



Swiss non-financial entities and new bank forms

Everyone must tick a box

October 2014

Useful Links

[The Impact of FATCA on the non-financial services industry](#)

[Swiss Tax Newsletters & Alerts](#)

[FStaxworld Newsletter](#)

Contacts

Sarah Drye
+41 (0)58 279 8091
sdrye@deloitte.ch

Brandi Caruso
+41 (0)58 279 6397
bcaruso@deloitte.ch

David McNeil
+41 (0)58 279 8193
dmcneil@deloitte.ch

Ferdinando Mercuri
+41(0)58 279 9242
fmercuri@deloitte.ch

The Foreign Account Tax Compliance Act ("FATCA"), effective 1 July 2014, is a U.S. tax law aimed at addressing perceived tax abuse by U.S. persons through the use of offshore accounts. Its broad impact extends to most Swiss entities, including those outside the financial services industry, regardless of any connection with the U.S. Every Swiss entity has a classification under FATCA and will likely receive one or more requests for new FATCA relevant documentation in the next 12-18 months.

Swiss financial institutions are complying with FATCA to ensure effective business operations (i.e. avoid 30% FATCA withholding). To comply, they must review and properly document all account holders, including Swiss companies.

Generally, an account holder is required to provide a certification by ticking the relevant box on the form provided by the bank. The U.S. Form W-8BEN-E (available [here](#)) includes over 30 boxes to choose from, which requires a Swiss entity to analyse and determine its FATCA classification under the FATCA Regulations or applicable Intergovernmental Agreement.

Swiss companies are receiving FATCA certification requests as part of routine record maintenance and time sensitive transactions. For example:

- Entity holds (or intends to open) an account with a Swiss bank or insurance company;
- Entity intends to borrow funds (or guarantee the funds) from a Swiss bank; and
- Entity receives payments of relevant U.S. source income such as interest, dividends, capital gains, rents or royalties (including payments received from related parties).

What does it mean?

A company's failure to certify its FATCA classification may lead to the closure of its accounts with financial institutions, limited

(or denied) access to funding, and/or 30% FATCA withholding on certain payments.

In addition, although unusual, some groups may find that in analysing the FATCA classification of the individual group entities, certain entities are classified as Foreign Financial Institutions (FFIs) under the FATCA Regulations (or applicable IGA), even though the group considers itself to be a non-financial group. For example, in certain cases holding companies, treasury centers and self-administered pension funds within non-financial groups may be classified as FFIs. While FFIs should have registered with the IRS by 30 June 2014, certain relief from FATCA penalties may be available for FFIs acting in “good faith” to become compliant with all FATCA reporting obligations after this date.

What to do?

In conclusion, we recommend that Swiss companies determine their FATCA classification and related compliance obligations as a priority in order to ensure they can comply with bank requests, regularise their situation with the IRS if required, and avoid the potential negative implications of non-compliance on efficient business operations.

If you have any questions concerning the issues raised in this newsletter, please contact your trusted Deloitte advisor or one of the listed professionals.

© 2014 Deloitte SA. All rights reserved.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com.ch/about for a detailed description of the legal structure of DTTL and its member firms.

Deloitte SA is a subsidiary of Deloitte LLP, the United Kingdom member firm of DTTL.

Deloitte SA is recognised as auditor by the Federal Audit Oversight Authority and the Swiss Financial Market Supervisory Authority.

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte SA would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte SA accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

[Home](#) | [Terms of Use](#) | [Privacy](#) | [Cookies](#)

Not interested anymore? [Unsubscribe](#) instantly.