



Foreign resident or Australian overseas? Banks and governments automatically sharing your information around the world

Parliament has just passed legislation that requires local banks, on an annual basis, to provide detailed information to the Tax Office who will then automatically share that information with the relevant foreign tax authority where an Australian bank account is held by a foreigner or a company, trust or other entity that is controlled by a foreigner. The purpose of the new legislation is a global crackdown on people holding funds offshore and not declaring income to their home country tax authority.

It is a multi-way, reciprocal arrangement with many national governments planning on gathering and cross-sharing information under the tax information sharing treaties that are now widespread. The fundamental difference introduced with these new rules is that the information is shared automatically and each year into the future.

Our Tax Office will also receive information on the same basis on Australian residents with offshore bank accounts.

The Common Reporting Standard (CRS) is the name of the protocol for collection of the information. That information includes the identity and tax residence of the account holder or the person in control, account details, account balance, income or sales or redemption proceeds.

The CRS has been drafted and authorised by the OECD at the request of the G20 and is now formally adopted in this new legislation by Australia. It is also known as the Standard for Automatic Exchange of Financial Account Information.

The start date for the new reporting requirements is July 2017 and the first automatic sharing of information will occur in the 2018 tax year.

As you could imagine, there is a huge amount of data to be identified, collected, passed through to the Tax Office and then sent overseas. It's a very big job for the banks.

The CRS is modelled on a protocol developed by the USA, known as FATCA. That is the acronym for American legislation (Foreign Account Tax Compliance Act) that has now been in effect for a few

years. With that legislation, the US Government forced foreign banks operating in the US to provide similar information to their Internal Revenue Service (IRS). The leverage applied to the foreign banks was a 30% withholding tax on income derived by the foreign bank in the USA (ouch!). Not surprisingly, the banks are complying.

The provision of information directly to the IRS would have caused serious legal problems for Australian banks as it would breach our privacy legislation. The Australian and US governments got together and struck a deal to implement FATCA so that banks would provide information to the Tax Office who would then on-send it to the IRS; those arrangements not causing the banks to breach our privacy rules.

US citizens living here probably already have their Australian bank data automatically shared with the IRS. US citizens remain subject to US tax even if they have not lived there for many years and we hear that record numbers of Australian based Americans are relinquishing their prized citizenship rights.

The protocols for the CRS and FATCA are almost identical but the CRS has no minimum account balance thresholds whereas banks do not need to carry out their due diligence procedures under FATCA where an individual's existing bank account has a balance below \$50,000.

Tax authorities, the OECD, politicians and the G20 are crowing their success in implementing these new rules. From their perspective, the new system reigns in tax cheats wrongfully hiding income and offshore funds. We wonder, though, about the ability of all of these governments and major corporations to satisfactorily protect the massive amounts of highly confidential data that will be flowing automatically all over the world.

An opportunity for WikiLeaks or hackers?

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