

## **Bulletin 2021/7**

### **The Income Tax (Guernsey) (Amendment) Ordinance, 2021**

This Bulletin is issued under the provisions of Regulation 10 of The Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 and the provisions of Regulation 12 of The Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015.

#### **1. Legislative & Regulatory Changes**

At the States of Deliberation meeting on the 15 July 2021, the Income Tax (Guernsey) (Amendment) Ordinance, 2021, ("the Ordinance") was approved. In relation to CRS & FATCA, the Ordinance made a number of amendments to the Income Tax (Guernsey) Law, 1975, set out in Bulletin 2021/5.

#### **2. Registration of All Financial Institutions**

Bulletin 2021/5 provided details of the changes introduced. This Bulletin provides further information on the requirement for all financial institutions to register with the Revenue Service, the reporting classification and the 2022 Compliance Assurance Statement Questions.

With effect from 1 January 2022 and prior to the 28 February 2022 the Guernsey Revenue Service require **all** financial institutions operating in Guernsey to register with the Revenue Service if they are a person or entity which is a financial institution within the meaning of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 ("FATCA") or the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 ("CRS") ("a relevant institution").

#### **3. Non-Reporting Financial Institution**

All financial institutions (as defined in the CRS or FATCA) Regulations are required to register with the Revenue Service by the 28 February 2022 regardless of whether they have a reporting obligation.

#### **4. How to Register as a Non-Reporting Financial Institution**

To register with the Revenue Service a financial institution is required to register on the Information Gateway Online Reporter system ("IGOR").

Registration on IGOR is identical to the procedure to register when a financial institution is reporting data for exchange. Guidance on how to register is included in the IGOR Guidance Notes published on the States of Guernsey website:

[Common Reporting Standard \(CRS\) - States of Guernsey \(gov.gg\)](https://www.gov.gg/Common-Reporting-Standard-CRS)

[IGOR Guidance Notes](#)

Confirmation of registration will be delivered to the nominated points of contact.

#### **5. Non-Reporting Financial Institution – No Information to Report**

Once registration is confirmed then it is possible for a Non-Reporting Financial Institution, (“NRFI”) to confirm there is no information to report. The process is:

- 1) Log on to IGOR.
- 2) Select the applicable reporting period for CRS & FATCA.
- 3) Submit a nil report for each relevant category.
- 4) Complete the NRFI classifications.
- 5) Answer the NRFI Compliance Assurance Statement question.

#### **6. The 2021 Compliance Assurance Statement**

Following the annual review of the Compliance Assurance Statement the questions have been revised as follows:

1. All appropriate policies, procedures and systems were in place in order to comply with the CRS Regulations reporting requirements for all financial accounts maintained and established during the reporting period.
2. The evidence used to comply with the Schedule 2 due diligence requirements has been retained and a record of the steps taken when performing due diligence reviews on accounts has been made.
3. The evidence used to comply with the due diligence requirements and a record of the steps taken when performing due diligence reviews on accounts will be retained for a minimum period of 6 years.
4. All appropriate policies, procedures and systems are in place to ensure that the tax residency information of Account Holders has been obtained for all New Accounts.
5. All reportable accounts closed during the period covered by the report have been included in the report and identified as such.
6. Only reportable accounts that comply with the “undocumented” criteria have been reported accordingly.
7. All financial accounts have been appropriately reviewed to ensure complete and accurate data has been reported in a timely manner.
8. Every reportable account submitted has been reviewed to confirm the data submitted is complete, correct and includes accurate details of all the required reportable information for the reporting period.
9. For new accounts a valid self-certification is either in place and the appropriate reporting and due diligence requirements have been met or has been reported to the Director (Revenue Service) where it has not been possible to obtain a valid self-certificate.

## **7. FATCA Compliance Assurance Statement**

1. All appropriate policies, procedures and systems were in place in order to comply with the FATCA Regulations reporting requirements for all financial accounts maintained and established during the reporting period.
2. The evidence used to comply with the due diligence requirements and a record of the steps taken when performing due diligence reviews on accounts will be retained for a minimum period of 6 years.
3. All reportable accounts closed during the reporting period have been included in the report and identified as such.
4. All reportable accounts without a TIN have been contacted and requested to provide their TIN.
5. All financial accounts have been appropriately reviewed to ensure complete and accurate data has been reported in a timely manner.
6. Every reportable account submitted has been reviewed to confirm the data submitted is complete, correct and includes accurate details of all the required reportable information for the reporting period.
7. For new accounts a valid self-certification is either in place and the appropriate reporting and due diligence requirements have been met or has been reported to the Director (Revenue Service) where it has not been possible to obtain a valid self-certificate.

## **8. Non-Reporting Financial Institution Compliance Assurance Statement Question**

Non-reporting financial institutions will only be required to answer the following Non-Reporting Financial Institution Compliance Assurance Statement question.

1. All appropriate policies, procedures and controls were in place in order to comply with the CRS and FATCA Regulations reporting requirements for all financial accounts which it maintained and established during the reporting period.

## **9. CRS & FATCA Classification Declaration**

When submitting a nil report for an NRFI, or an RFI and the circumstances have changed, then it is necessary to provide the appropriate classification from the lists below :-

### **FATCA**

- Depository Institution
- Custodial Institution
- Investment Entity
- Specified Insurance Company
- NRFI Exempt Beneficial Owner- Governmental Entity, International Organisation or Central Bank
- Guernsey Retirement Fund (Section 150 of Income Tax Law, 1975)
- Broad Participation Retirement Fund
- Narrow Participation Retirement Fund
- Pension Fund of Exempt Beneficial Owner
- Investment Entity wholly Owned by Exempt Beneficial Owners
- Deemed Compliant Foreign Financial Institution with a Local Client Base
- Deemed Compliant Foreign Financial Institution - Local Bank
- Deemed Compliant Foreign Financial Institution - FI with only Low Value Accounts
- Deemed Compliant Foreign Financial Institution - Qualified Credit Card Issuer
- Deemed Compliant Foreign Financial Institution - Trustee Documented Trust
- Deemed Compliant Foreign Financial Institution - Sponsored Investment Entity and Controlled Foreign Corporation
- Deemed Compliant Foreign Financial Institution - Sponsored, Closely Held Investment Vehicle
- Deemed Compliant Foreign Financial Institution Investment Advisors and Investment Managers
- Deemed Compliant Foreign Financial Institution - Collective Investment Vehicle

### **Common Reporting Standard ("CRS")**

#### **RFI**

- Depository Institution
- Custodial Institution
- Investment Entity [type (a)]
- Investment Entity [type (b)]
- Specified Insurance Company
- Trustee reporting for Trustee Documented Trust

#### **NRFI**

- Qualifying Governmental Entity/International Organisation/Central Bank
- Broad Participation Retirement Fund
- Narrow Participation Retirement Fund
- Pension Fund of Governmental Entity, International Organisation or Central Bank
- Qualified Credit Card Issuer
- Exempt Collective Investment Scheme

## **10. Further Information**

If you require further information regarding this Bulletin, please forward a message via the IGOR message facility or an email to [AEOI@gov.gg](mailto:AEOI@gov.gg)

N Garland

Head of Policy (Deputy Director)

24 December 2021

### Abbreviations used in this Bulletin

- CRS Common Reporting System
- FATCA Foreign Account Tax Compliance Act
- IGOR International Gateway Online Reporter System.
- NRFI Non-reporting Financial Institution
- RFI Reporting Financial Institution
- TIN Tax Identification Number