

# Client Alert.

---

July 12, 2013

## IRS Delays FATCA Implementation

On July 12, 2013, the IRS released Notice 2013-43 (the "Notice"), which sets forth a revised timeline for the implementation of the Foreign Account Tax Compliance Act ("FATCA").

The most significant development is that withholding under FATCA, originally required for payments made after December 31, 2013, will now apply to payments made after June 30, 2014. This six-month extension is accompanied by a six-month extension in the FATCA obligation grandfathering date. Thus, "obligations" outstanding on July 1, 2014, will be "grandfathered obligations" not subject to FATCA. The Notice states, however, that FATCA withholding for gross proceeds and passthru payments, set to take effect beginning January 1, 2017, will not be affected.

The Notice also provides details on the IRS's FATCA registration website portal, which is now projected to open August 19, 2013.<sup>1</sup> According to the Notice, a financial institution will be able to use the portal to input required information for itself and its affiliates. Information entered into the portal from its opening until the end of 2013, however, will not be regarded as a final submission. Instead, financial institutions are meant to use this time to "get familiar with the registration process, to input preliminary information, and to refine that information." On or after January 1, 2014, financial institutions will be expected to finalize their registration information. As a result of the revised timeline, the IRS will not issue global intermediary identification numbers ("GIINs") in 2013. Instead, the GIINs will be issued as portal registration becomes finalized in early 2014.

The IRS is now expected to post its first list of compliant foreign financial institutions by June 2, 2014. In order to ensure inclusion on this list, financial institutions will need to finalize their registration by April 25, 2014.

The Notice also extends the timelines for implementing new account opening procedures, transition rules for completing due diligence on preexisting obligations, and for providing reports with respect to U.S. accounts. The changes outlined in the Notice are expected to be adopted in revised regulations and will apply to intergovernmental agreements signed with FATCA partner countries. Until that time, taxpayers are permitted to rely on the Notice.

For more information and background on FATCA, please visit our website at [www.KNOWFatca.com](http://www.KNOWFatca.com).

### Contact:

**Thomas A. Humphreys**  
(212) 468-8006  
[thumphreys@mofo.com](mailto:thumphreys@mofo.com)

**Remmelt A. Reigersman**  
(212) 336-4259  
[rreigersman@mofo.com](mailto:rreigersman@mofo.com)

**Michelle M. Jewett**  
(415) 268-6553  
[mjewett@mofo.com](mailto:mjewett@mofo.com)

**David J. Goett**  
(212) 336-4337  
[dgoett@mofo.com](mailto:dgoett@mofo.com)

**David N. de Ruig**  
(212) 336-4059  
[dderuig@mofo.com](mailto:dderuig@mofo.com)

---

<sup>1</sup> The IRS FATCA website had promised that the portal "will be accessible to financial institutions beginning July 2013." The website (which is available at <http://www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions>) has not yet been updated.

# Client Alert.

---

## **About Morrison & Foerster:**

We are Morrison & Foerster—a global firm of exceptional credentials in many areas. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 10 straight years, and *Fortune* named us one of the “100 Best Companies to Work For.” Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at [www.mofo.com](http://www.mofo.com).

*Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.*