

MEMO# 28234

June 30, 2014

FATCA Guidance Released in Advance of 1 July 2014 Implementation Date

[28234]

June 30, 2014

TO: TAX MEMBERS No. 18-14

ICI GLOBAL TAX COMMITTEE No. 13-14

INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 9-14

TRANSFER AGENT ADVISORY COMMITTEE No. 42-14

BROKER/DEALER ADVISORY COMMITTEE No. 35-14

TAAC FATCA TASK FORCE No. 7-14 RE: FATCA GUIDANCE RELEASED IN ADVANCE OF 1 JULY 2014 IMPLEMENTATION DATE

In advance of FATCA coming into effect on 1 July 2014, the IRS and Treasury Department have released a number of additional guidance items.

- 85 intergovernmental agreements (IGAs) now have been signed or agreed in substance. The most recent additions to this network are the agreements in substance announced last week with the People's Republic of China, Saudi Arabia, the Taipei Economic and Cultural Representative Office, and Thailand. The full list of countries can be found on [the Treasury Department website](#). [1]
- [Revenue Procedure 2014-39](#) updates the Qualified Intermediary (QI) agreement originally released as Revenue Procedure 2000-12.
- [Revenue Procedure 2014-38](#) updates the Model FFI Agreement applicable to foreign financial institutions (FFIs) that register via the IRS' FATCA Portal to be treated as participating FFIs.
- Final forms and instructions have now been released for the W-8 series of forms. Instructions for Form W-8BEN-E and Form W-8IMY were released last week. Copies of the new forms and instructions are available online at [the IRS' website](#). [2]
- Final forms and instructions for Form 1042 and Form 1042-S have been released. Copies of the forms and instructions are available online at [the IRS' website](#). [3]
- Final forms and instructions for Form 8988 (the FATCA Report) have been released. Copies of the forms and instructions are available online at [the IRS' website](#). [4]
- A revised draft of Form 8938 (Statement of Specified Foreign Financial Assets) for 2014 has been released by the IRS.
- The list of FFIs that have registered to be participating FFIs via the FATCA registration portal is now available. The FFI registration data is searchable and available for

download at [the IRS' website](#). [5]

- The IRS has published an updated version of Publication 5124 – FATCA XML v1.1, User Guide. The FATCA XML User Guide is available on [the IRS' website](#). [6]

The IRS has also announced that it will permit withholding agents to continue to rely on pre-FATCA versions of Forms W-8 and Form W-9 until the end of 2014; however, the IRS and Treasury have not yet published this additional transition relief in any formal guidance. They are reported to be considering the best method to release such guidance.

ICI appreciates the concerted, dedicated effort by the U.S. Treasury Department and IRS staffs to minimize FATCA's burden on investors and financial institutions. The four years since FATCA's enactment also have been difficult for funds and others that have incurred substantial FATCA-related compliance costs. The recently-announced transition guidance that phases in FATCA's implementation and provides relief for good-faith compliance efforts is most welcome.

We will continue our dialogue with the U.S. government and others to minimize FATCA's compliance costs and maximize its benefits.

Ryan Lovin
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endnotes

[1] <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx>

[2] <http://www.irs.gov/Forms-&-Pubs>

[3] <http://www.irs.gov/Forms-&-Pubs>

[4] <http://www.irs.gov/Forms-&-Pubs>

[5] <http://apps.irs.gov/app/fatcaFfiList/flu.jsf>

[6] <http://www.irs.gov/pub/irs-pdf/p5124.pdf>