

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) was enacted by the United States of America in 2010 to combat tax evasion by U.S. taxpayers holding accounts or other financial assets in non-U.S. Financial Institutions. It requires Foreign Financial Institutions (FFIs) to report to the U.S.

Internal Revenue Service (IRS) information on assets held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold substantial ownership interest. For St. Kitts and Nevis, the first submission to the IRS by our FFIs was due by September 30, 2015. The information being reported relates to the 2014 data gathered by the FFI.

What are the consequences of non-compliance with the reporting requirements of FATCA?

If a Foreign Financial Institution (FFI) does not comply with the reporting requirements of FATCA, the U.S. IRS will impose a 30% withholding penalty on payments to the FFIs and on behalf of its customers. Recalcitrant account holders may also be liable to the withholding penalty of 30% on payments to that account. It is imperative therefore that customers provide the required information to these Financial Institutions to allow them to determine any reporting obligations. We encourage all customers to answer truthfully to all information requests from the Financial Institutions.



What is considered a Foreign Financial Institution or FFI under FATCA?

For FATCA purposes, a Foreign Financial Institution includes non-U.S. Financial Institutions that accept deposits, hold financial assets for others, is engaged in investing and reinvesting or trading in securities for others, as well as insurance companies that issue contracts with an investment component. This includes entities such as Banks, Funds, Insurance Companies, Trusts, Private Equity Companies, and Special Purpose Entities.

What is the reporting threshold for accounts under FATCA?

FATCA requires reporting by an FFI to the IRS for any asset or account held by a U.S. person with a value or balance of US\$50,000.00 or greater at any time during the year. FATCA also requires the reporting of accounts held by foreign entities with a value or balance of US\$250,000 or greater at any time during the year, where a U.S. taxpayer holds substantial ownership interest that is greater than 10% in such entity. FATCA also requires reporting of all recalcitrant accounts, that is, accounts whose holders refuse to provide the relevant information to the FFI to determine their FATCA eligibility.

What information is the FFI required to report under FATCA?

As part of the reporting requirements under FATCA, for accounts or other financial assets of a U.S. person, the FFI is required to report;

- U.S. place of birth
- Nationality
- U.S. address (including a U.S. post office box, in-care-of address or hold mail address)
- U.S. Telephone number
- U.S. Taxpayer Identification Number or TIN
- Account numbers and their balances
- And any other information that may be necessary under FATCA law

Who is considered a U.S. Person under FATCA?

A U.S. person includes:

- A U.S. citizen (including persons with dual citizenship)
- A U.S. resident or Green card holder
- Persons that meet the requirements as a "tax resident" of the United States
- A U.S. corporation, U.S. partnership, U.S. Estate or U.S. Trust
- Any other individual or entity required under FATCA law

What entities may be exempt from FATCA Reporting?

Some entities may be exempt from the reporting requirements of FATCA, these include:

- Foreign Governments,
- International Non-Profit Organizations,
- Central Banks,
- Certain Retirement or Pension funds,
- Small local banks or credit unions with assets valued at less than US\$175 million; with a local client base with low value accounts not exceeding US\$50,000.
- Entities that qualify as Deemed-Compliant FFI
- Any other entity so determined under FATCA law.

How is an account jointly held by both a U.S. person and a Non-U.S. person or by more than one U.S. person, reported for FATCA purposes?

For FATCA purposes, in instances where an account is jointly held, that account is reportable if it meets the reporting threshold, even if only one signatory on that account is considered a U.S. person. The FFI is not required to determine what proportion of that single account is owned by that U.S. person or what contributions have been made to that account by the U.S. person.

If only one signatory or all signatories on the account are U.S. persons, the full account value or balance will be reported for each individual for FATCA purposes. For example, if the balance on an account held by a husband and wife that are both considered U.S. persons is US\$100,000, the full amount of US\$100,000 will be reported by the FFI for each individual.

What is a Recalcitrant account under FATCA?

A Recalcitrant account is an account where the holder or holders of such account fail to comply with requests made by the Foreign Financial Institution (FFI) to provide documentation and/or information required to determine the status of their account or accounts for any FATCA reporting obligations.

Customers who allow their accounts to become recalcitrant may also be liable to the 30% withholding penalty and see their financial institutions giving serious consideration as to the future of their business relationship, so we encourage all customers to co-operate with the Financial Institutions and respond truthfully with the information being requested.



**SAINT CHRISTOPHER AND NEVIS
INLAND REVENUE DEPARTMENT**

**FOREIGN ACCOUNT
TAX COMPLIANCE ACT
(FATCA)**

This brochure has been prepared by the Saint Christopher and Nevis Inland Revenue Department. If after reading you require additional information, see contact details on back panel.

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