



International Tax ALERT ■

JULY 16, 2013

FATCA Delay!

In response to numerous concerns voiced worldwide about the timing of FATCA implementation, the IRS, in Notice 2013-43, has announced new timelines for FATCA compliance.

U.S. withholding agents, foreign financial institutions (FFIs) and foreign governments all raised issues concerning FATCA implementation by the January 1, 2014, deadline: whether IT system enhancements could be put in place, whether Intergovernmental Agreements (IGAs) could be timely concluded, whether withholding certificates with instructions could be made available, whether FFI Agreements could be finalized and executed, and whether the IRS registration portal could be open for use in a meaningful way.

With those concerns in mind, the IRS revised FATCA timelines as follows:

1. FATCA withholding will begin July 1, 2014, rather than January 1, 2014.
2. "Grandfathered obligations" are now defined as obligations outstanding on July 1, 2014.
3. As yet, no further extensions have been announced for withholding on "gross proceeds" and "foreign passthru" payments.
4. Account-opening procedures must be in place by July 1, 2014. Accordingly, pre-existing accounts are now defined as those outstanding on June 30, 2014 (or on the effective date of an FFI Agreement or upon the receipt of a global intermediary identification number (GIIN) by a registered deemed-compliant FFI).
5. Due diligence deadlines for pre-existing accounts are postponed by six months.
6. The deadline for FATCA reporting by participating FFIS, with respect to 2014, is now extended to March 31, 2015. No reporting is required for 2013.
7. The IRS' FATCA registration portal will open August 19, 2013, rather than July 15, 2013. During all of 2013, FFIs may amend or modify their registrations, which then become final on or after January 1, 2014.

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8. No GIINs will be issued in 2013. GIINs will be issued only in 2014. To be included in the official IRS list, to be published June 2, 2014, FFIs must complete their registrations by April 25, 2014. Model I IGA reporting FFIs will have a longer period within which to complete their registrations.
9. Chapter 3 withholding certificates and documentary evidence otherwise expiring on December 31, 2013, will expire on June 30, 2014, instead.
10. All qualified intermediary, withholding trust and withholding partnership agreements otherwise expiring on December 31, 2013, will expire on June 30, 2014, instead.
11. Signed IGAs will be deemed to be in effect for registration and all other purposes even if a partner jurisdiction has not yet implemented the IGA in its domestic law.

While the revised timelines are welcome relief, the IRS' announcement to extend various deadlines is a sign that there is still much of FATCA to be put in place.

Alston & Bird LLP is pleased to assist you with respect to the matters covered in this Client Alert. Please contact Edward Tanenbaum (212.210.9425, edward.tanenbaum@alston.com), Jim Croker (202.239.3309, jim.croker@alston.com), Clay Littlefield (704.444.1440, clay.littlefield@alston.com) or Heather Ripley (212.210.9549, heather.ripley@alston.com).

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