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FATCA – Further evidence from the US about harmful nature of measure

I write further to our [previous correspondence](#) in relation to the data protection and data security implications of FATCA and the CRS.

For years we have pointed out the disproportionate nature of data collection under FATCA, with worrying concerns raised not only [in the EU](#), but also [in the US](#). Now, a hearing on offshore tax evasion before the [U.S. Congress](#) has confirmed the disproportionate, ineffectual, and harmful nature of FATCA:



UNITED STATES SENATE
BUDGET COMMITTEE

Hearings

Offshore Tax Evasion

Wednesday, April 10, 2024



Mr. Chairman,

I appreciate your holding today's hearing on offshore tax evasion and closing the tax gap. I have some experience in this area.

Those engaged in tax evasion aren't only shortchanging the federal government, but stealing from the American taxpayers.

After all, it's the law-abiding taxpayer who ends up footing the bill.

That's why I've long championed reasonable policies intended to discourage evasion while providing tools to the IRS to detect tax cheats.

But a key word here is reasonable.

Whether it's increased financial reporting or stepped-up enforcement efforts, anti-evasion measures must be balanced against taxpayer rights and the costs such measures impose on innocent taxpayers.

When it comes to catching tax cheats, I've found targeted approaches to be far preferable to broadly applicable ones that sweep up innocent taxpayers in far greater numbers than tax cheats.

One example of an overly broad sweep approach to offshore tax evasion is the Foreign Account Tax Compliance Act, or FAT-CA.

Enacted in 2010, FAT-CA imposed stringent requirements on foreign financial institutions to report to the U.S. Treasury on foreign assets held by their American account holders.

Democrats sold this law as the solution to wealthy tax cheats hiding assets in offshore bank accounts.

Yet, according to a 2022 Treasury Inspector General report, other than assessing \$14 million in penalties, the IRS hasn't been able to quantify any revenue raised under the law. That's despite spending \$574 million on implementation and enforcement campaigns.

At the same time, FAT-CA has imposed great costs on Americans living abroad, according to a 2019 GAO report.

Due to the law, many Americans living overseas have seen their bank accounts closed or have been unable to open an account.

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“A key word is **reasonable**”

“One example of an **overly broad sweep approach** to offshore tax evasion is FATCA”

“According to a 2022 Treasury report, other than assessing \$14m in penalties, the **IRS haven't been able to quantify any revenue raised under the law**”

“Due to FATCA, many Americans living overseas have seen their **bank accounts closed** or have been unable to open an account”

It's time for the Commission to start infringement proceedings and the EDPB to engage its [powers](#) to support the [Belgian DPA](#) and put an end to this scandal that affects thousands of EU citizens.

Best regards,
Filippo Noseda
Partner

21 April 2024