

## **SECTION 22 FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)**

The Foreign Account Tax Compliance Act (FATCA) aims to ensure that U.S. taxpayers with financial accounts held outside of the U.S. are paying U.S. taxes.

Canadian financial institutions are required to report to the Canada Revenue Agency (CRA) on specified accounts held in Canada by U.S. persons. The CRA will forward this information to the U.S. Internal Revenue Service (IRS) under the provisions and safeguards of the Canada-U.S. Tax Convention.

FATCA is intended to prevent U.S. persons from evading U.S. tax by using financial accounts outside the U.S.. It seeks to ensure that U.S. persons with such financial assets outside of the U.S. are paying U.S. taxes by gaining information about their holdings and imposing withholding tax for non-compliance.

As a result, Canadian financial institutions, including Altimum, are required to identify financial accounts held by U.S. tax residents and U.S. citizens and report that information to the CRA. The CRA will then exchange that information with the IRS.

Altimum Mutuals Inc. has registered with the IRS and the CRA for purposes of such reporting.

*Who is affected by the legislation?*

The agreement affects every U.S. person or U.S.-owned entity with financial accounts in Canada.

Canadians who are not considered U.S. persons are asked about their tax residency status when opening certain accounts but are not otherwise affected.

Mutual Fund Dealers and their Approved Persons are responsible for obtaining client tax status information and documentation for new accounts, along with KYC information and anti-money-laundering (AML) information.

For client name non-registered accounts, dealers are responsible for forwarding the required information to fund managers, and the fund managers will be responsible for reporting U.S. and recalcitrant account information to the CRA.

*What is considered a U.S. account?*

A U.S. account is an account held by any of the following:

- A U.S. person
- An entity organized in the U.S.
- An entity substantially owned or controlled by one or more U.S. persons.

There are other circumstances in which an account could be considered to be a U.S. account.

U.S. taxes will have to be applied to U.S. accounts. This agreement does not replace the existing U.S. withholding tax.

*How does one comply with the legislation?*

If your client has an existing non-registered account, or if your client is opening a new non-registered account, you need to obtain the client's tax status. If the inquiry leads to the conclusion that this is a U.S. account, you are required to also obtain his or her U.S. Taxpayer Identification Number (TIN).

The account types covered by the agreement include:

Individual

Joint

In trust For (ITF)

Corporate

Trust

If only one joint account holder qualifies as a U.S. person, then that person would be treated as the sole owner of the entire account for FATCA purposes. If two or more U.S. persons own the account jointly, then each of them is considered to be the owner of the entire joint account.

If an individual does not respond to the request to determine whether or not an account is a U.S. account, the account will be reported to the CRA as a 'recalcitrant account'.

Registered accounts, including RESP's and TFSA's, are exempt under the agreement.

The information is reported to the CRA by Altimum on an annual basis.

*What information might indicate a U.S. account?*

Any of the items on this list might indicate a U.S. account:

- U.S. address
- U.S. identification, such as a Driver's License or Passport
- U.S. telephone number
- U.S. citizen or U.S. birthplace
- U.S. parents
- Standing instructions to transfer to a U.S. bank account
- Power of Attorney has been granted to someone with a U.S. address
- 'hold mail' or 'care of' is the only address on record

Snowbirds should contact a U.S. tax professional for more information regarding the 'snowbird' status.

Altimum Approved Persons are strictly prohibited from offering any tax advice to any individual who has indicated that they might have an account which could be indicated as a U.S. account. Such individuals require professional tax advice which we are not equipped to provide.

## *COMMON REPORTING STANDARD (CRS)*

The Common Reporting Standard (CRS) was introduced by the OECD member countries to fight international tax evasion and to ensure that taxpayers with assets in other countries are paying taxes in the jurisdictions in which they are tax residents.

The OECD countries have established a new international standard of tax cooperation with due diligence and reporting obligations for Canadian financial institutions who must now collect and report information to the Canada Revenue Agency (CRA) about tax residents of countries other than Canada who hold certain accounts. The CRA will then share this information with the jurisdiction in which the account holder resides for tax purposes.

*What information might indicate a CRS account?*

Any of the items on this list might indicate a CRS reportable account:

- Identification indicating the individual is resident in a reportable jurisdiction
- A current mailing or residence address (including a PO box) in a reportable jurisdiction
- Telephone number(s) in a reportable jurisdiction, and no phone number in Canada
- Standing instructions to transfer to a bank account in a reportable jurisdiction
- Power of Attorney has been granted to someone with an address in a reportable jurisdiction
- 'hold mail' or 'care of' address in a reportable jurisdiction with no Canadian address provided

Other rules are similar to those for FATCA, including those which specify who is affected by the legislation, account types covered by the legislation, joint accounts, and who is responsible for collecting the information.

Account holders who do not respond to the request to clarify their tax status will be deemed to be reportable account holders.

Assisting an account holder to avoid being reported under CRS is a serious compliance breach under the Income Tax Act (ITA) and is strictly prohibited.

Unlike FATCA, there is no 'snowbird' status under CRS.

The following information will be provided to the CRA:

- Name
- Account numbers at fund groups
- Foreign Taxpayer Identification Number (TIN)
- Social Insurance Number if applicable
- Date of birth
- Account activity during the year (purchases, withdrawals, distributions)
- Account balance at year-end.