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On July 12, 2013, the IRS released Notice 2013-43, revising the timelines for FATCA implementation, including updated dates for initial FATCA withholding, the initiation of new onboarding procedures, and deadlines for preexisting account remediation. Generally speaking, the FATCA timeframes have been moved back six months.

The Notice also states that the Internal Revenue Service (“IRS”) will amend the Treasury Regulations issued in January 2013 to reflect the amended timeline and provides needed guidance for Foreign Financial Institutions that operate in jurisdictions where the local government has executed an Intergovernmental Agreement (“IGA”) with the United States Department of Treasury (“Treasury”), but where the IGA is not yet in force.

Revised Timeline – U.S. Withholding Agents (“USWAs”)

- **New Account Opening Procedures:** USWAs are now required to apply their new account opening procedures beginning on July 1, 2014. This is a change from the final regulations, which required a FATCA compliant new account onboarding process by January 1, 2014.
- **Preexisting Obligations:** The term preexisting obligation is modified to mean an account, instrument, or contract outstanding on June 30, 2014, rather than by December 31, 2013.
- **Preexisting Obligation Remediation:** Notice 2013-43 includes a general provision delaying the deadlines for preexisting obligation remediation, for USWAs, by six months. This means that the following remediation deadlines now apply to USWAs:

- Prima Facie FFIs: December 31, 2014
- All other preexisting obligations: June 30, 2016
- **Withholding:** The date after which USWAs are required to begin imposing FATCA withholding on payments of U.S. source FDAP has been moved six months from December 31, 2013 to June 30, 2014. Nevertheless, the timeframe for withholding on gross proceeds or foreign passthru payments has not been amended.
- **Grandfathered Obligations:** The definition of Grandfathered Obligation will be amended to include those legally binding agreements issued or executed by June 30, 2014, rather than by December 31, 2013.
- **Documentation Validity:** Under chapter 3, withholding certificates (*i.e.*, Forms W-8) and documentary evidence generally expire on the last day of the third calendar year after which a withholding certificate was signed or documentary evidence is provided. In Notice 2013-43, those documents set to expire on December 31, 2013 will be extended out to June 30, 2014.

Revised Timeline – Foreign Financial Institutions (“FFIs”)

- **FFI Portal & GIINs:** The opening of the IRS’ FFI registration portal is delayed from July 15, 2013 and is now projected to be August 19, 2013. In addition, any information submitted via the portal will not be considered final until January 1, 2014 and the IRS will not issue any Global Intermediary Identification Numbers (“GIINs”) until after that date.
- IRS FFI list: The first list will be published by June 02, 2014 (to ensure inclusion on this list, FFIs should register by April 25, 2014).
- FFI agreement effective date: June 30, 2014
- **New Account Opening Procedures:** Notice 2013-43 states that FFIs are required to apply their new account opening procedures beginning the later of:
 - July 1, 2014 or
 - FFI Agreement’s effective date.
- **Preexisting Obligations:** The definition of preexisting obligation has not changed for Participating FFIS (“PFFIs”), the definition still references the effective date of the FFI Agreement. However, Notice

2013-43 pushed the first possible date for an effective FFI Agreement from December 31, 2013 to June 30, 2014. Accordingly, preexisting obligations for PFFIs now mean accounts, instruments, or contracts outstanding on June 30, 2014.

For Registered Deemed-Compliant FFIs (“RDCFFIs”): Preexisting obligations are those obligations executed or issued before the later of July 1, 2014 or the date the RDCFFI registers with the IRS.

- **Preexisting Obligation Remediation:** The delay in the effective date of the FFI Agreements, from December 31, 2013 to June 30, 2014, means a six month delay for preexisting obligation remediation. Accordingly, the following remediation deadlines now apply:

- Prima Facie FFIs: December 31, 2014
- High-value individual accounts: June 30, 2015
- Low-value individual accounts and all other preexisting entity obligations:

June 30, 2016

- **Withholding:** The date after which FFIs are required to begin imposing FATCA withholding on payments of U.S. source FDAP has been moved six months from December 31, 2013 to June 30, 2014. Nevertheless, the timeframe for withholding on gross proceeds or foreign passthru payments has not been amended.
- **Grandfathered Obligations:** The definition of Grandfathered Obligation will be amended to include those legally binding agreements issued or executed by June 30, 2014, rather than by December 31, 2013.
- **Reporting:** Notice 2013-43 removed the requirement that FFIs report their 2013 U.S. accounts on their March 31, 2015 filing. FFIs are now only required to report U.S. accounts identified by December 31, 2014.
- **Documentation Validity:** Under chapter 3, withholding certificates (*i.e.*, Forms W-8) and documentary evidence generally expire on the last day of the third calendar year after which a withholding certificate is signed or documentary evidence is provided. As provided in Notice 2013, those documents set to expire on December 31, 2013 will be extended out to June 30, 2014.

Revised Timeline – IGAs

- **IGA List:** Treasury will publish, on its website, a list of jurisdictions that will be treated as having an IGA in effect (even though an IGA may not be in force by July 1, 2014).
- Treasury website: <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx>.
- **Preexisting Obligations:** Notice 2013-43 states that it is the intent of Treasury to modify the definition of preexisting obligation. Accordingly, it should be expected that preexisting obligations, for FFIs in IGAs, will mean accounts, instruments, or contracts outstanding on June 30, 2014.
- **Preexisting Obligation Remediation:** A six month delay for preexisting obligation remediation is also expected to be updated by Treasury.
- **Reporting:** Notice 2013-43 indicated that future IGAs will contain provisions requiring that only U.S. accounts identified by December 31, 2014 will be required to be reported in 2015 (rather than the current requirement to report accounts identified in 2013 and 2014).

Other

- **QIs/ WPs/ WTs:** Notice 2013-43 also provides an automatic extension to qualified intermediaries (“QIs”), withholding foreign partnerships (“WPs”), and withholding foreign trusts (“WTs”) that have agreements expiring on December 31, 2013. The expiration date is now June 30, 2014.
- **Foreign-targeted registered obligation rules:** The transition rule for foreign-targeted registration obligations has been extended from January 1, 2014 to July 1, 2014.

For Your Reference A copy of Notice 2013-43 can be accessed by clicking here: <http://www.irs.gov/pub/irs-drop/n-13-43.pdf>

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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