

# American Citizens Abroad (ACA)

## *The Voice of Americans Overseas*

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The Honorable Blaine Luetkemeyer  
The Honorable Ron Paul  
The Honorable John Campbell  
The Honorable Donald Manzullo  
United States House of Representatives  
Washington, DC 20515

September 30, 2011

### Repeal FATCA Now!

Dear Congressmen Luetkemeyer, Paul, Campbell, and Manzullo,

As Executive Director of American Citizens Abroad (ACA), I congratulate you for your initiative in writing to Secretary of the Treasury Geithner on September 22<sup>nd</sup> about the very serious risks that the Foreign Account Tax Compliance Act represents for the U.S. economy. **ACA encourages you to introduce legislation to repeal FATCA.**

ACA is a non-profit, non-partisan association recognized as the voice of Americans overseas, with members in over 100 countries. ACA has publicly called for the repeal of FATCA, for many of the reasons you highlight in your letter, and is organizing a coalition to support this position. Among the coalition members are other organizations of Americans abroad, numerous overseas chapters of American Chambers of Commerce, the National Taxpayers Union and the Center for Freedom and Prosperity. Links to the ACA documents on FATCA are listed at the end of this letter.

The risk of significant disinvestment out of the United States is very real and has been mentioned in multiple communications of overseas financial institutions. Due to the heavy penalties associated with FATCA, the financial and legal risks of investing in the United States are viewed as prohibitive. FATCA will prevent Americans from developing business relationships overseas with foreign partners in new start-up operations, which could otherwise lead to increased U.S. exports. FATCA has already turned American citizens living and working overseas into pariahs in the international banking world. Accounts are already being closed and this movement will

accelerate as the compliance date for FATCA approaches. Many overseas Americans who struggle to abide by the complicated U.S. tax laws in addition to the laws of their country of residence will view FATCA as the final straw, and simply be forced to give up on their homeland. This is absurd.

How can the United States expect to be competitive in the global economy when its own legislation destroys the investment confidence of the rest of the world and makes it impossible for its own citizens and companies to operate internationally on a level playing field?

FATCA will not be successful in its basic purpose of tracking down tax evaders. What it will do is create a two-tier banking system worldwide – those electing to be FATCA compliant, for compliant clients; and those opting out, the latter no doubt looking forward to welcoming the assets of non-compliant customers. Account holders subject to U.S. taxation and reporting requirements who wish to skirt the laws will move their funds to non-compliant banks and instruct that no U.S. securities should be held or purchased for their portfolios. It can be anticipated that many agile and well-informed investors in this category will have already made provision for a FATCA world by taking such steps proactively.

The FATCA legislation is self-defeating and misguided. It was introduced as a revenue producing measure in the HIRE legislation, but in fact the anticipated revenue is negligible. The Joint Committee on Taxation estimates that less than \$1 billion of additional annual revenue will be produced by FATCA over the next decade. In contrast, the simple fact of preparing for compliance by U.S. banks and foreign financial institutions and carrying out the reporting requirements will cost tens of billions of dollars. Clearly, the cost/benefit analysis which should have been done prior to enactment was not done. Foreign banks are unanimous in their criticism; the cost of FATCA compliance is exorbitant, and completely disproportionate to the expected revenue gains.

Most serious and disturbing are the warnings emanating from almost all foreign banks and financial institutions regarding the possible effects of FATCA implementation. The British Banking Association, for example, has advised that FATCA “passthru” procedures are simply unworkable. Worse, FATCA imperils the stability of the entire worldwide financial system, creating “a systemic market risk resulting in an unpredictable cascade effect that is contrary to international efforts to establish financial stability.” In this respect, I strongly recommend to you the article by Jessica Meek, “Banks fear FATCA raises operational and systemic risks” found at the following link. <http://www.risk.net/operational-risk-and-regulation/feature/2109648/banks-fear-fatca-raises-operational-systemic-risks>

**Coinciding with almost unparalleled instability in world financial markets, FATCA implementation will weaken the balance sheet of every bank which decides to comply with it. It will create legal disincentives to ownership of any and all U.S. securities, translating into downward pressure on stock prices. FACTA constitutes a clear and present danger to the U.S. financial sector and to American jobs.**

While the opinion of the foreign financial community has long been a matter of indifference to the Congress, the dire financial state of our public finances no longer affords us this luxury.

Maintaining the credibility of our legal system and financial markets is every bit as essential to the defense of our national interests as the U.S. Armed Forces, the intelligence community or the Foreign Service. FATCA erodes this confidence and as such it constitutes a huge negative for the U.S. on the international playing field.

Quite apart from its impracticality, logical flaws and risk-inducing effects, FATCA represents a novel and perilous imposition of American law on States which have never been considered tax havens, and whose local laws directly conflict with FATCA. The attempted extraterritorial application of FATCA generates resentment, dismay and revulsion across a broad swath of opinion, business and political leaders in these countries. They recognize that if Brazil or France attempt to impose similar constraints and obligations on U.S. financial institutions, such proposals will be met with raucous and amused derision by American policy makers. Such overbearing and unilateral overreach is at odds with the emerging multipolar world, and reinforces stereotypes we would do well to leave in the dustbin of history.

**ACA strongly urges you to stop this menace in its tracks by introducing legislation for the repeal of FATCA.** Members of the ACA Executive Committee will keep in contact with your staff members handling this issue. We at ACA await anxiously your response to our request.

Sincerely yours,

Marylouise Serrato  
Executive Director  
American Citizens Abroad

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The ACA press release can be found at [http://www.aca.ch/joomla/index.php?option=com\\_content&task=view&id=466&Itemid=2](http://www.aca.ch/joomla/index.php?option=com_content&task=view&id=466&Itemid=2) and the ACA position paper stating why FATCA should be repealed can be found at <http://www.aca.ch/fatcapp.pdf>.

ACA's August 31<sup>st</sup>, 2011 letter to Secretary Geithner and Commission Schulman calling for the repeal of FATCA can be found at <http://www.aca.ch/irstreas.pdf>.

The general website address for ACA is [www.aca.ch](http://www.aca.ch). The website can also be reached through [www.americansabroad.org](http://www.americansabroad.org).