

U.S. Foreign Account Tax Compliance Act (FATCA) Information for Clients

The following information is for clients of Canadian financial institutions to help them understand how FATCA might affect them. If you have further questions, please contact your financial institution or tax advisor.

What is FATCA?

FATCA is legislation that was passed in the United States in 2010. FATCA is intended to prevent “U.S. persons” from evading U.S. tax using financial accounts held outside of the U.S. Starting in 2013, non-U.S. financial institutions will be required to enter into agreements with the U.S. Internal Revenue Service (IRS) to report relevant information to the IRS regarding financial accounts held by identified U.S. persons. If a non-U.S. financial institution does not enter into an agreement with the IRS, the IRS will impose a 30% withholding tax on U.S. source payments¹ (and certain non-U.S. source payments) paid to the financial institution and their clients.

While the FATCA legislation has been passed, the regulations detailing how FATCA will work and exactly what measures financial institutions will be required to take have not yet been finalized. The IRS is planning to finalize regulations by the summer of 2012. Accordingly, the information below could change and will be updated as new information becomes available.

What is a U.S. person?

Under U.S. tax law, you are considered a U.S. person if you are:

- A citizen of the U.S. (including an individual born in the U.S., but resident in Canada or another country, who has not renounced U.S. citizenship);
- A permanent resident of the U.S. (a U.S. green card holder).

You also may be considered a U.S. person if you spend a considerable amount of time in the U.S. on a yearly basis. For example, some Canadian “snowbirds” may be considered U.S. persons for U.S. tax purposes. If you are unsure, contact your tax advisor.

U.S. corporations, estates and trusts are also considered U.S. persons.

For more information about U.S. persons and their U.S. tax obligations, visit the IRS Website at:

<http://www.irs.gov/businesses/small/international/article/0,,id=96395,00.html>

<http://www.irs.gov/businesses/small/international/index.html>

I am not a U.S. person. What does FATCA mean for me?

The majority of Canadians are not U.S. persons and, in most cases, FATCA will have no impact.

If you are opening a new account or have an existing account, and there is an indication that you may be a U.S. person, your financial institution may ask you to provide additional information or documentation to demonstrate that you are not a U.S. person.

If you choose not to provide this additional documentation upon request, at a minimum, your financial institution will be required to withhold a tax of 30% on U.S. source payments¹ that you receive and send this money to the IRS.

I am a U.S. person. What does FATCA mean for me?

If you are a U.S. person, you may be asked to complete IRS Form W-9 (Request for Taxpayer Identification Number and Certification) which will be kept on file at your financial institution. You may also be required to provide consent to your financial institution to provide the IRS with personal and account information.

If you do not complete IRS Form W-9 or provide your consent to disclose information to the IRS, your financial institution may refuse to open an account or may be required to close existing accounts. Otherwise, your financial institution will be required to withhold a tax of 30% on any U.S. source payments¹ that you receive and send this money to the IRS.

Does FATCA apply to other types of accounts, such as business accounts and life insurance?

Yes, FATCA applies to all types of accounts, including life insurance² and non-personal accounts. For example, business account holders may be required to provide additional information and documentation for FATCA purposes. Please consult your tax advisor for more information on how FATCA could impact your business.

For more information about FATCA, please visit the IRS website:

<http://www.irs.gov/businesses/corporations/article/0,,id=236667,00.html>

The above information is intended to provide general guidance only, and is not an exhaustive analysis of all provisions of FATCA. The above information should not be construed as legal or financial advice. We recommend you seek the advice of your financial or tax advisor to better understand how FATCA impacts you or your business. The above information is current as of December 1, 2011.

¹ Including gross proceeds on the sale or maturity of U.S. securities.

² The IRS and Treasury have indicated that "accounts" will include life insurance policies with cash value and annuities.