

Implementation of the US federal law "Foreign Account Tax Compliance Act" (FATCA)

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On 29 October 2019 Parliament of Ukraine ratified the Agreement between the Government of the United States of America and the Government of Ukraine to Improve International Tax Compliance and to Implement FATCA (Agreement).

This document imposes on the Ukrainian banks and other financial institutions (financial agents) the obligation to provide data on a certain category of the reportable accounts of the US taxpayers or legal entities controlled by the US taxpayers. In view of this, the Agreement provides for:

- ▶ submission of the periodical reports on the accounts by the Ukrainian financial institutions to the Ukrainian tax authorities
- ▶ periodicity (annual reports starting 2014) and mechanism (through the Ukrainian tax authorities) of information exchange
- ▶ cooperation between the competent authorities of Ukraine and the United States on administering the information exchange.

The Agreement entered into force on 18 November 2019 and for its practical implementation a range of the relevant amendments have already been introduced to the Law of Ukraine "On Banks and Banking" in terms of banking secrecy, the Law of Ukraine "On Depository System of Ukraine" on access to depository accounting information and to the Tax Code of Ukraine on the financial agents' reporting on the reportable accounts. In accordance with sub-para. 69.8.3 of the Tax Code of Ukraine, the financial agents should have submitted the first reports for 2014 - 2019 to the State Tax Service of Ukraine (STSU) on 1 September 2020. However, according to the STSU's [information](#) (in Ukrainian), the Ministry of Finance of the United States [announced](#) postponement of the terms for submission of the first reports for reporting countries, including Ukraine, to the end of this year due to the COVID-19 pandemic. Therefore, considering the requirement of the Tax Code of Ukraine on deadlines for submission of information, which would provide the tax authorities with the period of one month for review and processing of the information obtained from financial agents, the time limit for filing the reports on reportable accounts would be 01 December 2020.

As one of the measures to implement the Agreement, on 12 August 2020 the Ministry of Finance of Ukraine approved the [Order](#) No. 496 (in Ukrainian) "On Approval of the Regulations on Completing and Submitting by Financial Agents the Reports on Reportable Accounts Under the Agreement between the Government of Ukraine and the Government of the United States of America to improve tax compliance and application of US Foreign Account Tax Compliance Act (FATCA)".

This document provides for the procedure of submitting the reports on the reportable accounts by financial agents in accordance with the Agreement, as well as requirements for a format of the electronic exchange file and references to data types to be used while preparing the reports.

The Regulations provide for the following rules:

- ▶ STSU is the authorized representative of the Ministry of Finance of Ukraine in implementing the Agreement's requirements and the competent authority for purposes of the information exchange under the Agreement;
- ▶ Financial agents must connect to the International data exchange service (IDES) portal for reporting purposes, the [user manual](#) of which is available on the website of the US Internal Revenue Service.
- ▶ Financial agents shall submit to STSU (on an annual basis by September 1 of the year following the reporting year through IDES) the following information:
 - ▶ the name, address, and U.S. TIN of each specified U.S. person that is a holder of the account
 - ▶ the account number (or functional equivalent in the absence of an account number)
 - ▶ the account balance or value
 - ▶ gross amount of interest paid or accrued regarding the account during the calendar year or other relevant period (in the case of a deposit account).

- ▶ In the case of a custodial account (i.e. in the case of any financial or investment instruments in Ukraine), the following information is to be provided to STSU:
 - ▶ the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account
 - ▶ the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Ukrainian financial agents acted as a custodian, broker, nominee, or otherwise as an agent for the account holder.

STSU shall provide this information received from financial agents to the competent authority of the United States by September 30 of the year following the reporting year.

We go on following the news and keep you posted on any important developments.

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