# Millions of British investors to make US tax declaration

## British investors must swear they're not American as US cracks down on tax evasion

The Times (London), May 30, 2011, Business News, p. 36
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Millions of British investors will be forced to make a declaration to the American tax authorities or face punitive penalties, after the US Senate passed laws to combat tax evasion.

Individuals who have never set foot in the US, and who have no family ties there, could nevertheless have to sign a statement swearing that they do not owe tax to America's Internal Revenue Service (IRS) if their money is invested in a fund that holds US assets. This in turn threatens to create an administrative headache and huge costs for financial advisers, insurers and employers. UK and continental European financial institutions fear that the Foreign Account Tax Compliance Act (Fatca), signed into law by President Obama in March, could cost them billions of pounds as they struggle to get individuals to comply. To meet with Fatca's client identification procedures, they may have to seek a statement from every investor in a pension or investment fund with US assets, resulting in many hours of administrative work.

Steven Musher, associate chief counsel (international) of the IRS, is expected to face a hostile audience on Tuesday when he attempts to defend Fatca to the British financial community at a conference in London organised by DLA Piper, the law firm.

Julie Patterson, director of authorised funds and tax at the Investment Management Association (IMA), said: "We support measures to crack down on tax evasion but these are draconian.

A fund that invests in the US will have to prove that its investors do not include any US citizens, or hand over details of any US citizens on its books.

"Fund managers don't have this information, so it will be up to intermediaries to go to their clients and find out. Funds that fail to comply will be hit with a 30 per cent withholding tax, which means returns on US investments could plummet."

Fatca marks an intensification in the IRS's battle against tax evasion that last year resulted in Swiss bank UBS handing over the names of thousands of Americans with offshore bank accounts.

The law will come into force on January 1, 2013 and obliges foreign companies such as banks to report investments by US citizens that amount to more than $50,000 (£31,000). Collective funds investing in the US are caught by the same rule, bringing insurance companies, fund managers, hedge funds and wealth managers into the net. They will have to determine if any of their investors are US citizens.

The IRS will levy the 30 per cent withholding tax on any fund or company that fails to make a declaration to the IRS, or makes a false declaration. This will be levied on all US dividends, interest and the proceeds of the sale of US assets.

Mark Edwards, assistant director of taxation at the Association of British Insurers, said: "Our estimates are that less than 0.1 per cent of UK policies are held by US residents. The potential costs and penalties facing UK insurers, and ultimately customers, are therefore disproportionate. "EU data-protection law prevents the passing of the information the US is seeking. Therefore, UK insurers will be forced into the impossible position of breaking either EU or US law."

Without concessions, some funds could decide that pulling out of US assets is the easiest option. More than £23 billion is invested in the US stock market, bonds and property through open-ended investment companies and unit trusts, more than £1 billion through investment trusts, and many billions more through life funds.

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