



Written by [Veronique de Rugy](#) on April 27, 2017

Is It Time to Repeal FATCA?

I've previously argued that the Trump administration should stop funding the Organization for Economic Cooperation and Development because of its advocacy of higher taxes and tax harmonization. At the time, I was told that my position could be perceived as hypocritical because our government is responsible for the adoption and enforcement of the hideous Foreign Account Tax Compliance Act. Let me address this omission.



FATCA, which was passed in 2010 by a Democratic Congress and enacted by President Barack Obama, requires law-abiding Americans with legitimate bank accounts outside the country and foreigners working in the United States to turn over information about their overseas holdings of more than \$50,000.

Under new treaties with the United States, some 100,000 foreign financial institutions in more than 100 countries must report to the Treasury on an account of any so-called "U.S. person" — a U.S. citizen or someone with a green card or U.S. work permit — with \$50,000 or more in it, or they risk being hit with a 30 percent withholding tax on their U.S. earnings.

This law is another attempt to force lower-tax nations to change their tax laws and give up their commitment to financial privacy for the sole purpose of serving higher-tax countries' craving for more revenue. This explains why it's often described by some of its victims as a license for IRS imperialism.

Not surprisingly, FATCA compliance costs are large. Various reports by the Chamber of Commerce, foreign governments and banks show that as of 2016, compliance costs were anywhere between \$200 billion and \$1 trillion.

For what benefit? Though those pushing for the law in 2010 claimed that there was between \$100 billion and \$150 billion a year in lost revenue offshore because of tax evasion, study after study has shown that the actual amount is nowhere near that estimate. Even Congress' nonpartisan Joint Committee on Taxation estimated in 2010 that between then and 2020, lost tax revenue from evasion offshore won't reach more than \$8.7 billion, an average of \$870 million annually.

Whatever the actual amount may be, issues of cross-border tax enforcement only exist because we have bad tax policy. If the United States had a simple and fair system, such as a flat tax, the government would tax your income one time — when first earned — and there would be no double taxation on interest, dividends or capital gains if you decided to save and invest your after-tax income. In that ideal system, the IRS wouldn't care whether your bank account is in Geneva, Illinois, or Geneva, Switzerland.

That said, even the IRS recognizes the problem. In a January report to Congress, the IRS taxpayer advocate noted that FATCA is being implemented "despite a lack of comprehensive statistical data establishing the existence of widespread noncompliance or fraud" and "despite (Taxpayer Advocate Service) analysis indicating that the vast majority of these taxpayers actually appear to be substantially more compliant than a comparable portion of the overall U.S. taxpayer population."



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In other words, this ill-conceived law is targeting the financial privacy of millions of people who haven't done anything wrong at heavy costs to foreign financial institutions that have to do the reporting. What could go wrong? Well, considering the downsides, some financial institutions have stopped accepting accounts from certain clients because of the tougher regulations. Unfortunately, the first victims of this inane law are foreign nationals who live in the United States and U.S. nationals living abroad who have had their bank accounts in Europe shut down.

Not surprisingly, the law is partly responsible for increasing the speed at which Americans living abroad are giving up their U.S. citizenship. With the IRS chasing their accounts to force them to pay U.S. taxes they don't even owe, some 5,411 people gave up U.S. citizenship in 2016, nearly four times as many as in 2010, according to Treasury reports.

Adding insult to injury, the Treasury promised reciprocal information-sharing to persuade nations to overturn the domestic privacy laws that were making FATCA unenforceable as written but has not followed through. As a result, our international partners are getting impatient and may start targeting the United States in various ways as payback — until we cough up info on their citizens.

Many Republicans, led by Sens. Rand Paul of Kentucky and Mike Lee of Utah, have expressed their desire to repeal FATCA. Indeed, Paul will be testifying alongside some of the victims of the law and may persuade his colleagues to end this Obama-era abuse.

Veronique de Rugy is a senior research fellow at the Mercatus Center at George Mason University. To find out more about Veronique de Rugy and read features by other Creators Syndicate writers and cartoonists, visit the Creators Syndicate webpage at www.creators.com.

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