

## FATCA update

### Operational Tax News

#### Draft circular issued on the reporting for the automatic exchange of information

On 2 February 2015, the Luxembourg Tax Authorities issued a **specific draft circular** defining the format that the Luxembourg Financial Institutions are required to follow with respect to any automatic exchange of information.

To enable the Luxembourg Tax Authorities to meet its obligations, a set of additional information was added to the national format compared to the one defined in the IRS standard. This data set contains contact data and the ability to communicate a nil report (“zeroreport”).

The data transfer is executed exclusively via a secure channel. There are two transmitters offering this service: Cetrel S.A. (via Sofie) and Fundsquare (via E-File).

#### File format

As mentioned in the draft circular, the reporting must be encoded in UTF-8, otherwise the file will be refused. Furthermore, the structure of the XML file must be in line with the XML and XML Schemas 1.0 recommendations of the World Wide Web Consortium, otherwise the file will also be refused.

#### Zeroreport

The Luxembourg Tax Authorities require a reporting each year from each Luxembourg Financial Institution registered on the IRS portal.

The Luxembourg Financial Institutions that have nothing to declare for a specific year, must inform the Luxembourg Tax Authorities by validating the ZeroReporting value in the Luxembourg section of the XML file.

#### New FAQ on due diligence

On 2 February 2015, the IRS posted a new **FAQ** regarding the due diligence (question 10).

The question is to know whether a Reporting Model 1 FFI or a Reporting Model 2 FFI that is applying the due diligence procedures in section III, paragraph B, of Annex I of the IGA can open an account and treat the account as a U.S. Reportable Account if the FFI cannot obtain a self-certification at the individual account opening. Based on the answer provided by the IRS, the FFI must obtain a self-certification at account opening and if the FFI cannot obtain a self-certification at account opening, it cannot open the account.

We will keep you updated in case of any new developments in this regard.

If you have any queries regarding the above, please do not hesitate to contact us.

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