

**Reminder for reporting due for 30 June 2016
and Reporting of Undocumented Accounts for IGAs (Reportable Period 2015)**

Notice issued in accordance with Regulation 4 of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 ("the 2014 Regulations"), to Reporting Guernsey Financial Institutions ("RGFIs") for registration with and reporting through the Information Gateway Online Reporter ("IGOR") ahead of the second US Intergovernmental Agreement ("US IGA") reporting deadline and the first UK Intergovernmental Agreement ("UK IGA") reporting deadline

Bulletin 2016/4

1. Reminder for reporting due 30 June 2016

A prior Notice was issued by the Director in accordance with the 2014 Regulations as Bulletin 2016/3 to RGFIs for registration with and reporting through IGOR ahead of the reporting deadlines for the US IGA and the UK IGA. This previous bulletin can be found by following the link below:

<https://gov.gg/CHttpHandler.ashx?id=101999&p=0>

This bulletin is being issued as a reminder for the deadline for reporting of 30 June 2016, instructing RGFIs that they must make the relevant report or reports to the Director through IGOR. A message will be issued to all persons registered on IGOR providing links to a list of which RGFIs have not yet made a report in respect of each of the types of reporting due by 30 June 2016:

The published Guidance Notes currently detail an incorrect date for the first ARR BASIC return for reporting period 2015 (6 April 2015 to 5 April 2016). This will be corrected in the next iteration of the Guidance Notes. However, the correct date has been clarified as 30 June **2016** in the Notice issued earlier this year as Bulletin 2016/3 (which is linked above) as well as on the IGOR forum and it is intended that this Bulletin act as further reminder of this.

In the event that a person has registered with IGOR, but has no reports to make for 2014 or 2015 reporting, a simple 'nil return' will be required before 30 June 2016.

The Director is aware that some jurisdictions have extended the timeframe for reporting to 31 July 2016. For the avoidance of doubt, the Director is not minded to do so, therefore, the reporting deadline remains 30 June 2016, however, if any financial institutions do not believe they will be able to meet this deadline they are encouraged to contact the Director before 30 June 2016, in order that the Director may consider matters on a case by case basis.

In the event that there is a need to contact the Director, this should be done via the messaging system within IGOR giving a thorough explanation as to the reasons why the deadline cannot be met.

Resources:

If there are any technical issues relating to the submission of reports, please check the IGOR Forum and post questions if necessary. This can be found at the following address:

<https://igorforum.digimap.gg/>

A link to the Forum can also be found on the top of the page on IGOR, next to an additional tab called "Documentation", which also provides additional technical assistance in relation to the US IGA and UK IGA reporting.

A tool has been created by Digimap in order to help technical personnel quickly understand the requirements of FATCA XML reporting. This is available at:

<https://fatcabuilder.digimap.gg/>

2. US and UK IGA Reporting (2015)

The Director of Income Tax (“the Director”) is aware that HMRC have recently circulated amended guidance on how UK Reporting Financial Institutions shall report accounts where the required self-certification has not been received for Pre-existing Accounts, and has consequently extended the deadline for conducting due diligence on these accounts.

Because of the impending reporting deadline for Reportable Period 2015, and in light of the fact that many Reporting Guernsey Financial Institutions (‘RGFI’s) have already submitted their 2015 reports through IGOR, the Director has decided that the existing treatment of such “undocumented” accounts will remain unchanged from that explained in the existing guidance notes for this year, which has been summarised as follows:

Pre-existing Entity Accounts

Where a RGFI follows all of the due diligence requirements and is still unable to identify the residency of Controlling Persons, or the names of the Controlling Persons the account should be reported in both the US and UK Reports that are made.

In all cases the RGFI should continue to try to obtain the relevant outstanding information for any undocumented accounts held.

New Accounts (IGAS; opened on or after 01/07/14; CRS opened on or after 01/01/2016)

For New Accounts the same procedure applies in the absence of a self-certification. See Guidance note 16.5.

The Director anticipates that because of Financial Institutions (‘FIs’) internal procedures, the amount of “New Accounts” opened without the required account information should be minimal. However, in the rare instances where the RGFI has not received the required information, the Account should also be reported as both UK and US.

As this is in line with the existing published FATCA guidance and FIs will have a reasonable expectation that there should be no change in treatment to that set out in the guidance, **due diligence deadlines will stay the same, there will be no extensions at this time.**

Financial Institutions should continue to make reasonable efforts to obtain this information from their Account Holders.

Under The Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (“The Regulations”) FIs must obtain the tax residency of all New Accounts on account opening with effect from 1/1/16, regardless of the Account Holders jurisdiction of tax residence by obtaining a self-certification. Where the tax residence is a CRS Participating Jurisdiction, the FI will also need to obtain a TIN and date of birth from the Account Holder. It is expected that most FIs will obtain this information at the same time, with account opening documentation. Therefore instances of such undocumented accounts after 1/1/16 are expected to be reduced even further.

2016 Reportable Period- CRS and US IGA

For the 2016 Reportable Period (ending 31/12/16) for all reporting formats where the due diligence procedures do not successfully establish the Account Holder's residence for tax purposes then the Reporting Financial Institution must report the account to the tax authority as an undocumented account under the CRS (there is, however, no such requirement to report "undocumented accounts" under the US IGA).

No report will need to be made under the US IGA, until such time as an undocumented account is identified as a US Reportable Account.

CRS Schema Treatment of Undocumented Accounts for 2016 et seq.

Ila. ResCountryCode

For the "ResCountryCode" element, any undocumented account shall be identified by using "GG" (the Guernsey code).

Ild. Address Type

For the "CountryCode" element in any undocumented account shall also be identified by using "GG" (the Guernsey code).

For either the AddressFree or the AddressFix elements, "undocumented" should be used instead of an actual address.

IVd. Account Number

For the AccountNumber element, "UndocumentedAccount" should be used as the attribute to denote an Undocumented Account.

Reporting the account as "undocumented" in the RGFIs CRS report using the method shown above, will be adequate and no additional report will need to be made of this account under the US IGA.

RGFIs should continue to make all reasonable efforts to achieve the information and correct the account reports in due course, where applicable.

Reporting Guernsey Financial Institutions should note that instances of undocumented accounts should be minimised. Information on undocumented accounts shall not be forwarded to any Participating Jurisdiction, however all undocumented accounts are a matter of concern and the information will be used by the Director to identify RGFIs that may be failing in obligations under the Regulations and this information will be followed up and may be subject to audit.

Where tax residency has not been established, the Accounts shall be reported as "undocumented"

2. Reporting of Trustee Documented Trusts (2015 and 2016 treatment)

Guidance on the IGOR forum currently states that where a Trustee reports on a Trust (Trustee Documented Trust) the Trustee does not need to name the Trust (although it may choose to do so).

For 2016 reporting (1/1/2016 and forward) and in common with the CRS and other jurisdictions existing reporting requirements RGFIs will be required to name the Trust.

This would be shown as follows (extract including purely the ReportingFI and AccountReport elements):

```

<ReportingFI>
  <ResCountryCode>GG</ResCountryCode>
  <TIN>xxxxxx.SP</TIN>
  <Name>Trust Name</Name>
  <Address>
    <CountryCode>GG</CountryCode>
    <AddressFree>Address, Guernsey</AddressFree>
  </Address>
</ReportingFI>
<ReportingGroup>
  <Sponsor>
    <ResCountryCode>GG</ResCountryCode>
    <TIN>xxxxxx.SP</TIN>
    <Name>Example Trustees Name Limited</Name>
    <Address>
      <CountryCode>GG</CountryCode>
      <AddressFree>Address, Guernsey</AddressFree>
    </Address>
  </Sponsor>
<AccountReport>
  <AccountNumber>1122334455</AccountNumber>
  <AccountHolder>
    <Individual>
      <ResCountryCode>US</ResCountryCode>
      <TIN>123456789</TIN>
      <Name>
        <FirstName>Kirk</FirstName>
        <LastName>Spartacus</LastName>
      </Name>
      <Address>
        <CountryCode>GG</CountryCode>
        <AddressFree>Address, US</AddressFree>
      </Address>
    </Individual>
  </AccountHolder>
  <AccountBalance currCode="GBP">125000</AccountBalance>
</AccountReport>

```

Therefore, from 2016, the reporting of Trustee Documented Trusts should be similar to that current used in reporting sponsored entities, i.e. the RFI shall be the Trust itself, and the Sponsor section should be completed with details of the Trustee.

Should you wish to obtain further information concerning the US or UK IGAs or CRS please visit the Income Tax Office webpage which is dedicated to these matters:

<http://www.gov.gg/article/109356/Intergovernmental-Agreements-FATCA>

20/06/2016