

## Tax Alert

July 16, 2013

### **FATCA Implementation Further Delayed Until July 1, 2014, FFIs Should Finalize Registrations by April 25, 2014**

The Internal Revenue Service (IRS) issued Notice 2013-43 (available [here](#)), which delays by six months certain of the timelines during which withholding agents and foreign financial institutions (FFIs) will be required to implement and complete due diligence and other requirements under the legislation known as the Foreign Account Tax Compliance Act (FATCA) and to begin withholding on non-FATCA compliant accounts. In addition, the notice expands the definition of grandfathered obligations generally exempt from FATCA to include loan obligations outstanding on July 1, 2014. These delayed timelines will be incorporated into the FATCA regulations. Taxpayers may rely on the notice prior to the amendment of the FATCA regulations.

The notice provides that withholding agents generally will not be required to begin withholding on U.S. source dividends and interest (and other types of passive income) paid to nonparticipating FFIs until July 1, 2014, rather than January 1, 2014. Withholding on gross proceeds from the sale of property, such as stocks and bonds, was not delayed by the notice and will continue to apply to payments made on or after January 1, 2017. Withholding agents will not be required to implement new account opening procedures until July 1, 2014 (instead of by the previous deadline of January 1, 2014), or in the case of a participating FFI, by the effective date of its FFI agreement with the IRS, if later.

The FATCA registration website is projected to be accessible to FFIs on August 19, 2013. However, FFIs will not be permitted to finalize their registration information until after December 31, 2013. The IRS will not issue any global intermediary identification numbers (GIINs) until 2014. The IRS will electronically post the first IRS FFI list by June 2, 2014, and then update the list on a monthly basis thereafter. To ensure inclusion on the June 2014 IRS FFI list, FFIs must finalize their registrations by April 25, 2014 (instead of by the previous deadline of October 25, 2013).

Although the required implementation of due diligence for withholding agents has been delayed and the final FATCA-compliant forms and instructions have yet to be released by the IRS, investment managers should continue to collect the proper Forms W-9 and Forms W-8 from their investors in both onshore and offshore vehicles, and should begin to design their FATCA implementation and compliance programs with their fund administrators, accountants and legal counsel.

## Contact Information

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