

The tax issues for Americans living outside the US are many, varied and exceedingly complex. Since learning of FATCA, FBAR and Citizenship Based Taxation (CBT) a couple of years ago, I have struggled to find a way to explain them to others who have yet to have their own "OMG Moment". Focusing only on the regulatory issues has not been sufficient to convey the monstrosity of these three policies, the need for them to be arrested. So, Instead of telling only of the requirements, how they violate various amendments to our Constitution and how, legal or not, they are impossible to comply with regardless of intent, permit me give a narrative that portrays the realities of FATCA/FBAR and CBT and why immediate action is required. First I'll my background to show how I came to reside in Japan and unknowingly trapped in a tax and reporting nightmare. After this I will provide the narrative that follows my situation as closely as I am comfortable with. Then I will relate how I learned of FATCA, FBAR and CBT followed by an explanation of how these violate various amendments to our Constitution and the effects these will have on the homeland. Lastly I will give my recommendations for solving these issues.

At the age of 17 I joined the U. S. Navy through the delayed entry program and shipped out to boot camp at 18. Enlisting into the six year enlistment program, I was honorably discharged at 24. The last 2 and a half years of my enlistment had me serving aboard a US Navy vessel home ported in Japan.

After being discharged, I attended college and was soon back in Japan, first as a student at an American university that was then operating a campus here for one school year then again as a foreign exchange student at Meiji University for one calendar year. After graduating in 2000 I returned to Japan once again as an English conversation teacher at a large English conversation school. My intent was to stay 3 to 5 years and return to the US, studying Japanese language and other Japanese related topics in my free time.

Along the way I met a local woman, fell in love and married. Japan has been my place of residence since 2000. I have spent most of my adult life in Japan and have been granted a Permanent Resident Visa by this nation. I pay income tax to the county and city in which I reside.

For the first couple of years resident in Japan, I filed income tax returns to the US. I did so not because I had knowledge that I must even though living overseas, rather I thought it may cause difficulty once I returned home and resumed working in the US with a several year long blank in tax return filings. Thought it would be easier to stay in the system.

Filing from overseas was a lot more difficult than filing from within the US. Although the IRS did send me tax forms and instructions, they did not send all that was required. Getting forms and instructions are very difficult for us living overseas. Trips to the Embassy, the only place where civilians may procure forms, etc necessitate taking a day off, as close to an impossibility as possible without actually being impossible for most working for

Japanese companies. Additionally, phone calls to the IRS were inevitably required to clarify one point or another. These were not toll free, as they came from overseas and had to be made during office hours in the US, meaning in the middle of the night here in Japan. Each year, I would ask the IRS via phone call if the forms I was submitting were all that were required and the IRS always answered "yes". Never was I informed of the need to file a FBAR. Never even knew of its existence until a very short time ago.

At one point, a new requirement came in the form of a letter attached to the front of the instruction booklet sent to me by the IRS. Many I have spoken to since have told me that this requirement did not apply to me, yet there it was in writing in the envelope the IRS sent directly to my address in Japan. This requirement was confirmed twice during two different late night phone calls to the IRS. I was then required to report the exact amount paid each month in US dollars and write an essay explaining how I came up with the US dollar amount from the local currency. This was a monumental undertaking for me. Not having any knowledge of this requirement before hand, I had to research what the exchange rate was on each day I received a payment and use that exchange rate to calculate the exact amount in US dollars received as remuneration, commuting costs and all deductions. This greatly increased the number of computations needed and thus the opportunity to make a mathematical error. Each error carried the weight of a \$10,000 fine. The task made even more difficult by the fact that my manager had not issued a monthly pay slip for three months the previous tax year. Without the aid of my own computer, nor even a calculator, it took over a week of all day, every day work to complete my US income Tax return for that year. Despite my best efforts, I sent it off with great fear that there must be at least one error and that I would be fined huge amounts of money, more than I would be able to pay. With a yearly salary of ¥30,000 and living in what was at the time the most expensive city in the world for expats, that was an awful lot of paperwork to be required to show that I did not earn enough to owe taxes to the US and yet be under threat of massive fines for inadvertent errors.

That was the work load with just one employer, one pay day a month and just one bank account. After working with that company for two and a half years, I started working for multiple entities. A common feature in Japan is that the employer often tells the employee which bank the company will pay the employee through direct deposit. Such was the case with many of my employers. Thus, I ended up having accounts in five different banks for my nine employers to deposit my pay into. Additionally, I have had as many as six different paydays a month. The time required to do and check and double check the numerous computations of yen to dollars for each payday times six for each month times twelve for the entire year was and remains far more than I can do without quitting all my jobs and devote my life to income tax filing compliance, again with no tax owed but with the risk of massive fines for inadvertent errors and omissions. That may sound like an exaggeration, but it is not. Here is what the IRS Taxpayer Advocate Service (TAS) stated on the complexity in the IRS Taxpayer Advocate Service Annual Report to Congress 2011 Vol.1 ( IRS TAS ARC 2011 VOL.1) page 132.

The complexity and administrative detail of the international reporting requirements are overwhelming.

the irS has 16 publications that address international issues for individuals, totaling 407 pages, with 110 references to other publications totaling 4,491 pages and 137 references to forms totaling 450 pages which have an additional 2,190 pages of instructions. at a minimum, individual international taxpayers spent 25 million hours reviewing and completing 2009 forms.<sup>24</sup> publication 4732, *Federal Tax Information for U.S. Taxpayers Living Abroad*, illustrates the complexity of the filing requirements for individual U.S. taxpayers. the publication refers to at least eight other relevant irS publications, totaling 563 pages. Further, the additional documents referred to by these eight publications include 4,727 pages of instructions, 667 pages of forms, and another 1,928 pages of form instructions for a total of 7,322 pages.

That is the background of my story. To help illustrate the reality of being an American living overseas and married to a non US Citizen, the following is a narrative of how things would have been if I were 100% compliant. It is long but the human element of the reality of the U.S. Expat married to a non US citizen needs to be known. The names and some details of actions are fictitious. The numbers, requirements and results are accurate to the best of my knowledge and understanding.

It is 2010. John Q. Public (J) is an American citizen and has been living in Japan since late 2000. He has recently received his Permanent Resident Visa, similar in concept to the "Green Card" of his homeland. His annual income is now \$40,000. He teaches English for 9 different employers who pay into his accounts in three different banks as needed to fulfill his various employers payment conditions and another as a joint account with his wife, a Japanese citizen. He has another account at the behest of his wife. None of his other banks operate ATMs in their area which makes it difficult to access money on weekends and holidays. This fifth account is supposed to be accessible through the local ATMS. His companies pay him on six different days of the month. Each day has a different exchange rate. All employers pay in the local currency, Japanese yen.

Kaoru Public (K), J's wife. She is a Japanese national and she and her husband live in her homeland. One of only a handful of women in the engineering department of her tech. school, she none the less earned one of the highest GPAs in Classical Japanese. When she and J first met, she was looking for employment with a large multinational firm in the hopes she could realize her full potential. K was hired as just an OL, Japanese for "office lady", but would soon find herself in positions of increased responsibility and remuneration.

By 2010, J & K have been married for 5 years. The first year was especially rough. J left his full time position to seek greater opportunities as a "freeta", Japanese slang the meaning of which includes "freelance", English teacher. He works from 9 am until 11-11:30 each night. His earnings do not cover his expenses which include his college loan debt, local taxes and the family expenses.

K is heavily engaged in an important project at work. She works 188 hours or more of overtime each month for the first ten months of the marriage then in the States for three months. J, the American, has to fly from Japan to the U.S. to spend his first anniversary with his wife, who is Japanese but living in The US. This causes lots of chuckling and head shaking among family and friends in both countries.

J & K spend very, very little time together as newly weds. It would be a very lonely time

for them both. At least K's hard work and effort paid off. Her company paid every single yen she earned in overtime, a rarity in Japan. With her full overtime pay, semiannual bonus and regular salary, her payment on the bonus month was five times J's yearly income. This clearly demonstrated for both that it was K who had the greatest earning potential.

After K's return from abroad, they discussed their future and decided to stay in Japan. Having made this decision, the money they were paying for their rental apartment seemed to be a waste of money. K had recently received a promotion as a result of her hard work on the previous year's project. With the accompanying pay raise and her savings from a decade of working full time before marriage and unencumbered with college loan debt as was her husband, this was an easy decision for her. J agreed but plain did not have the money. All of his income going to expenses and paying off his college loan. They came to an agreement and they bought their home later that year. J's name is not on the deed however, for the simple fact that Japanese law prevented it. A certain percentage must be paid by someone before they can have their name on the deed. Or so K told J. So J would pay K a certain amount each month towards the mortgage and another certain amount to the joint account towards the family living expenses. J's contributions, although far less than K's, left him basically penniless after paying his local taxes and his school loan payment.

Although agreed upon, even suggested by K, the financial arrangement caused friction in the marriage. J was always away at work and not able to help with the house work and his financial contributions not really covering his cost to the family expenses. Slowly, J started moving up the ladder by landing better and more secure part time positions in universities and better company jobs. Although his working hours increased, his commute time was drastically reduced. Finally, he was able to be less of a burden and actually a net contributor to the marriage, though just.

A major point of friction remained. K could not understand why each and every May J had to waste the "Golden Week" vacation doing his taxes for his home country. After all, it takes him only an afternoon to do his Japanese income taxes and those are in Japanese. Why does it take days and recently much longer than a week for him to do his taxes for the US, they are in English. Besides, he pays his taxes in Japan, where he lives and has never owed any taxes to the U.S., he doesn't earn anywhere near enough. Who ever heard of such a thing? Just a complete waste of time.

It used to take only a couple of days for J to complete his US tax return, then all of a sudden, when he and K were still dating, the rules changed. Within the packet of forms and instructions sent by the IRS was a letter stating that J now had to compute the actual US dollar amount received on each and every payday. As the exchange rate differs each day, this greatly increased the work load and time to prepare his tax return and the chances for error and thus huge fines. He had promised to travel over Golden Week with K as they had done in the past but this year the new changes were so complex and required so much extra documentation that he ended up spending the whole of Golden Week on his US income tax return. At that time, J had but one employer and only one pay day a month and only one bank account in Japan. Their relationship very nearly came to an end that year

over J's need to file complex tax returns to a far off land.

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Each year thereafter J did his best to prepare for his U.S. Income tax return as much as possible in advance so that he could keep his yearly promise of spending Golden Week with his soon to be wife. Yearly changes to the tax rules rendered most of this advance work useless and he would have to start anew once the year's instructions and forms were finally in his hand. Year after year, the ever changing and increasing filing requirements forced him to break his promise to his wife.

It is now 2012. J still works long hours. Most of his income goes to pay off college loans totaling \$33,000 but will soon be paid off, pay his portion of the mortgage and what he can towards living expenses. K has just finished her Master's degree and is really, really looking forward to the promised Golden Week vacation. J has just about killed himself getting what he could get done on his tax return so that he could live up to this promise of a Golden week vacation. During K's Master's course, J did all the house work while working his usual hours. 2 to 4 hours of sleep per night was all he could get. There were many days of not even going to bed at all, especially as he tried to get his taxes prepared.

Finally, J sits down to do his taxes and discovers yet another new form, the FBAR. "Now what?" he wonders. Not able to make heads nor tails out the outrageous requirements, he goes on line and to his audible horror discovers that he must report the highest monthly balances of all his accounts in US DOLLARS!!!! FOR THE PAST SIX YEARS! INCLUDING THE JOINT ACCOUNT WITH HIS WIFE! Where did this come from. Each year required several overseas phone calls in the middle of the night Japan time to the IRS to clarify this or that point. Each time calling, J asked if any thing else was required of him to complete his tax returns and not once was he informed of FBAR. He now has five accounts, nine employers and receives his meager earnings on six different days of the month.

These information returns are to be sent to the the Financial Crimes Division of the IRS. Any error will be considered possibly criminal and a \$10,000 fine assessed for each and every error. As these information returns require much of the same information on the actual tax returns themselves and will be matched with previous returns, any error on the tax returns will also incur a \$10,000 dollar fine. "Due to the complexity of the now 7000 pages of instruction, professional help is strongly recommended." Panicked searching reveals the it will cost J a minimum of \$12,000 dollars for a tax professional to prepare the required 6 years of information returns alone. As these must be accurate under the new rules and match his tax returns for the previously filed five years which were filed under the old rules, amended returns are strongly suggested. "Another \$12,000 for the tax returns plus the \$12,000 for the FBAR info returns, for \$24,000 dollars I can get you all squared away with the IRS. Next year and every there after it should cost only you only \$2000 to \$4000...unless the IRS changes the rules again ( chuckle, chuckle, chuckle).

That is what compliance means for most, nearly 80% of the U.S. Expat community, according to American Citizens Abroad.

All the actions ascribed to J are accurate until the point in the narrative broken with "XXXXXXX". After that, J has NOT filed any US income tax returns. He never really made the decision not to in fact each year for several years thereafter he tried to do his tax returns and spent huge amounts of time so trying, but was able to complete them. Work requirements had to be met if he were to remain employed. Additionally, the chances for making errors that would bring fines far in excess of his ability to pay were so great that it would be foolish to expose himself to them. The choices he had were to 1. quit work and dedicate his life to his tax returns, to prove that he did not earn enough to owe taxes to the US and end up divorced and homeless. 2. Work himself to death, using 100% of his earnings and still needing to use his wife's assets to pay for a tax professional to do his returns and end up divorced, homeless and after using every yen he could earn to pay for a tax professional, dead. 3. Continue working and paying taxes to the country of his residence and college loans and as much as he could to his family account and ignore the unjust demands of his far off native land.

Faced with these circumstances and choices, what would you do?

Again, to illustrate more clearly the burden placed upon individual taxpayers, here is what the IRS Taxpayer Advocate Service (TAS) stated on the complexity in the IRS Taxpayer Advocate Service Annual Report to Congress 2011 Vol.1 ( IRS TAS ARC 2011 VOL.1) page 132.

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These 7,322 pages are in addition to what US residents must deal with for we have to fill those out too. Yes, for me to sort through these instructions, changed every year, would require me to quit all of my jobs. Not being able to complete my tax returns in such a manner as to avoid huge penalties for unintentional errors without choosing either option 1 or 2 above, only the third remained. This option became fact only after several years of trying to complete my returns. Eventually this issue faded into the background, ever present but not the focus of my concerns.

This issue jumped back into focus a couple of years ago when the time came to renew my passport. The application I down loaded from the Tokyo website contains several

statements that violate various US laws. First, there is this statement, "The Department of State must provide your SSN and foreign residence information to the Department of Treasury. If you fail to provide the information, you are subject to a \$500 penalty enforced by the IRS. ". This is a clear cut violation of Due Process as protected by the Fourth Amendment to the Constitution. Such information can not be shared between departments except for the purpose of administration, which these ckearly are not, with proving probable cause and obtaining the appropriate court order.

Then there is this statement, "Your Social Security Number will be provided to Treasury , used in connection with debt collection and checked against lists of persons ineligible or potentially ineligible to receive a U.S. Passport, among other authorized uses.". The right to leave one's country, either permanently or temporarily is an internationally recognized human right, one which our country, the United States of America supports with laws, international treaties and Human Rights Complaints against nations that refuse this right to their citizens. There can be no eligibility to exercise a right as rights require no such eligibility. In short, if one can be eligible or ineligible for something, that something is not a right. If something is a right, one need not be proven eligible to exercise it. Eligibility and Right are mutually exclusive terms. This action also violates the Fourth amendment.

And then we have the following, (emphasis in bold mine) "Your social security numbers will be provided to the U.S. Department of Treasury and failure to provide it may subject you to a penalty, as described in the Federal Tax Law provision. It also may be used for identification verification for passport adjudication and in connection with debt collection, among other purposes as authorized and generally described in this section. PROVIDING YOUR SOCIAL SECURITY NUMBER AND OTHER INFORMATION REQUESTED ON THIS FORM OTHERWISE IS VOLUNTARY, BUT FAILURE TO PROVIDE THE INFORMATION REQUESTED ON THIS FORM MAY RESULT IN PROCESSING DELAYS OR THE DENIAL OF YOUR U.S. PASSPORT APPLICATION". "Voluntary" you say?

The following bold is from the application, not mine.

"CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION: Failure to provide the information requested on this form may result in Passport Services' refusal to accept your application or result in the denial of a U.S. Passport."

For myself and others who are lawfully living overseas, this document reads, 'The applicant will provide the following information and allow us to use it illegally or risk having the right to travel and reside outside the borders of the homeland illegally revoked'. My Permanent Residence Visa requires that I maintain a valid passport. The revocation of my passport would immediately tear myself away from my family, home and employment, causing irrevocable negative changes to my rights and privileges to reside with my family in our home and to the positions I worked hard over a number of years to secure. Again, without due process nor any taxes owed.

Recent changes in U.S. Tax law and/or IRS rules of which I had no way of even conceiving that such rules could exist in a country founded upon "No Taxation without

Representation" over night made myself noncompliant with FBAR. Learning of this after the fact, the only way to become compliant is to spend more money than I have earned since graduating from college and worse, spy on my non U.S. citizen spouse whom the IRS refers to as a "Nonresident Alien".

FBARs were originally intended and implemented for persons RESIDING in the US who had accounts outside of the U.S., not for US citizens LIVING OUTSIDE the US. . Every year I have filed my tax returns from Japan various issues would arise that would require a phone call to the IRS. Each and every year I specifically ask if anything else was required and not once did the IRS inform me of this requirement. Yet, I am now subject to excessive fines as noted here, on page 191 of the IRS TAS ARC 2011 Vol. 1.

### **deFiniTion oF ProbleM**

U.S. taxpayers abroad who do not comply with complex information reporting requirements are subject to financially devastating penalties that often are not commensurate with the tax liability at issue. these penalties may range from \$10,000 per violation to the greater of \$600,000 or 300 percent of the foreign account balance for willful failures continuing over a six-year period.<sup>1</sup> the National taxpayer advocate is concerned about an apparent shift in the irS's approach to the application of these civil penalties. although the irS's longstanding policy is to use penalties "to encourage voluntary compliance,"<sup>2</sup> there are indications the irS may have used penalties as leverage against taxpayers who have entered into voluntary disclosure programs, often penalizing those who are trying to become compliant.<sup>3</sup>

I had five different accounts for the reasons cited above. Due to the joint account with my wife which contained money she earned and paid taxes on in Japan the aggregate of my accounts was greater than \$10,000. So, my fine for not filing forms that I had no way of knowing about are a minimum of \$10,000 times 5 (the number of bank accounts I had) times six years equals \$300,000. Not because I owe taxes, because I did not spy on my wife's financial information as required due to our joint account.

The worst has yet to be described. FATCA is having the biggest, most immediate effect. This law gives banks two choices, give the Treasury Dept. of the U.S. all information on anyone who might possibly be a US Person (without probable cause or warrant, the legally required Due Process protected by the 4th amendment of the Bill of Rights) or be fined 30% of all U.S. derived income. Banks however, have decided upon a third option, they are not allowing Americans to open new bank accounts and closing accounts currently held by U.S. Persons, thus relieving themselves of the burden of collecting, safe storing and transmitting this information.

It is this last point that currently is my biggest concern. All of my several employers pay with direct deposit only and will not pay with cash and paychecks do not exist in Japan. If my bank account is closed, I become unemployed and unemployable over night. Worse, if my wife who now carries a non local surname has her account closed or frozen, as has occurred in Europe and elsewhere, we will be homeless long before year's end for we will be unable to make any of the payments needed to keep a home or rent an apartment.

That is the reality I and every other American living out side the US face. Was this the intent of Congress when FATCA was passed?



FBAR now requires all US Persons to report all accounts they have signature authority over if they total \$10,000 in aggregate. For those who have signatory authority for their Japanese employer, they must report that account to the U.S. IRS, thus breaking the trust placed upon them by their employer, most likely violating the terms of their contract and violate Japanese law. If the US Person shares an account with their non US citizen spouse, they must also report that account to the U.S. IRS, violating the trust of their spouse. If a US Person handles the account of, for example, the local children's group, if the accounts of the US person are over \$10,000 in aggregate, this too must be reported, violating the trust of their friends, neighbors and the parents of their children's friends, and again, possibly Japanese law. And again, with taxes owed.

FBAR places the burden of deciding which set of laws to obey and any decision means that one set of laws or the other must be broken. Should a US Person follow the law of the country they reside in, they are breaking the law of their far off homeland. If they choose to follow the law of their far off homeland, they must break the law of their the country they reside in and the faith and trust of family, neighbors, friends, business partners and employers. With FATCA, the threat of being permanently financially ruined for following local law has become real. This is wrong! It is morally wrong! It is ethically wrong! As it breaks US law, local law and international law, it is legally wrong as well. There is no justification for any of this.

Let's explore this further. Let's say I have two children, a son and a daughter, born in Japan to a Japanese mother whose births have not been registered at the U.S. Embassy. They are Japanese and Japanese only to everyone in the world except the US government because their father is or was an American. Yet, because their father is or was an American citizen, their bank accounts must also be reported to the U.S. and if they are more successful than their father, they will owe tax to the U.S., a foreign land to them. If they marry their childhood sweethearts, Japanese both with no taint of US Personhood, then my children are obliged by US law to report/spy on their Japanese spouses' accounts. When promoted to a position of signatory authority over company accounts of their Japanese companies, they too will have to decide which set of laws to break, those of their homeland or those of their father's homeland. Now with FATCA, honoring the laws of their homeland and land of residence over the laws of their father's could destroy them and their families financially. My daughter may be able to escape the horrible consequences of having an American father after she marries as she would take the family name of her Japanese husband. My son would not be able to escape and worse pass the curse of US Personhood to his Japanese wife and Children. In reality, after a few cases appear in the news, my employers and my children's employers will just let us go and hire no more US Persons.

What would be your reaction If the situation was reversed, the Japanese government demanding that Japanese citizens and their descendants resident in the U.S. violate U.S. law by sending such financial information on their non Japanese spouses, employers, business partners and any community group they may be treasurer of to Japan and Japan punishing the Japanese who didn't? How would American banks and companies react to

that?

That is how FATCA/FBAR and Citizenship Based Taxation violate the laws of the nations where US persons reside. However, FBAR (as applied to Americans living overseas), FATCA and Citizenship Based Taxation as a whole also violate various US laws and constitutional amendments. Here are some examples of how they do so.

FATCA/FBAR violate the following amendments of the US Constitution, 4th, 5th, 6th, 8th and 14th. They violate the fourth amendment by bypassing due process. They are general warrants and are prohibited by US law. As it would be a violation of the 14th Amendment, equal protection, to require residents of New Jersey to provide information on their local accounts and assets that residents of Wyoming are not required to provide, so too is it a violation to require U.S. citizens living abroad to submit the information return, FBAR, on their local accounts while not requiring residents of the U.S. to do so. Having to submit these to the Financial Crimes Division of the IRS for each and every small, inadvertent, unintentional error to be found a violation with a minimum fine of \$10,000 per error violates the fifth amendment as well as the 8th amendment protecting against excessive fines. If brought to trial, we can not have a jury of our peers as US courts to not hear cases in the various lands US expats reside in. As no homelanders face any of these laws, they are not our peers in these matters, thus violating the sixth amendment. And all of this with no tax owed.

Taxation without representation. Some may argue that American's living overseas indeed have representation in the Representatives and Senators from our home districts. This is false. First, on a practical note, many offices of the above do not accept correspondences from overseas ISPs. Each state has two Senators and a number of Representatives based on the population of each state as determined by the US census. The reason is clear, the residents of New York State have different concerns and needs than the residents of Iowa. Thus each state sends Representatives and Senators to the National Delegation to represent the concerns of those living in each district and state. The estimated 7 million Americans living outside the boundaries of our native land have no such representation. My concerns are not the same as my former neighbors in my home town nor not even the same as my parents. They do not need to report all their assets to the Financial Crimes division of the Treasury Dept.. I do. They are not required to send sensitive personal financial information of their spouses to a foreign land under penalty from that land. I am.

Additionally, as American citizens living overseas are not counted in the US census and the US census is used to determine the number of seats in the Congress for each state, Americans living outside the country are not counted with in our home districts and are thus without representation.

Voter fraud is another concern for those like myself with permanent resident visas. If one is acknowledged to be legally resident in one location can they vote in another? Conversely, If one claims to be resident in their so called home district so that they can vote, can they then claim the Foreign Earned Income Credit?

For those who remain unconvinced on this point, surely they can not honestly believe

that our "Nonresident Alien" spouses have representation in the U.S. Legislature, nor our non U.S. Citizen business partners with whom we may share an account, nor our companies or other organizations we may have signature authority over the accounts of. Yet, their financial information is required to be sent to the IRS by any U.S. person who may have earned the trust of their hosts to have been given signing authority of accounts within these organizations.

How about our children born overseas? Who represents them? The U.S. claims them as citizens owing taxes to a land that is foreign to them and from which they derive no benefit yet they have no representation. These "accidental Americans" being citizens then bring the same curse of US Personhood to their Nonresident Alien spouses and children. Yes, curse. My country, the United States of American, the country I served in the military to protect for six years has turned one of the greatest gifts on Earth, US Citizenship into a curse for those of us who exercised our right to live outside the borders of our homeland.

However, those of us living overseas are not the only ones who will be harmed. Here is how these laws hurt the home land.

These are emails sent to me by a friend who also teaches English in Japan. He is a British national, his wife Japanese and their child dual. Collectively, they are a real life example of the very broad negative effects of FATCA/FBAR.

2014 [Jan 06](#)

Wow

This is getting ridiculous-I have to answer about dollar assets I have to my British stockbroker IN BRITAIN or they'll freeze my account

Also, do I live or even visit America and how many days a year I go there

D

2014 [Jan 09](#)

Sample questions:

Do you have one US parent?

Were you born in the US?

Do you have any US assets?

Do you work for a US created corporation ?

If yes then you need to fill in a form for US tax information

2014 Nov 02

Hello J

Looks like you were ahead of the game. Japan has joined a tax agreement with the US and as a result I am persona non grata worldwide.

My overseas share dealing account in the UK is being closed down and I have to get out of Dodge. I phoned a US trading company and they won't deal with Japanese residents; even banks in Luxembourg won't go near anything Japanese as they have to report to the Japanese Govt.

It's quite ironic really as Japanese banks themselves are not so keen on me either. Welcome to the brave new world of globalisation (for the filthy rich with personal accountants).

Cheers

D

An overseas bank which has an account of a Japanese resident must now send details of that account to Japan and those countries now include Australia which has also signed up to the agreement.

Any country signed up to the agreement can demand that foreign banks send them info on residents who have accounts with them, which means for the banks it's too much trouble to bother with so just refuse them accounts.

Japan signed the law in 2012 and it came into effect in July 2013.

Cheers

D

In fact technically you are not even allowed to ACCESS the website of an overseas bank from Japan

One bank sent me a mail by error which stated:

"This is not allowed to be sent to Japan".

D

He has told his brokers to not invest in anything that might even possibly be connected to the US. The amount of paperwork he would be required to do if he did invest in America is not worth it in his estimation. And he most certainly does not want his financial information nor that of his wife and child to be sent to what is a foreign government to them.

He is not alone. Below is taken from the London based U.S. tax and Financial Services website, FATCA FAQ, [ustaxfs.com](http://ustaxfs.com).

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**What is the penalty for non-compliance?**

**How can I prove that I have acted in 'good faith' to comply with FATCA law?**

**What is an Intergovernmental Agreement (IGA)?**

**What is the difference between an IGA Model 1 and Model 2 Agreement?**

**How can I avoid FATCA?**

Avoid US-sourced income, US investments and US investors/account holders and that should do the trick.

This organization is advising financial institutions in Great Britain to avoid not only investors by Americans and accounts held by US persons but also investing in the US.

What part does FATCA play in Great Britain and other countries joining the Chinese Asian Infrastructure Investment Bank (AIIB)? I can not imagine that being extorted by the US to enter into the FATCA IGAs did not play a role. Friends do not extort friends. FATCA does just that and soon there after many of our friends join the AIIB.

Other negative effects. The IGAs the Treasury Dept. offered to world are reciprocal agreements. Despite Treasury not having the authority to compel US banks to provide the same information to foreign governments that they are required to supply to the US, Treasury has signed agreements stating that US banks will reciprocate.

One of two outcomes, which have already begun, are likely. Foreign governments will begin demanding all the same information on anyone they deem a "citizen for tax purposes" in the US and elsewhere as the US requires them to provide on US Persons living in their countries. France now has its own FATCA like law. Sweden is currently requesting information on its citizens from the US and elsewhere. Japan now requires banks worldwide to provide FATCA like reporting on accounts held by residents of that country. Imagine Germany, Ireland, France, every nation demanding all this information on everyone in the US with ancestry from these countries and those who have joint accounts with them. Not good for the US, our citizens nor those who fled tyrannical governments.

Will US banks do as banks around the world are doing and refuse to do business with persons of overseas decent to prevent them from having to break US privacy laws and the huge costs involved of collecting, storing and transmitting this data? Or will every US resident have to cover the costs with higher taxes and those lucky enough to retain their bank accounts having greatly increased banking fees?

The other possible outcome is the US not giving this information as it agreed to thus

violating its end of the agreements it extorted the rest of the world into in the first place. Also not good, further isolating the US and earning for itself universal hate, distrust with no one wanting to help it nor deal with it nor its citizens. Not far fetched, it is already happening, as cited above.

It is reported that the supporters of FATCA are saying that those who wish to repeal FATCA are on the side of tax cheats. Am I a tax cheat? Is my Japanese wife? How about our infant child? Are all US citizens living overseas tax cheats merely for exercising our right to live outside our homeland? Are all of our non US citizen spouses and children? FATCA penalizes, either directly or indirectly, all Americans living overseas and anyone with whom we have any financial ties, tax cheat or not.

Is the above what the legislature envision the results of these policies to be? If so, congratulations. Mission accomplished. No need to change anything in regards to these issues. If these realities differ from the desired outcome, the need for action is clear.

The solution to all of these issues is so utterly simple as to cause wonder as to how a nation so conceived as the United States could ever have come up with, let alone implement such travesties upon its own citizens. No taxation without representation. Follow the Constitution, it is law. Repeal FATCA, it violates the law. Return FBAR to its original purpose of reporting the overseas accounts of residents of the U.S.. End citizenship based taxation. Leave that to Eritrea and possibly North Korea. We need not be numbered in their company.

Note: I suspect that there must be errors in my account of some of these requirements that may be found with staff research. However, the account given is as I understand it from what I can find on my own between classes, while riding the train to work, etc. We living overseas do not have the benefit of taxpayer funded research staff and get by the best we can with very limited resources. Therefore, accurate or not, the above account is my reality.