

COROZAL DAILY (...*SOMETIMES*)

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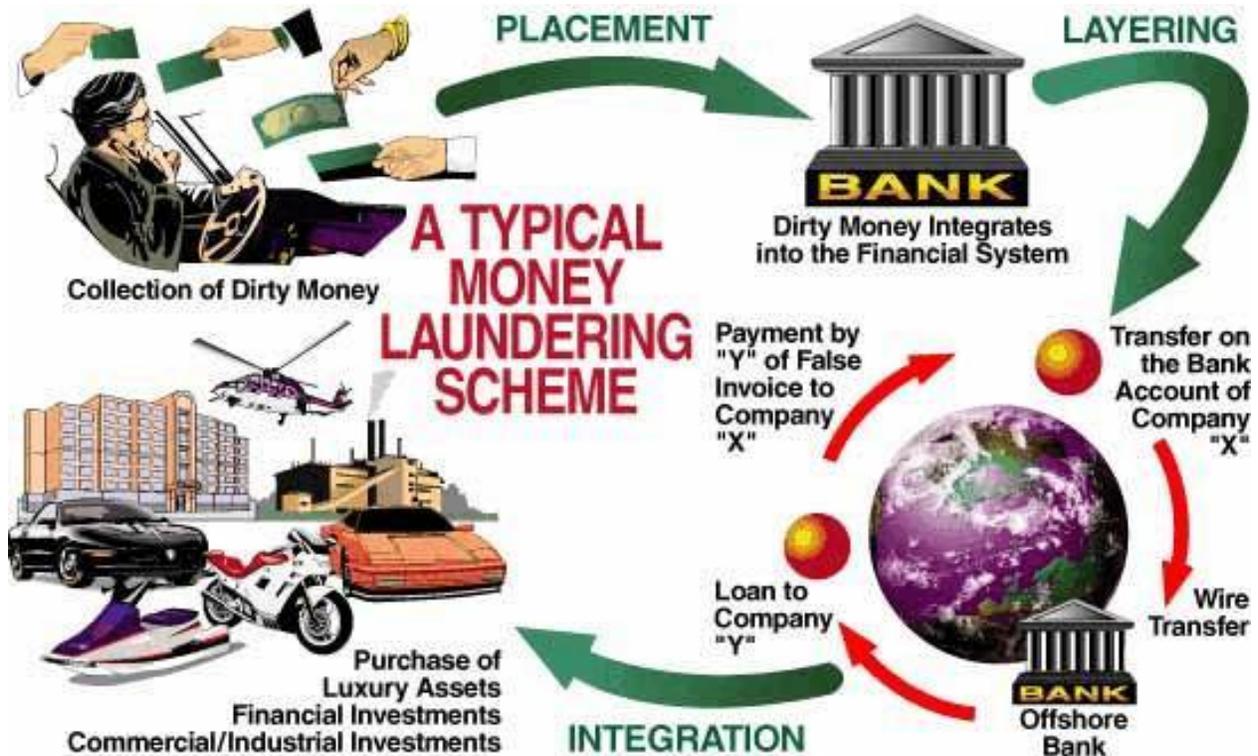
BRACE URSELF BELIZEAN/AMERICANS FOR



FACTA

International News! – May 22nd - Facts about FACTA - In January this year, the US Department of Treasury and the Internal Revenue Service (IRS) issued comprehensive final regulations implementing the Foreign Account Tax Compliance Act (FATCA). The issuance of these final regulations marks a key step in establishing the IRS' approach to combating tax evasion. And for all North Americans, including Belizean Americans, this only means more compliance. And it can get complicated so brace yourselves.

What's FATCA?



As the name suggests, FATCA provisions focus on keeping track of non-compliance by US taxpayers who hold foreign financial accounts. According to US tax code, all residents, green card holders and citizens of the US must declare and pay tax on their global income in the US. In recent years, there have been several high profile indictments of US taxpayers hiding offshore income.

FATCA takes a two-pronged approach in tracking foreign assets of US taxpayers. First, it places the onus on US taxpayers holding financial assets outside the US to report those assets to the IRS. This reporting requirement was introduced in 2012 with Form 8938 - Statement of Specified Foreign Financial Assets and requires US taxpayers with specified foreign financial assets that exceed certain thresholds to file this form along with their federal income tax return.

The second approach, which is currently in implementation and expected to be in place by 2014, is to place the onus on foreign financial institutions to report directly to the IRS, information about financial accounts held by US taxpayers, or accounts held by foreign entities in which US taxpayers hold a substantial ownership interest.

Form 8938 has already been implemented and much has been written about it. So let's not get into the details. Let's look at the second FATCA approach and how it will impact you.

Foreign Financial Institutions to share information:

This second approach basically calls for Foreign Financial Institutions (FFIs) to share information about their US account holders with the IRS. Among other things, FFIs will agree to share the following information on their US accounts:

- 1· The name, address, and taxpayer identifying number (TIN) of each account holder who is a specified US person;
- 2· The account number; 3· The account balance or value;
- 4· The gross receipts and gross withdrawals or payments from the account

FFIs include banks, mutual fund companies, insurance companies and all other financial institutions. For the convenience of FFIs, FATCA has devised two options for this information sharing.

Option 1: Intergovernmental agreements (IGA)

Under this option, the IRS will sign bilateral agreements with Governments of various countries. Once this agreement has been signed, FFIs can report FATCA data to their own governments who will agree to share it with the IRS.

Joseph Boski, Political and Economic Section Chief at the U.S. Embassy in Belmopan, Belize, told the Amandala last week that the Foreign Account Tax Compliance Act (FATCA), which will see its full implementation in 2014, was put into place to ensure better tax compliance.

“The principle is pretty clear,” said Boski. “The FATCA law addresses tax compliance.”

The FATCA applies also to Belizeans with dual US nationality, as well as “green card” holders and US nationals living in Belize or any person in those categories who have financial interest in Belize, including offshore bank accounts.

Boski said the FATCA is “very ambitious” and he hopes it will be very effective, as well.

He notes that anyone who is paying US taxes or should be paying those taxes and who has financial assets overseas should double-check whether they need to report financial assets overseas. This, he said, especially applies to US citizens or financial institutions overseas doing business with US citizens located either overseas or in the US.

The US Embassy officer said that if there is an American with assets in Belize who is liable to pay taxes but is not, and the financial institutions, such as banks, are aware, then they are asked to assist the United States Internal Revenue Service (IRS) in identifying this tax evasion.

Non-compliance could result in a 30% withholding tax being levied on the person of interest.

Boski said he hopes the FATCA would serve as a model for all countries seeking tax compliance from citizens living overseas or who have assets overseas.

“I think you know, in order to get it to work, private banks have to actively engage with the process,” said Boski.

He said that some of the provisions of FATCA are already in effect, and the IRS has agreements already with some countries and banking institutions.

A Belize banker has told us that they would be signing up with the IRS online portal when it opens up on July 15. (See story, “Belize Banks brace for implementation of far-reaching US tax law”, appearing on page 2 of the Wednesday, May 15, 2013 edition of Amandala.)

Option 2: Foreign Financial Institutions (FFIs) directly reporting to IRS:

If the IGA between Belize and US does not get signed, then foreign financial institutions (FFIs) must agree to report directly to the IRS certain information about their US accounts or accounts of certain foreign entities with substantial US owners.

If they fail to enter such agreement, that is, if the FFIs choose to become non-participating, they will have to face 30 percent withholding tax on certain US sourced income. That means, if the non-participating Belize bank or financial institution receives any income from a US source, such as dividends or interest, the withholding agent in the US will deduct 30 percent tax on this income. The objective is to put restrictive provisions in place so that FFIs might be forced to participate.

A common query then: What about smaller banks in Belize that do not have any income from the US? Since they have nothing to lose, can they escape the purview of FATCA in the instance an IGA is not signed? FATCA provisions have been designed in such a way so as to make all financial institutions comply. It is not the objective of this article to delve into these provisions so it is suffice to say that the Act has provisions that will bring such institutions into purview.

Now, this above provision does not directly impact Belizean Americans as it really depends on the participation of the FFI in the FATCA process. But the next part will. So read on.

If any accountholder does not share sufficient information with the participating FFI (such a person is referred to as "recalcitrant" accountholder in FATCA), such as sufficient proof of status of residence, then the FFI will deduct a 30 percent tax on any US source withholdable and pass-through payments that this accountholder may receive. Of course, this is assuming that the IGA does not come through.

Here's an example to explain: You are an accountholder with a bank in Belize and you do not provide sufficient information to the bank about your status as a US taxpayer. The Belize bank will withhold 30 percent tax on any US source withholdable payments or pass through payments (which roughly means US source income paid directly to the bank account in Belize on which tax is liable to be withheld at source) and also report your account as a recalcitrant account holder to US IRS. It may also close your account.

Now, if you are an accountholder with a Belize branch of a US bank and you do not provide sufficient information, in addition to the above withholding on US sourced income and pass through payments, any interest that you earn from your bank account in Belize will be subject to a 30 percent withholding tax from 2017. This tax will be in addition to the tax that will be deducted for Belize Income Tax purposes.

If the IGA between Belize and the US is signed, there will be no question of withholding tax. One of the conditions of the IGA is that there will be no withholding tax requirements for FFIs." However, FFIs will report such accountholders to the Belize Government.

FATCA timelines:

Timelines on FATCA have been a moving target because the IRS is in a continuous process of revising the various rules and requirements. But as of today, the timeline for IGAs to be in place is 2013. In the absence of an IGA, the

withholding tax provisions from US sourced withholdable payments to non-participating FIIs and to recalcitrant accountholders will become effective from 1 January 2014.

What's in it for you?

With FATCA, the IRS is really leaving no stone unturned when it comes to ensuring compliance from its taxpayers on foreign income and assets. By placing the onus on financial institutions in addition to individual taxpayers, the IRS is making sure it gets information from all sources possible. So even if you do not report your foreign assets to the IRS, the IRS will get hold of that information anyway.

Right now, along with FATCA implementation, the IRS is also providing taxpayers with various means to become compliant. This includes the ongoing Offshore Voluntary Disclosure Program. Experts believe that once FATCA is fully implemented, such opportunities will fade away. You must therefore evaluate your situation and decide if you must use these windows of opportunity now or be left with fewer choices later on. Consult an expert to ensure your compliance and also to help you make the right choices.

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