



2014 FATCA RESEARCH PROJECT

FATCA: Affecting Everyday Americans Every Day

September 2014

“I would like to urge US legislators and policy-makers to understand that the majority of US citizens living abroad are ordinary people with ordinary jobs, trying to make a living, stay healthy and spend time with their family. We're no different than our friends and family in the US, we just happen to live in another country.” – Quote from an American abroad participating in the 2014 FATCA research

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INTRODUCTION

Between June 18 and July 15, 2014 Democrats Abroad carried out a survey of overseas Americans to examine their experiences related to the Foreign Accounts Tax Compliance Act (“FATCA”). FATCA was passed into law by Congress in 2010 and requires US Persons and the foreign financial institutions they bank with to report information annually to the US Internal Revenue Service on their financial accounts.

There were 6,552 responses from Americans who hail from all 50 US states and the District of Columbia and living in locations across six continents. The data and the comments presented in this paper were collected on an anonymous basis using a questionnaire set up in SurveyMonkey and tabulated by the Democrats Abroad FBAR/FATCA Task Force, including Dr. Amanda Klekowski von Koppenfels¹.

The survey was distributed to the Democrats Abroad global membership and promoted on the Democrats Abroad website, Facebook pages, Democrats Abroad’s and other Twitter handles and the websites of organizations of Americans abroad such as the Association of Americans Resident Overseas (AARO) and the Federation of American Women’s Clubs Overseas (FAWCO).

These survey results show the intense impact FATCA is having on overseas Americans. Their financial accounts are being closed, their relationships with their non-American spouses are under strain, some Americans are being denied promotion or partnership in business because of FATCA reporting requirements and some are planning or contemplating renouncing their US citizenship. Some have already done so.

These Americans are, in many ways, ordinary, middle class Americans being affected in extraordinary ways. This report and the Datapack published with it are loaded with statistics that demonstrate the extent of FATCA’s unintended adverse impact on Americans living outside the US. The report also includes powerful statements selected from among the many thousands of comments submitted anonymously by survey participants that we hope will clearly illustrate the data and bring the unintended consequences of FATCA to life. It bears noting that many of the remarks include genuine support for policy designed to fight tax evasion.

¹ Dr. Amanda Klekowski von Koppenfels, PhD, is Lecturer in Migration and Politics at the University of Kent, Brussels and Director of the MA in International Migration, and author of *Migrants or Expatriates? Americans in Europe* (2014, Palgrave Macmillan).

1. ACCOUNT CLOSURES

The 2014 FATCA survey shows that **one in six Americans abroad has been affected by FATCA with the closure of an account** in a foreign bank or brokerage house. All overseas Americans are affected, although some demographic groups are affected by account closures slightly more than others. The Americans affected are largely middle class, married, and moved overseas to be with a partner, for a job or to retire. Some were born abroad.

	ALL SURVEY RESPONDENTS	RESPONDENTS REPORTING ONE OR MORE BANK ACCOUNTS CLOSED DUE TO FATCA ²
Are married	64%	64%
Have a non-American spouse	65%	67%
Moved overseas to join a partner	43%	40%
Moved overseas for a job	35%	40%
Moved overseas to retire	15%	12%
Were born abroad*	4%	5%
Are over the age of 65	32%	32%
Are over the age of 55	57%	58%
Have lived abroad 20+ years	51%	60%
Have annual household income of \$46,000 or less	24%	19%
Have annual household income of \$99,000 or less	58%	49%
Have less than \$50,000 in savings/investments	50%	38%
Have no clear plans to return to the US to live	68%	72%

* Although 4% of survey respondents report living abroad because they were born abroad, the vast majority of respondents are living abroad because that is where life took them.

In many instances respondents learned about FATCA only when notified by their financial institutions of changes to their financial arrangements. **“I was shocked by the closure of two of my local bank accounts, especially as the large bank in question (Deutsche Bank) did not even explain correctly why it had to close those accounts -- they basically made up nonsensical reasons (unfounded under the law) and clearly got FATCA wrong.”**

² See the 2014 FATCA Survey Datapack for a detailed illustration of the age, income and financial holdings of those who reported foreign account closures.

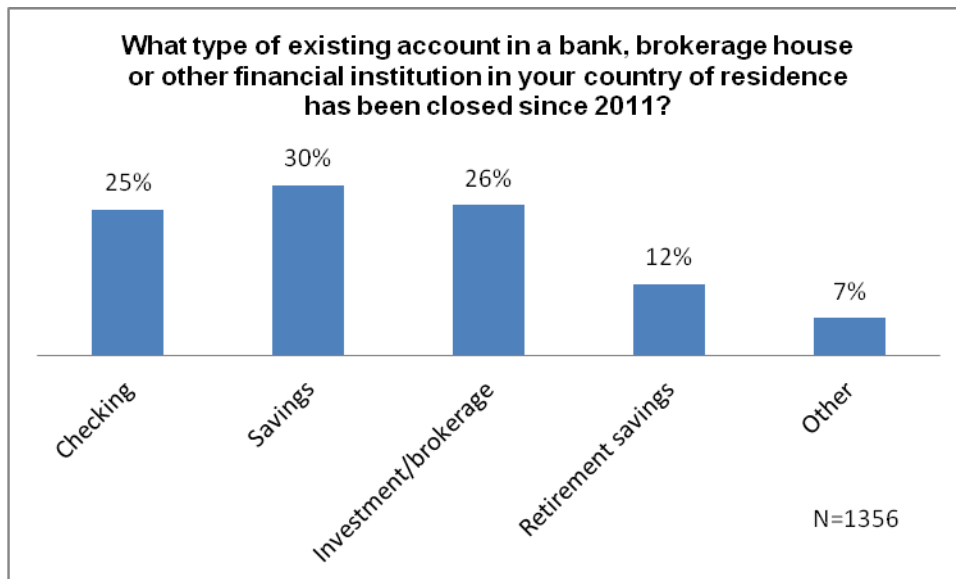
Respondents report being contacted, out of the blue, and asked to submit IRS W-9 forms or sign bank-prepared disclosures related to US citizenship. **“Because banks now require for you to sign a form that allows them to put the account on escrow upon US request, my (non-American) wife forced me to place all of our joint accounts on her name alone.”**

Even worse is when financial services are withdrawn *without* notice. **“I was informed of FATCA when my account was blocked by my local bank, BNP Paribas. No communications were received from US Authorities or local authorities. Access was restored after filling in tax forms for the bank and after the bank faxed through the appropriate forms to the US authorities. This, however, took two weeks and impeded monthly payments, resulting in extra costs and docking my local credit. Bank members were also poorly informed about the requirements and the legislation, and only one “foreign expert” in the bank’s central Belgian office was informed about the processes and reach of FATCA.”**

About the accounts closed³

Type of accounts

Two-thirds of the accounts reported closed were ordinary checking, savings and retirement accounts - accounts essential for managing everyday personal and household affairs.



³ See the 2014 FATCA Survey Datapack for further data about the accounts that were closed.

Value of accounts

Over **two-thirds** (68.0%) of the checking accounts closed had a balance of **less than \$10,000** when the account was closed, as did 40.4% of the savings accounts.

Over **half** (58.9%) of the investment/brokerage accounts had a value of **less than \$50,000**, as did over two-thirds (69.3%) of the dedicated retirement accounts.

This data demonstrates that those impacted by FATCA are overwhelmingly middle class Americans, not high income individuals.

Refused new financial services - at home as well as abroad

Respondents were asked to report on occasions during the time since FATCA was implemented in 2011 when they attempted to open an account in a foreign financial institution and were refused. **Of those who attempted to open a savings or retirement savings account, nearly one-quarter (22.5%) were unable to do so – nearly twice as many as those who attempted to open a checking account (10%).**

Nearly thirteen percent (12.7%) of all attempts to open an account failed.

“A big problem is for our children who are finishing up school and starting their careers. They are the ones who are refused accounts and services. I believe that the USA is going to lose a number of citizens if nothing is done. My friend's son was already refused opening an account because he is American. The banks ask that now when young people are opening accounts.”

Of note: 22.4% of attempts to open investment accounts were unsuccessful. **“The problem with FACTA (sic) is foreign banks do not want to work with US citizens' investments anymore, and US banks do not want to deal with US citizens abroad anymore.”**

Many Americans abroad maintain accounts in US financial institutions. Those accounts are also under threat from new regulation because of regulations that treat overseas Americans and non-US nationals identically when it comes to compliance.

RESPONDENTS REPORTING ACCOUNTS IN US FINANCIAL INSTITUTIONS

Checking	72%
Savings	57%
Investment/Brokerage	51%
Retirement savings	49%
Other	10%

When asked about the closure of accounts in the US 4% responded that an account had been closed due to their overseas address; 6% of those who had attempted opening an account in the US had been refused.

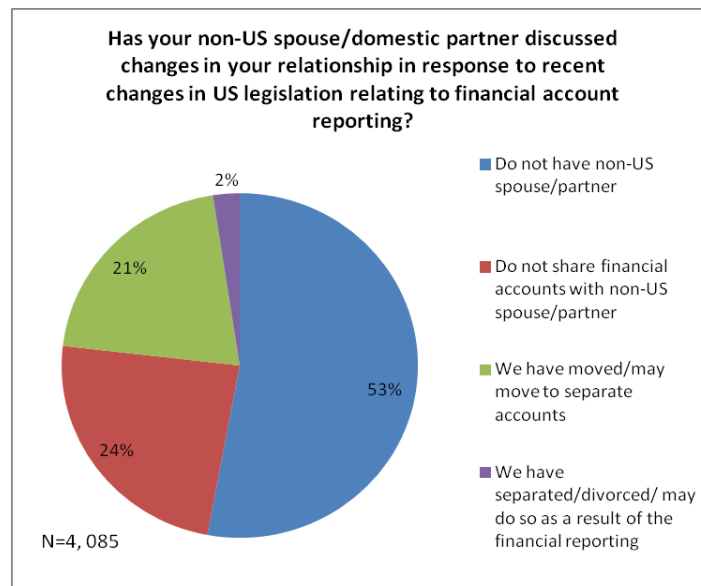
“I am blocked on both sides -- from the US institutions for being abroad and from the local institutions for being an American. I am still young but feel unable to plan for my retirement without fear of getting caught on one side or the other and therefore penalized.”

Since June 2014 Americans in Mexico – many of whom are retirees - have reported widespread withdrawal of US check-cashing services, often without notice, leaving those dependent on social security and pension payment checks from US sources without income for June and July and into August. **“It is rumored that most Mexican banks will soon stop cashing U.S. client’s checks. I’m worried that I will not be able to access my S.S. income which is deposited monthly in a U.S. bank. This will be an impossible situation for me. I cannot afford to live in the U.S., and if I cannot access my monthly S.S. income while I’m in Mexico, I cannot live at all.”**

Adapting to change is hard for everyone but even harder for those who are aged, infirm or both. Their lack of awareness – or sudden, forced awareness – of the change FATCA is bringing to their long-standing financial arrangements is compounded by their sometimes limited mobility, making those already vulnerable to mishaps in the administration of financial matters even more so. **“Banks in MX (sic) are not wanting to cash US checks...a major problem for retirees here.”**

2. Strained Relationships

Some 2.4% of respondents reported changes in their relationship with a partner (divorce or separation), while 21% reported that they have separated or are considering separating accounts with their partner.



“My husband and I were forced to reorganize our finances totally. He opted not to give me joint ownership of our home, he closed our joint account. Even the bank was shocked when I explained that I was required to report 100% of the amount in the joint

account which was created with his money. My future is less secure financially thanks to this.”

For several people, FATCA reporting requirements were the direct cause of the end of a relationship: **“My German ex refused to marry an American because of filing requirements. So we split up.”**

Several reported that their relationships remained unprotected by law (i.e. marriage) because of FATCA: **“My foreign partner and I have concluded that we will not marry owing to the US legislation on financial account reporting.”**

More common were reports of strain on the relationship: **“Many arguments. I was a stay-at-home mother and all income is a result of his [=non-American spouse] earnings, not mine.”**

“The FATCA has caused enormous friction in my marriage. My non-US spouse is refusing to let the US government know about his salary/earnings/savings (I am unemployed, a stay-at-home mother) and I therefore cannot fill out all the necessary paperwork. Moving to separate bank accounts would leave me very vulnerable as I have no income of my own and according to Belgian law would have no right to access my spouse’s accounts. It is very stressful to be so beholden to my husband as well not in compliance with my own government.”

“The tax filing is ridiculous. Causes annual arguments with my British husband and is expensive.”

FATCA can place individuals in an insecure position, as this person said: **“Family trusts will exclude me, and assets go straight to my children, putting me at risk were my marriage to end.”** This woman told us that **“My husband refuses to share a main savings account with me now, which puts me at a disadvantage in the event that something should happen to me, as I would have no legal access to that account. It has put great stress on my marriage.”**

Many women reported feeling highly vulnerable with post-FATCA financial arrangements.

“My non-US husband does not understand how it can be possible that I am obliged to send his personal financial information to a foreign government. Therefore we have taken my name off our accounts. After 30 years of marriage, I no longer have free access to our money. I am not sure what situation I would be in if he were to pass away suddenly.”

These decisions are also made on the basis of professional advice: **“Some years ago, our British financial advisor recommended transferring my UK investments to my non-US wife because of IRS complications foreseen by UK financial institutions.”**

A minority of respondents noted that non-American spouses were pressuring Americans to renounce US citizenship, as this person told us: **“[Non-American] spouse very upset, does not want bank to report to IRS about our personal finances. I am worried I may have to renounce citizenship which is very upsetting to me.”** Or, as this woman put it, even more clearly: **“He [=non-American spouse] requested I give up my US citizenship.”**

3. Promotions and Business Partnerships Denied

The survey data suggests that about one-fifth (19.6%) of overseas Americans are self-employed. Others work in business. The reporting requirements on accounts on which Americans hold signatory authority has negatively and profoundly affected their ability to own their own businesses and to advance in their profession⁴.

5.6% state that they were denied a position because of FATCA. Their comments make the connection between the two clear: **“[I was] told they did not want an "American person" and refused to recognize my EU citizenship. Too costly, complicated and dangerous, they said.”**

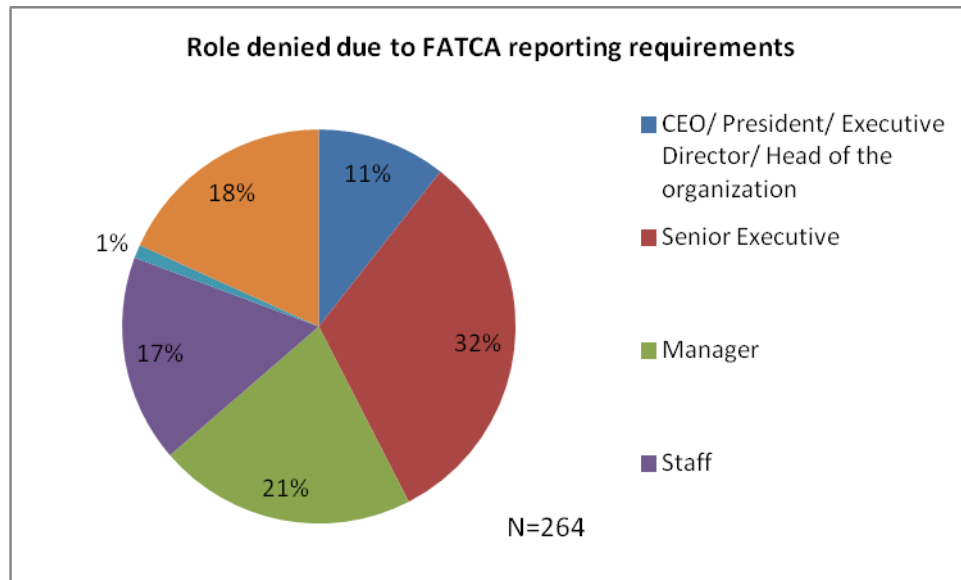
Similarly, for this UK-US dual citizen: **“Was told that due to reporting/signing requirements a US citizen could not be offered the job – had applied as a UK citizen, but when dual citizenship was mentioned, that ended the job interview.”**

Americans' competitiveness for roles is weakened. **“US employers avoid hiring Americans outside the US because of taxation on global income and tax reporting costs. It is cheaper to hire Irish and Aussies.”**

It can be difficult to even receive a salary: **“Must have a Swiss (local) bank account to receive salary--and no bank here will accept new US clients.”**

FATCA might even lead Americans to be in particularly vulnerable employment situations: **“The legislation was cited by the prospective employer who indicated that they would only engage me if I accepted cash payments. I figured this was a sure fire way to get arrested and dragged into an expensive legal proceeding that would only result in my paying even more money out, so I declined the position at a local university.”**

⁴ See the 2014 FATCA Survey Datapack for survey data on FATCA impacts on business and career prospects.



For the self-employed, for whom there often are direct links between the United States and their countries of residence, the situation is also difficult, as this person said: **“Cannot open a business. Period. Cannot sell US products.”**

The impact on small businesses is profound: **“I cannot open a business without local partners and no one is foolish enough to go into business with an American given the privacy issues and the unwarranted access the IRS wants to their finances.”**

“I’m looking to remove myself from business accounts in a company I’m a shareholder in. Not because anyone is asking me to but due to the reporting requirements that are quite onerous and time consuming. It’s also increased my tax filing costs each year. My tax filing obligations and rules are already complicated enough so this just adds to my anxiety when filing my taxes. Also, my banks, are not that helpful in providing me the information that I need to be able to file my FATCA information properly.”

One comment was made numerous times – the general perception of businesses and employers in Americans’ countries of residence: **“Distrust of the entire US extraterritorial reach.”**

4 Cost and complexity of maintaining compliance

There were numerous comments about the impact FATCA is having on retirement planning. A small selection is presented here.

“I have deliberately not opened accounts that would get me better returns, eg mutual funds, because I am so scared of running foul of FACTA (sic) and FBAR requirements

and I do not feel sophisticated enough to figure it out. I also do not have deep enough pockets to continuously pay someone else to figure it out, so I feel quite penalised by it.”

“I highly resent all the tax and money laundering legislation that has been implemented in the US and the UK during the last 5 years. I am a law-abiding, tax-paying citizen in both countries. Taxes have become so complicated that I am spending a significant portion of my earnings to my tax accountant (approximately two-weeks after-tax income). If I invest in the US, my investments are subject to unfavorable UK tax treatment. I am unable to invest in the UK because no UK financial institution will accept me. There are UK firms that will manage American's money, but they all want £1,000,000 minimum. I do not have that kind of money. Every other institution rejects me. My bank of 17 years, Barclays, will only allow me to have checking accounts and savings accounts that pay interest (if you can call .01% interest). I am subject to onerous paperwork. I am being treating (sic) like a criminal and I have never done anything wrong.”

“All I want is the ability to save for my retirement and to invest the money with the same flexibility that any American at home enjoys. I can't do it in my country of residence because financial institutions won't open investment accounts for Americans. And now, progressively, the US companies -- some of which have had my savings for FORTY years -- are telling me they can't take additional money/I can't move or exchange the funds/forcing me to close accounts. So I can't invest here and I can't invest in the US. I faithfully meet my tax obligations every year but this nonsense is forcing me to actually consider expatriation.”

There is grave frustration and fear of reporting errors.

“It has been a very frustrating experience to manage my taxes from abroad. As a foreign student and then UN employee, I discovered I made errors on my filings despite that an accountant helped me. It is very annoying that the IRS makes tax filing unnecessarily complicated, making it harder to be compliant when you don't realize what you have mistakenly omitted. In addition, my bank has been hassling (sic) me for 7 months despite that I signed all the paperwork they requested. They also demanded my tax transcripts and copies of FBARs for the previous 5 tax years. It is a huge inconvenience because every time I obtain and provide them documents, they ask for more documents they didn't clarify before.”

Costs to comply are deemed excessive.

“Because of FACTA (sic) I have had to consult a CPA in order to sort out all of these issues, which will cost me between \$3,000 - \$5,000 to ensure compliance. This is an incredible amount of money and is causing quite a bit of consternation in my life -- will I have to pay this every year to ensure compliance?!”

“I feel as though I am being penalized for living overseas, the rules are complex and would require me to hire an accountant which I cannot afford. I am afraid that my husband will remove me from joint accounts and that my children and I would suffer economically should something happen to him. I am angry.”

There is utter confusion for “accidental Americans” - US citizens born in the US, but whose foreign parents returned home shortly after that US citizen’s birth, or US citizens born abroad to US citizens and who have never lived in the US.

“I have never lived in the US. I have never earned any money from a US employer. I am employed by a German company and so I pay German taxes. I am not sure why I would have to pay any US taxes or give the IRS any information on my financial status. The information available and the information flow for someone like me is abysmal. Until a little while ago I had never even heard of FATCA or any limits on the amount of savings I can have before I have to fill out forms. I am still very confused on the entire matter.”

“I find these requirements very unfair. I was born in Canada and am only an American citizen because my American mother and non-US father applied for citizenship for me when I was a baby. I have just recently become aware of these requirements and have spent countless hours on this as well as spent a fair bit of money on accountants and lawyers.”

And there is bitter confusion for many who want to comply but are really struggling as to how - and why.

“I think there is a great danger of those who, like myself, earn comparatively low amounts and rarely have more than a few thousand dollars in savings (but who move money between accounts and are therefore may be shown to have more than \$10,000 in accounts in any one year) accidentally not complying with Fatca because they don't know or understand it. I don't make enough money to pay US tax, but I diligently file my taxes each year. I was horrified to find out I had to complete Fatca forms and that had inadvertently neglected to do so. I have now filed them all retrospectively, but found the

experience very stressful. The need to stop a small number who avoid tax has swept up a large number of well-meaning, law-abiding citizens into a very stressful situation with very little assistance. The law needs reforming.”

“The unintended consequences of FATCA are time-consuming and expensive for me. FATCA complicates financial planning and restricts my ability to plan for a financially secure future in my country of residence. I feel like a second class US citizen. I also ask why FBAR is still required.”

“For me, the key issues are significant compliance costs for decades to come, fear of serious noncompliance consequences, unfair enforcement and the general feeling that FACTA (sic) is not aiming at the right people, we just happen to be Americans who have settled abroad and dutifully file our returns every year, we are not here for tax reasons in fact our taxes here are higher than at home; this extra burden is unfair and overly broad, surely they can create reasonable exemptions for people like us”

“I understand the need to be vigilant and act against people who try to dodge tax obligations by opening overseas accounts. However, most people who actually live abroad are not doing so to avoid US taxes. We simply live abroad, and need to have financial lives where we live. The people who should be targeted by these sorts of laws are the ones who live in the US but have accounts in tax havens. The government is putting a lot of time, effort, and resources into pursuing people who are not criminals while the real culprits sit safely and comfortably in the US. This really must be stopped.”

5. Citizenship

Fear, frustration, stress, strained relationships, confusion, anger and hopelessness are causing some to question the continuation of their US citizenship— a regrettable 2,999 US citizens renounced their citizenship in 2013, as did 1,577 in the first half of 2014.

“The possibility that I may inadvertently run foul of the many and complex reporting requirements of the IRS and that sanctions will follow causes me to seriously consider giving up US citizenship as my son who had joint UK/US citizenship has already done so.”

“I am serious considering giving up my citizenship because of fear of making a mistake. This is causing a lot of family hardship as my parents do not want me to, but the costs of becoming a US citizen are becoming very onerous for someone on a middle income (by London standards).”

“I am seriously considering giving up my US citizenship (reluctantly) because it is getting to the point that I can no longer deal with the increased and complicated forms. I do not want to spend my limited income on hiring an accountant to handle my U.S. filling and FATCA forms. I am heartsick about all this! I don't know if you can include the emotional distress these ridiculous new requirements are causing, but I am impacted most by the worry and emotional stress of this all.”

“I really hope that FATCA will be reformed so that those of us who choose to live in another country are not faced with this burden. I find it ridiculous that we should have to pay the price for US residents hiding their money overseas. It is seriously making me rethink my US citizenship. I feel woefully uninformed about FATCA, and the idea that the IRS might now come after me because I was previously ignorant about the guidelines (and because I am not even certain that I properly filled things out) is terrifying. It is only the last few years that I have even had enough money in the bank for this to be a concern. All the money in my bank accounts is money that I declared on my income tax forms; it is savings. As a result, I truly feel like I am being punished.”

“I am ‘condemned’ to have only basic saving/checking account because my Swiss bank refuses US persons as clients for investment type products UNLESS the client has a million dollars so he can go into a SEC registered IRS transparent affiliate for US persons. I don't have that kind of money. Also my bank (UBS) has told me there is no guarantee it will not close simple accounts for US persons like the ones I have, in the future, due to regulation. Because of this uncertainty and lack of financial freedom I am considering renouncing my US passport, though I am and have been fully compliant with the IRS and am a very fond of my US heritage.”

“I can understand that the US is very serious about tax evasion, and totally support this effort. But making the lives of ex-pats so difficult that they consider giving up citizenship to avoid the penalty of annual tax hassles, and day to day financial management in their resident country is excessive and does not achieve the goal they are after. It just makes the ones who are trying to do the right thing feel slighted and ostracized. The ones who are evading have financial advisers to help them navigate around any new legislation.”

In some cases, it was a financial advisor who recommended renunciation: **“Although I have not had any accounts closed, I have been warned by my banker that it would be in me and my family's best interest to renounce my U.S. nationality as quickly as possible, as things may get to the point where the bank will stop providing services to any person**

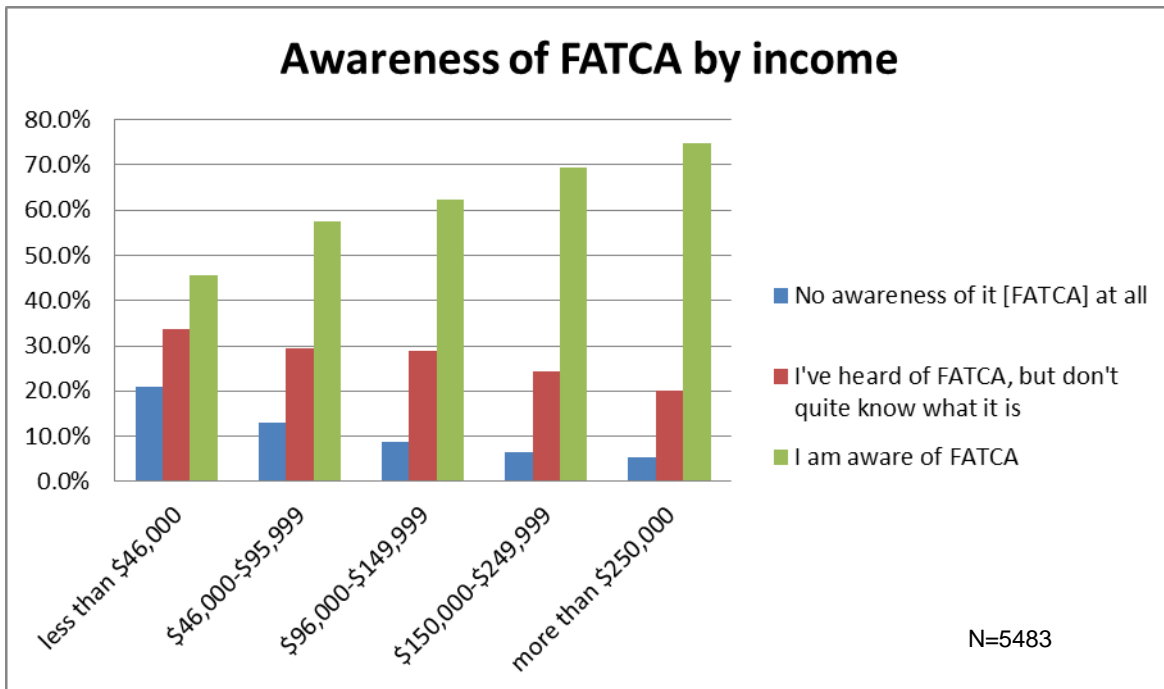
with U.S. connections! I am in the process of renunciation, with the strong support of my wife and children, one of whom is renouncing at the same time with me.”

6. Voting

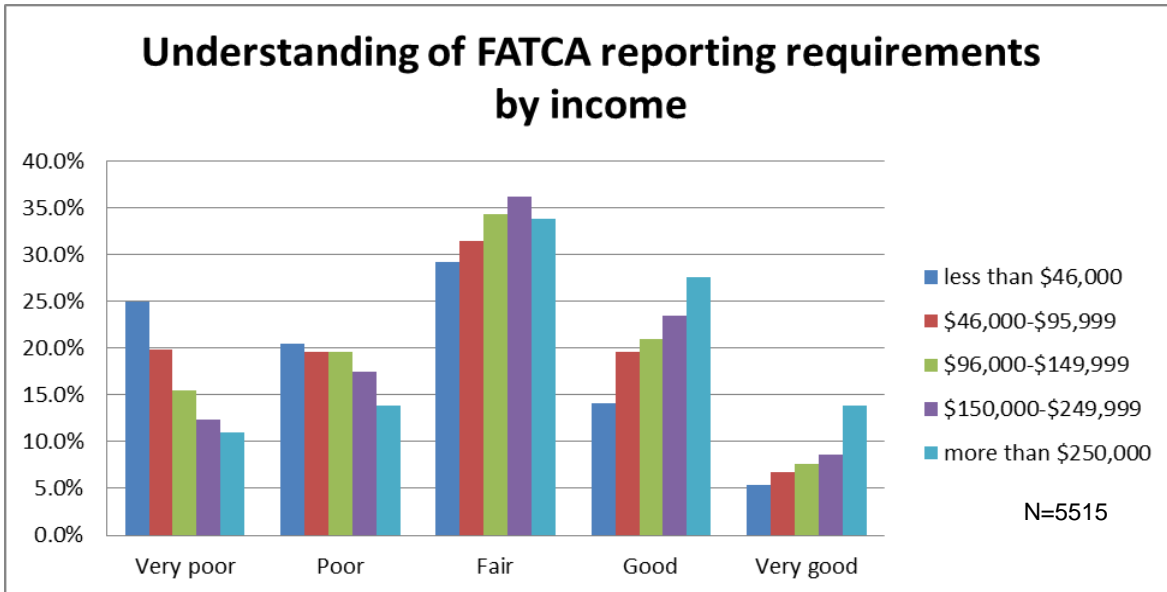
Over two-thirds (67.8%) of all respondents say they will take FATCA into account when they vote in November. Just 6.0% said they don't plan on voting.

7. Awareness of FATCA

Income plays a key role in awareness of FATCA, understanding of FATCA and the amount of professional advice one receives on understanding and complying with FATCA. Those with higher income have higher awareness, more understanding and more professional advice. Those with lower incomes have less awareness, less understanding and less professional advice – they have fewer options and will be more adversely affected by FATCA.

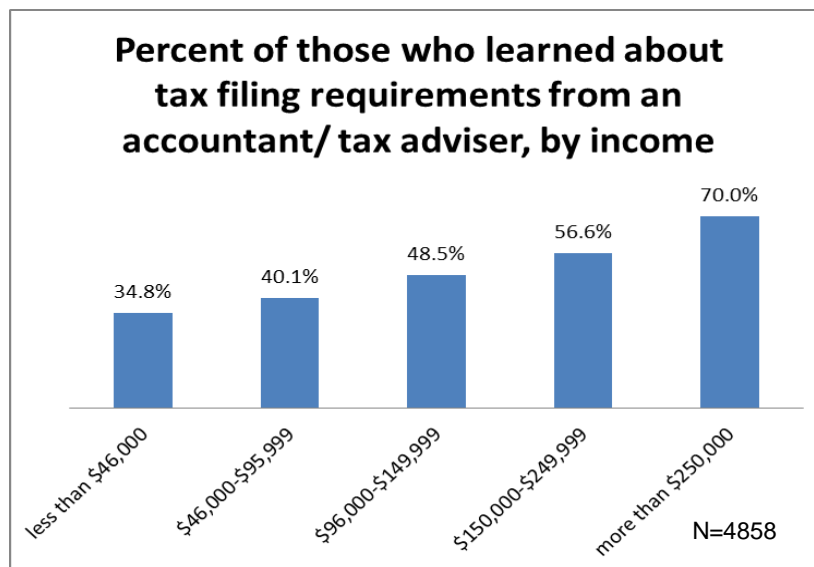


“Having to comply with FACTA (sic) makes hard-working Americans, who happen to live abroad, feel like criminals. Living abroad means you have to have accounts, etc. in your country of residence. Communication regarding FACTA (sic) and the IRS is very poor for those of us living abroad...I typically seem to ‘stumble’ on information/changes.”



“I did not until recently know my US tax filing obligations had changed. The IRS needs to make changes VERY clear to their citizens overseas.”

“The laws seem vague and I am afraid to make a mistake that incurs a penalty. I spend \$750 a year on a tax advisor to make sure we are above board and file taxes correctly and he has been doing this for 20 years and he is even afraid of doing things wrong due to lack of clarity.”



8. Some final thoughts

The survey was designed to clarify the problems and concerns about FATCA being recorded anecdotally from Americans abroad. However, in addition to the many comments from survey participants that illustrate the burden FATCA is placing on Americans abroad, a significant number of remarks acknowledge the need for policy aimed at ending tax evasion. These remarks are from amongst those that recognize the importance of identifying and apprehending tax cheats.

“I support FATCA to monitor/take action against rich individuals or corporations that are not paying their taxes, however, many of us "average citizens" are currently caught in the dragnet of FATCA implementation. Revision of the legislations is needed to focus the law on tax evaders.”

“I very much want those who evade taxes and launder money to be caught and brought to justice, but I truly resent the fear, aggravation, and confusion caused by the current methods - which frankly could be far more effective than this general net that is being cast collecting relatively meaningless data. There's got to be a better way!”

“More and more, American expats are treated with suspicion and mistrust, when life/love/work has led us to spend much of our adult lives outside the US. We should NOT be treated as tax evaders, or less than American. We did not leave because we don't love the US, we left because life is like that sometimes.”