

IRS chases US citizens in Australia



AFR 7TH APRIL 2015 Chatswood accountant Venetta Sacha said US citizens living in Australia are at risk of an IRS audit Photo by Louise Kennerley,



by [Agnes King](#)

The Internal Revenue Service (IRS) is scrutinising the tax affairs of United States citizens living in Australia with renewed intensity, as the worldwide battle to shore up dwindling government tax reserves heats up, according to local accountants.

An unprecedented level of information about the affairs of US citizens living abroad will flow from Australia to US authorities from July 1 this year when the Foreign Account Tax Compliance Act takes affect.

"The level of awareness is low, and the penalty regime for getting it wrong is high," Moore Stephens private clients partner Michael Dundas said.

"Penalties average \$US10,000 per unfiled return, and given that there are multiple forms required per year, can easily rise to \$US20,000 - \$US30,000," Mr Dundas said.

Chatswood accountant Venetta Sacha said the prevalence of FATCA-style regulation worldwide is adding to the complexity of advice, and applying pressure to financial advisors to maintain their moniker of "trusted advisor".

"We normally treat [clients] as residents here [in Australia] and don't pay attention to what their obligations are overseas," said Ms Sacha, who has a number of US clients impacted by the new FATCA rules.

"However, that's changing as we're exposed to more changes and legal regulation," she said.

Exposure is particularly high for US citizens with self managed superannuation funds, because these are tax effective vehicles under Australian tax law, but the US treats income earned in SMSFs as personal income taxed the US marginal rate which can be upwards of 40 per cent.

"Trusts on the whole are not used as extensively in the US, there is a lot of grey area," said Mr Dundas.

Family homes are another problem area because they are not tax exempt in the US.

BDO tax partner Mark Molesworth has witnessed a surge in queries from US citizens living in Australia, even if they departed the US permanently many years ago.

"The penalties for non-disclosure are large, even where there is no tax actually payable to the IRS," Mr Molesworth said.

Like Mr Dundas, BDO is encouraging US citizens living in Australia to take advantage of a voluntary disclosure program offered by the IRS. This program offers considerably reduced penalties for such disclosure.

FATCA is expected to highlight cracks in the double taxation arrangements between Australia and the US.

"The two tax systems [US and Australia's] don't sit as nicely together as say the United Kingdom's and Australia's," said Mr Dundas.

Accountants fear public officials are too distracted to execute what they see as a number of "easy fixes" to head off problems.

For example, Mr Dundas said the issue of SMSFs could be easily avoided if the Australian government would adjust the double taxation agreement to recognise SMSFs as a pension fund for US tax purposes.

The intensified IRS scrutiny comes as representatives of foreign multinationals Google, Apple and Microsoft appear before a senate inquiry in Sydney on Wednesday into corporate tax avoidance.

It will be followed tomorrow by representations in Canberra, and Friday in Melbourne, by their Big 4 firm financial advisors PricewaterhouseCoopers, Ernst & Young, KPMG and Deloitte.

The Australian Financial Review revealed on Tuesday that mining giants BHP Billiton and Rio Tinto are being pursued by the Australian Taxation Office for channelling billions of dollars in profits through companies that pay almost no tax in Singapore.

A report by the Tax Justice Network shows that of Australia's largest 200 publicly listed companies, 29 per cent have an effective tax rate of 10 per cent or less, and 14 per cent have an effective tax rate of 0 per cent, well below the statutory tax rate of 30 per cent.

Multinational corporation tax avoidance and minimisation are generally achieved through profit shifting to low tax countries or utilising intra-company or related party dealings among subsidiaries. In Australia, it was estimated that in 2009, the volume of related party dealings exceeded 20 per cent of gross domestic product.