



Executive Summary Post
Notice 2013-43

Foreign Account Tax
Compliance Act (FATCA)



What is the Foreign Account Tax Compliance Act (FATCA)?

FATCA is a new chapter in the US Internal Revenue Code. Chapter 4 was added by the Hiring Incentives to Restore Employment (HIRE) Act. It seeks to identify US taxpayers having accounts at Foreign Financial Institutions (FFIs) and attempts to enforce reporting of those accounts through withholding.

Key Characteristics

- Attempts to improve tax compliance of specified US persons who have offshore financial accounts
- Requires FFIs to enter into compliance agreements with US Treasury by June 30, 2014 to identify and report US accounts annually
- Requires US withholding agents to perform enhanced due diligence on foreign accounts and perform withholding and reporting in addition to their current regulatory obligations under Chapter 3.
- Requires certain non-financial foreign entities (NFFEs) to report substantial US owners or certify no US ownership
- Requires US withholding agents and FFIs to withhold 30% of payments made to foreign financial institutions, non-financial foreign entities and individuals that are not in compliance with FATCA requirements
- Requires FFIs to withhold on foreign passthru payments made to foreign financial institutions, non-financial foreign entities and individuals that are not in compliance with FATCA requirements no earlier than 2017
- Projected to raise \$7.6 billion in tax revenue over a 10 year period
- Applies generally to payments made after June 30, 2014

Compliance is viewed as mandatory by the industry for all affected institutions

Targeted...	Directly Responsible...	What...	If not...
<ul style="list-style-type: none"> • US Individuals • Privately-held US Taxable Entities 	<ul style="list-style-type: none"> • FFIs • US withholding agents 	<ul style="list-style-type: none"> • FFIs must document account holders; and identify and report US accounts annually among other requirements • Certain NFFEs must certify no substantial US owners or provide info on them to FFIs and USWAs • USWA must document payees of withholdable payments 	<ul style="list-style-type: none"> • Withholding agents must withhold a tax of 30% on any withholdable payment made to any non-FATCA compliant FFI, NFFE, or account holder

Final FATCA regulations timeline – Notice 2014-33

	FATCA Compliance Action Items	2014			2015			2016			2017			2018		
General Compliance	FFI: GIIN registration deadline for first 2014 List (First 2015 list for Model 1 FFIs)	◆	May 5	◆	Dec 22	◆	for Model 1 FFI									
	First 2014 GIIN list	◆	Jun 2													
	FFI: Effective date of Agreement for FFIs receiving a GIIN prior to July 1, 2014	◆	Jun 30													
	FFI: End of transition period for affiliated group rule					◆	Jan 1									
New / Pre-existing Accounts	USWA / FFI: Begin new account onboarding	◆	Jul 1	Individuals	◆	Jan 1	Entities									
	USWA / FFI: Begin GIIN Verification for Model 1 IGA FFIs				◆	Jan 1										
	USWA: Complete documenting/classifying preexisting entity accounts*				◆	Dec 31	Prima Facie FFIs	◆	Jun 30	All other entity accounts						
	FFI: Complete documenting/classifying preexisting accounts				◆	Dec 31	Prima Facie FFIs	◆	Jun 30	All other accounts						
				◆	Jun 30	High value individuals										
Withholding	USWA/FFI: Grandfathered obligation cutoff	◆	Jul 1													
	USWA/FFI: Begin withholding on US source income (excludes certain offshore payments)	◆	Jul 1													
	USWA/FFI: Begin withholding on offshore US source income payments and gross proceeds									◆	Jan 1					
	FFI: Begin withholding on foreign passthru payments									◆	Jan 1					
Reporting	FFI: Begin US Account/Owner information and balance reporting (for 2014 calendar year)**				◆	Mar 31										
	FFI: Begin US Account/Owner income reporting (for prior year) and Aggregate reporting on NPFFI account holder payments (only for 2015 and 2016)**						◆	Mar 31								
	FFI: Begin US Account/Owner gross proceeds reporting (for prior year)**									◆	Mar 31					
	USWA: Begin US Owner reporting**				◆	Mar 31										
	USWA/QI FFI: Reporting on withholdable income payments made to recipients***				◆	Mar 15										
	USWA/QI FFI: Begin reporting on gross proceeds made to recipients***														◆	Mar 15

* \$250k preexisting entity account de-minimis exception does not apply to accounts opened from July 1, 2014 to December 31, 2014 ** Form 8966 *** Form 1042-S

Implementing FATCA will require organizations to analyze and implement changes to their operating model

Organizations need to address key topics relating to technology, operations and client experience

Areas of Focus	Concerns	Outcome
Tax	<p>Participating FFIs will be required to do more than identify and report on their US accounts. They will need to classify all of their accounts under the appropriate FATCA classification (e.g. non-participating FFIs, participating FFIs, deemed compliant FFIs, active NFFEs). US withholding agents will be required to perform due diligence on and classify foreign entity accounts, new individual accounts, and preexisting individual accounts in certain circumstances. The process for identifying and documenting a foreign entity's status can be significant and there is potential exposure if the determination is incorrect.</p>	<ul style="list-style-type: none"> • Properly identifying and classifying foreign entities • Foreign entity status documentation • US indicia search and documentation for individual accounts
Technology	<p>Both USWAs and FFIs will need to develop enhancements to already existing technologies and systems in order to meet the requirements of FATCA. Significant changes in data structure, as well as additional data collection, calculation and reporting requirements will be pervasive across multiple systems. Requirements, development, testing and implementation will be required for each system impacted.</p> <ul style="list-style-type: none"> • Potential new systems to continuously track required documentation • Account opening/ maintenance systems • Sales, dividend, interest, corporate actions and other proceeds systems • Withholding calculation systems • Tax reporting and reconciliation systems • Data cleansing and remediation • Data and architecture • Compliance systems • Any systems supporting the withholding and reporting regime under chapter 3 will need to be enhanced to accommodate FATCA 	<ul style="list-style-type: none"> • Requirements definitions • Outsourcing considerations • Development • Testing • Implementation
Operations	<p>Both USWAs and FFIs will need to address changes in processes and workflows across the back-office impacting several functions of customer facing, asset servicing, regulatory reporting, and risk & control activities.</p> <ul style="list-style-type: none"> • Customer Facing: New Account Processing, Account Transfers, Client Reporting / Statements, Privacy and AML / KYC • Asset Servicing: Corporate Actions Processing, Tax Reporting, Security Master, and Payments inventory & withholding • Regulatory Reporting: New annual IRS/US Treasury Reporting • Risk & Control: Legal and Organizational Compliance and Procedures & Policies 	<ul style="list-style-type: none"> • New and modified policies and procedures • Adjusted workflows • New reporting and monitoring controls • Staff additions • Staff training
Client Experience	<p>USWAs and FFIs will need to educate impacted clients</p> <ul style="list-style-type: none"> • Require privacy waivers or implement account closures • Withholding on recalcitrant account holders and non-participating FFIs • Cash flow and tax reclaims 	<ul style="list-style-type: none"> • Information and documentation request from clients • Client follow-up for missing information • Client education

Many misconceptions exist about FATCA compliance; we believe it can be addressed in a targeted manner that reduces disruptions

FATCA Myths

FATCA compliance will require an army of tax resources

Impact of FATCA will be pervasive and will require financial institutions to make extensive changes for all legal entities and lines of business

FATCA will require the implementation of new core IT systems or a major redesign of existing core systems

FATCA implementation will set ongoing AML/KYC initiatives off-track since there are significant new requirements

Financial institutions cannot rely on third-party service providers for ongoing FATCA compliance without undertaking prohibitive oversight

Deloitte Point of View

We have distilled FATCA requirements into a manageable and easily digestible set of rules

Impact of FATCA varies significantly by type of business and legal entity, and financial institutions may be able to employ “fencing strategies” to limit operational impact while remaining fully compliant

IT solutions can be architected to implement FATCA without extensive changes to core systems

Many FATCA requirements are incremental to AML/KYC and they may be able to be folded into current initiatives without resetting timelines

Service providers have compelling incentives for complying with FATCA and verifying their compliance will be fairly straightforward, however, oversight and indemnification agreements are recommended

FATCA requirements should be managed by making careful strategic choices and by leveraging existing investments

Road to FATCA Compliance

Identify, Classify, and Remediate

Assess

Develop Solutions

Implement

FATCA Education Portal

Web-based surveys

Decision Trees

Customer Classification Engine

Remediation Control Database ("RCD")

June 30, 2014

Deadline for FFI's to enter an agreement for a July 1, 2014 effective date. Begin new "individual" customer onboarding and remediation for existing customers meeting FATCA criteria

January 1, 2017

Withholding begins on US source gross proceeds payments and foreign passthru payments

2014

2013

2015

2016

2017

You are here

June 30, 2014

Effective date of an FFI agreement entered prior to July 1, 2014

July 1, 2014

Withholding begins on US Source FDAP payments.

July 1, 2014

Cut-off for grandfathered obligations

December 31, 2014

Prima-facie FFI remediation deadline (including accounts onboarded after July 1, 2014)

January 1, 2015

Begin new "Entity" customer onboarding.

March 31, 2015

FFIs report US owner information and account balances identified in 2014

June 30, 2016

Majority of pre-existing account due diligence procedures to be completed

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