

FATCA and Canadian Tax Regulations

Overview

The Foreign Account Tax Compliance Act (FATCA) was signed into U.S. law in March 2010. Its aim is to prevent U.S. taxpayers from using accounts held outside of the U.S. to evade taxes.

On February 5, 2014, Canada and the United States signed an intergovernmental agreement regarding FATCA. Under that agreement, Canada agreed to pass laws requiring financial institutions to report annually to the Canada Revenue Agency (CRA) on specified accounts held in Canada by U.S. persons. The CRA will forward this reporting to the IRS under the provisions and safeguards of the Canada-U.S. Tax Convention.

What does this mean to Scotiabank and our customers?

The Scotiabank Group has always been committed to keeping clients' personal information accurate, confidential, secure, and private. Our response to Canadian tax regulations related to FATCA will be held to our standard of strict compliance with Canadian privacy laws, and our approach will reflect our longstanding commitment to client privacy and client service.

We expect Canadian tax regulations related to FATCA to have no impact on the vast majority of our clients. In any case where we determine that a specific personal or non-personal account may be affected by these laws, we will:

- contact the account holder to explain why the account may be affected; and then
- work with the client to ensure that the situation is handled correctly.

When does this come into effect?

Canadian tax regulations related to FATCA will come into effect in stages, beginning on July 1, 2014.

How can I stay informed?

You can find information on the Canada-U.S. intergovernmental agreement at these sites:

- Department of Finance Canada: < <http://www.fin.gc.ca/n14/14-018-eng.asp> >
- Canada Revenue Agency: < www.cra-arc.gc.ca/tx/nnrsdnts/nhncdrprtng/menu-eng.html >
- Canadian Banker's Association: < <http://www.cba.ca/en/media-room/65-news-releases/702-canadian-bankers-association-statement-on-fatca-canada-us-intergovernmental-agreement> >

As well, you can find detailed information on FATCA at <www.irs.gov/FATCA>.

As information on new developments is released, we will keep you informed by posting updates on our website.

Note: The information on this site is provided only as an overview for information purposes; it is not intended to serve as legal or tax advice. If you require such advice, you should consult a professional advisor.

If you have questions or concerns that may be shared by other Scotiabank clients, send them to FATCA@scotiabank.com. We will incorporate any that are of general interest into future updates to this website, along with our response.

Frequently Asked Questions

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) was signed into U.S. law in March 2010. Canadian tax regulations related to FATCA will require financial institutions in Canada to report annually on “reportable accounts.” This reporting will be made available to the U.S. Internal Revenue Service through the Canada Revenue Agency.

What are “reportable accounts”?

“Reportable accounts” are personal and non-personal accounts held by:

- one or more U.S. persons; or
- certain entities in which one or more U.S. persons hold a substantial ownership or controlling interest.

Many additional limitations apply, further reducing the number of accounts that will qualify as “reportable.” In the end, we expect Canadian tax regulations related to FATCA to have no impact on the vast majority of our clients.

Note: If you want help in determining if you are a U.S. person or how Canadian tax regulations related to FATCA will affect your accounts, we suggest that you speak with a professional tax advisor.

Will FATCA have an impact on my accounts?

That will depend on whether or not your accounts are determined to be “reportable.” We expect Canadian tax regulations related to FATCA to have no impact on the vast majority of our clients.

How will you determine if I have “reportable accounts”?

Personal Accounts – For most personal banking clients, information we have on file will allow us to determine that no reporting is required.

If the information you have provided indicates that reporting may be required for your accounts, we will ask you to provide additional information — possibly in the form of new documentation regarding your U.S. tax status. We will then review the information you provide against the applicable requirements to determine whether or not your accounts are reportable.

Non-personal Accounts – For most businesses, the documentation we have on file will allow us to determine that no reporting is required.

If your business is of a type for which we are required to obtain additional documentation, we will ask you to provide that documentation. We will then review the new documentation against the applicable regulations to determine if your accounts are reportable.

Can you give me advice on how to respond to questions and requests related to FATCA?

Tax law is a highly specialized field. While we can provide general information on Canadian tax regulations related to FATCA, we are strictly prohibited from providing tax advice. If you want advice on how to respond to questions and requests related to these laws, we suggest that you speak with a professional tax advisor.

What is a "U.S. person"?

If you want help in determining if you are a U.S. person for the purposes of Canadian tax regulations related to FATCA, we suggest that you speak with a professional tax advisor.

Attributes that generally cause an individual or business to be classified as a U.S. person include:

- U.S. citizenship;
- being a lawful resident of the U.S.; and/or
- qualifying as a U.S. corporation, U.S. estate, or U.S. trust.

The IRS provides information on the rules applicable to non-U.S. citizens at <http://www.irs.gov/Individuals/International-Taxpayers>.

How will I be affected if I am a "U.S. person"?

If you are a U.S. person, we may be required to ask you to complete an IRS W-9 form (Request for Taxpayer Identification Number and Certification) for our records. In addition, we may be required to provide annual reports on your account to the Canada Revenue Agency, which would forward them to the U.S. Internal Revenue Service. This should have no impact if you are already meeting your existing U.S. tax filing obligations, but we encourage you to review this with a professional tax advisor.

When does all of this take effect?

Canadian tax regulations related to FATCA will come into effect in stages, beginning on July 1, 2014. On that day, financial institutions must begin to:

- Use new account opening procedures that ensure the account holder's U.S. tax status is determined when the account is opened.
- Review existing accounts to identify those that are subject to reporting.

Why are Canadian financial institutions complying?

Canadian financial institutions will be required by Canadian law to comply.

Are all banks complying?

Globally, most large financial institutions intend to comply.

Is this all new?

No, this is not altogether new. Reporting of account activities to Canadian tax authorities has long been legally required at some level. As well, reporting regarding certain financial transactions has been required under the provisions and safeguards of the Canada-U.S. Tax Convention for years. The Canadian tax regulations related to FATCA simply build on these existing financial reporting structures by adding new types of data to the list of what must be reported.

Don't you need my consent to share my information?

Scotiabank has a policy of strict adherence to privacy legislation and protection of client data. Our response to Canadian tax regulations related to FATCA will be held to our standard of strict compliance with Canadian privacy laws.

What happens if I refuse to answer the questions or complete the forms?

If you choose not to meet requests for assistance in determining your U.S. tax status, Canadian law will require us to treat your accounts as "reportable accounts."

Does all of this apply only to personal bank accounts?

No, Canadian tax regulations related to FATCA apply to many other types of financial accounts, including certain business accounts, insurance contracts, and investment or brokerage accounts.

I have an account in U.S. dollars. Does this mean my accounts will be reported to the IRS?

No, in and of itself, the currency of an account has no impact on whether or not it is treated as a "reportable account."

How are joint accounts handled?

If at least one of the joint owners qualifies as a U.S. person, any required reporting would treat the U.S. person as the owner of the entire account.

If more than one of the joint owners is a U.S. person, any required reporting would treat each U.S. person as the owner of the entire account.

I already have a W-9 [or W-8] form on file with Scotiabank. Why are you asking me to provide another one?

Each of Scotiabank's business lines will need to obtain appropriate documentation. Despite our best efforts to streamline this process, you may be contacted by more than one business line regarding this documentation. We apologize for any resulting inconvenience, and we greatly appreciate your patience.

Where can I go for more information?

You can find information on the Canada-U.S. intergovernmental agreement at these sites:

- Department of Finance Canada: < <http://www.fin.gc.ca/n14/14-018-eng.asp> >
- Canada Revenue Agency: < www.cra-arc.gc.ca/tx/nrrsdnts/nhncdrprtng/menu-eng.html >
- Canadian Banker's Association: < <http://www.cba.ca/en/media-room/65-news-releases/702-canadian-bankers-association-statement-on-fatca-canada-us-intergovernmental-agreement> >

As well, you can find detailed information on FATCA at <www.irs.gov/FATCA>.

Disclaimer: Although all due care was taken in the creation of these answers, Scotiabank will not accept any liability as a result of any error or inaccuracy. If you think that Canadian laws related to FATCA may apply to you, you should consult appropriate tax or legal counsel.