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Guernsey Association of Trustees

FATCA / IGA Update – US and UK

11 September 2013

Agenda

Latest position and expected timing

Relevant developments

Finally, how trusts are treated

Alternative reporting under the UK IGA for non-doms

What you should be doing

And another thing.....

Latest position and expected timing

- US IGA: negotiations completed and agreement in final; awaiting signature
- UK IGA: negotiations over the summer between UK and Crown Dependencies, now largely completed
- Signature of both IGAs expected in the next 4 weeks
- Crown Dependencies have been drafting guidance notes in conjunction with industry
- Publication hoped for by the end of September
- Based on UK guidance notes, subject to local law and practice

Relevant developments

- Effective six month deferral announced by US in July (also to apply to UK IGA)
- Registration portal now open, GIINs to be issued on 1 January 2014
- US to treat signed IGAs as “effective”
- FIs in IGA territories are not required to register until 1 January 2015

Finally, how trusts are treated

- New Annex II introduces concept of “trustee documented trust”
- A trust, when the trustee is a Reporting Model 1 FFI (i.e. a Guernsey licensed fiduciary), which reports all required information with respect to all U.S. Reportable Accounts, will be regarded as a non-reporting Guernsey Financial Institution
- The trust will be deemed compliant and will not be required to register with the IRS
- Likely (but not yet certain) that the same treatment will apply to underlying investment companies

Reporting for Trusts

- Need to identify “Controlling Persons” to determine if trust is controlled by US persons
- Includes settler, protector, all beneficiaries
- But, for reporting (per the UK guidance notes) only report on
 - a person who is a Beneficial Owner (usually the settler) of all or a portion of the Trust;
 - a beneficiary who is entitled to a mandatory distribution (either directly or indirectly) from the Trust;
 - a beneficiary who receives a discretionary distribution from the Trust in the calendar year
- This is likely to feature in the Crown Dependency guidance

Alternative reporting regime (“ARR”)

- Included in Annex IV to the IGA
- This is NOT a carve-out for RND
- Applicable to UK persons who claim the remittance basis
- More limited than applicable to all RND

Proposed alternative reporting regime

- FI may elect to operate the ARR
 - Applicable to all affected accounts
- RND may elect for ARR to apply to all accounts held by FI
- FI must certify annually that RND is subject to remittance basis
 - Certification from accountant, tax adviser or lawyer by 28 February
 - Certification must verify that a claim has been made for non-dom and remittance basis, plus non-dom status not in dispute by HMRC
- Name, address, DoB, and NI number (if available) to be exchanged annually

Proposed alternative reporting regime – subject to change

- For the fiscal year, the following needs to be exchanged
 - Gross payments and movements of assets from UK to Guernsey account
 - Where FI cannot determine source of payments/assets, gross payments and movements of assets from undisclosed location
 - Gross payments out of Guernsey account which ultimately have UK destination
 - Gross payments out of Guernsey account where ultimate destination unknown
- Where there have been disclosable movements as above, FI must also disclose account number, name of FI and GIIN
 - This is in addition to name, address, etc

Alternative reporting regime - issues

- Information required goes far beyond that which is required by UK legislation
- Requires the capture of transactions data
- Requires annual certification of RND claiming RB and disclosure of names and addresses
- Transitional period – 2014 data?

US / UK FATCA / IGA Reporting Timeline



April 6, 2013
GDF opens

December 31, 2013
FIs write to "relevant persons" to make them aware of GDF

Period to December 31, 2013
Completion of IGA, annex / guidance notes, legislation and regulations, including industry consultation

January 1, 2014
Information capture for account holders begins (not interest, dividends or proceeds)

June 30, 2014
"Valuation" date for existing accounts to determine whether high or low value

July 1, 2014
Update client "onboarding" so that FIs identify all new UK accounts

March 31, 2016
FIs write to "relevant persons" to remind them of GDF in 6 months to September 30, 2016

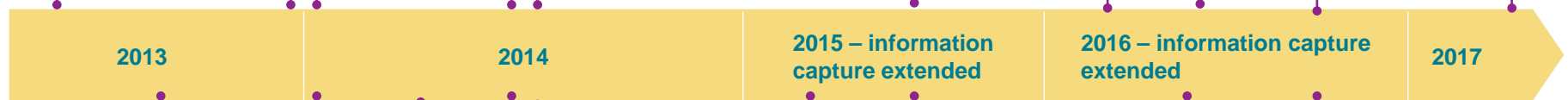
September 30, 2016
GDF closes

June 30, 2016
Deadline for FIs to complete due diligence reviews for all existing remaining accounts.

HMRC reporting for calendar years **2014 and 2015**, including gross interest, dividends and other income for 2015
UK RND reported on tax year basis i.e. up to 5 April 2016

September 30, 2017
HMRC reporting for calendar year **2016**, including gross proceeds from sales
UK RND reported on tax year basis i.e. y/e 5 April 2017.

June 30, 2015
Deadline for FIs to complete due diligence reviews on all existing high-value (>\$1M) individual accounts



August 19, 2013
IRS Registration Portal accessible to financial institutions

January 1, 2014
Information capture for account holders begins (not interest, dividends or proceeds)

April 25, 2013
GIINs issued - last date by which a financial institution can register with the IRS to ensure inclusion on June 2, 2014, FFI list

July 1, 2014
FFI agreement becomes effective
Update "onboarding" so that FIs identify all new US accounts

31 December, 2014
Deadline to register as a reporting FI

March 31, 2015
IRS reporting for calendar year 2014

June 30, 2015
Deadline for FFIs to complete due diligence reviews on all existing high-value (>\$1M) individual accounts

June 30, 2016
Deadline for FFIs to complete due diligence reviews for all existing remaining accounts.

September 30, 2016
IRS reporting for calendar year 2015, including gross interest, dividends and other income

September 30, 2017
IRS reporting for calendar year 2016, including gross proceeds from sales



What you should be doing now

- Reviewing client base to identify relevant structures and determining their FATCA status
- Identifying relevant US and UK persons and US and UK controlled entities
- Ensuring that new client onboarding procedures collect all relevant information
- Reviewing systems capability for required reporting

- Don't forget the Guernsey Disclosure Facility

And another thing....

- EU Pilot project v EUSD
- Mexico agreement with “EU 5”
- G20 Leaders Declaration on 6 September 2013, development of a global template on information exchange

Thank you

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