

Belgium and US sign FATCA Intergovernmental Agreement

On 23 April 2014, the Belgian and US governments signed an Intergovernmental Agreement (IGA) intended to implement the Foreign Account Tax Compliance Act (FATCA) in Belgium.

FATCA was enacted by the US in 2010 and conceived to counter tax evasion by US taxpayers. The main purpose of FATCA is to have Foreign Financial Institutions (FFIs), such as banks, insurance companies and many funds and capital markets issuers, report details regarding their US account holders.

The signature of the IGA between Belgium and the US is good news as, in the absence of such IGA, Belgian FFI's that would not have signed up to FATCA individually could be exposed to a punitive 30% withholding tax on all "withholdable payments" derived from US sources starting as of July 2014.

The Belgian IGA is a so-called Model 1 agreement, meaning that FFI's established in Belgium will be required to report information on U.S. account holders directly to the Belgian tax authorities, who in turn will report to the IRS

The provisions of the Belgian IGA will now need to be implemented into national Belgian laws with a view on the entry into force of FATCA on 1 July 2014. That being said, the IRS has recently announced that jurisdictions which have reached agreements in substance with the United States on the terms of an IGA (which includes Belgium) can be treated as having agreements in effect until the end of 2014. An implementation into Belgian laws after 1 July should therefore not result in Belgian FFI's being considered as non-participating, provided implementation eventually occurs before 31 December 2014

Important to note also is that non-exempt Belgian FFI's should in principle register on the portal of the IRS before 5 May in order to be included on the first IRS FFI list (although registration should in principle be possible afterwards also).

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