

alexander beard

Expat & Emigration

A Guide to FATCA for:

- Foreign Nationals resident in the USA.
- USA Nationals resident outside the USA.

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Introduction

FATCA stands for **Foreign Account Tax Compliance Act**.

It is IRS tax legislation with potentially serious consequences for:

- Foreign Nationals resident in the USA.
- USA Nationals resident outside the USA

What's in this guide:

1. An introduction to the FATCA legislation.
2. What it means to you; you'll see that there are separate areas of the guide to help each of the groups mentioned above, as well as an overall summary of how FATCA came to be, what it means and how its laws are applied.
3. We have been dealing with the implications of FATCA for several years so this guide will try to give you a sure footing on which to make decisions about whether you might have a liability and need to investigate further.

As is typical with any tax legislation, FATCA is a complicated beast, but we're dedicated to making things as easy as possible for you, so this guide is designed to be understood by all, even if you have little knowledge of financial planning and accounting. If you do find you get 'stuck', our contact details can be found towards the back of the guide and we're always happy to have an initial-no obligation conversation.

Finally, if you do think that you have a liability that has come to the fore since the introduction of FATCA then we cannot stress sufficiently, the need to seek expert advice from a financial adviser who has permissions ***in both the US and the UK***.

We hope that this guide helps in your understanding of FATCA and invite you to get in touch further, should you require any assistance.



What is FATCA?

The Foreign Account Tax Compliance ACT (FATCA) became law in March 2010. The objective of FATCA is to ensure the US Government gets its tax dollar of assets that US taxpayers may not have reported outside of the US. That might not seem as though it applies to you but read on; many people who have been surprised by FATCA were not aware that their assets fell under its ruling, or even that they were counted as having assets outside of the US!

Under FATCA rules, the IRS can investigate US citizens' international assets, which they achieve, with the compliance of many territories' financial institutions. The territories involved include the UK, as well as previous tax havens, such as Switzerland. As many of these banks and financial institutions also operate within the US, the US government was able to organise an arrangement with these banks that boiled down to releasing data about the holdings of US residents or face increased taxation on activities within the US. Needless to say, a huge number of financial institutions opted for 'FATCA compliance'.

Whilst the US government has access to information on the foreign assets, a key focus of this piece of legislation is a mandate for extra reporting by US taxpayers, of certain foreign financial accounts and offshore assets. This means that the IRS can in theory compare the two separate reports; one a disclosure by the individual and one a disclosure by the financial institution. If either is deemed to have completed the information incorrectly (deliberately or by omission) or submits the information late then substantial fines are applicable.

Because FATCA is, by its very nature, a tax focused on those who operate across borders, the potential for US Expats and foreign Nationals in the US to be caught out by the ruling is high.

With offices around the world Alexander Beard have been helping both groups to understand whether they may have a FATCA liability since before the law came into force.



Implications for Foreign Nationals in the USA

Given the aims of FATCA explained in the previous section, you can see why many Brits who emigrate to the US don't believe they are affected by FATCA.

This stems from that fact that the majority of Brits in the US will have left accounts / investment funds behind. As soon as you become resident in the US, for tax purposes, then these accounts can potentially become the foreign investments FATCA seeks to tax, meaning both you and your bank will need to report on them.

FATCA will also look at the underlying structure of the account / investment and if they deem it non-compliant, there could be further taxes to pay. An example of this is an Offshore Investment Bond, likely be deemed as a Passive Foreign Investment Company (PFIC) and would have its own tax consequences.

For a good number of reasons, Brit Expats in the US may want to keep assets outside of the US denominated and remaining denominated in Great British £'s. **There are IRS compliant investment options to cater for this scenario***. They will allow a Brit Expat in the US to retain GBP investments outside of the US and become tax compliant. It will also allow them to manage currency risk by allowing you to switch to US Dollars should it be advantageous to do so (and back again if required).

Because of FATCA, extra care is needed when it comes to leaving assets back home. Most recognised banks outside of the USA are registered for FATCA reporting and are therefore obligated to report on assets they hold in the name of customers resident in the US, regardless of whether you report them or not.

Aside from FATCA, many countries robust double taxation agreements, which should mean that tax is paid in only one country.

As with all taxation and investment affairs when moving to the US, it is imperative to take professional financial advice. The US tax system is complicated and cross-border movement of assets is even more complex, made even more obtuse with the advent of FATCA. A mistake in these areas can have the potential to seriously damage your wealth.

Please note: In the UK the Financial Conduct Authority does not regulate Tax Advice.

*Some of these funds are also available to citizens of Euro denominated countries



Implications for US Citizens overseas

As FATCA continues to gather steam in the US, an increasing number of American citizens abroad are being caught in its web or coming to realise their new tax responsibilities. The main targets of the act, it has always been said, are wealthy individuals, using offshore accounts to protect their holdings, but if you are a US expatriate then it is likely you will be caught up in the FATCA laws at some point.

The reason for this is simple, as far as the FATCA reasoning goes: if you are a US national and you move abroad and complete fairly mundane financial activities (like starting a savings account here in the UK) then you are now in possession of a foreign investment and fall under the FATCA banner, necessitating reporting by the institution who holds your investment and by yourself.

As well as the reporting requirements, it is worth being aware of how FATCA has impacted Americans abroad in practical ways too. Whilst the requirements on banks to report on your foreign finances initially presents them with a tax worry, there are also logistical worries. **On announcement of the new law, some institutions stopped offering US expats banking facilities**, due to the reporting pressures such a move would place upon them. Reports of this sort of occurrence have slowed but, without a doubt, there are still potential problems for US expats in the UK or indeed Europe.

As with your British counterparts, it is vital to seek financial advice. The tax implications of moving money you have earned in the US over to the UK, for example, could be complicated by FATCA and other scenarios could see you exposed to large liabilities or fines for non-compliance.

There are, however, US tax compliant investment solutions for US citizens and we can assist you.



Help with FATCA

Alexander Beard Group is an international financial services organisation with offices in six countries, including the USA. We specialise in helping families and individuals with their financial planning needs when they move from country to country, making the journey easier, by providing advice, both from our head office here in the UK and our locations around the world.

If you are moving to the USA, or from the USA to the UK, any EU country, South Africa, or Australia, or have already completed your move, then we are here to help with specialist cross border financial advice in the US and the UK, to US and UK citizens and residents. We are always willing and ready to have a no obligation chat about your requirements before you formally appoint us as your financial advisers.



Contact Alexander Beard

Email: info@abg.net

Telephone: +44 (0) 151 346 5460

Website: www.abg.net

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