



## **FATCA RETURNS; Recent updates to reporting ahead of the 31 May 2015 deadline**

The United States (US) Foreign Account Tax Compliance Act (FATCA) legislation requires Foreign Financial Institutions (FFIs) outside the US to identify US taxpayers who hold accounts with them and report details on the accounts and account holders to the Internal Revenue Services (IRS). The UK and the US have signed a bilateral treaty to implement FATCA within the UK. HMRC introduced domestic legislation that will allow HMRC to collect FATCA information from UK FIs, pass it to the US authorities and, eliminating any data protection issues and minimising the burden of compliance on UK FIs. The US will also collect and send (more limited) reciprocal data back to the UK.

### **Check whether you still need to submit your return: Two recent updates on reporting requirements:**

#### **HMRC no longer needs FIs to file nil returns.**

The US have recently clarified in their IRS FATCA FAQ pages that they are not expecting countries with whom they have entered into an Inter-governmental Agreement (IGA) to require their local FIs to file nil returns which includes the UK. In view of this and consistent with the expected position for the UK implementation of the Common Reporting Standard HMRC has removed the requirement for nil returns. Where a UK FI is in a nil return position through applying the de minimis \$50k or \$250k threshold on pre-existing accounts it will still be necessary to submit a return in order to make the election.

#### **Holding companies and Treasury companies do not need to report under FATCA as they are no longer treated as FIs.**

The new FATCA provisions correct previous minor errors and, more significantly, remove holding companies and relevant treasury companies from the definition of reporting financial institution consistent with the terms of the UK / US IGA.

Unless such entities came within one of the other definitions of FI they would have had nil to report in any event, and they will now be Non-Financial Foreign Entities ('active' or 'passive' dependant on the activities carried out).

HMRC will be issuing further specific guidance for such entities shortly, which will be subsequently incorporated into revised guidance material to be published later this year.

### **If you still need to [submit a FATCA return](#) you will need to do this by 31<sup>st</sup> May 2015.**

To access the FATCA service you will need to create an 'organisation' type Government Gateway account, if you do not already hold one. Once in the Government gateway click to register for HMRC online services, FATCA is then listed as a service you can register for.

You will also need to register 24 hours before submitting your FATCA return.

To find out if you are impacted by FATCA or how to submit your FATCA return see the [guidance on Gov.uk](#)

If you have additional specific questions please email [OCU.HMRC@HMRC.gsi.gov.uk](mailto:OCU.HMRC@HMRC.gsi.gov.uk).