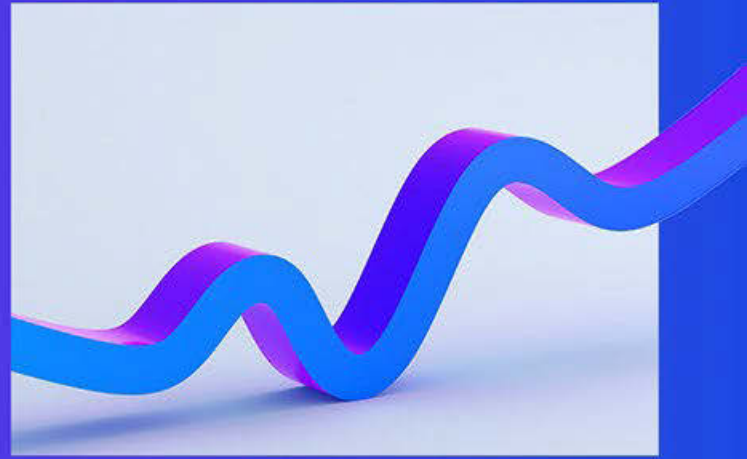




Tax IRW Ops Insights Quick Tips & Updates

KPMG Information Reporting & Withholding
Tax Services



FATCA and CRS Reporting Updates – May 2023

Upcoming Reporting Deadlines and Additional Guidance

By Jignasha Patel and Ted Jahn

As we head into the summer months, the Automatic Exchange of Information (**AEOI**) has kicked into full gear. In light of the FATCA and CRS reporting season, noted here are some key upcoming deadlines and helpful reporting guidance that may be of interest.

Caribbean AEOI Reporting Deadlines Reminder

Historically, the Caribbean jurisdictions that participate in the Common Reporting Standard (**CRS**) have allowed extensions on the CRS reporting deadlines for various reasons. This has been due to factors varying from implementation of new legislation and guidance notes or external factors such as hurricanes. At this time, there are no notable extensions for the upcoming deadlines. Please be aware that jurisdictions such as Anguilla, Bermuda, and BVI have a 31 May deadline for CRS reporting. While Anguilla and BVI are both Model 1 jurisdictions and will have a 31 May deadline as well for FATCA, Bermuda is Model 2 and FATCA reporting via U.S. Forms 8966 were due 31 March (with a three-month extension available). The Cayman Islands has a 31 July deadline for FATCA and CRS reporting under the current legislation. The annual CRS Compliance Form for both Cayman¹ and Bermuda² jurisdictions is due in September. While these are just a few jurisdictions with upcoming reporting deadlines, we recommend a review for any of your other reporting financial institutions (**FI**) to confirm reporting deadlines in jurisdictions not mentioned. Further, while there are statutory reporting deadlines for each jurisdiction, we recommend a best practice of uploading the returns to

¹ For csv and excel versions of the Cayman Islands CRS Compliance Form, along with Explanatory Notes, see the DITC webpage at <https://www.ditc.ky/crs/crs-legislation-resources/>.

² The Bermuda Annual CRS Compliance Certification Form can be found at www.gov.bm/sites/default/files/Annual_CRS_Compliance_Certification_Form_ILLUSTRATIVE_TEMPLATE.pdf.

each portal a few days prior to their respective deadlines. This would mitigate any potential untimely filings should any of the portals crash in the last couple of days due to user overload.

Another best practice is to consider maintaining a written summary where there are nil filings for reportable FIs (i.e., no reportable account holders or account holders in nonreportable jurisdictions). Regulators have started to issue notices and audit requests for the rationale behind the nil returns and requesting supporting documentation for this analysis. Although this type of information is reported via the annual CRS Compliance Form in some jurisdictions (e.g., the Cayman Islands) not all jurisdictions have implemented this type of request yet. Should there be turnover with the core teams that completed the initial filing, it may be advantageous to document why the nil reporting was completed.

Additional Updates

There are additional legislative updates or revised guidance notes for several jurisdictions. Here are some of those high-level overviews and notable updates.

Luxembourg Enacts DAC7³

In summary, Luxembourg reportable FIs that have reportable individuals are now required to notify those individuals about the personal and financial information that will be reported to the Luxembourg Tax Authorities (**LTA**). This is an annual requirement and must be sent to the individual prior to the reporting. These annual notifications are meant to provide the investors sufficient time to enable their data protection rights prior to the exchange of information. As the returns are due in Luxembourg by June 30th, consideration should be made to generate these notices well in advance of the June 30th reporting deadline.⁴ We recommend Luxembourg FIs update their policies and procedures manual for the additional processes expected for each FI to implement.

The LTA is closely monitor Luxembourg FIs to ensure reporting has been submitted for the past few years. In addition, the LTA has been requesting certain Luxembourg FI CRS entity classifications, written policies and procedures, and account holder documentation. As there are potential penalties of up to €250,000 per FI for noncompliance for due diligence procedures, all Luxembourg FIs should consider a refresh of their entity classifications and policies and procedures manuals.

Cayman Islands Updates

The Cayman Tax Authority and Department for International Tax Cooperation (**DITC**) has published an updated portal user guide (“**v9.3**” or **DITC Portal User Guide**).⁵ There were no material changes to the DITC Portal, rather some minor updates including enhancements for secondary users. Please reach out to KPMG for additional guidance or you can contact the DITC directly at ditc.portal@gov.ky.

Interestingly, some of our clients have received audit notices related to their CRS reporting. The requested information includes account holder onboarding documentation and a copy of the FI’s CRS policies and procedures manual. Depending on the amount of information requested, responses may be due in as little as two weeks from the date of the notice. Please reach out to KPMG should you require assistance with any notices received from the DITC.

³ For further information, see Council Directive (EU) 2021/514 at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021L0514>.

⁴ For further information, see Luxembourg Bill of Law N°8029 at <https://www.chd.lu/fr/dossier/8029? x tr sl=auto& x tr tl=en& x tr hl=en-US& x tr pto=wapp>.

⁵ See DITC Portal – User Guide v.9.3 at https://www.ditc.ky/wp-content/uploads/DITC_Portal_User_Guide.pdf.

Saudi Arabia Updates

Per the Zakat, Tax and Customs Authority's (**ZATCA**) recently updated AEOI regulations in the Kingdom of Saudi Arabia (**KSA**), and all reporting FIs are required to carry out an annual audit for FATCA and CRS reporting and subsequently submit a certificate of compliance to ZATCA. We expect to see this increase in enforcement and review across the Middle East region (similar to what we are seeing across the Islands). The audit review process will include FI entity classification, review of and adherence to the FI's policies and procedures manual, and sample testing of account holder due diligence and reporting. While the tax year FATCA and CRS reporting in KSA is due 31 May 2023, the audit certification will be due 1 August 2023 for the same tax period. Please reach out should you require assistance with your FI's health check and compliance certification needs.

KPMG AEOI Alerts & Updates Tracking Service

KPMG can help your business stay on top of FATCA and CRS updates through the KPMG AEOI Alerts & Updates Tracking Service. Subscription members receive regular alerts notifying them of implementation changes, including new reportable jurisdictions, TIN requirements, and deadline extensions, across more than 60 jurisdictions. Subscribers also receive a set of FAQs for each country, detailing reporting requirements, due diligence issues, and potential penalties, along with a set of status grids containing links to all applicable jurisdictional guidance. For further information, see the KPMG AEOI Updates & Tracking Service slipsheet, [here](#).

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