

U.K. Tax Alert

November 7, 2013

U.K.-Cayman IGA Signed

The United Kingdom (U.K.) has published an agreed intergovernmental agreement (IGA) with the Cayman Islands. The IGA was signed on 5th November and is intended to improve international tax compliance by providing for domestic reporting and automatic exchange of information. This means that the Cayman Government may collect certain information about the interests of U.K. residents in Cayman Islands vehicles and then report that information to the U.K. tax authorities.

In more detail

As expected, the U.K.-Cayman IGA is based on the agreements reached with the United States of America (U.S.) in respect of the Foreign Account Tax Compliance Act (FATCA). Under the U.K.-Cayman IGA, certain financial institutions in the Cayman Islands (including particular Cayman Islands-domiciled investment funds) will report specified information¹ in respect of what the IGA calls "U.K. Reportable Accounts" to the Cayman Government. The Cayman Government will then annually forward the information reported to it to the United Kingdom.

The format of the information to be provided to the United Kingdom should be consistent with that required under the Cayman-U.S. FATCA IGA.

When is reporting required?

A U.K. Reportable Account means:

- a Financial Account²;
- maintained by a Reporting Cayman Islands Financial Institution; and
- held by one or more Specified U.K. Persons or by a non-U.K. Entity with one or more Controlling Persons that is a Specified U.K. Person.

A Financial Institution includes an Investment Entity³.

Certain due diligence procedures must be undertaken to determine whether a U.K. Reportable Account exists, and these are described in Annex I of the IGA. The due diligence requirements differ, depending

¹ Such as name, address, date of birth and, where available, National Insurance number.

² Means an account maintained by a Financial Institution and includes any equity or debt interest (assuming not traded on an established securities market) in the Financial Institution.

³ As defined at Article 1.j) of the U.K.-Cayman IGA.

on whether the Financial Account is a Preexisting Account or not (i.e., it was maintained as of June 30, 2014).

If the U.K. tax authorities believe that information received is incorrect or incomplete, they can approach a Reporting Cayman Islands Financial Institution directly.

Due to the U.K.'s "remittance basis" of taxation for individuals domiciled outside the United Kingdom, the U.K.-Cayman IGA also contains an alternative basis of reporting information.

Action needed?

Although the U.K. and Cayman Islands tax authorities are to agree the detailed information exchange procedures, managers of Cayman Islands funds should begin to consider:

- their systems and procedures for complying with the IGA, which requires certain information to be provided in respect of 2014 and going forward
- the impact of doing so on their fund documentation (such as subscription documents).

While Reporting Cayman Islands Financial Institutions are permitted to use third parties to fulfill their obligations under the IGA⁴, they cannot transfer ultimate responsibility for these.

⁴ Article 4.3.

Contact Information

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