

Update – American Belgians risk losing their Belgian bank account

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As stated in our [newsflash of 23 August 2019](#), Belgians with the American nationality risk losing their Belgian bank accounts because of the strict application of the U.S. FATCA-legislation. In reply to a recent parliamentary question, the Minister of Finance provided further input on this matter going forward.

Accidental Americans

In application of the Foreign Account Tax Compliance Act (FATCA), financial institutions outside the U.S. (such as Belgian banks) must provide specific data to the U.S. Tax Authorities (IRS) about the bank accounts of these American nationals. This is also applicable in relation to U.S. citizens residing in Belgium. The definition of a 'U.S. Citizen' in the FATCA legislation is however very broad. Also Belgians who were born in the U.S. but have rarely or never resided in the US and have no further connection with the United States are in scope of this legislation.

A key element in the framework of FATCA information exchange is the American TIN or "Tax Identification Number". However, most incidental "American" Belgians (who have obtained the U.S. nationality by birth), don't have such a TIN number or are not aware of it. These accidental Americans have been confronted for some time now with the fact that Belgian financial institutions closed or threatened to close their Belgian bank accounts, if they did not provide proof that they are no longer a U.S. citizen. This problem is known for some time.

Belgium together with other EU countries have already alerted the United States of this issue in the past. The U.S. introduced a transition period

whereby only the date of birth without the Tax Identification Number (TIN) had to be provided on the condition that further search for the TIN was carried out.

End of the transition period?

On behalf of the EU Member States a letter was addressed to the U.S. Secretary of the Treasury on 3 December 2019 to find a solution for this problem. Based on the response from the U.S. Treasury, it is clear that the United States does not wish to make the transition period (for the FATCA-exchange) permanent and it also does not want to extend it.

However, the pressure from the EU and the member states has recently led to a relaxation of the procedure for renouncing the American nationality (whereby the American tax debt, including any interest and fines, is also waived). The simplified procedure only applies to individuals with assets of less than 2 million USD and a maximum U.S. tax liability of 25,000 USD in total for the outstanding income years.

As a result, residents of Belgium, who also have the American nationality, can choose whether they want to cancel their American nationality. If an account holder is able to provide a Certificate of Loss of Nationality to his/her financial institution during the year 2020, that account will not be reported towards the U.S. tax authorities in September 2021.

Basic banking service

Consumers (natural persons) in the EU have the right to open and use a basic payment account. However, this basic banking service is limited to consumers whose annual average accumulated credit balance does not exceed 6,000 EUR and who have no other banking relationship. In principle, banks are required to open such a basic payment account upon request unless a ground for refusal applies. This is particularly the case if opening or maintaining a payment account entails an excessive risk of

involvement in money laundering or terrorist financing, or if the customer investigation cannot be fully completed.

In case of any questions, please do not hesitate to contact [Sandrine Schaumont](#) or Philip Maertens.