

The Foreign Accounts Tax Compliance Act ("FATCA") is a significant structural step in governments' efforts to improve global tax compliance. FATCA aims to promote cross border tax compliance by implementing an international standard for the automatic exchange of tax information relating to US investors. The provisions call on tax authorities all over the world to obtain detailed account information from Financial Institutions ("FI's") relating to US investors and exchange that information automatically with the United States Internal Revenue Service ("IRS") on an annual basis.

Extent of provisions

At first glance, FATCA may seem like it is merely a requirement for FI's to identify and report US persons which are quite broadly defined in the provisions. However, if you do not fall into the definition of an FI you should still be aware that the provisions may necessitate certain identification obligations on you with respect to any US investors you may have. As such, FATCA compliance could have application to your business. If you have not already taken steps to ensure that you are FATCA compliant and that you understand your obligations with respect to same, it is important you do so as soon as possible.

Recent developments

It is important to note that FATCA is only part of phase I of the global approach to achieve an international standard for exchange of information on request by 2016. Achieving greater transparency and the better exchange of information globally is now of the utmost importance and something businesses need to be thinking of in the short term.

OECD's Common Reporting Standard

The OECD has recently taken further steps to improve global cross border tax compliance by releasing the Common Reporting Standard ("CRS"). The CRS is a set of global standards for the annual exchange of financial information by FI's pertaining to customers, to the tax authorities of the jurisdictions in which those customers are resident for tax purposes. Over 65 countries including Cyprus, have already publically committed to adhering to these standards which have an implementation date of 1 January 2016.

Adapting your systems

In addition to ensuring you are aware of your obligations with respect to FATCA and CRS and that you are fully compliant with same, FI's should already be taking significant steps to ensure that they have sufficiently robust systems in place to facilitate the gathering of detailed account information beyond that required by FATCA and CRS, and the exchange of such information automatically with other jurisdictions.

The cost of non-compliance

30% withholding tax on certain payments (U.S. source income) made to FFIs that do not register with the IRS – under FATCA.

Domestic law financial penalties are to be imposed on by the local Tax Authorities– under CRS.

Further information

Further information on how to achieve FATCA and CRS compliance is available on http://www.mof.gov.cy/mof/taxdep.nsf/page28_en/page28_en?OpenDocument (FATCA) and http://www.mof.gov.cy/mof/taxdep.nsf/page31_en/page31_en?OpenDocument (CRS).

Korpus Prava can provide assistance in ensuring you meet your FATCA and CRS obligations.