

FATCA – Registration Portal delayed and certain deadlines extended

15 July 13

On July 12, 2013, the Internal Revenue Service announced revised timelines in connection with the staged implementation of the various due diligence, verification, withholding, and reporting requirements contained in IRC sections 1471 – 1474, commonly known as the Foreign Account Tax Compliance Act, or FATCA. The announcement, set forth in Notice 2013-43 (the “Notice”), provides that the FATCA registration Portal will not be available by the promised date of July 15, 2013, extends the deadline for participating foreign financial institutions to diligence their accounts for US accounts by six months, extends other key dates with respect to the implementation of FATCA by six months, and announces relief for financial institutions that are in the process of negotiating FATCA implementation agreements with the United States.

Important developments set forth in the Notice include:

- The contemplated online FATCA registration system (the “Portal”), previously promised to be available by July 15, 2013, is now projected to be available on August 19, 2013. Registering financial institutions will have until January 1, 2014 to finalize their registration, at which point FATCA registration numbers, or GIINs, will be issued.
- IRS intends to provide a list of jurisdictions that will be treated as having in effect an intergovernmental agreement, or IGA, with the United States for FATCA purposes even if such IGA has not yet entered into force as of July 1, 2014, with the result that financial institutions organized in such jurisdictions will be permitted to register on the Portal as registered deemed-compliant foreign financial institutions.
- Withholding on certain US source payments will be delayed by six months, from January 1, 2014 to June 30, 2014.
- The definition of “grandfathered obligations” that will be generally exempt from FATCA withholding has been revised to include obligations outstanding on July 1, 2014 (extending the previous January 1, 2014 cut-off date for such obligations).
- Withholding agents’ account opening procedures will be delayed by six months, from January 1, 2014 to June 30, 2014, and corresponding revisions will be made to the terms “preexisting obligation”, and, pending further Treasury guidance, “preexisting accounts”.
- The effective date for participating foreign financial institutions that enter into foreign financial institution agreements with the IRS will be June 30, 2014, effectively extending the period for completing required due diligence by six months.
- Reporting by participating foreign financial institutions of US accounts for 2013 is eliminated, as the March 31, 2015 deadline for such reporting will be revised to apply only to calendar year 2014. This revision is intended to apply to financial institutions governed by a Model 1 IGA as well.

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