

FATCA: Initial Registration Deadline Extended

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On April 2, 2014, the IRS announced that foreign entities that must be FATCAi-compliant by July 1, 2014 now have until **June 3, 2014** to register with the IRS (as opposed to the previous April 25, 2014 registration deadline).ii

The June 3 deadline applies to foreign entities that (1) are subject to the FATCA registration requirements and (2) are either (A) not organized in a country with which the United States has entered into a "Model 1" intergovernmental agreement relating to FATCA or (B) organized in Model 1 jurisdictions, but have branches located in non-U.S./non-Model 1 countries. Beginning on July 1, 2014, non-compliant foreign entities in this category will be subject to the new FATCA 30 percent U.S. withholding tax on certain U.S.-source income.

In contrast, foreign entities that (1) are subject to the FATCA registration requirements, (2) are organized in Model 1 jurisdictions and (3) do not have branches in non-U.S./non-Model 1 countries will not be required to register with the IRS until December 22, 2014. Beginning on January 1, 2015, non-compliant foreign entities in this category will be subject to the new FATCA 30 percent U.S. withholding tax on certain U.S.-source income.

As of April 7, 2014, the following countries/dependencies/territories may be treated as Model 1 jurisdictions: Australia, Belgium, Brazil, British Virgin Islands, Canada, Cayman Islands, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Guernsey, Honduras, Hungary, Ireland, Isle of Man, Italy, Jamaica, Jersey, Kosovo, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Slovenia, South Africa, South Korea, Spain and the United Kingdom. Additional jurisdictions will be added to this list as agreements are signed.

Every foreign entity should undertake its preliminary FATCA classification analysis before June 3, 2014 in order to know whether registration will be required and, if so, whether it must be completed by June 3, 2014, or by some later date.

i. FATCA is a new U.S. tax regime designed to combat offshore tax evasion by U.S. taxpayers. In essence, FATCA is an information-gathering tool. Under the threat of a 30 percent U.S. withholding tax for non-compliance, FATCA "encourages" foreign entities to disclose general information about their direct and indirect owners and, in the case of U.S. owners, such U.S. owners' identities and specific information about their respective foreign investments and income.↵

ii. On June 2, 2014, the IRS will publish a list of foreign entities that have submitted their registrations to the IRS on or before May 5, 2014. On July 1, 2014, the IRS will update this list with foreign entities that have submitted their registrations to the IRS between May 6, 2014 and June 3, 2014. The IRS then will continue to update the list on a monthly basis. The IRS announced that registrations submitted after May 5 and June 3 may be included in the June 2 and July 1 lists, respectively, but the IRS cannot provide any assurances. Therefore, to ensure inclusion in the FATCA-compliant list by July 1, foreign entities that must be FATCA-compliant by July 1 should submit their registrations to the IRS by June 3.↵

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