ARIFA
CORPORATE SERVICES

FATCA and AEOI

Introduction

ARIFA is not a FATCA or AEOI expert; these international initiatives cover hundreds of pages involving U.S. Tax law and principles, matters of finance and banking and international customer due diligence, among other international matters. However, in order to assist our clients, our firm in partnership with an accounting firm, with expertise in the FATCA and AEOI legislation, offers the service of determining the FATCA classification for Panamanian and BVI entities and executing the corresponding documents with regards to the entities obligations under FATCA.

Our FATCA Services

Our corporate clients usually have accounts with financial institutions that require to review and possibly report on the same. The financial institutions, usually banks, ask their corporate clients to complete a form where they certify what they classify as under FATCA. These forms can be varied; some banks have forms they have designed themselves for internal convenience or to include questions about details they need for CRS or what is called UK FATCA, as well as other regimes for the Automatic Exchange of Information (AEOI), which are not part of FATCA.

The most common case for FATCA is a W-8BEN-E form. This form was designed by the IRS (U.S. Internal Revenue Service) and allows financial institutions to collect FATCA related certifications and information that allows them to confirm if the Company´s account should be reportable to the IRS or other competent authority.

As the corporate service provider to our Companies and additionally directors to some, clients request that we complete and in the latter cases, sign the W-8BEN-E or equivalent form.

Due to the nature of the W-8BEN-E and other Foreign Accounts Tax Compliance Act forms, being analogues to an affidavit, we must carry out the necessary due diligence in terms of classifying or confirming the FATCA Classification of an entity and in this way assure there are not negative repercussions on the Entity or its directors.

Our firm, in partnership with an accounting firm, offers the service of determining the FATCA classification for Panamanian and BVI entities and executing the corresponding documents with regards to the entities obligations under FATCA. In order to carry out this classification we ask our clients to complete a Self-Certification form.

The Self-Certification form may be filled out by anyone with a complete understanding of the business and management of the Entity and its assets; it is preferable that it be signed by the beneficial owner. The certification must indicate if the entity holds or invests third party funds, carries out any commercial activities or if the entity has received a 1042-S form from its bank."

Once the client completes the Self-Certification form we coordinate the next step required for the classification and when necessary prepare and complete its necessary W-8 form.

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Automatic Exchange of Information in the British Virgin Islands and Panama

Similar to FATCA, our corporate clients usually have accounts with financial institutions that require reviewing and possibly reporting on the same, according to rules for the Automatic Exchange of Information (or the Common Reporting Standard (CRS)).

The BVI was one of the "early adopters" jurisdictions that implemented the CRS in 2017, and were a part of the first exchange of information between the participating nations.

In the case for Panama, the first report under CRS took place in 2018.

How do I know if my company is subject to reporting?

A report under CRS would apply if you have a BVI or Panama resident entity or legal arrangement (corporation, trust, partnership), and the entity or arrangement classifies as a financial institution (FI) under CRS.

There are four kinds of FIs: Depository Institutions, Custodial Institutions, Specified Insurance Companies, and Investment Entities. To fall into one of the first three categories the entity would need to be engaging with clients either by accepting deposits, holding Financial Assets on their account or issuing insurance or annuity contracts (or acting as a holding company for such an insurance company).

If you have been classified under FATCA as an FFI (including Sponsored FFI, Owner Documented FFI or Certified deemed-compliant sponsored, closely held investment vehicle), then you will most likely be an FI under CRS. Though your FATCA classification acts as an indication you should approach a professional with knowledge and experience in this field to help you confirm your CRS classification. A service we provide within ARIFA (as described above).