



Written by [Alex Newman](#) on July 2, 2015

## Senator Paul Sues Obama IRS Over Privacy-killing Pseudo-treaties

Senator Rand Paul (R-Ky.) and the group Republicans Overseas Action are planning [a lawsuit against the Obama administration's Treasury Department](#) and the Internal Revenue Service, the latest effort to stop a [deeply controversial scheme known as the Foreign Account Tax Compliance Act \(FATCA\) that turns constitutional privacy protections upside down](#). Represented by a leading constitutional attorney, Senator Paul is taking aim at a barrage of pseudo-treaties — so-called “Intergovernmental Agreements” (IGAs) — negotiated by the administration with foreign governments and dictatorships under FATCA to share personal data. Critics contend that the information-sharing agreements and the statute itself are unconstitutional for numerous reasons.



Especially problematic from a constitutional perspective is that the pseudo-treaties, which purport to mandate the shredding of Americans' financial privacy, are not being presented to the U.S. Senate for ratification. Because the U.S. Constitution requires the consent of two-thirds of senators for treaties to be considered valid, Paul and his supporters say the Obama administration is overstepping its bounds by bypassing Congress and pretending that its IGAs are legally valid. The actual FATCA statute passed by Democrats in 2010 as part of a “jobs” bill does not authorize the pseudo-treaties either, but they are considered essential to making the scheme work by the administration.

Senator Paul, whose constitutional argument in the lawsuit revolves around the administration's refusal to have the Senate ratify its pseudo-treaties, has served as the leading voice in Congress in the effort to stop FATCA. However, his expected involvement in the upcoming lawsuit against the IRS, [first reported](#) by the *Washington Times*, is only the latest element of the long-term plan to derail the controversial statute. Paul has also introduced legislation to repeal FATCA, and in May of last year, citing attacks on the privacy rights of Americans, vowed to filibuster any treaties created under FATCA if they came to the Senate.

“Our government is monitoring our email and cellphones, and they're increasingly monitoring our bank account records — among the most private of an individual's possessions,” Paul wrote in a letter to Democrat leadership last year blasting FATCA and vowing to fight it. “An individual's bank account is the epitome of who they are as a private citizen; a bank account reveals where someone is shopping, what foods they like, the medicines they're taking, the doctors they're visiting and the places they're traveling.”



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Paul also lambasted the lawless attack on banks worldwide unless they agree to become unpaid agents of the IRS by sending the Obama administration all Americans' private financial information without so much as probable cause or even suspicion of wrongdoing, much less a warrant as required under the Fourth Amendment to the U.S. Constitution. Critics have described FATCA's information gathering as NSA spying on steroids, with major threats to institutions worldwide that refuse to collaborate in the crushing of privacy rights.

In addition to the problems of unconstitutional bullying and spying, the scheme, as Paul and countless experts have pointed out, has also created massive hardships for the estimated seven million to eight million Americans overseas. Indeed, many U.S. citizens and green card holders abroad [have been completely shut out of the financial system as banks seek to avoid "pariah" U.S. clients](#) and the regulatory nightmare associated with serving them. To deal with the FATCA problems, [record numbers of Americans have been forced to surrender their U.S. citizenship just to survive](#).

"In short, this law punishes every single overseas financial institution with a 30 percent withholding tax unless they send the IRS the private records of overseas American bank holders — no questions asked, no reasonable suspicion, due process or court order required," Paul's letter to Democrats explained. "This law has forced many foreign banks to simply deny services to Americans rather than deal with the burdens and costs of compliance with FATCA, thus impeding foreign investment and risking harm." A broad range of other serious problems for the United States and Americans have also been associated with FATCA, as *The New American* has been [reporting for years](#).

Paul's fellow plaintiffs in the lawsuit include Americans living abroad whose privacy rights are being shredded by Obama's unconstitutional pseudo-treaties with foreign governments and dictators. As *The New American* [reported in a previous article about the upcoming suit](#), those Americans are challenging the violation of the right to be free from unreasonable searches and seizure enshrined in the Fourth Amendment. Because even innocent Americans can be faced with financial ruin even for innocent mistakes, the plaintiffs are also charging a violation of the Constitution's Eighth Amendment prohibition on cruel and unusual punishment.

The Republican activist behind the group leading the legal charge said it was important to protect the rights of Americans — including those living abroad, many of whom have virtually no ties to the United States and some of whom, often dubbed "accidental Americans," have never even set foot on U.S. soil. "The best way to defend 8.7 million overseas Americans' right to privacy and constitutional protections is to cripple the IRS, FATCA and enforcement tools through legal action on constitutional grounds all the way to the U.S. Supreme Court," Solomon Yue, the founder of Republicans Overseas Action, was quoted as saying by the *Times*.

The plaintiffs are being represented by "super-lawyer" Jim Bopp, who has played a leading role in getting the U.S. Supreme Court to strike down other unconstitutional statutes such as McCain-Feingold's infringements on free speech. "The president can only rely upon his authority and he has no authority in the Constitution for this," Bopp told Bloomberg in a recent interview. "We don't think this has to do with taxes.... This has to do with disclosing private, personal information. The existence of a bank account in a foreign country has nothing to do with what taxes are imposed."

Speaking to the *Times*, Bopp said that "Obama owns this," adding that FATCA was passed when Democrats held majorities in both houses of Congress. "The issue is inescapably partisan for that reason and for the fact that no Republican [in the U.S. House] supported the passage of FATCA," he added. "The U.S. government didn't start enforcing it until Obama started to target U.S. citizens



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overseas in the belief that they had a lot of money but not a lot of political clout sufficient to fight back.”

Longtime advocates for financial privacy hailed the lawsuit, blasting both FATCA’s assault on constitutionally protected liberties and the Obama administration’s pseudo-treaties with foreign powers. “Treasury has used the intergovernmental agreements to circumvent FATCA’s poor design, but in so doing has acted beyond its legal authority to implement an awful law,” said Andrew Quinlan, president of the pro-market Center for Freedom and Prosperity. He called the controversial statute “poorly written” and said it was “unlikely to work without the agreements” being concocted by the administration and challenged by Senator Paul in the lawsuit.

The lawsuit against the IRS, Quinlan continued, is important for a number of reasons. “Senator Paul’s suit is significant because the IGA’s not only facilitate an invasion of the privacy of millions of overseas Americans, but without authorization from Congress also obligates that American banks bear the high costs of collecting and reporting similar information on their foreign clients,” he said, vowing to monitor the effort closely and continue to fight back against FATCA’s “numerous invasions on taxpayer privacy.”

Beyond the assault on constitutionally protected liberties is another key concern: FATCA is being used as a model to implement a truly global taxation regime by the OECD and other globalist anti-market forces. As *The New American* magazine [reported last year](#), the OECD scheme, informally dubbed GATCA (Global Account Tax Compliance Act) by analysts, would put the final nail in the coffin for financial privacy worldwide. Under the scheme, vast troves of private data would be automatically exchanged between all participating governments and dictatorships.

According to media reports, the lawsuit by Senator Paul and Republicans Overseas is expected to be filed in a southern Ohio federal district court this week. Unless [Republican lawmakers act to rein in the IRS or defund FATCA](#), the challenge is expected to potentially reach the Supreme Court. Anti-FATCA activists are also seeking pledges to crush the scheme from 2016 presidential contenders. One way or another, privacy advocates say, FATCA will eventually be quashed.

*Alex Newman is a correspondent for The New American, covering economics, education, politics, and more. He can be reached at [anewman@thenewamerican.com](mailto:anewman@thenewamerican.com). Follow him on Twitter [@ALEXNEWMAN\\_JOU](#).*

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