

Foreign Account Tax Compliance Act (FATCA)

Background

Subtitle A of Title V of The Hiring Incentive for Restoration of Employment Act (HIRE Act) introduces chapter 4 to the Internal Revenue Code in the United States. Chapter 4 of the Internal Revenue Code contains section 1471 to 1474 and these rules are commonly referred to as Foreign Account Tax Compliance Act (FATCA). FATCA was enacted into Law on 18 March 2010 with an objective of controlling instances of tax evasion by US persons by investing outside the territory of the USA. FATCA identifies all financial institutions operating outside the territory of the USA as Foreign Financial Institution (FFI) and the FFIs are provided with an option to participate in FATCA program. Non participation in FATCA will result in these institutions being identified as Non Participating FFI (NPFFI) and they will be subject to 30% withholding on US source Fixed Determinable and Periodic (FDAP) income and gross proceeds from the sale/disposal of US securities or interest bearing assets. Participation in FATCA will require FFIs to identify US persons holding financial accounts, apply withholding on payments to “recalcitrant” account holders & NPFFIs and report specified information about US persons to the IRS on an annual basis.

The Department of Treasury (DoT) of the USA has initiated discussions with over 50 countries across the world on an inter-governmental approach for implementing FATCA. DoT has published two model agreements for IGA and a number of countries across the world have either confirmed IGA with the USA or are in advanced stages of negotiation for implementing IGA for FATCA.

Latest update on FATCA

Regulators request Financial Institutions to understand FATCA

Central banks across the region including the Central Bank of Bahrain have issued letters or circulars to all regulated entities requesting them to understand FATCA and its impact on their business. SAMA recently requested all banks in Saudi Arabia to prepare for FATCA implementation.

Regional meeting on FATCA sponsored by the Central Bank of Qatar

The Central Bank of Qatar has invited representatives of the US government and senior representatives of governments, regulators, financial institutions and leading consulting firms for a meeting to discuss FATCA. This meeting originally scheduled for the first week of December 2012 has now been rescheduled to 14 January 2013.

Announcement 2012-42

Announcement 2012 -42 was made available to public by IRS and DoT on 24 October 2012. This is a 12 page document and it takes into consideration some of the feedback received by IRS related to the proposed

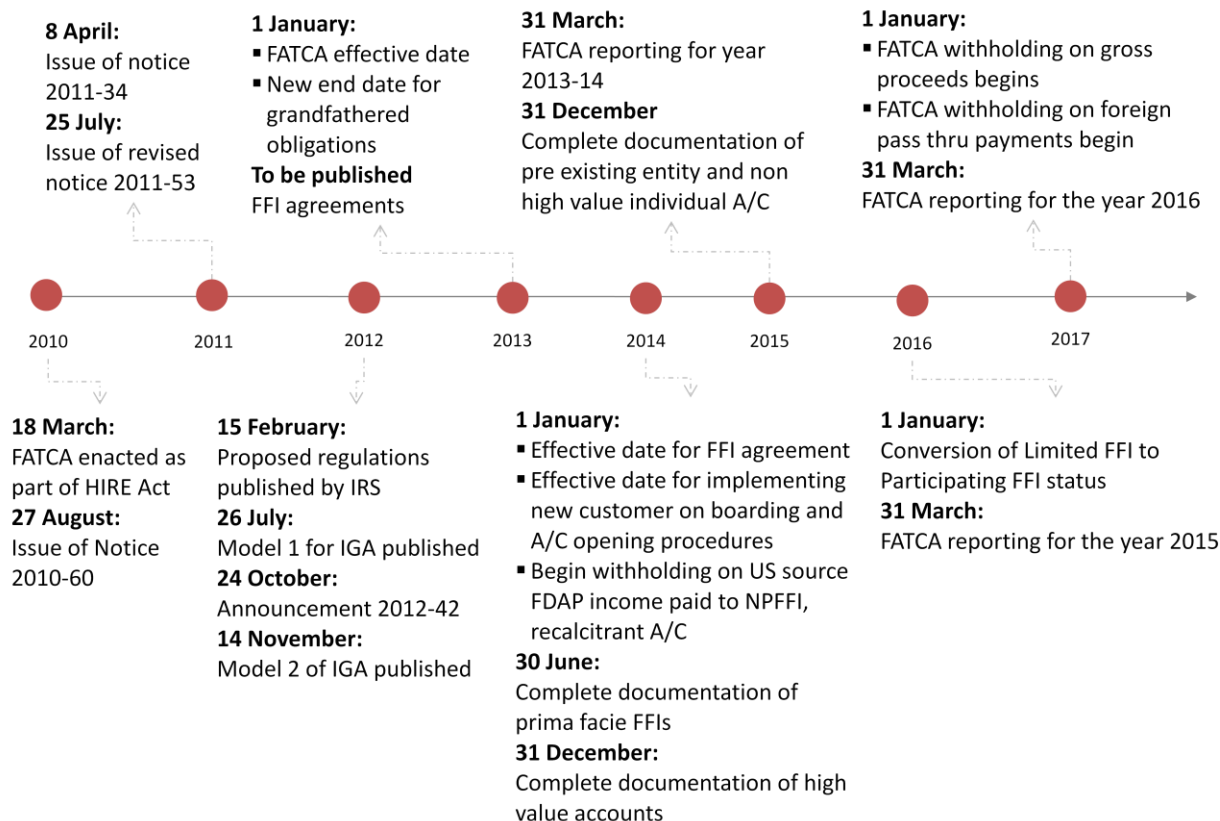
regulations on FATCA published by IRS on 15 February 2012. The key highlight of the above announcement is the delaying of implementation date for FATCA by 6 months. Now, Financial institutions have to initiate new processes for customer identification and due diligence from 1 January 2014 (Instead of 1 July 2013) and registration of FFIs can be completed by 31 December 2013. The announcement also introduces changes to definition of existing accounts, grand fathered obligations. For accessing the announcement please visit the IRS website - [http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))

Model 2 of IGA released by DoT, USA

On 14 November 2012, Department of Treasury published model 2 of the inter-governmental agreement for implementing FATCA. Model 2 contains clarifications related to Expanded Affiliate Group (EAG) and provides significant relief to financial institutions who have branches or subsidiaries in sanctioned countries. FFIs within jurisdictions that adopt Model 2 of the IGA can now consider subsidiaries or branches operating in sanctioned countries as NPFFI and other members of the EAG could continue to be considered as participating FFI. Model 2 of the IGA can be accessed from the IRS website - [http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))

Revised FATCA timeline

Announcement 2012-42 has brought changes to the timeline for complying with FATCA. Now FFIs have time till 1 January 2014 to complete registration with IRS. Similarly, due diligence for high value preexisting accounts can be completed by 31 December 2014 and for other accounts by 31 December 2015. Withholding on gross proceeds will now start only from 1 January 2017. The following diagram provides an overview of the revised timeline for FATCA compliance:



Keypoint's FATCA services

Keypoint has significant experience in assisting clients in complying with regulatory requirements. As investment administrators and business advisors we have assisted a number of clients in complying with local and international legal/tax requirements.

Keeping in mind the importance of FATCA, we have developed customized services focused on understanding FATCA, assessment of the impact of FATCA on business of financial institutions, assistance in implementing changes to comply with FATCA, implementing IT solutions for FATCA compliance, audit and review of FATCA program, program management services and assistance in registration with IRS where required.

As one of the leading outsourced service provider to financial institutions in the region, we would also be pleased to outsource FATCA compliance related work and support your customer identification, withholding and reporting requirements seamlessly.

For further information concerning FATCA services please contact:

Ranjith Kumar
Head, Keypoint Technologies
Dir +973 17206827
Mob +973 36283890
ranjith.kumar@keypoint.me