FAMILY WEALTHREPORT
from WealthBriefing

Q&A: Deloitte Talks About The Common Reporting Standard

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August 21, 2015

The US initially plans to be a non-participating country and problems could arise for US financial institutions as other countries ramp up for the CRS's early-adopter implementation deadline, according to a senior figure at Deloitte in the US.

It has been documented far and wide that improved transparency will be a key player in the continued global fight against tax evasion, with the US's Foreign Account Tax Compliance Act a landmark legislation that has had a significant impact on the wealth management sector. But as hype around FATCA and its pros and cons simmers down, there is another acronym which is hot on the industry's radar: the CRS, or Common Reporting Standard.

Here, Denise Hintzke - a director at Deloitte Tax and global leader of FATCA at the firm - talks about the misconception that just because financial institutions are in compliance with FATCA means they are in compliance with the OECD's CRS, as well as its potential impact on the private wealth sector.

First, could you please outline the main goal of the Common Reporting Standard, some context behind its formation and where we are today in terms of implementation?

The purpose of the Common Reporting Standard (CRS) is to put in place a standard minimum set of requirements to facilitate the sharing and transfer of account information between participating countries. It is modeled after the Inter-governmental Agreements (IGAs) put into place as a result of the Foreign Account Tax Compliance Act (FATCA) and arose due to a number of countries' interest in collecting similar information about their tax residents.

There are currently 93 countries that have announced that they will participate in the program, with 58 of them being early adopters meaning that they plan to go live on January 1, 2016, with the first reporting occurring in 2017. Prior to going live, each of these countries must adopt the rules into law and issue regulations and guidance. The UK is the furthest ahead in this respect.

What are the similarities and differences of the CRS with the US Foreign Account Tax Compliance Act?

Both regimes are based on the identification and documentation of account holders and the sharing of certain relevant information. However, the classifications under CRS are slightly different, with a lot of the exceptions and de minimis exclusions found under FATCA not available under CRS.

And CRS is focused on tax residency as opposed to identifying specified US persons. Finally, CRS does not have a withholding tax associated with it, but will be using a peer review and audits as a way of enforcing.

What is the US's stance on the CRS and why?

The US is supportive of CRS but will not be a participating jurisdiction, at least in the short run. This is generally due to the fact that participation would require an Act of Congress and significant changes in the way that financial institutions document accounts and report information.

The US believes that it should get special consideration due to the fact that it will be sharing certain information via certain IGAs but it is unlikely that the request will be granted – meaning that the US will be a non-participating jurisdiction.

How might the CRS affect the private wealth management sector in the US?

All entities must determine what their CRS classification is and what country they are resident in for purposes of CRS. For example, a US trust with a UK trustee would be treated as resident in the UK trusts and funds will be classified as Type II investment entities. If the trust or fund is resident in a non-participating jurisdiction then it will need to provide information regarding its controlling persons to financial institutions in participating jurisdictions.

For a trust, controlling persons include grantors, beneficiaries and trustees. As an example, if you had a US resident trust with a Mexican grantor and a Colombian beneficiary that was holding UK assets it would need to provide the information and documentation for the Mexican grantor and Columbian beneficiary to the UK custodian who will then share that information with Mexico and Columbia. This type of complexity would create a lot of work for private wealth managers.

What are you hearing from financial services firms in terms of whether they think the CRS will be good or bad for their businesses?

Most organizations believe that it will be another significant undertaking with respect to expense and money. Many also have a negative impact on the trust industry where a lot of non-US persons often hold assets through US vehicles.

What kind of clients might be impacted by how the US responds to the CRS and how?

Although all US entities must determine what their classification is, the biggest impact will be on entities which are Type II investment entities, such as trusts and funds, due to the fact that the US is likely to be a non-participating jurisdiction.

Please share any other insight you have.

There is a very tight time frame here, so private wealth organizations need to react pretty quickly to determine their classification and the impact that the rules will have on them and their clients. An entity classification exercise is the first key step with focus on determining where the entity is resident for CRS purposes and how it will be classified.