

## IRS Publishes Corrected FFI Agreement in Updated Revenue Procedure 2014-13

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Global Financial Services Industry



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On January 13, 2014, the IRS published an updated version of the FFI Agreement in Revenue Procedure 2014-13 containing certain minor corrections to the original December 27<sup>th</sup> release. Specifically, the updated version contained the following changes:

- Section 3.03(B)(1)
  - Removed erroneous allowance of a 90 day grace period to obtain FATCA documentation upon the expiration of existing FATCA documentation.
- Section 4.02(C)
  - Clarifying language stating that if a Participating FFI (PFFI) is directed to make a payment to another PFFI or Registered Deemed-Compliant FFI (RDCFFI) to an address outside the jurisdiction of such PFFI or RDCFFI, the PFFI must treat the payee as a limited branch unless proper documentation is obtain to treat the payment as made to a PFFI or RDCFFI (e.g., a valid W-8 for the branch located in the other jurisdiction where the payment was sent certifying that such branch is a PFFI or RDCFFI).

- Section 5.01
  - Clarifies that a participating FFI is to follow § 31.6302–4 for deposit deadlines if the payment is withheld pursuant to section 4.01(D) of the FFI agreement (backup withholding provisions applied to recalcitrant account holders in lieu of FATCA withholding).
- Section 6.07
  - Clarifying language regarding a participating FFIs satisfaction of its chapter 61 reporting obligations (Form 1099 reporting) by reporting pursuant to sections 6.02 and 6.03 of the FFI agreement (Form 8966 reporting). If the participating FFI elects to back-up withhold under section 3406, the participating is directed to §1.6049–4(b)(6) for rules on how a PFFI may report a payment under chapter 61 to which backup withholding applies.
- Section 9.02(B)
  - Citation correction regarding how a PFFI can report payments subject to backup withholding under section 3406.
- Section 9.02(D)
  - Clarifies that for a payment received by a PFFI acting as a flow-through entity or an intermediary, the participating FFI may choose to provide information on specific payment recipients in lieu of pooled information as long sufficient information for reporting purposes is provided to the withholding agent for each payee in the withholding statement. The term “flow-through entity” was added in the technical correction.
- Section 10.03
  - Clarifies that a participating FFI (and not the branch of such participating FFI) may refund erroneously withhold amounts based on the procedures in § 31.6413(a)–3.

A copy of a red-lined document for the updated provisions is attached. The updated FFI Agreement and Revenue Procedure 2014-13 can be accessed on the [IRS website](#).

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