

KPMG AEOI Updates & Tracking Service FATCA Alert

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Spain: Updated FATCA FAQs

On 13 March 2023, the Spain Revenue Service issued updated FATCA Frequently Asked Questions (FAQs) following the issuance of Internal Revenue Service (IRS) Notice 2023-11, [here](#). The updated FAQs provide guidance for Foreign Financial Institutions (FFIs) that are unable to obtain and report US Tax Identification Numbers (TINs) of pre-existing US reportable accounts.

The following FAQs were updated:

- Q. Cases where it is mandatory to include the date of birth of a pre-existing account holder in the 290 model.

A. If the date of birth field for a financial account holder or controlling person is left blank, a warning message will be displayed in order to obtain the information. The warning will be displayed regardless of whether the US Taxpayer Identification Number (US NIF) is completed or not.

It is necessary to provide the date of birth of the individual account holder or controlling person to benefit from the flexibility provided after publication of IRS Notice 2023-11.

- Q. Filling the TIN (US NIF) field when it is not available.

A. In accordance with Notice 2023-11, in January 2023 the IRS updated the Frequently Asked Questions (FAQ 6 Reporting) with the updated TIN codes.

For the 2023 tax year, submissions that include codes from both before and after Notice 2023-11 will be accepted but, beginning 01 January 2024, only submissions that include codes updated after Notice 2023-11 will be accepted. The use of the updated codes will allow the IRS to better understand the reason behind the missing US TINs.

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The updated TIN codes, published by the IRS, are found below:

- 222222222 / 222-22-2222 / 22-2222222, 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 / 000-22-2111 / 00-0222111, for pre-existing depository individual accounts where the only US indicia is a US place of birth. FFIs should determine whether 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 applicable Model 1 Intergovernmental Agreement (Model 1 IGA). This code will take precedence if any other code is also applicable.
- 333333333 / 333-33-3333 / 33-3333333, for new individual accounts with 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 subsequently exceeded the threshold, and a self-certification has not been obtained.
- 444444444 / 444-44-4444 / 44-4444444, for pre-existing individual and entity account that has 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 valid self-certification or other documentation has not been obtained, or;
 - was below the threshold for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 555555555 / 555-55-5555 / 55-5555555, for a new individual or entity account 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.
- 666666666 / 666-66-6666 / 66-66666666, for pre-existing entity accounts held by passive Non-Financial Foreign Entities (NFFE) with one or more controlling persons with respect to which no self-certifications have been obtained nor US indicia has been identified in relation to its controlling persons.
- 777777777 / 777-77-7777 / 77-77777777, 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 / 999-99-9999 / 99-99999999, 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 use of the updated codes in the IRS system will generate an error notification indicating that the entry is invalid. For the purposes of such error, a rectification period of 120 days will be provided under the provisions of the "Administrative errors or other minor errors" of the Competent Authority Agreement (CAA). If the TIN is not provided within 120 days, the IRS will evaluate the data received and check for any significant non-compliance based on the facts and circumstances.

The following FAQs were recently added:

- Q. Purpose of the Notice 2023-11 and its applicability to types of accounts.
 - A. Notice 2023-11 provides flexibility to FFIs that are unable to obtain US TIN for certain pre-existing US accounts that are

subject to reporting. The notice clarifies that FIs who comply with the standard but fail to submit a US TIN will not be considered non-compliant where specific requirements are adhered to. The flexibility is applicable for calendar years 2023, 2024 and 2025.

— Q. Obligations of FI in order to benefit from the flexibility allowed by Notice 2023-11.

A. In accordance with the notice, an FI will not be considered significantly non-compliant for a missing US TIN for a pre-existing account if the following conditions are satisfied:

- Reports the date of birth of each individual account holder and controlling person whose US TIN cannot be reported.
- Per Notice 2023-11, FIs can report a pre-existing account without a US TIN and will not be in default if it provides the following:
 - the website of the United States Department of State FATCA Frequently Asked Questions (FAQs), [here](#);
 - or,
 - a copy of the FAQs and either a copy of the relief procedures published by the IRS for specific former citizens or the web address, [here](#).

Additionally, FIs should document and retain the policies and procedures applied for the fulfillment of the conditions described above until the end of calendar year 2029.

- FIs annually examine the archive material that it maintains electronically for any missing US TINs; and.
- If the US TIN is not provided, declare with the explanatory codes included by the IRS in its frequently asked question Q6 Reporting.

Reference: [FATCA FAQs](#)

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



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