



TaxNewsFlash

Canada

FATCA & CRS — Updated CRA Guidance

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Financial institutions (FIs) should review updated CRA guidance for due diligence and information reporting obligations under the Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA). This updated guidance, which was released on August 23, 2023, includes guidance on the interim treatment of First Home Savings Accounts (FHSAs), among other changes.

FIs should consider how the CRA's updated guidance may affect their existing FATCA/CRS processes, particularly given the temporary nature of some of the changes. Written policies and procedures should be updated for any operational changes as a result of the new guidance. The CRA has stated that, on audit, they will request a copy of an FI's written policies and procedures implementing FATCA and the CRS.

Background

Under Canada's FATCA and CRS regimes, affected FIs are generally required to identify accounts held by tax residents of jurisdictions outside of Canada (including persons with dual or multiple tax residency) and report specific information relating to these accounts directly to the CRA each year. This information can include account balances and certain amounts paid or credited to the account, including interest, dividends, and proceeds from the sale of financial assets.

FATCA - Interim treatment of the new FHSA

The new guidance, which is available on the CRA's website, states that FHSAs are under consideration for being added to the list of the excluded accounts for purposes of FATCA.

The guidance further indicates that, in the interim, these accounts do not need to be reviewed, identified or reported at this time.

KPMG observations

The potential exclusion of FHSAs from FATCA due diligence and reporting is welcome news. However, the CRA's relief is only temporary as these accounts are still under consideration, and draft legislative changes to exclude these accounts have not been released. Further, we anticipate that implementation of this change will require consultation with the United States government. If FHSAs are not ultimately added to the list of excluded accounts, due diligence review and reporting procedures may still need to be performed sometime in the future. As a result, affected organizations should consider their own facts and circumstances before deciding the degree on which to rely on this relief.

CRS - Interim treatment of the new FHSA

The new CRA guidance states that FHSAs are under consideration to be added to the list of the excluded accounts prescribed under section 9006 of the *Income Tax Regulations*. The guidance further indicates that, in the interim, these accounts do not need to be reviewed, identified or reported at this time.

KPMG observations

Unlike the potential exclusion for purposes of FATCA, Finance released draft legislation for consultation on August 4, 2023 that included the proposed change to include FHSAs as excluded accounts for CRS purposes, as of April 1, 2023. As this legislation has not yet been enacted, affected organizations should consider their own facts and circumstances before deciding the degree on which to rely on this relief.

Other changes

Among other changes, the CRA's updated FATCA and CRS guidance clarifies that an account held solely by the estate of a deceased individual will not be considered a financial account in the year the FI is informed of the death, nor in subsequent years. The updated FATCA guidance also states that a new depository account that no longer meets the threshold to be designated as a non-U.S. reportable account at the end of a calendar year, can be designated in a subsequent year provided its balance at the end of that year meets the threshold criterion. On a related note, the CRA clarifies that an FI must obtain a valid self-certification within 90 days after the end of the calendar year in which a properly designated account no longer meets the applicable threshold. In addition, the CRA's FATCA guidance has been updated to encourage the adoption of IRS Notice 2023-11, which provides temporary relief for reporting on calendar years 2022, 2023 and 2024 to certain FIs reporting accounts with missing U.S. taxpayer identification numbers.

We can help

Canadian FIs should ensure that their due diligence and reporting procedures comply with the CRS and FATCA rules. Please reach out to your local KPMG tax advisor for additional assistance.

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