

MEMO# 26694

November 16, 2012

Treasury Releases Second Model FATCA Intergovernmental Agreement ("IGA")

[26694]

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TO: BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 56-12
BROKER/DEALER ADVISORY COMMITTEE No. 62-12
ICI GLOBAL TAX COMMITTEE No. 15-12
INTERNATIONAL MEMBERS No. 49-12
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 21-12
OPERATIONS MEMBERS No. 6-12
TAAC FATCA TASK FORCE No. 11-12
TAX MEMBERS No. 39-12
TRANSFER AGENT ADVISORY COMMITTEE No. 72-12 RE: TREASURY RELEASES SECOND
MODEL FATCA INTERGOVERNMENTAL AGREEMENT ("IGA")

The U.S. Treasury Department has released the second version of a model intergovernmental agreement ("IGA") to improve tax compliance and implement the Foreign Account Tax Compliance Act ("FATCA"). [\[1\]](#) A PDF of the agreement is available on the Treasury Department's website [here](#). [\[2\]](#)

The Model 2 IGA, like the Model 1 IGA, generally will eliminate the possibility of FATCA partner financial institutions being subject to withholding or being required to conduct withholding on recalcitrant accounts.

One significant difference between Models 1 and 2 is that financial institutions in Model 2 IGA countries will be required to sign foreign financial institution (FFI) agreements with the IRS and report directly to the IRS. Registration with the IRS will be required under the Model 2 IGA by 1 January 2014. Additional deadlines in 2015 and 2016 apply to Nonparticipating Financial Institutions to report to the IRS. Reporting by FFIs will include aggregate disclosure of general recalcitrant account holder information. Following these deadlines and aggregate disclosures, the FATCA partner country with a Model 2 IGA will honor group requests from the IRS for information regarding the disclosed recalcitrant accounts.

The Model 2 IGA also provides a rough framework for Annex II, which specifies the types of institutions, financial products, and financial accounts that may be exempted from FATCA reporting. The Model 2 IGA's Annex II suggests that certain collective investment vehicles,

retirement funds, small financial institutions with a local client base, central banks, and government entities (that otherwise satisfy deemed-compliant FFI categories provided by the Proposed Regulations) will be exempted from reporting. Similarly, certain retirement accounts or products and certain other tax-favored accounts or products may be designed as products that are exempt from FATCA.

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endnotes

[1] See Institute Memo No. [26344](#), dated July 26, 2012 regarding the release of the first Model FATCA IGA.

[2]
<http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Model-2-Agreement-to-Implement-11-14-2012.pdf>

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