



Impact of FBAR and FATCA Reporting Requirements
on Americans
Living and Working Overseas

May 15, 2012

Executive Summary

Although some 3 to 6 million Americans reside outside the United States, little is known about how foreign financial account reporting regulations (FBAR, FATCA) affect them. Democrats Abroad undertook a modest survey April 30-May 9, 2012 to shed light on the financial lives and any impact of FBAR and FATCA regulations on Americans abroad,¹ guided by a task force of Democrats Abroad, assisted in survey analysis by two social scientists.

The survey shows a wide variety of concerns about the reporting requirements. This report includes both limited quantitative analysis of survey data, and draws heavily on the nearly one thousand voluntary comments of survey respondents.

Key findings include the following:

- Broad support for tracking down criminals is expressed, yet there are concerns that the net is cast too widely, “catching minnows instead of whales.”
- There is heavy reliance on financial accounts in the country of residence both for routine daily living expenses and for other purposes (investment, pensions and retirement).
- At the same time, some respondents have seen their non-US accounts closed and new accounts denied.
- Respondents have also faced closure of US accounts and denial of new accounts.
- Complex filing requirements create anxiety that are seen as extreme penalties that may wipe out retirement and other savings.
- Complex regulations and high penalties lead some to decide to “stay under the radar” in hopes of not being found out.
- Increased tax preparation costs are associated with reporting requirements, confirmed by a tax accountant who indicates that his rates have increased by 25-30% because of time-consuming additional reporting. This includes the perceived duplication of reporting via the TD F 90-22.1 (FBAR) and IRS Form 8938 (FATCA).

Other issues which arose frequently:

- Frustration with low levels of information available about reporting and filing requirements.
- Weak IRS staff support in response to queries regarding IRS form 8938.
- Limited knowledge of regulatory requirements, especially among lower-income respondents.

¹ The 33-question survey was publicized initially to subscribers to the Democrats Abroad mailing list, which reaches Americans in over 150 countries. The survey link was subsequently posted by other groups of Americans abroad, and has now been posted on Facebook. As responses continue to flow in, this should be considered an interim report, based on data from 2755 respondents collected between April 30 and May 9, 2012. An updated final report will be available July 1, 2012. A copy of the survey instrument can be obtained by email request to Joe Green demcan@sympatico.ca.

- The lack of alignment between IRS reporting requirements and tax treatment of certain investment vehicles, including pension plans, in the country of residence.
- Difficulty of determining the highest annual balances in non-US accounts for FBAR and FATCA reporting purposes.
- Retirees, either those who have retired abroad or those who worked abroad and have retired, face particular challenges, both in terms of perceived double taxation of retirement investment income and concern about high penalties that could wipe out retirement savings.

Introduction

Although some 3 to 6 million Americans reside outside the boundaries of the United States, little is known about how recent financial account reporting regulation impacts them. Democrats Abroad undertook a modest survey to begin to fill the gap in our knowledge of the financial lives of Americans abroad,² guided by a x-member task force of Democrats Abroad members from around the world and assisted in survey analysis by two social scientists, also members of the organization.

The survey shows frustration with levels of information available about reporting and filing requirements, limitations of IRS staff in responding to queries regarding IRS form 8393, concerns about the lack of alignment between IRS reporting and filing treatment of certain investment vehicles in the country of residence, the logistical difficulties of meeting filing requirements given differences in tax years and limited or no availability of information regarding highest annual balances in accounts, and, especially among lower-income earners, limited knowledge of regulatory requirements. This report includes both limited quantitative analysis of survey data, and draws heavily on the nearly 1,000 voluntary comments of survey respondents.

Demographic Profile

Over three-quarters of respondents (82%) are over the age of 40, and **nearly a quarter (24%) are over the age of 65**. Just over half (56%) are women.

Some 66% are married and, of those, **70% are married to non-US citizens**.

The largest group of respondents lives in Canada, 20%, followed by Australia, France, Germany, Switzerland, Japan, Thailand and the United Kingdom, Italy and the Netherlands. Nearly two-thirds of all responses came from these ten countries.

Reasons for Leaving the United States

Some **38%** of respondents initially left the US for **work- or business-related** reasons, while **35%** of respondents initially left the US **to be with a partner** or other family member, and 15% left for study/research. Another **3%** noted that they did not actually make the decision to leave the US: they were either **born outside of the United States, or moved outside of the US as children**, with their parents.

A further 2% of respondents moved out of the United States to retire, many explicitly commenting that they either were no longer able to afford the United States, or that their limited retirement incomes went further elsewhere than in the United States.

Several respondents noted that they were **unable to get health insurance** in the United States for themselves or a spouse and therefore remained/moved overseas. One respondent said:

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I tried to move back to D.C. and could not get affordable health insurance (I am a breast cancer survivor after mastectomy, radiation and chemotherapy)³ and found it almost impossible to get back into the system there. I could not even get food stamps. So, I stayed over here. ... but home is still home and DC is my home...the U.S.A. is my home.

Several other respondents have stayed – or moved – overseas because their **same-sex partners are unable to get a visa in the United States**: “*same-sex partner could not immigrate to US.*”

Comments to this question also indicated that a number of factors often come together: one respondent noted that she came “*to visit my best friend from high school in the States. She was an exchange student at my school. I ended up marrying a friend of hers and staying.*”

Employment

The largest percentage of respondents, just under one-quarter (23%), are **retired**. Just under twenty percent (18%) are **self-employed** or own their own companies. **Of those, just above one-third (36%) earn less than \$45,999 per year**. Those employed by a local company make up about 17% of respondents; of those, 28% earn less than \$45,999 per year.

Those working for US companies or international companies each make up ca. 5 percent of all respondents. It is within these employment categories that incomes are highest; over half (51%) of those worked for US companies earn more than \$150,000 per year, while just over one-third (37%) of those working for international companies do so.

| | Average Annual Income, in % | | | | Total |
|--|-----------------------------|-------------------|--------------------|-------------------|-------|
| | Less than \$45,999 | \$46,000-\$95,999 | \$96,000-\$149,999 | \$150,000 or more | |
| Self-employed/ Own my own company | 36 | 30 | 21 | 13 | 18 |
| Employed by a local company | 28 | 41 | 19 | 12 | 17 |
| Employed by a local branch/subsidiary of a US company | 7 | 19 | 24 | 51 | 5 |
| Employed by other intl company | 10 | 22 | 31 | 37 | 6 |
| Employed by an intl org/ NGO/ religious org | 17 | 25 | 34 | 24 | 3 |
| Employed by the US government or military | 0 | 67 | 33 | 0 | 0.4 |
| Employed by a national or local government entity in my country of residence | 23 | 47 | 20 | 10 | 5 |

³ Quotes are original and were not corrected for grammar or spelling.

| | | | | | |
|---|----|----|----|----|-----|
| Employed by a research or educational institution | 21 | 46 | 25 | 9 | 14 |
| Student | 84 | 9 | 2 | 5 | 2 |
| Not employed | 67 | 13 | 7 | 13 | 6 |
| Retired | 51 | 36 | 9 | 4 | 23 |
| Disabled, not able to work | 63 | 27 | 11 | 0 | 1 |
| Total | 35 | 34 | 18 | 13 | 100 |

Women earn considerably less than men, **42% of women earn less than \$45,999 per year**, compared to 27% of men. Likewise, **8% of women are not employed, compared to 3% of men.**

Approximate average annual income by gender, in %

| | Less than \$45,999 | \$46,000-\$95,999 | \$96,000-\$149,999 | \$150,000 or more |
|-------|--------------------|-------------------|--------------------|-------------------|
| Women | 42 | 35 | 14 | 9 |
| Men | 27 | 32 | 23 | 19 |

Retirees

Retired Americans who, as noted, make up about one-quarter of respondents, are particularly affected, and tend to be lower income: **one-half of the retired earn less than \$45,999 per year.** There are various concerns among retirees:

After believing that I had been doing my taxes correctly and that I was in compliance with all laws, I was horrified to learn that I could be facing enormous fines/penalties. In the light of the proposed penalties, my retirement is now in question.

It is now becoming obvious that I will have difficulty managing my approaching retirement since everything I have earned abroad is subject to US taxes. US and this countries tax laws are not the same. New tax laws have made me avoid using any of this countries special tax incentive programs, or special savings programs offered by local banks since they are not recognized in US and too complicated to report on US tax return. My tax advisor has warned me away from any of these programs. I am losing opportunity to prepare for retirement as a result.

I just feel like I'm treated like a criminal by the US government and by the government of the country I live in. ... I was recently denied access to have a retirement investment account because I'm a U.S. citizen. I can no longer open any new account and I feel its only a matter of time until my current bank accounts will be closed. What will I do then?

It is clear, however, that it is not only current retirees who are affected, but also those who are trying to plan for their retirement:

FATCA is a difficult and time-intense procedure and even though I am using logical financial accounts to prepare for my retirement, I may need to close them now and move them to the US because of FACTA I will then lose all tax incentives in the country in which I live to be with my partner.

Impact of income

Income difference does make a difference – income is significant not only in terms of standard of living, but also in terms of access to knowledge. Just **over half of those earning under \$45,999 annual were aware of FATCA reporting requirements**, while **three-quarters of those earning \$150,000 or more reported that they are aware of the FATCA reporting requirements**.

The filing obligation for Foreign Accounts caught me by surprise. It was lucky that I had only recently opened my business account. Many US citizens work abroad for charities and have signatory authority on those accounts, I imagine most of these individuals are unaware of their obligation to report.

| | Less than \$45,999 | \$46,000- \$95,999 | \$96,000- \$149,999 | \$150,000 or more |
|---|--------------------------|-----------------------|------------------------|----------------------|
| Awareness, in %, of FATCA Reporting Requirements within each income bracket | 56 | 63 | 69 | 76 |

Those with the **highest incomes are the most aware of FATCA**; those with the **lowest incomes are the least aware of FATCA reporting requirements**. Even so, 1 in 4 of the highest earners were still unaware of FATCA requirements.

Gender Impacts

Although both men and women are affected by the FATCA regulations, women are affected at a higher rate, in part, it seems, due to the higher rate of marriage to non-US citizens combined with their lower income and higher unemployment rate.

Changes in account management, proposed by some non-US spouses, threaten the position of American women abroad.

We only recently learned of my requirement to file an FBAR . . . I've now been taken off of the account, which leaves me and my small children in a vulnerable position without immediate access to money if anything should ever happen to him, or if our marriage should ever fall apart.

This situation is extremely stressful. My husband is Canadian and is the sole wage earner as I am a stay at home Mother. It has put extreme stress on our marriage and is pulling us apart. Money which used to be "ours" is now being seen as "his" that he feels should be in a separate account in his name only. This leaves me feeling vulnerable as I have no income.

I will no longer have access to significant savings accounts for fear of FBAR penalties resulting from admin errors. We will not put the house in my name, or our dual US/non-US children's names, for fear of similar penalties, burdensome and expensive reporting requirements, etc. Soon I worry I won't even be able to have my own bank accounts. As a stay-at-home-mother with young dependent children, this is terrifying. My financial protection, equality and independence are compromised by FACTA requirements and the fear causes much personal and relationship stress.

With my U.S. citizen status, we cannot open a life insurance account at this time.

Other individuals report that their names have been removed from both financial accounts and real property, as a result of concerns regarding current and potential future US regulations.

Impact on Family Relationships

More broadly, FATCA reporting requirements is having a direct negative impact on spousal relationships (as noted above, 70% of respondents are married to non-US citizens).

My life is a mess now. My husband works in a financial services company and he is trying to make partner. He said that he cannot agree to surrender his financial information to the US government and his company is reluctant to promote him because of the risk that I pose to their small company.

It is a significant stress in our relationship. He resents it (and so do I).

My husband is furious that his assets may be at risk because I was born in the US.

Our problem as a gay married couple is inheritance. The UK treats us as a married couple, so there's no issue with inheritance taxes. However US assets are a disaster for us, because the Defense of Marriage Act prevents the IRS from seeing us as a married couple. Not to mention the fact that transfers of money to my spouse are liable to gift tax by the IRS.

Business Impacts

Those who are involved in businesses, in particular those with signing authority on accounts, are affected as well. Nearly **twenty percent of the survey respondents are self-employed** and another **twenty percent are employed by local companies**. Their comments showed that they will be severely impacted by FATCA requirements:

Working for a company that brings millions of dollars in profit to the US, it is discouraging to find tax policies that make me less able to maintain a presence abroad that represents US interests. Combined with confusing and changing reporting regulations that make compliance harrowing, one wonders the effect this policy is meant to have.

Our majority family owned international group has operations in over in over 15 countries. Group holding company in xx, operating headquarters in xxx. Currently my 2 sons and I hold the signature rights -mostly jointly- on over 100 Group accounts. As a result of IRS reporting requirements and potential penalties we are seriously considering transferring these signing rights to non U.S. members of our management team. Recognizing that if we do this we will be giving up significant control with the increased risk exposure that could come with such an action. Currently over 80% of our business comes from representing American brands and supplying goods and services to American agencies.

Something like FATCA also discourages American firms from sending executives to overseas assignments which ultimately will damage the US economy and the US reputation internationally.

Changed and unclear legal treatment

The survey respondents have lived, on average, out of the United States for 25 years. During that time, policies and laws have changed, often to the surprise of overseas Americans:

Of US-born persons upon taking citizenship in another country

On my return to Canada in 1975, I was informed at the border and by my accountant that dual citizenship was not possible. I reapplied for and received Canadian citizenship again. As I had automatically lost my Canadian citizenship when I became an American, I presumed I automatically lost my US citizenship when I became a Canadian again. Some ten years later, a US immigration officer at the Vancouver airport informed me that I was still a U.S. citizen and should apply for a passport. I did so at the US consulate office in Vancouver, explained my citizenship history and why and no one mentioned any income tax requirements. I had no U.S. income and never thought I should file tax returns. My accountants knew my citizenship history, but never suggested I need file U.S. returns - and, in any case, Canadian income taxes were greater than those in the U.S. I was surprised last fall when I read in the media (and later in a bulletin from Democrats Abroad) about my responsibilities.

Regarding taxation

I took US citizenship after marrying a US citizen and living in the States for 10 years. I came back to the UK to live permanently 30 years ago and have never filed a US tax return since, although I tried to find out what my obligations were. I was told there were reciprocal tax arrangements between the US and I would not have to file in the US.

Records

I file IRS income tax report every year. THE IRS HAS TOLD US FOR DECADES THAT ONE NEED SAVE COPIES OF ONLY 3-5 YEARS OF BACK PERSONAL FILINGS, NOW COMES FBAR TELLING ME I HAVE TO PRESENT THEM WITH EIGHT YEARS OF RECORDS. SO TREASURY AND THE IRS DO NOT COMMUNICATE? I live in the Philippines, where thousands of retired USA ex-servicemen have retired to live. I am certain that very large numbers of them have no information about this nonsense.

Addressing FATCA-Related Concerns

The survey elicited comments regarding the FBAR and FATCA issues. While a number of those were negative, some reflected incomplete understanding of the requirements; others indicated that new requirements posed an undue burden. About 2% reported no problems; roughly twice that number explicitly stated their support of efforts to crack down on tax cheats, terrorists and money launderers.

I support IRS efforts to catch genuine tax cheats. But there needs to be common sense, reasonableness and even application of the de minimus principle. I've lived abroad for 45 years.

It takes me about 1 hr/year to complete the FBAR forms for my husband and me, to print them and walk to post office to mail them. Our income is below the minimum, so we don't have to file reports under FATCA. Personally, this is not an extreme burden and if it helps the gov't fight

terrorism, then it's OK. It's better than U.S. gov't asking foreign banks to "rat out" American citizens, because those banks may refuse to open or maintain accounts for Americans.

I am a law-abiding citizen who has always considered it my role and privilege to represent the U.S. abroad.... I also think an effort should be made to target those who are criminals (who, by the way, can afford top flight lawyers to escape punishment)

The survey strengthens our understanding of the financial lives of Americans living outside the borders of the US—and our commitment to six principles which we trust can be addressed going forward. Here we present both relevant qualitative and, where available, quantitative, evidence from the Democrats Abroad online survey.

1. Define a *foreign or offshore* account as an account in a country other than one's country of residence or the US, thereby recognizing our legitimate need for local banking services. This would also relieve the IRS of the burden and distraction of scrutinizing the filings that detail those legitimate overseas accounts.

Some **90%** of the survey respondents have **non-US** checking and savings accounts, with which they pay their daily living expenses, housing and health care, and over three-quarters have insurance and/or pension/retirement accounts issued by non-US institutions. Of the respondents, **62%** have **US-based** checking accounts, and fewer than 50% have savings, insurance, brokerage or other financial accounts in the US.

Most have lived outside the US for decades, and intend to retire in place; for them, accounts in their country of residence with substantial holdings are simply prudent preparation for retirement. Higher-income earners are **MORE** likely to have US-based bank accounts available—as well as the resources to enable them to comply with required filings. Of the roughly 30 per cent who have no US accounts, nearly one third have lived abroad 40+ years and half have no US address which could be used to receive mail.

Overall, **8 percent** of respondents report having had a bank in their country of residence **refuse to open an account** for them, and **6 percent** were told that an **existing account would be closed**. Five percent report a broker refusing to open a new account, and 4 percent that an existing account would be closed. In terms of insurance, there, too, 4 percent were told that an existing account would be closed.

10 banks [here in Germany] have told me that they no longer take US citizen clients. It is too costly, too complicated and the cost/complexity of US compliance was too great for it to be worth having US clients.

Reporting requirements for US citizens [here in Hong Kong] has led most banks to impose a blanket ban on business with US citizens, or impose very high balance requirements just to open savings and checking accounts. Brokerage accounts are just unavailable.

US citizens abroad must report every penny in their bank accounts. US citizens in the US do not have to report every penny in their bank accounts. My "Foreign Bank Account," is not "foreign" to me. I live here [in a foreign country] and have no bank accounts in the US.

At the same time, Americans outside the US face difficulties, largely attributable to the Patriot Act, in holding or opening accounts **in the US**. **Nine percent** reported that a **US bank had refused to open a new account**, and **6 percent** reported that **an existing US account would be closed**.

because of my foreign address, the firm has notified that they will freeze assets when I die, which will make settling my estate difficult.

IRA accounts closed, no reason given. Penalties for early closure and taxes applied. Remaining money not sent by check as promised.

Unclear - my account at Bank xxx was closed and the assets transferred to xxx (without my consent) and have subsequently disappeared.

The end result: an increasing number of Americans living outside the US are facing restrictions on both US bank accounts and in their country of residence.

Discrimination not only on bank accounts, but getting/keeping a mortgage. US financial institutions still do not deal with persons abroad due to Patriot Act, what to do? under a mattress?

There is also the challenge of reconciling different financial and investment systems. For Americans living and working overseas, who are in some cases required to contribute to an employer's pension scheme, this is a great challenge indeed:

In Australia, by law, I must pay 9% of my earnings in to a retirement plan (superannuation). ... At the very least, FATCA would make Australian retirement savings more expensive.

As a retiree, I discovered first that the tax treaty did not exempt my pension from taxation, even though in Australia we pay tax on our contributions and tax on the earnings during the accumulation stage in order to have a tax-free pension in retirement. In other words, the U.S. is charging me full income tax on my Australian version of a Roth IRA.

the new reporting of Passive Foreign Investment Companies is confusing, worrisome (over penalties if not done correctly), and have caused me to change my investment strategy (closing out a lucrative TFSA account that was beneficial regarding Canadian tax law but problematic regarding US tax law).

FATCA requirements also affect those who moved overseas through no choice of their own. Some 3 per cent of survey respondents were born abroad or moved abroad as children. One American parent tells of discussing financial account reporting changes with her adult children:

In addition to trying to understand all this myself, I am faced with trying to get the message to my three adult French-American children and their partners living fully French lives here in France. I meet with anger and frustration in this domain and can only feel gratitude that my 5 grandchildren are not US citizens.

2. Raise the FATCA reporting threshold to \$1 million^[1] to put the focus on taxpayers with wealth sizeable enough to justify the costly and complex investment structures normally used to conceal assessable earnings.

The FATCA reporting threshold catches many individuals who have prudently planned for retirement, and creates considerable resentment among American taxpayers abroad. While the survey did not specifically ask respondents about the FATCA threshold, respondents nonetheless offered their concerns on this issue.

While I applaud the US government's pursuit of wealthy individuals who seek to avoid tax, its current legislation probably captures more minnows than whales.

The minimum amount is much too low. I have no problem reporting all my income and holdings, but they are so far below the taxable levels, it's merely wasted activity on both my part and the governments.

This year's latest twist, Form 8938, was incredibly difficult to understand, and even the IRS hotline did not provide support. I called them this spring and after waiting over an hour on hold (non-toll free, of course) was told that the form was "too new" and "too complicated" for them to understand. How are ordinary Americans expected to properly fill out a form that even the IRS's own advisers can't comprehend?

Because we have lived in xxx for all of our working lives, we have "foreign assets" totaling \$400,000, which triggers the new filing requirements. While that may seem like a lot, that is pension money that must last for the rest of our lives. I can assure you xxx is no tax haven. That money will be taxed here, where it was earned. While I support efforts to ferret out tax cheats who stash money in secret accounts abroad, the new filing requirements are also weighing on honest people. In my case, it seems counterproductive for all involved.

To find terrorists and tax cheats, there has to be a better and more effective way than forcing ordinary citizens through this onerous exercise, especially when they don't even owe any U.S. taxes. OF COURSE I have foreign bank accounts! I live and work abroad! And as to the \$10,000 limit, if I don't have more than \$10,000 in savings, I'm in BIG trouble! For that matter, as a self-employed person, I have to save for my own pension.

3. Index the reporting threshold to inflation so that it goes up every year just as the Section 911 income exclusion does.

The survey did not include a question regarding inflation indexing. However, a representative comment regarding the FBAR threshold shows concern regarding inflation, which could, in the absence of explicit indexing of the threshold to inflation, become FATCA-relevant going forward.

... the limit for requiring people to file FBAR forms is entirely too low. While 10,000 USD was a lot of money in the 1970s, it's an extremely small amount of money now. In fact, that's about four months' worth of net salary for me, and it covers perhaps six months' (very judicious use of) expenses. It's hardly enough to rate a report to the US government. If the aim is to catch tax cheats, the limit ought to be higher.

4. Add a provision that excuses anyone who does not owe taxes (because of the Section 911 exclusion or any other exemption or a tax treaty) from the obligation to file form 8938, regardless of the threshold reporting.

While the survey did not explicitly ask about possible exemptions, roughly half of those volunteering information regarding their experiences with FBAR and FATCA commented that filing requirements pose an undue burden—regardless of income level. A number of low-income individuals who expressed fear and stress or concern with the burdens of new filing requirements reported that they are elderly and/or deal with serious health issues. Concerns regarding FBAR and FATCA filing requirements create anxiety about inability to support themselves in the future.

I am blind in one eye and the other is blurry; I have diabetes, my liver is failing, and all this stress is wearisome in the extreme. I've lived in Canada (due to marriage) since 1968, except for a year I spent in US finishing my BA degree. I tried to come home after retirement, to help look after my mother, but had to return after two months, as a tumor developed, and I can't get insurance in the US (I tried). . . so I will live and die in Canada on a small pension income. I feel the law should be changed, to ensure that those with small incomes not have to go through the exhaustion of all this.

5. Merge the FBAR reporting requirement with the developing FATCA legislation to eliminate duplication in filings.

No specific question was asked of survey respondents regarding merging of FBAR and FATCA filings, but many commented on the perceived duplicative efforts.

As a US tax return consultant I increased my fee for preparing tax returns by at least 20% to 35%. The TD F 90-22.1 and the Form 8938 are duplicative making them time consuming to preparing. Entry of data requires the repetitious entries of information. for accounts even in the same financial institution. Even if a client is not required to file either Form 8938 or TD F 90-22.1 time is needed to educate the clients and probe to see if they are subject to either filings or both. A few ceased filing because the preparation fee was to high for their income range. All clients feel the the Form 8938 is extremely intrusive and not necessary since they are already paying high taxes on any bank interest earned in the host country. The foreign tax credit in most cases eliminates any US tax on the foreign passive income.

The problem with the FBAR is the timing. Why can't it just have the same filing deadline and filing adress as the federal taxes - with the same extensions for those of us living overseas? This would allow me to complete the form with the tax form...it is all related to taxes isn't it?

6. Offer amnesty to overseas Americans who are delinquent taxpayers, inviting them to pay what they may owe and restore their status as tax-compliant citizens.

This draconian legislation goes way too far. It should be repealed immediately and amnesty should be provided for those who did not follow it. This legislation is nearly impossible to comply with and creates enormous stress and expense for those of us following an honest career path outside of the US.

I actually found an accountant I could afford and gave them the file of stuff to straighten out for me. Thought about \$1000 max fine maybe. Then the DA email came about FATCA and FBAR and

now I'm afraid to draw any attention to myself by filing at all, so am getting into deeper trouble by the day. I'm sure there are thousands like me who are not filing a tax return for \$40000 income, of which probably nothing is owing to the IRS, but for which we'll get a \$10k fine and jail for being late.

If meeting my filing requirements is too expensive, I'll just try to stay under the radar.

As a retired military reservist, I was able to request assistance from the US Tax Preparer service at the nearest base. The preparer had no idea what to do about FATCA. In order to comply with FATCA, I was referred all the way to the Chief of Tax Services for the Judge Advocate General Corps in my branch of the service overseas who in turn admitted to being wholly ignorant of how to comply, A lot of my final filing was guesswork on both our parts, It is terribly demoralizing to try to be a good and honest US citizen and to be unable to comply. Something like FATCA also discourages American firms from sending executives to overseas assignments which ultimately will damage the US economy and the US reputation internationally.

I'm afraid I'm adopting the ostrich position in relation to this. I used to file and pay in the U.S., when I had investments with Merrill Lynch. However over 15 years ago I moved my money here, and stopped filing. My income here in England is too low for me to have to pay any tax (my husband kindly supports me on his pension) so I've decided to keep my head down and hope the stupid U.S. government wouldn't bother with elderly small fry like me. I hope I'm right.

Implicit Tax—going to accountants and lawyers

In many cases, either due to low incomes, or double taxation agreements, or both, no US tax is owed. However, the fees charged by accountants and lawyers amounts to an implicit tax:

I was filing my own US taxes for more than 20 years from overseas with no problem in addition to filing taxes in my country of residence. . . In 2009, due to circumstances beyond my control, I needed to file my US taxes late. While searching the Internet for the words "interest penalty" so I could correctly calculate how much interest I would owe, the words "FBAR penalty" came up. This was the first time I had ever heard of the requirement to file the FBAR. I obtained the name of an accountant. Once I mentioned that I had a foreign account and foreign mutual funds, the accountant refused to speak with me. He told me I needed legal counsel. I could not figure out why I would need legal counsel for having a foreign mutual fund, but I called the lawyer he recommended. The lawyer told me that there was no negotiation for failing to file the FBAR form if I had undeclared income and as I had a mutual fund and not reported it on Form 8621, which I had also never heard of, that these computations were so complex and punitive, that I likely had undeclared income. As a result, he told me that I faced huge penalties in the millions of dollars for the 20 foreign bank accounts I had opened during my years abroad. . . While his retainer was hefty, USD 25,000, I understood this to include the accounting fees, all legal work required and that if I took some of the secretarial work on myself I could reduce the cost. None of this was true. My legal costs ended up being USD 40,000 and my accounting costs were USD 12,250 and all this expense was only to confirm that I do not have a complicated financial situation and that I owed de minimis taxes.

CONCLUDING OBSERVATIONS

It is clear to members of the Task Force from the analysis of the data in this survey as well as from the expressions of concern articulated by the hundreds of personal responses within the survey instrument as well as on the website that was established to give voice to overseas citizens (<http://www.expattaxstory.us>) that too many of us

- understand too little about our tax filing obligations,
- fear the fines and penalties that the U.S. government agencies responsible for tax reporting and collection have imposed and are proposing,
- are negatively impacted by the response of banks in individuals' country of residence that are refusing to provide bank accounts to Americans and
- may choose to go and remain under the radar and even consider giving up cherished American citizenship.

None of the respondents, most of who insist on anonymity because of their fears, believe that our government's serious attempts to seek out fraud, money laundering and tax evasion are unwarranted. Indeed, expat Americans cheer such efforts.

But the unintended consequences of these efforts seem to have criminalized us.

We have offered a series of not mutually exclusive solutions in our presentation to the IRS and to staff members of both houses of Congress. While one or more of the solutions offered would go a long way to ease the burden for those of us unintentionally caught in the current proposals, residence-based taxation rules would resolve most if not all of the issues faced by overseas Americans.