



FStaxworld Your January snapshot

In this month's *FStaxworld*, we discuss the constructive delay to aggregate reporting in Switzerland and the overall process for preparation and submission of FATCA reports.

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The view from Deloitte



Dear Reader,

On 15 January, the Swiss State Secretariat for International Financial Matters (SIF) released an announcement (available in French and German on the SIF website [here](#)) effectively postponing the reporting deadline for reportable non-consenting accounts maintained in tax year 2014 from 31 January 2015 to 31 March 2015. In precise terms, the SIF communication relayed that the United States Treasury Department will not regard a failure by a Reporting Swiss Financial Institution (FI) to submit aggregate Form 8966 reports on accounts held by non-consenting U.S. Persons in tax year 2014 by 31 January 2015 as an act of non-compliance so long as such reports are submitted by 31 March 2015. Clearly, this constructive delay is welcome news as the multi-faceted requirements for the FATCA reporting of account holders absorbs significant current attention, involving a variety of activities including technical interpretations, internal review processes, IT systems and registration on the IRS account reporting website.

Identification of relevant accounts

As an initial step, a Reporting Swiss FI must identify the accounts relevant for reporting for tax year 2014. These reportable accounts are financial accounts (as defined under FATCA) maintained by the Reporting Swiss FI at any point between 1 July and 31 December 2014 that were identified and documented as a U.S. Reportable Accounts prior to the end of the year.

U.S. Reportable Accounts include the following:

- Individuals or entities classified as Specified U.S. Persons (treated as consenting where the Reporting Swiss FI obtained a Form W-9 and a disclosure waiver from the account holder and as non-consenting, otherwise);
- Passive Non-financial Foreign Entities (NFFEs) with U.S. Controlling Persons; and
- Owner-documented Foreign Financial Institutions (ODFFIs) with Specified U.S. Person equity or debt holders.

Financial accounts that were not yet identified and documented because the pre-existing account due diligence and remediation procedures of the Reporting Swiss FI are still underway are not reportable until the Reporting Swiss FI classifies the account as a U.S. Reportable Account for FATCA purposes. However, any account already treated as U.S. for prior regulatory or internal reasons, especially any such accounts reported

to the U.S. authorities for chapter 3 or other purposes (such as the so-called U.S. Programme), should not be omitted without reasoned cause. Please note: Although NPFFI account holders also qualify as reportable accounts, Reporting Swiss FIs will report them for tax years 2015 and 2016 only.

In light of the above limitations on reportable accounts for tax year 2014, many Reporting Swiss FIs may discover only few accounts that qualify as reportable for tax year 2014, but several other considerations will shape the ultimate determination of this outcome such as:

- Special treatment accorded specified FATCA financial account types (e.g. insurance policy holders);
- Treatment of closed accounts;
- Options for dormant accounts;
- Nil reporting requirements; and
- Zero balance reporting requirements.

Extraction of necessary data

For reporting on tax year 2014, much of the information required to be reported concerns basic account holder identification information such as name, Taxpayer Identification Number (TIN) and address for consenting account holders. However, the obligation to provide the account value or balance (for both consenting and non-consenting account holders) poses several interpretative questions, such as:

- Currency conversion for accounts maintained in currencies other than U.S. dollars;
- Account value or balance computation for non-traditional FATCA financial accounts (e.g. those in trusts); and
- Timing of the account value or balance computation for closed accounts that will be reported.

Preparation and conversion to XML schema

All Reporting Swiss FIs must submit their account reports for Form 8966 reporting purposes in an XML format. Ideally, Reporting Swiss FIs will enjoy sufficient time to set up an automated process for extracting the necessary data from each account identified as reportable in order to compile it in one document (e.g. an excel spreadsheet) for conversion to XML format. However, in light of the expected low volume of relevant accounts, for many Reporting Swiss FIs, a manual work-around process for this year will be feasible as well.

Once the information is compiled in a common format, the act of conversion to XML is not technically complex, but out of prudence many Reporting Swiss FIs will enlist the support of their IT Department at this stage, to the extent not already involved.

Collection and storage of additional documents/items for Swiss authorities

In addition to the information necessary for the reporting of non-consenting account holders to the IRS, Reporting Swiss FIs need to collect further information in anticipation of group administrative requests flowing from the aggregate reporting.

According to guidance issued by the Swiss Federal Tax Administration (FTA), reporting Swiss FIs may need to submit extra information and documentation to the FTA in addition to the information that the U.S. authorities may legitimately seek as part of a group administrative request under the Swiss Intergovernmental Agreement (IGA). Presumably, the extra information is intended to aid the FTA in its determination of the legitimacy of the U.S.'s group administrative request and forthcoming objections by alleged non-consenting U.S. Person account holders to full disclosure of their account information to the IRS.

The information need not be submitted to the FTA unless and until the Reporting Swiss FI receives notice that it is the object of a group administrative request. Nonetheless, in light of the tight deadline to supply the required information (10 days pursuant to the terms of the Swiss IGA), Reporting Swiss FIs are advised to collect this information as part of their account reporting information collection process. A plan for its medium-term storage is also prudent in case the group administrative requests are significantly delayed (due perhaps to the on-going non-ratification of the pertinent Double Taxation Treaty protocols by the United States Senate).

Registration on the International Data Exchange Services (IDES) website

All Reporting Swiss FIs must submit their XML files for Form 8966 reporting purposes via the IRS IDES website. Several preparatory steps are required in advance of submitting an XML schema to the IRS as set forth below:

- For purposes of enrollment on the IDES website, a Reporting Swiss FI must obtain a digital certificate from one of seven IRS-approved providers (an approved vendor list on the IRS website is available [here](#));
- Using the digital certificate to substantiate its identity, a Reporting Swiss FI must then enroll online via the IRS portal;
- Having accessed the portal, the Reporting Swiss FI will create an online account, including a user profile with information about the Reporting Swiss FI (e.g. Global Intermediary Identification Number (GIIN number)); and
- Once the IRS delivers a receipt of enrollment approval, the Reporting Swiss FI may upload data files for submission to the IRS via the IDES Portal.

Please note: As of the time of this writing, the IDES website was not yet fully operational.

Internal review processes and Responsible Officer (RO) sign off

Prior to submission of any files containing account information, any Reporting Swiss FI should implement a comprehensive review process that, inter alia, should ensure that the collected account information includes all relevant reportable accounts while not including any non-reportable accounts. It is less likely that the FTA will apply a strict standard of liability for minor failures of erroneous over-reporting than for avoidable negligence. The absence of a documented review process, therefore, may tend to locate any such unsanctioned reports outside the Swiss IGA's suspension of Article 271, potentially subjecting the Reporting Swiss FI to criminal penalties under domestic law. Additionally, as part of the RO certifications due in Summer 2016 and every three subsequent years, the RO will need to affirm that all reportable accounts were duly reported. As such, Reporting Swiss FIs may consider including an RO sign-off as a mandatory component of any account review process prior to submission.

Forms 1042 and 1042-S reporting

FIs that act as Qualified Intermediaries (QIs) are required to file Forms 1042 and 1042-S on an annual basis. In the past QIs were allowed to file Forms 1042-S on paper if the total number of forms filed per reporting year did not exceed 250. The IRS eliminated the option for an FI to file Forms 1042-S on paper as of tax year 2014. Henceforth, QIs that are FIs must file Forms 1042-S for 2014 electronically, irrespective of the number of forms filed.

Electronic filing of Forms 1042-S is processed through the IRS Filing Information Returns Electronically (FIRE) System. The information reported through the FIRE system must be in .txt file format. In order to transmit Forms 1042-S through the FIRE system a Transmitter Control Code (TCC) must be applied for with Form 4419 at least 45 days prior to the due date of the information return.

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Deloitte in Switzerland Reporting Support Offerings

As part of our FATCA reporting initiative, Deloitte developed three support offerings:

1. An off-the-shelf packet for Reporting FIs featuring checklists for compliance steps (both mandatory and advisable) to ensure that all

necessary and best practices are conducted and to serve as documentation for any future reviews, coupled with a set of FAQs setting forth the technical responses devised for our projects with bank, insurer, asset manager and trust company clients.

2. Tailored workshops with representatives of the FATCA reporting team, flexible in format, but designed to provide full regulatory, technical and IT overviews of reporting under any rule set and to address directly any specific questions or concerns arising from your reporting preparations to date.

3. Support with Form 4419 application filing reconciliation of data to be reported with upstream custodian reporting and internal system figures, review of information to be submitted to avoid formal mistakes or omissions as well as creation of .txt files for reporting through the FIRE system.

For further information on the Deloitte FATCA reporting initiative offerings, please contact [André Kuhn](#) or [Paul Millen](#).

Out-sourced Reporting Solutions through the Deloitte member firm network

Reporting FIs that are planning to outsource elements of reporting processes can also benefit from Deloitte's global reporting technology and experience. Deloitte has a solution to serve global clients with ongoing and future reporting responsibilities, including FATCA and similar regimes. Out-sourced reporting solutions include:

- Collection and verification of required FATCA reporting data elements (from client systems and data bases);
- Exchange and processing of the data in an anonymized way;
- Refinement of reporting data in order to comply with the most recent reporting specifications;
- Analysis of data quality and format for consistency to determine level of effort to prepare for FATCA reporting;
- Preparation for clients' tax reporting, such as FATCA reporting (Form 8966) in XML format; and
- Recommendation of a plan that addresses data quality issues and defines tasks and timelines to meet FATCA reporting deadlines.

Clients outsourcing reporting responsibilities will be relieved from tracking regulations, verifying reporting specifications and filling processes. The

out-sourcing of reporting process will bring clients into a position to receive needed knowledge, experience, technology and delivered capabilities in a quick and efficient manner from Deloitte's member firms. Deloitte would be happy to provide further information about member firm offerings. For more information, please contact [Andreas Di Cesare](#).

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