What Hath FATCA Wrought?

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Abstract

This paper provides the first look at what the information reports arising from the Foreign Accounts Tax Compliance Act (FATCA) reveal about (i) Americans' foreign accounts, (ii) how successful FATCA has been at increasing tax compliance among owners of foreign accounts, and (iii) how much non-compliance is left after FATCA among owners of foreign accounts.

The analyses are all based on de-identified data from five administrative forms, the first three which pre-date FATCA and the fourth of which is the backbone of FATCA reporting, all linked to the Form 1040 of individual tax filers:

- The FBAR (Report of Foreign Bank and Financial Accounts) contains information on foreign account values and must be filed by taxpayers who held more than $10,000 in foreign accounts at some point during the year.
- The Form 8938 must be filed by U.S. resident taxpayers who hold more than $50,000 on foreign accounts at the end of the year or $75,000 on average over the year ($100,000 and $150,000, respectively, for married couples), beginning in 2012.
- The Form 1099 must be filed by domestic financial institutions to report accounts owned by U.S. taxpayers and allows us to approximate reported foreign capital income in pre-FATCA years.
- The Form 8966, known as the FATCA Report, is filed by foreign financial institutions (FFIs) to report accounts owned by U.S. taxpayers, beginning in 2014. Information from Form 8966 is especially important, as it constitutes the first attempt to obtain comprehensive third-party information on offshore wealth.
- The Form 8854, which provides information about income tax liability in the five years before expatriation from the United States and, if either income tax liability or net worth exceed certain thresholds and some other conditions are met, property owned on the date of expatriation. It was introduced in June of 2004. (Note that the Treasury Department publishes quarterly the names of individuals who renounced their U.S. citizenship.)

In the first part of the paper, we present a variety of descriptive aggregate data about foreign accounts by country-year, FFI-year, US taxpayer-year, and total year. The data presented will include the number of reporting FFIs, the number of foreign accounts held, the dollar value of these accounts (total and by type of asset), and by the income group of the US account holder. This exercise will provide the first snapshot of what the FATCA reporting reveals about US foreign account holders and accounts.

Next, we document the change in taxable foreign accounts associated with the move to automatic cross-border reporting of bank account information via FATCA. Specifically, we create aggregate time series for:

- Total number of U.S. resident taxpayers with reported foreign accounts
- Total number of U.S.-owned reported accounts in each foreign country
- Total value of U.S.-owned reported accounts in each foreign country
- Total value of U.S.-owned reported income in each foreign country

We also report also report on the extent of, and trends in, expatriation.

Finally, the paper seeks to shed light on the scale of post-FATCA non-compliance and the characteristics of the non-compliers. We take several complementary approaches, relying on different data sources. For example, we will compare the estimate of wealth reported for the first time in the context of FATCA to macro estimates of U.S.-owned offshore wealth. We will also use information from foreign financial institutions about “recalcitrant accounts,” which are offshore accounts for whom the foreign financial institution reports under FATCA that the beneficial owner cannot be identified. Ideally, there should be a close correspondence between these two measures of continued non-compliance: on the one hand, the difference between existing macro estimates of offshore wealth and our macro estimate of new disclosures of offshore wealth and, on the other hand, the aggregate value of recalcitrant accounts. Lastly, we compare the effect of the pre-FATCA enforcement initiatives studied by Johannesen et al. (2018) to the effect of FATCA itself, and add structure that allows us to extrapolate from these two sets of findings to estimate the magnitude and nature of remaining non-compliance.