
Switzerland and the United States sign a FATCA Intergovernmental Agreement

February 15, 2013

In brief

Switzerland and the United States on February 14 signed an intergovernmental agreement (Swiss/US IGA) concerning the implementation of the Foreign Account Tax Compliance Act (FATCA) in Switzerland. This is the first IGA to be signed using the Model 2 version first published as draft by the IRS in November last year. The aim of the IGA is to help facilitate FATCA implementation and reduce burdens for Swiss financial institutions.

The Swiss/US IGA confirms that financial institutions in Switzerland are required to enter into FFI agreements directly with the IRS and implement FATCA in accordance with the final regulations except where expressly modified by the terms of the IGA. Some of the more significant modifications included in the Swiss/US IGA are:

Reporting & Withholding on Individual Account Holders

Swiss financial institutions are only required to report information on US accounts where the individual account holders have provided consent to allow such reporting to the IRS. If consent is not received (non-consenting US account), Swiss financial institutions will be required to report aggregate information to the IRS. The IRS may use the aggregate information received as the basis for submitting a group request under the Swiss tax treaty with the US.

A Swiss financial institution is not required to withhold on non-consenting US accounts until such a time where a group request has been received and the Swiss financial institution is unable to provide the Swiss Competent Authority with the requested information to be exchanged with the IRS within 8 months of the

request. In effect, the IGA defers the requirements to withhold on non-consenting US accounts until the group request procedures are exhausted.

Note: There is no similar deferral of withholding related to non-participating foreign financial institutions. In such a situation, a Swiss financial institution will apply the provisions of the final regulations.

Modification in Due Diligence Procedures

Annex I is substantially similar to the Annex I contained in the Model 1 version of the IGA and provides procedures for Swiss financial institutions to follow when conducting the required due diligence for purposes of identifying account holders.

In general, compared to the final regulations, the procedures provide for more reliance on existing documentation and also allow Swiss financial institutions to rely on self certifications in many cases.

As an alternative to the procedures contained in Annex I, Swiss financial institutions may choose to apply the procedures described in the relevant US Treasury Regulations. Once a Swiss financial institution has chosen to rely on the procedures in relevant U.S. Treasury Regulations, such procedures must continue to be applied consistently in all subsequent years, unless there has been a material modification to the relevant U.S. Treasury Regulations.

Annex II

Annex II contains a list of entities that are considered non-reporting Swiss financial institutions. These entities are either exempt (Exempt Beneficial Owners) from FATCA

obligations or are considered deemed-compliant and subject to lesser requirements. Entities exempted from FATCA obligations in Annex II include most Swiss retirement and pension plans as well as property and casualty insurers. Some of the entities designated as deemed-compliant include Swiss non-profit organizations, Swiss Investment Advisors, Financial Institutions with Local Client Base and Certain Collective Investment Vehicles. Annex II also includes a list of products that are not required to be treated as financial accounts and are therefore not reportable accounts.

Next Steps

The Swiss IGA has been submitted to Swiss parliament for approval and will be subjected to an abbreviated consultation period over the next four weeks during which interested parties can submit their views.

Useful links

Please click on one of the following links to read the official Swiss announcement and the full text of the IGA:

[English](#)

[German](#)

[Italian](#)

[French](#)

Let's talk

If you would like to discuss FATCA in more detail please call your local PwC contact or alternatively any of the FATCA team members listed below:

Swiss Contacts

Christoph Schäerer
+41 (0)58 792 4282
christoph.schaerer@ch.pwc.com

Martin Büeler
+41 (058) 792 4392
martin.bueeler@ch.pwc.com

Van Thanh Bui
+41 (058) 792 9305
van.thanh.bui@ch.pwc.com

US Contacts

Stuart Finkel
+1 (646) 471-0616
stuart.finkel@us.pwc.com

Dominick Dell'Imperio
+1 (646) 471-2386
dominick.dellimperio@us.pwc.com

Scott Dillman
+1 (646) 471-5764
scott.dillman@us.pwc.com

Canadian contacts

Michael S. Bondy
Partner, Tax Services
+1 (416) 365-2724
michael.s.bondy@ca.pwc.com

Paula S. Pereira
Partner, FATCA Advisory Services
+1 (416) 941-8460
paula.x.pereira@ca.pwc.com

Yves Magnan
Associé/Partner, Tax Services
+1 (514) 205-5194
yves.magnan@ca.pwc.com

Janette B. Zive
Partner, Tax Services
+1 (416) 869-2909
janette.b.zive@ca.pwc.com

Christian Fanning
Associé / Partner, Tax Services
+1 (514) 205-5336
christian.fanning@ca.pwc.com

John R. Martin del Campo
Director, Consulting & Deals
+1 (416) 687-8008
john.martindelcampo@ca.pwc.com