

Tax information reporting under the Foreign Account Tax Compliance Act



Your challenge

Since December 2008, the Internal Revenue Service's (IRS's) designation of certain types of U.S. income tax withholding as a Tier I issue has been a clear signal to companies across industries that compliance with U.S. tax withholding and reporting requirements will be aggressively enforced.

Now, Congress has enacted and the IRS is gearing up to enforce a new chapter in the U.S. Internal Revenue Code (IRC) that specifically addresses foreign account tax compliance. The Foreign Account Tax Compliance Act (FATCA) seeks to identify U.S. taxpayers that have accounts at foreign financial institutions or hide behind non-U.S. entities. It also attempts to enforce reporting of those accounts and those U.S. taxpayers through withholding requirements that are similar to those required under CFR Section 1441-3 — withholding on payments of U.S. source income to foreign persons.

U.S. withholding agents and foreign financial institutions may be required to withhold 30 percent on payments subject to FATCA or disclose U.S. account holders or U.S. recipients of payments.

FATCA rules have many implications, both for withholding agents and payment recipients, including:

- Requiring withholding agents to identify recipients of payments, the types of payments being made, and determine the type of reporting and potentially withholding necessary. This could involve thousands of payments and recipients.¹
- Requiring payment recipients to determine if they are classified as foreign financial institutions or non-financial foreign entities. Then, within those categories, determine what information needs to be gathered for IRS reporting and whether they need to enter into compliance agreements with the IRS for annual reporting purposes.

¹ A withholding agent is any business that has receipt, custody, control, or disposition over a payment from the United States that is considered to be fixed or determinable, annual, or periodical (such as interest, dividends, royalties, or rents) or gross proceeds from the sale or disposition of any property that can produce U.S. source interest or dividends. Withholding agents may include U.S. branches of non-U.S. financial institutions or any other type of U.S. business that makes such payments.

Deloitte has developed a global center of excellence aimed specifically at helping our clients analyze their responsibilities and tax compliance risks associated with the new law.

There are many complexities associated with FATCA. Compliance with FATCA likely will involve changes to a withholding agent's or payment recipient's financial and tax systems and operations. Additionally, there may be legal and regulatory implications, such as interaction with security and privacy.

Dealing with these issues will require professionals with experience in several disciplines. Does your organization have the resources it needs?

Deloitte can help.

Our approach

Although FATCA generally applies to payments made after December 31, 2012, businesses that may have exposure to the law's provisions should conduct an assessment of their business operations well before that date. Planning and implementing changes to comply with FATCA will likely require considerable time and effort. For example, FATCA requires access to data not already compiled by most businesses' information systems and functions.

Deloitte recognizes that implementing these changes may be complicated by location, number of businesses, and types of businesses. To manage the complexity, we have developed a global center of excellence aimed specifically at helping our clients analyze their responsibilities and tax compliance risks associated with the new law.

Our professionals have developed an understanding of the tax, operations, technology, and regulatory implications of FATCA. Specifically, we will help address the following issues that impact your organization:

Tax

The process for identifying and documenting an entity's status under FATCA can be difficult. The ultimate status classification may depend upon a detailed analysis of voluminous data. Deloitte can help analyze payments that may be subject to FATCA's documentation rules and help gather and complete the appropriate documentation.

Technology

Existing information systems will probably need to be modified to address FATCA reporting requirements. Data structure, data collection, calculation, and reporting processes will need to be enhanced across multiple systems and likely multiple business units. Deloitte will assist and advise with requirements definitions, development, testing, and execution as well as possible co-sourcing considerations.

Operations

Both withholding agents and payment recipients will face necessary changes to processes and workflows across back-office operations, including customer-facing, asset-servicing, regulatory reporting, and risk and control activities. Deloitte will advise on developing new or updated policies and procedures, modified workflows, new reporting and monitoring controls, and staff additions and training.

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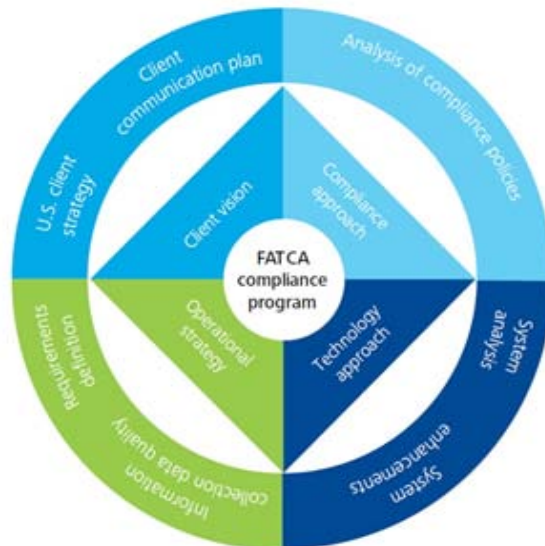
Client experience

Foreign financial institutions will need to educate clients about the institution's compliance with FATCA and possible effects of that compliance on customers or clients. This may involve producing privacy waivers or implementing account closures. It may also require the institution to withhold taxes on recalcitrant account holders. Deloitte will assist and advise with developing client information requests, follow-up activities for missing information, and client communications and education.

Analysis and execution

Deloitte will assist and advise in execution of FATCA requirements across an organization. Our team complements an entity's team with technical specialists, business analysts, communications specialists, and testing professionals who will consult on matters that arise. Additionally, our project advisors and subject matter specialists supplement the team with tax, operations, technology, testing, and execution insights and experience. Our services include helping businesses by providing advice and assistance to help management:

- Identify a program management team and governance structure for implementation of required changes.
- Create the governance structure that will manage the risk across the organization and monitor compliance with the regulations.
- Develop a communication plan for business units impacted.
- Conduct a risk assessment and gap analysis on existing compliance, operations, and technology process and systems.
- Develop a client vision and strategy.
- Develop responses for use by management regarding proposed regulations and participation in industry panels.
- Document systems, data, and processes impacted.
- Identify system enhancements and new required systems.



The Deloitte difference

Deloitte is especially qualified to help address FATCA and other tax information reporting needs, given our combination of tax technical knowledge, established processes, and advanced technology. We offer:

- A global, focused, multidisciplinary FATCA team with experience in banking, securities, insurance investment management, systems implementation, tax, and accounting.

- Extensive experience in the financial services industry and its operations that can help jumpstart your FATCA compliance effort.
- Experience with large, complex system integrations and enhancements using new technology.
- An understanding of the importance of defining the client experience vision and designing an operational support model to effectively execute that vision.
- A tailored methodology to support conversion to FATCA compliance, including rigorous program management to help guide the execution and rollout of the changes.

For more information please [click here](#) or please contact:

Denise Hintzke
Global U.S. FATCA Leader
+1 212 436 4792
dhintzke@deloitte.com

Anne Mericle
Global FATCA PMO Manager
+1 212 436 3908
americle@deloitte.com

Americas

John Rieger
National Tax Managing Partner, FSI
+1 212 436 6934
jrieger@deloitte.com

John Kocjan
FATCA Consulting Leader, U.S.
+1 212 618 4181
jkocjan@deloitte.com

Greg Thomas
FATCA ERS Leader, U.S.
+1 415 783 5211
grethomas@deloitte.com

James Dockeray
FATCA Leader, CBC
+1 441 299 1399
james.dockeray@deloitte.com

Oscar Ortiz
FATCA Leader, LATCO
+52 55 5080 6513 x6513
oortiz@deloittemx.com

Mike Wade
FATCA ERS Leader, U.S.
+1 804 697 1537
miwade@deloitte.com

Karen Irwin
FATCA Leader, Canada
+ 1 416 601 6522
kirwin@deloitte.com

Michael Shepard
FATCA FAS Leader, U.S.
+1 215 299 5260
mshpard@deloitte.com

Europe, Middle East & Africa

Chris Tragheim
FATCA Leader, EMEA
+ 44 20 7303 2848
ctragheim@deloitte.com

Asia-Pacific

Jim Calvin
FATCA Leader, Asia-Pacific
+1 212 410 4422
jcalvin@deloitte.com

Hiromi Ikuta
FATCA Leader, Japan
+036 213 1164
hiikuta@deloitte.com

National Contacts

Terence Coppinger

Denise Hintzke

Anthony Martirano

Marvin Michelman

U.S. Regional Tax Information Reporting Contacts

Central	Tracey Fielman
Mid-America	Wade McKnight
Northeast	Terence Coppinger
Southeast	Joan Millett
West	Jeff Wax Cindy Hustad

What is FATCA?

The HIRE Act (the “Act”) was signed in the U.S. on March 18, 2010, with little explanation or guidance as to the FATCA provisions incorporated within it. Additional but limited guidance was issued in the form of Notice 2010–60 in August, 2010 and Notice 2010–34 in April 2011. To date, cash value insurance products and annuities are still subject to the FATCA provisions.