



For holders of an incompletely documented,
preexisting entity account

Bern, January 26, 2016

Information letter attached to the Participating Swiss Financial Services Provider's request with regard to the identification and documentation of preexisting entity accounts in connection with the implementation of the Foreign Account Tax Compliance Act (FATCA)

Dear Sir or Madam,

In accordance with the implementation of the FATCA Agreement, your financial services provider is required to identify all holders of entity accounts and in certain cases to ask for additional documentation. In this context, your financial services provider requested you to sign and return certain documents in order to fulfil these identification and documentation obligations.

If the holders of entity accounts were not properly identified or if (where it was necessary) the follow-up documentation was not gathered by the financial services provider within the set deadline (but no later than 30 June 2016), the accounts concerned have to be treated as accounts of non-participating financial institutions in accordance with the applicable rules. In such a case, the financial services provider is then obliged to report certain information to the US Internal Revenue Service (hereinafter: "IRS") and is, for this purpose, required to obtain the declaration of consent from the account holders concerned.

Should the account holders not have consented to the transmission of the envisaged data, such accounts are to be considered as non-consenting accounts (accounts without a declaration of consent) of non-participating financial institutions and have to be reported in an aggregated manner, without having to disclose the identity of the account holders.

Based upon this aggregated information and in accordance with Article 5 of the FATCA Agreement, the IRS has the possibility to submit a group request for administrative assistance regarding "Non-Consenting Accounts" to the Swiss competent authority. Such requests are based on Article 26 of the Convention of the Avoidance of Double Taxation between Switzerland and the United States of America, as was amended through the Protocol of September 23, 2009 (hereinafter: "Convention"). Such a request may be made once the amendments have entered into force.

In view of the mentioned information, we would like to inform you below of the procedure under Article 12 of the Federal Act of September 27, 2013 on the application of the FATCA Agreement between Switzerland and the United States of America (FATCA Law) for such group requests:

The receipt of a group request will be published in the Swiss Federal Gazette as well as on our website www.estv.admin.ch. At the same time of the publication we will request the financial services provider to provide us with all the relevant documents of all the “Non-Consenting Accounts”. You have the possibility to request a copy of the documents from the financial services provider at any time, from which it concluded that the requirements for the notification of an amount were satisfied and submit counter arguments. Within the set time limit you will also have the opportunity to submit a **statement regarding the transmission of your account information** to the IRS. We will take into account the possible submitted statement when drafting the final decision, which will take place approximately two to three months after receipt of the group request.

The final decision will be published anonymously in the Swiss Federal Gazette as well as on our website. The persons concerned have the possibility to obtain the final decision concerning themselves from the FTA.

The FTA’s final decisions can be appealed to the Swiss Federal Administrative Court (hereinafter: “FAC”) **within 30 days** of the publication. A copy of the appeal must also be sent to us at the same time.

If we conclude that an appeal is justified, we will reconsider the final decision and not transmit the information. If, however, we conclude that an appeal is unfounded, we will submit a motion to dismiss to the FAC. The FAC will then decide on the granting of administrative assistance and with it on the transmission of the information. The decision of the FAC is final.

For further information concerning this procedure, please contact us under the following address: Federal Tax Administration FTA, Service for Exchange of Information in Tax Matters SEI, Eigerstrasse 65, CH-3003 Bern, or via e-mail at sei@estv.admin.ch.

Yours sincerely,

Service for Exchange of Information in Tax Matters



Alexandre Dumas
Head SEI