

MEMO# 26508

September 17, 2012

U.S. and U.K. Release First Signed FATCA Intergovernmental Agreement

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TO: TAX MEMBERS No. 33-12
INTERNATIONAL MEMBERS No. 36-12
OPERATIONS COMMITTEE No. 33-12
TRANSFER AGENT ADVISORY COMMITTEE No. 55-12
TAAC FATCA TASK FORCE No. 6-12
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 18-12
ICI GLOBAL TAX COMMITTEE RE: U.S. AND U.K. RELEASE FIRST SIGNED FATCA
INTERGOVERNMENTAL AGREEMENT

The U.S. and U.K. governments have released the first signed intergovernmental agreement to implement FATCA (the "U.K. IGA"). The U.K. IGA closely follows the Model Intergovernmental Agreement to Improve Tax Compliance and Implement FATCA (the "Model IGA") that was released 26 July 2012.

The U.K. IGA is available here

<http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-UK-9-12-2012.pdf>

The U.K. IGA addresses many of the fund industries' concerns with the substantial compliance burdens placed by FATCA on funds, their distributors, and their investors, including with respect to local data privacy issues, domestic law issues with recalcitrant account holders, issues with the treatment of retirement plans, and simplification of customer identification procedures.

Timing Goal Met

The timing of this release is in keeping with the U.S. Treasury's previously stated expectations. At an ICI webinar, Treasury officials said to expect the first IGAs to be signed in September, with a significant number of signed IGAs expected to be signed by the end of October. The IGA-signing process is not expected to be delayed, as Treasury does not intend to negotiate customized IGAs. The one place where customization is necessary involves the types of institutions and accounts that will be exempt or deemed compliant

under Annex II.

Annex II Details

The U.K. IGA includes the first example of the previously unreleased Annex II, which outlines which U.K. institutions and accounts will be fully or partially exempt from FATCA reporting. Annex II of the U.K. IGA provides FATCA relief to certain:

- Exempt Beneficial Owners (which includes U.K. governmental organizations, the central bank, international organizations, and certain retirement funds);
- Deemed Compliant Financial Institutions (which includes non-profit organizations and financial institutions with a local client base); and
- Exempt Products (which includes retirement and certain other tax-favored accounts or products)

UK Implementing Measures

Following ratification by the U.K. Parliament, financial institutions and other interested parties will be consulted on the necessary implementing legislation. HM Revenue & Customs has announced that it will soon launch a consultation on the implementation of the agreement in the UK.

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