

Operational Tax Update

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FATCA/CRS UPDATE

- **Current changes to FATCA/CRS requirements**
 - Reporting of US TINs
 - Schema Changes
 - Guidance Changes
- **Coming attractions**
 - Mandatory Disclosure Rules
 - Residence by Investment Schemes
 - FATCA Certifications

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

US TINs

- A failure to obtain and report a valid US TIN for US reportable accounts can be considered “significant non-compliance” with the requirements of the IGA
- US Competent authority has started sending out notifications to the CRA asking that missing TINs be provided
- CRA introduced new guidance consistent with IRS Notice 2017-46 to help reduce the potential of financial institutions being considered non-compliant

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

US TINs (cont'd)

- Consistent with IRS Notice 2017-46, for the 2017, 2018 and 2019 calendar years, a reporting Canadian financial institution will not be viewed as significantly non-compliant with its obligations under the IGA for not reporting a U.S. TIN with respect to a preexisting account that is a U.S. reportable account, provided that it:
 - reviews electronically searchable data for any missing U.S. TIN;
 - requests any missing required U.S. TIN from each account holder annually; and
 - obtains and reports the date of birth of each account holder and controlling person whose required U.S. TIN is missing
- Requirements of the Notice are similar to but not exactly the same as the Canadian Guidance

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

US TINS (cont'd)

- Where a reporting Canadian FI has complied with the terms of the Notice, it can report the missing TIN using nine "A"s instead of nine "0"s for 2018 and 2019
- Where nine "A"s are reported, the IRS will not consider those accounts to be in non-compliance
- Unless further extended, all missing or invalid TINs will be considered an indication of significant non-compliance for 2020 and subsequent years
- The CRA expects Canadian FIs will adjust their systems to comply with the Notice

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

Schema Changes

CRS:

- FI ResCountryCode is mandatory now
- In AccountHolderBirthInformation and ControllingPersonsBirthInformation for pre-existing accounts, you are required to include the date of birth if the information is available in your records. Reasonable steps should be taken to obtain birth info. If the information is not available in your records after following the guidance, omit the tags.
- In ControllingpersonType, you are required to include the controlling person type if the information is available in your records. If the information is not available in your records, include the tag, but leave it blank
- Maximum file size: 150 MB

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

Schema Changes

FATCA:

- FFI and Financial Institution Sponsor FilerCategory was added
- TIN – “AAAAAAAAAA” is available now however must continue to use “000000000” if criteria not met
- Minor changes in TINtype element
- Maximum file size: 150 MB

CURRENT CHANGES TO FATCA/CRS REQUIREMENTS

Guidance Changes

- Updated versions of both Canadian FATCA and CRS Guidance Notes were released in July 2018
- Excluded accounts for CRS purposes now include certain condominium corporations and reloadable payment cards
- Various technical clarifications including:
 - Treatment of deemed compliant FFIs that have a change in status
 - Further guidance on treatment of partnerships and trusts and determination of controlling persons

COMING ATTRACTIONS

Mandatory Disclosure Rules

- EU member states are expected to pass legislation and supporting administrative positions prior to December 31, 2019 with reporting starting in 2020 in accordance with DAC6
- DAC6 imposes obligations to disclose “reportable cross border arrangements” on EU intermediaries (including certain transactions where the first step is implemented on or after 25 June 2018)
- Canada has not yet indicated whether it intends to implement similar requirements

COMING ATTRACTIONS

Residence by Investment Schemes

- On October 16, 2018, the OECD published results of its analysis of over 100 residence and citizenship by investment (CBI/RBI) schemes offered by CRS-committed jurisdictions in order to identify those schemes that potentially pose risk to the integrity of the CRS
- The OECD also published guidance for financial institutions to identify and prevent CRS avoidance through the use of such schemes, through a set of Frequently Asked Questions
- CRA is studying the new guidance and determining how best to bring this into play in Canada

COMING ATTRACTIONS

FATCA Certifications

- While most Model 1 IGA country FFIs are not required to make certifications of FATCA compliance to the IRS, Model 1 IGA financial institutions with branch operations in Model 2 IGA or non-IGA countries and FIs relying on certain registered deemed compliant FFI statuses under the US Treasury Regulations will be required to complete certifications on the IRS FATCA registration portal
- FFIs should confirm whether certifications are required

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FINANCE CANADA UPDATE

Issue: The Application of the Advantage Rules to Investment Management Fees

Status: Pending

- Finance Canada is currently reviewing the file
- The CRA has delayed implementation until Finance completes their review
- The CRA has committed to providing sufficient time for the industry to implement the rules – if Finance decides that the Advantage Rules DO apply to investment management fees

CANADA REVENUE AGENCY (CRA) UPDATE

Issue: **T5008 Reporting**

Status: **Successful – administrative relief provided to allow financial institutions to issue ‘Trading Summaries/Customized Summaries’ for 2018 tax year**

T5008 2018 Trading Summaries must include:

- The CRA logo
- ‘T5008’ prominently on the top of the trading summary
- No display of any company/corporate logos

CRA UPDATE (CONT)

Issue: **Late Filing of CRA Estate Notices**

Status: **Successful – CRA has process in place to avoid automatic assessments for late T4 RSP/RIF filings that are not the fault of the financial institution**

IFIC is asking for:

- Similar provision for late T3 RSP/RIF filings
- More information about how this process works in practice

CRA UPDATE (CONT)

Issue: 'Expressed Consent' for Posting Client Tax Information to a Secure Company Website

Status: Successful

- The CRA provided IFIC with a written response outlining the general parameters for what constitutes 'expressed consent'

Issue: Request times for the CRA to provide TINs to new Mutual Fund Trusts

Status: Pending

- Expecting an update on our request from the CRA in December

CRA UPDATE (CONT)

Issue: Tax Extensions for Winding Up Mutual Fund Corporations

Status: Pending

- IFIC has asked the CRA to provide tax filing extension for mutual fund corporations – as they do for mutual fund trusts
- IFIC is waiting for the CRA's response

REVENUE QUEBEC UPDATE

Issue: 2018 Quebec Dividend Tax Credit Reporting

Status: No administrative relief

Issue: Year-End Quebec Withholding Tax Deadline Extension Request

Status: Continuing discussions with Revenue Quebec

- No administrative relief for 2018
- Working with Revenue Quebec on relief for 2019 and future years

Issue: Retroactive TFSA Registrations

Status: Successful – TFSA's may be retroactively registered with Revenue Quebec

REVENUE QUEBEC UPDATE

Issue: **Implementation of new QESI Regulations**

Status: **Successful**

- Revenue Quebec to accommodate agents who will not be ready to implement the changes in November 2018. They will continue to accept files submitted using the former standards
- November 2018 implementation date for effective transfer date deferred to 2020
- SIN Matching requirement for Sibling transfers removed
- Revenue Quebec is open to having more industry input earlier in the regulation development process

Questions?