Written by Alex Newman on December 30, 2013

New U.S. Tax Regime is "Devastating," Experts Say

Already facing "pariah" status worldwide due to onerous IRS requirements, millions of Americans living and working abroad are preparing to deal with a deluge of even bigger problems in 2014, when a byzantine new tax regime starts going into effect. Known as the Foreign Account Tax Compliance Act, or FATCA, the deeply controversial and incredibly complex scheme is supposedly aimed at preventing tax evasion and gathering extra funds for the federal government. In reality, it will prove to be devastating, experts say — especially for middle-class Americans overseas and the U.S. economy.

Opposition to the draconian scheme, however, is mounting quickly even before FATCA has been fully implemented. Among the growing chorus of critics: the business community, bankers, Americans abroad, some members of Congress, investors, and even the Republican National Committee. More than a few trade associations and voluntary organizations are now either urging lawmakers to repeal FATCA entirely, or at least calling on the Obama administration to delay implementation and enforcement until the fiasco can be sorted out.

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Around the world, outrage about the scheme is mounting as well, with foreign governments and financial institutions pointing out that the new tax regime essentially makes them unpaid agents of the IRS. About a dozen national governments have inked unconstitutional "agreements" with the Obama administration so far, laying the foundation for a global tax-information sharing regime. International bureaucrats working fiendishly for planetary taxation are celebrating, along with some attorneys and accountants hoping to profit, but serious concerns about the pseudo-treaties are growing.

At the same time — seeking to avoid entanglements with the IRS and massive compliance costs — more than a few foreign banks have simply stopped doing business with American citizens and companies. Indeed, financial institutions worldwide have even started shutting down U.S. accounts as the Obama administration works to make them all into arms of the federal tax-collection regime. Some international businesses are also reportedly refusing to consider Americans in job applications due to increasingly complex IRS reporting requirements.

Despite millions of taxpayer dollars squandered on the scheme, implementation of FATCA thus far has been an unmitigated disaster. According to a recent report by the Treasury inspector general for tax administration, the IRS remains unprepared to implement the scheme. "Their incompetence threatens to compromise the information of both Americans and the foreign institutions coerced into serving the IRS," observed Center for Freedom and Prosperity chief Andrew Quinlan, adding that the agency has gone "well outside the bounds of the law."

"FATCA is pound-for-pound the single worst tax law on the books," Quinlan argued. "Any serious reform must start with FATCA repeal." Among other concerns, Quinlan said the scheme is harming the U.S. economy, "devastating Americans abroad," alienating the global community, "violating fundamental privacy rights," and being used to undermine the separation of powers via "intergovernmental agreements." It will also do little to combat tax evasion, he said.

While the mountains of regulations needed to enforce FATCA have not all been released by the Obama administration yet — indeed, the deadline for penalties to begin has twice been postponed — some of the disastrous effects are already being felt. As *The New American* reported recently, for example, record numbers of U.S. citizens and permanent residents are severing their ties with Uncle Sam. Thousands of Americans have renounced their citizenship already, and the trend is expected to accelerate.

Of course, there is a long and troubling history behind FATCA and the recent efforts to crack down and collect even more taxes from Americans living abroad. The U.S. government is one of only two in the entire world — the other being the regime ruling Eritrea — that seek to extract wealth from citizens no matter where on the planet they reside. According to experts, analysts, and victims of the schemes, the consequences have been devastating for Americans and the U.S. economy.

In an interview with *The New American*, Roger Conklin, a former business executive who worked successfully in Latin America until the taxation of Americans abroad forced him to return home, explained some of the disastrous effects. "There is no argument that these burdens are draconian, but what needs to be understood is that it is primarily middle class Americans who live abroad who are most drastically affected by the unique U.S. system of citizenship-based taxation," said Conklin, who has tried for years to make Congress understand the havoc it was wreaking.

Citing other experts, Conklin also said the tax laws affecting Americans abroad are "so unbelievably complicated" that even with the best professional assistance, nobody can ever be sure that their IRS filings are correct. "The very wealthy can employ the best professional tax advisers money can buy, but cost-wise they are totally beyond the reach of the average middle class American living and working abroad," he added. Those most affected include American schoolteachers, small-business owners, missionaries, spouses, and others living abroad "who simply cannot survive financially."

Just how complex and burdensome is the IRS taxation regime for the millions of Americans abroad? In a report to Congress last year, National Taxpayer Advocate Nina Olsen, who leads the Taxpayer Advocate Service (TAS) at the IRS, explained that there are 7,332 pages of instructions, 16 IRS publications, and 667 pages of tax forms that are applicable to overseas U.S. citizens. For foreign banks and firms seeking to be in compliance with IRS mandates, the complexity is daunting as well, with hundreds of pages of instructions and regulations.

When the "Tax Reform Act" was enacted in 1976, drastically increasing taxes on Americans living and working abroad, Conklin was in Brazil selling U.S.-made exports. "I simply could not survive this tax increase," he told *The New American*, adding that he was forced to return to the United States. Almost immediately after Conklin left, a French company with similar products manufactured in France came in and hired most of the same employees. Within eight years, Conklin said, the French company was responsible for $1 billion in exports from France to Brazil, while U.S. exports of the products into that market had dropped to almost zero.

The same phenomenon occurred worldwide. "There was a mass return of Americans, not only from Brazil but from around the world, as a direct consequence of that legislation," Conklin continued, echoing his testimony to U.S. lawmakers. "Not coincidentally, the U.S. trade surplus that went down in history as the largest ever was in 1975."

"But as a direct result of American companies and citizens cutting back and in many cases totally abandoning some foreign markets because of that 1976 legislation, not only was 1976 a trade deficit year but the U.S. has never since recorded a single trade surplus," Conklin explained. "Our cumulative trade deficit to date, which began in 1976, now exceeds $9.1 trillion and is currently increasing at the rate of $1.95 billion per day."

Incredibly, however, instead of trying to fix the problems caused through its fiendish pursuit of more and more tribute from Americans abroad, Congress and the Obama administration adopted FATCA in 2010. According to experts, unless the controversial measure is repealed, the devastation, suffering, and economic harm are set to get even worse. Penalties for even inadvertent mistakes, for instance, can and will literally destroy innocent people.

Under the guise of extracting more wealth from the "rich" and stopping alleged tax evasion, the U.S. government has already caused thousands of middle-class Americans overseas to surrender their citizenship — a trend that will accelerate as FATCA is implemented. An estimated 7.5 million Americans live abroad. However, there are growing efforts to undo at least some of the damage. Countless organizations are already asking officials to at least delay the scheme, again, until it is properly understood and worked out.

The group American Citizens Abroad, which represents U.S. citizens living in foreign countries, is asking lawmakers to kill the scheme entirely. "ACA supports Congress's efforts to combat tax evasion, but FATCA is not the way to go about it," the organization says on its website. "FATCA invades personal privacy, turns Americans abroad into pariahs in international banking, creates a huge bureaucracy with little return to the U.S., costs financial institutions billions of dollars to comply and discourages foreign investment in the United States."

The Republican National Committee is also working on a resolution calling for the repeal of FATCA. In Congress, there appears to be a growing awareness of the problem, too. Sen. Rand Paul (R-Ky.), for example, introduced legislation in 2013 to repeal the scheme altogether. "FATCA is a textbook example of a bad law that doesn't achieve its stated purpose but does manage to unleash a host of unanticipated destructive consequences," he explained.

"FATCA's harmful impacts cover the spectrum," continued Sen. Paul, saying the scheme would cost the U.S. economy hundreds of billions of dollars, and must be repealed. "It is a violation of Americans' constitutional protections, oversteps the limits of executive power, disregards the mutual respect of sovereignty among nations and drains money from the federal treasury under the guise of replenishing it, and discourages overseas investment in the United States."

Opponents of FATCA celebrated Sen. Paul's efforts, with some noting that they expect the scheme to crumble eventually anyway. "FATCA's demise is now a question of 'when,' not 'if,'" said former U.S. diplomat James George Jatras, who manages RepealFATCA.com, adding that the wind in Washington was blowing against the scheme. "American and non-U.S. firms that stand to lose millions complying with FATCA need to make their voices heard. FATCA repeal needs to be part of any deal on tax reform." Even some Democrats have expressed concerns recently.

Beyond repealing FATCA, numerous experts and analysts who spoke with *The New American* said the real solution is to stop taxing Americans living abroad — period. Instead, critics of the current system say the U.S. government should adopt residence-based taxation, along with a drastically simplified tax code that can be understood by everyday Americans. The alternative — continuing on the current path — will lead only to more pain, suffering, economic harm, privacy violations, ballooning compliance costs, citizenship renunciations, trade deficits, and other major problems.

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