

FATCA and UK Trusts

What is FATCA?

FATCA (Foreign Account Tax Compliance Act) comes from legislation introduced in the United States in 2010 to ensure that its citizens are fully disclosing their worldwide income to the Internal Revenue Service (IRS).

FATCA will have an impact on virtually all trusts regardless of whether they have any US connection. Trustees must consider their status under FATCA as soon as possible to ensure that they comply with its provisions.

The IRS in the US will rely on HMRC in the UK to provide them with the relevant information and are looking for trust beneficiaries as listed below:

- Hold US passports or Green Cards;
- Were born in the US;
- Have a US residential address;
- Have income paid to a bank account in the US;
- Operate a power of attorney or other signing authority for a US person.

How does it affect a UK person with a UK trust?

Any UK individual who acts as a trustee, and the trust as such, even if it has no US connections, needs to:

- self-assess its FATCA status, and either
- register the trust with the IRS to obtain a GIIN(Global Intermediary Identification Number) , or
- benefit from 'trustee documented' status if the trust has a corporate trustee, or
- negotiate 'owner documented' status with a third party.

Who is it targeted at?

- Professional trustees (other than individuals)
- Trusts
- Family offices
- Nominees (other than individuals)

What are the classifications used under FATCA?

Under FATCA, every trust is deemed to be an entity, of which some will be 'investment entities'.

- An entity is either a Financial Institution (FI), or a Non Financial Foreign Entity (NFFE).
- What sort of entity a trust is depends on what assets are in the trust and who manages it.

When do I have to register?

Financial Institutions (and therefore Trustees) must register and obtain a GIIN (Global Intermediary Identification number) from the IRS before 1 January 2015.

Failure to register will result in a 30% withholding tax being levied on transactions with a US connection.

Reporting Requirements

UK FI's must provide information to HMRC on any US account holders on an annual basis. If there are no US account holders, a nil return must be filed.

Queries

If you do have any queries please call us for further details on 0161 819 3636 or enquiries@concernva.co.uk