



Foreign Account Tax Compliance Act (FATCA)

Executive Summary

FOR DISCUSSION PURPOSES ONLY

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

FATCA is a new chapter in the U.S. Internal Revenue Code. Chapter 4 was added by the Hiring Incentives to Restore Employment (HIRE) Act. It seeks to identify U.S. taxpayers having accounts at Foreign Financial Institutions (FFIs) and attempts to enforce reporting of those accounts through withholding. While substantial Treasury guidance is still needed on the provisions, initial analysis is recommended.

Key Characteristics

- Attempts to improve tax compliance of specified U.S. persons who have offshore financial accounts
- Requires FFIs to enter into compliance agreements with U.S. Treasury and to identify and report U.S. accounts annually
- Requires non-financial foreign entities (NFFEs) to report substantial U.S. owners or certify no U.S. ownership
- Requires withholding agent to withhold 30% of payments made to foreign financial institutions that are not in compliance with FATCA requirements
- Requires FFIs to withhold pass-through payments to recalcitrant accounts
- Projected to raise \$7.6 billion in tax revenue over a 10 year period
- Applies generally to payments made after December 31, 2012

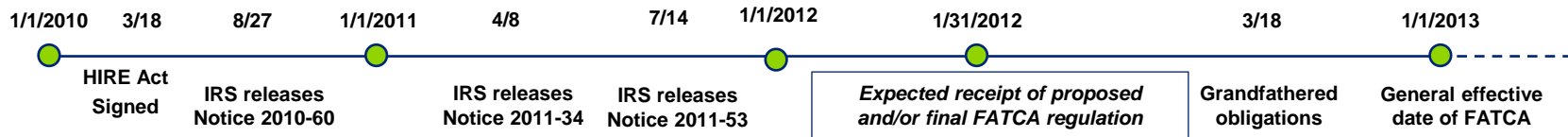
Compliance is viewed as mandatory by the industry for all affected institutions

Targeted...	Responsible...	What...	If not...
<ul style="list-style-type: none">▪ U.S. Individuals▪ Privately-held U.S. Taxable Entities	<ul style="list-style-type: none">▪ FFIs and their affiliates▪ NFFEs,▪ All withholding agents	<ul style="list-style-type: none">▪ FFI must identify and report U.S. accounts annually, NFFEs must certify no U.S. accounts or report, and all withholding agents must verify payee compliance with FATCA	<ul style="list-style-type: none">▪ Withhold a tax of 30% on any withholdable payment made to an FFI, NFFE, or account holder by any withholding agent

FATCA Timeline & Key Impacts

FATCA requirements were created from the signing of the HIRE Act. Generally speaking, payments made after 12/31/2012 are expected to be FATCA compliant. Initial guidance was recently provided by the IRS and no timeline currently exists for release of proposed and/or final regulations.

Key Dates



Key Impacts

- Compliance with FATCA's due diligence, verification and annual reporting may result in conflicts with local privacy laws and regulations
- New account and account maintenance processes will be impacted beyond currently identified U.S. account holders
- Existing systems and processes are likely to struggle with the additional data elements, withholding calculations and reporting changes
- FFI clients will need to be informed of the impacts of the requirement to provide detailed information on their accounts to the U.S. Treasury and the potential withholding penalty
- Clients may require assistance with the reclaim process due to potential for extra withholding

Several large international banks have estimated the cost of compliance to exceed \$100 million

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

Organizations need to address key topics relating to technology, operations and client experience whether entering into agreements or withholding

Areas of Focus	Concerns	Outcome
Tax	<p>Foreign entities will need to be classified at a much more granular level, besides just FFIs or NFFEs (e.g. non-participating FFIs, participating FFIs, deemed compliant FFIs, excluded FFIs, Exempt FFIs, EFFEes). The process for identifying and documenting a foreign entity's status is still unclear, 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
Technology	<p>Organizations 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 FFI agreements and NFFE ownership data • Account opening/ maintenance systems • Sales, dividend, interest, corporate actions and other proceeds systems • Withholding calculation systems • Hypothetical gross proceeds systems • Tax reporting and reconciliation systems • Data cleansing and remediation • Data models and architecture • Compliance systems 	<ul style="list-style-type: none"> • Requirements definitions • Outsourcing considerations • Development • Testing • Implementation
Operations	<p>Organizations 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/U.S. 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>FFIs will need to educate clients on FFI's decision and how their clients will be impacted</p> <ul style="list-style-type: none"> • Require privacy waivers or implement account closures • Withholding on recalcitrant account holders • Cash flow and tax reclaims 	<ul style="list-style-type: none"> • Information request from clients • Client follow up for missing information • Client education



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