

FAHTCAweekly

Your snapshot of the week

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The View from Deloitte

Dear Reader,

On 13 February, the Organisation for Economic Co-operation and Development (OECD) released the Model Competent Authority Agreement (CAA) and Common Reporting Standard and Due diligence for Financial Account Information (CRS), intended to adapt the FATCA intergovernmental agreement (IGA) structure and methodologies into the technical framework for the implementation of a global tax transparency system.

According to the overview to the texts, the OECD adopted a FATCA-like approach along the lines of the Model 1 IGA in which partner countries sign bilateral accords, enact the requirements into domestic legislation and intermediate the financial information between local financial and foreign tax agencies. The Model CAA contains the detailed rules on the exchange of information between jurisdictions (previously obtained from their financial institutions) on an annual basis and the Model CRS contains the reporting and due diligence rules that the financial institutions will be required to implement.

In an effort to detect all the many possible contemporary ways to conceal taxable income, the CRS deploys the techniques pioneered by FATCA, providing a standardized approach for identifying reportable accounts via three key categories:

- **The scope of financial information reported**, ensuring that all manner of investment income, account balances or values and sales proceeds are captured;
- **The scope of account holders subject to reporting**, penetrating investment vehicles and other structures in order to identify the controlling persons and authentic beneficial owners of the assets; and
- **The scope of financial institutions required to report**, covering less conventional financial institutions such as brokers, certain collective investment vehicles and certain insurance companies, in addition to depository and custodial banks.

For our readers, however, the differences between CRS and their existing FATCA compliance obligations are perhaps of higher importance. There are two prominent and numerous lesser modifications from the FATCA approach:

- The two more prominent ones are:
 - The CRS jettisons the uniquely U.S. concern of taxation on the basis of citizenship instead of tax residency; and
 - The CRS imposes no withholding obligations as the method of enforcement derives from its codification into the domestic financial regulatory codes of partner countries.
- Less prominent differences from the FATCA IGAs include, but are not limited to:
 - The absence of *de minimis* thresholds for all individual and new entity accounts (p. 11);
 - Initial reporting including information on payments (other than those of gross proceeds) made to the account, not just account information and value at year end (p. 14-15);
 - The elevation of the residency address to the status of a super indicium (p. 20);
 - Standing instruction for payments from depository accounts excluded as an indicium (p. 20);
 - The single deadline for identifying all reportable pre-existing individual accounts (p. 23);
 - The expansion of excluded account types (p. 36-38); and
 - The narrowing of the related entity concept to require a majority of vote *and* value in order to establish control (p. 41).

Contemplating the above dissimilarities, financial institutions ought to re-evaluate their account remediation and documentation programs before the onset of FATCA this coming summer. Key questions might include the following:

- Do we expand the scope of our pre-existing account due diligence review to identify accounts potentially reportable under a CRS-based accord?
- Do we alter our new on-boarding requirements to account for potential CRS demands?
- For the above two activities, do we benefit from delaying CRS implementation until we develop comfort in our FATCA program or do we then risk multiple upheavals where a single one was available?
- Can we rely on the current set of technical details of CRS or do we wait for the subsequent promised materials (e.g. OECD commentary, technical solutions), which should serve a similar explanatory role as the guidance notes do for the Model 1 IGAs?

The introduction of the CRS, while foretold well in advance and devoid of any major surprises, nonetheless adds a new wrinkle of complexity and additional analysis to the already complicated efforts to establish FATCA compliant processes and procedures prior to the impending 1 July deadline.

Regards,

Markus Weber

FSI Tax Leader, Switzerland

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News Switzerland

SBA Sends Meeting Request to U.S. Justice Department Regarding U.S. Programme

On 25 February, via a letter on their behalf from U.S. counsel, the Swiss Bankers Association (SBA), the

country's leading financial industry group, requested a face-to-face meeting with Mark Mazur, the Assistant Secretary for Tax Policy in the U.S. Treasury Department. According to the letter, the SBA seeks to discuss primarily the progress of the U.S. Programme along with the implementation of FATCA. While the specifics of the meeting request are not public, in general Swiss banks that have confirmed to the DoJ that they intent to participate in the U.S. Programme, are looking for more guidance. In particular the details of the information that needs to be prepared in order to comply with section II.D.2 of the U.S. Programme is under discussion between independent examiners and banks and their advisors in Switzerland. **Your Deloitte contact: David Fidan**

Switzerland and Greece Reach Stalemate in Talks on Withholding Taxes

According to reports, negotiations over a bilateral withholding tax agreement between Greece and Switzerland evidently stalled, endangering long-standing hopes that Greece would conclude an accord mirroring the structures set up with the UK and Austria. Reportedly, the talks floundered on the topic of undeclared Greek-held funds in Swiss bank accounts. **Your Deloitte contact: Annemarie Ruegger**

News U.S.

U.S. Expatriation Numbers Hit New Peak

According to the 7 February report from the U.S. Treasury Department, a record number of U.S citizens abandoned their citizenship in 2013. While the report does not set forth the rationales underlying the decisions to expatriate, the consensus view is clear: Taxes. This view contends that the costs and burdens imposed by the preparation of required tax forms drives many former Americans to sacrifice their citizenship rights and risk further possible recrimination from the U.S. (for prior coverage of this topic, click [here](#).) **Your Deloitte contact: Paul Millen**

Reason for the Spelling of our Title

The unusual spelling of our title indicates that the newsletter covers more than FATCA, encompassing all the current and upcoming issues concerning **F**oreign **A**ccount **H**olders by condensing key developments in all pertinent tax and regulatory matters into a compact, up-to-date and easily accessible digest of critical information.

FATCA-in-a-Box for Trusts is Here

FATCA-in-a-Box for Trusts merges the tax knowledge of Deloitte's FATCA specialists and the expertise of a major Swiss Trust Company with software technology to deliver a unique FATCA compliance product for the Trust industry. Deploying interpretations and methodologies developed with external Swiss trust experts over the past year, FATCA-in-a-Box reduces the compliance process for trust administrators to a series of simple steps. For more information, please visit the Deloitte [FATCA-in-a-Box webpage](#) or contact **Brandi Caruso, Paul Millen** or **Kaitlin Barbier** directly.

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