

## KPMG AEOI Updates & Tracking Service FATCA Alert

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**Alert Type:** Announcement

**Country:** Germany

**Regime:** FATCA

### Germany: Issued FATCA Newsletter for TIN Code Update

On 05 April 2023, the Federal Central Tax Office of Germany (BZSt) released FATCA Newsletter 01/2023. The FATCA Newsletter contains the following updates:

- The BZSt clarified the application of the updated FATCA CRS German Guidance (BMF Schreiben) of 15 June 2022, which amended the original guidance of 01 February 2017. Paragraph 165 of the FATCA/CRS German Guidance was amended due to findings by the AEOI Peer Review of the Global Forum on Transparency and Exchange of Information. According to the review, not all accounts previously included in paragraph 165 met the requirement for an exemption from the reporting obligation.
- Exempted accounts – FATCA: Accounts and products included in paragraph 165 are considered to be exempt accounts for CRS purposes. The BMF plans to work towards a mutual agreement with the competent authority of the United States of America for supplementing Annex II of the FATCA agreement to exempt the accounts and products referred to in paragraph 165 from the reporting requirement. For the time being, in view of this ongoing work, Financial Institutions (FIs) can assume that the accounts and products mentioned in paragraph 165 of the updated FATCA CRS German Guidance are not subject to reporting under the FATCA-USA-UmsV. Violations of the reporting obligations under FATCA that arise solely due to such circumstances will not be penalized until further notice.
- Use of alternate codes for reporting period 2022 onwards: Per Notice 2023-11, [here](#), the Internal Revenue Service (IRS) has issued an updated series of Tax Identification Number (TIN) codes for future reporting periods. Reporting for calendar year 2022 will be considered a transition year, where both the new and old codes can be used. However, for reporting calendar years 2023 onwards, FIs should use the updated TIN codes when the US TIN of the account holder or the controlling person is not provided. Use of the updated codes will allow the IRS to better understand the

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reason behind the missing US TINs. The updated codes are as follows:

- 22222222, for pre-existing individual accounts where the only US indicia is a US place of birth, other than accounts reported under code 000222111. This code will take precedence if any other code (other than 000222111) is also applicable.
- 000222111, for pre-existing depository individual accounts where the only US indicia is a US place of birth, and the account holder is a resident of the respective jurisdiction where the account is maintained for Anti-Money Laundering (AML) and tax purposes. The term “depository account” holds the same meaning as defined in the FATCA Agreement. This code will take precedence if any other code is also applicable.
- 33333333, for new individual accounts with sole indicia indicating a US place of birth, and either:
  - has had a change in circumstances to cause the self-certification obtained originally at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or,
  - was below the threshold at the time of account opening for documenting and reporting the account and, at a later date, the threshold was exceeded and a self-certification has not been obtained.
- 44444444, for pre-existing individual and entity accounts that has US indicia other than a US place of birth, and either:
  - has had a change in circumstances that either results in one or more US indicia associated with the account, or causes the self-certification or other documentation obtained originally, to be incorrect or unreliable, and a new valid self-certification or other documentation has not been obtained, or;
  - was below the threshold on the determination date provided in the FATCA Agreement, for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 55555555, for a new individual or entity accounts with US indicia other than a US place of birth and either:
  - has had a change in circumstances to cause the self-certification or other documentation obtained originally to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or;
  - was below the threshold at the time of account opening, for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.

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- 666666666, for pre-existing entity accounts held by passive Non-Financial Foreign Entities (NFFEs) with one or more controlling persons with respect to which no self-certifications have been obtained nor a US indicia has been identified in relation to its controlling persons.
- 777777777, for pre-existing accounts with no US TIN available and the account has been dormant or inactive but remains above the threshold limit for documenting and reporting. An account is deemed to be dormant if it meets the definition provided in the US Treasury Regulations and had no financial activity in the last 3 years, except for the posting of interest. However, if the account can be classified into multiple TIN codes, then the other codes will take precedence.
- 999999999, for any other account where the FFIs could not obtain a valid TIN and none of the other codes are applicable. The use of this code indicates that the FFI has completed a review of accounts without US TINs and has in good faith applied TIN codes to the records when applicable.

The “AAAAAAAAA” code previously used for exceptional cases was replaced by the new “999999999” code. Use of the updated codes in the IRS system will still generate an error notification as the TIN is a mandatory field. For the purposes of such error, a rectification period of 120 days will be provided. If the TIN is still missing following the rectification period, the IRS will evaluate the data received and determine whether significant non-compliance has occurred, taking into consideration the circumstances in each case and the effort made by the FI.

In accordance with IRS Notice 2023-11, the updated TIN codes can be used for reporting “existing accounts” for reporting on calendar years 2022-2024, but cannot be applied to report accounts opened after 31 December 2013 (New Accounts). This includes new accounts held by account holders of existing accounts. However, the BZSt suggests using the above TIN codes for new accounts which are missing a US TIN. FIs should refer to the Frequently Asked Questions (FAQs) Reporting section, [here](#), for further details.

- Updated communication manuals: The BZSt noted that these updates will be incorporated into the communication manual, parts 2 and 3. The changes or additions will soon be updated in the documents and will be published on the BZSt website.

Reference: [FATCA Newsletter 01/2023](#)

For information on KPMG's global AEOI network professionals, please email [GO-FM AEOI Program Support](#).

For more information on KPMG AEOI Updates & Tracking Service, please see [here](#).

For additional summaries of the latest AEOI developments, please visit KPMG's TaxNewsFlash-FATCA/IGA/CRS Insights page, [here](#).

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