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BUSINESS BANKING & FINANCE TAXATION

# Fatca seen as threat for some Hong Kong banks, opportunity for others

Tax advisers say compliance with new US law is creating headaches for the city's wealthy

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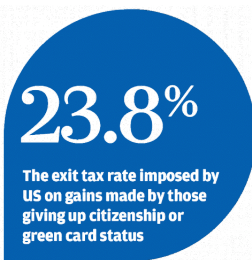
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Asked if HSBC was turning away US taxpayers due to Fatca, an HSBC spokesman replied: "Under Fatca, if customers provide the appropriate information, there is no problem."

Some Hong Kong financial institutions are refusing new business from US taxpayers due to the difficulties in complying with the Foreign Account Tax Compliance Act (Fatca), while others see it as an opportunity to gain market share.

Fatca, the US law designed to combat tax evasion by US taxpayers, has prompted many US passport holders to rethink their citizenship. Under the law, which came into effect globally on July 1, financial firms around the world are required to report to the US Internal Revenue Service (IRS) information on clients who are US taxpayers. Those firms failing to do so face a 30 per cent withholding tax on their US income.



"We're getting record numbers of inquires from US taxpayers thinking of giving up their US status," said Kurt Rademacher, director of international tax practice at Butler Snow, a US law firm.

"I've gotten hundreds of phone calls. I get lots of calls from Hong Kong. They say, 'It's too much trouble. I'd like to renounce it'," he said.

The US consulate in Hong Kong said on its website that giving up citizenship "would not relieve these individuals of prior US tax obligations, and might well create additional US tax obligations for certain citizens and long-term residents who give up citizenship or residency".

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Roughly half of Rademacher's inquiries come from Asia, of which 60 per cent are from Hong Kong and 40 per cent from Singapore.

"If I sit down with wealthy Hong Kong families, at least one member or an in-law will be a US citizen or green card holder. Fatca affects a huge chunk of Hong Kong's wealthy," he said.

During a recent visit to Hong Kong, Miriam Fisher, a US-based partner at Latham & Watkins, an international law firm, said: "We are hearing it's difficult for US taxpayers to bank outside the US. Banks are certainly getting shy of dealing with US clients. I have heard complaints in Hong Kong on this. We continued to hear complaints as we travelled to Singapore and Bangkok."

There are 50,000 US citizens living in Hong Kong, not counting US green card holders who are also required to file US tax returns, and these include many wealthy individuals and families, said Carlo Gray, a Hong Kong-based partner at Buzzacott, a London-based chartered accounting firm that provides US and British tax advice to expatriates.

If US taxpayers relinquish their citizenship or green card status and are not compliant with their US tax obligations, they are subject to an exit tax on their worldwide assets. For personal assets held for more than one year, the exit tax rate can be as high 23.8 per cent of the deemed gain, Gray explained.

US taxpayers who can demonstrate their noncompliance was not "wilful" can get off more lightly under an IRS amnesty programme, said Gray.

Under this programme, US citizens and permanent residents need to file and pay their US taxes for the last three years and file six years of their Foreign Bank Account Reports, together with other US information reports that may be due, Gray added.

"There are some big banks we have met that are looking at whether or not they want to continue taking US clients. What we're hearing in the industry is that there are particular financial institutions that don't want new US clients because of all the Fatca reporting they have to do," he said.

However, Rademacher said there were other banks in Hong Kong that viewed this as a market opportunity.

"[They] say to these US taxpayers, we have compliance in place and we want your business. It's a question of redistribution of market share here," he said.

Asked if HSBC was turning away US taxpayers due to Fatca, an HSBC spokesman replied: "Under Fatca, if customers provide the appropriate information, there is no problem."

*This article appeared in the South China Morning Post print edition as Some banks run from Fatca, others embrace it*

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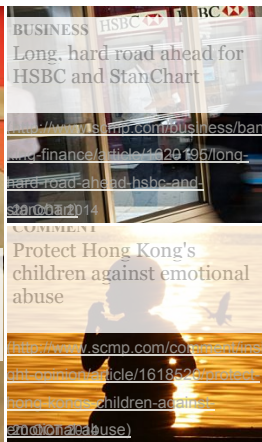
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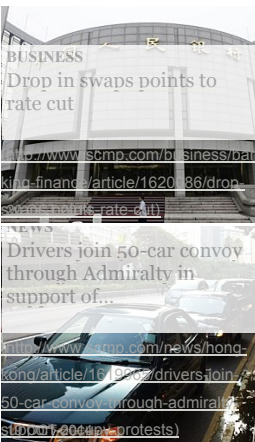
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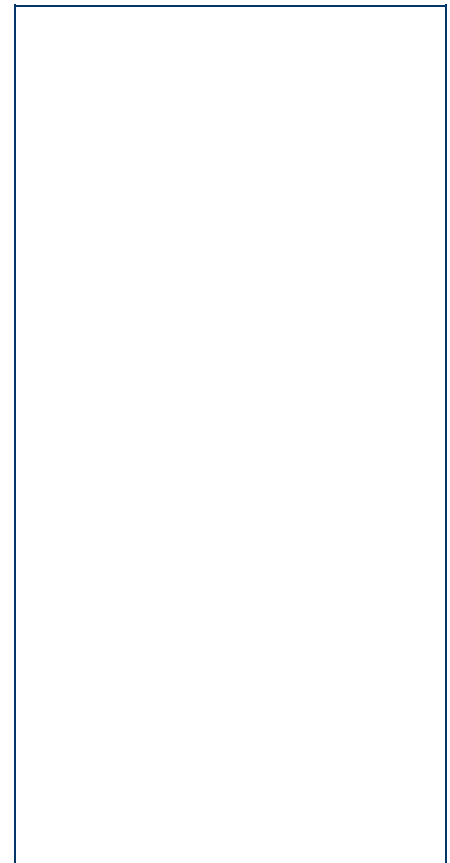


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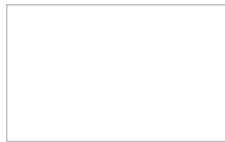
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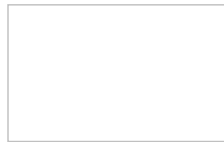
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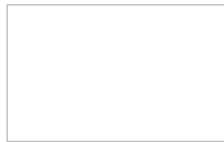
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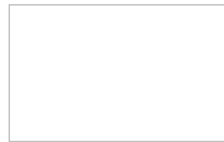
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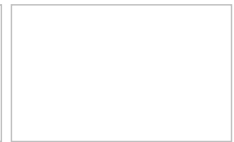
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