tax Compliance Act (FATCA): A Critical Anti-Tax Evasion Tool"