

Transparency as the New Norm in the Trust and Offshore Industry: Automatic Exchange of Information & The Common Reporting Standards

October 2017



INTRODUCTION

WHAT IS THE COMMON REPORTING STANDARD (CRS)?

The CRS is an internationally agreed standard for Automatic Exchange of Information (AEOI) on **financial account** information

WHY HAS CRS BEEN INTRODUCED?

The CRS has been introduced in order to obtain information from **financial institution** and automatically exchange that information with other jurisdictions on an annual basis for tax transparency purposes

PARTICIPATING COUNTRIES

As at August 2017, 102 countries have committed to CRS

Jurisdictions undertaking first exchanges by 2017: 49

Amongst them: British Virgin Islands, Cayman Islands, Guernsey and Jersey, Luxembourg, United Kingdom

Jurisdictions undertaking first exchanges by 2018: 53

Amongst them: Bahamas, China, Cook Islands, Hong Kong, Indonesia, Malaysia, New Zealand, Panama, Samoa, Singapore, Switzerland

REPORTING FINANCIAL INSTITUTIONS

There are 4 types of Financial Institutions:

- Banks;
- Custodians;
- **Investment entities**; and
- Specified Insurance companies.

A Reporting Financial Institution is a Financial Institution that is resident in a participating jurisdiction

HOW DOES IT WORK – GENERAL REPORTING REQUIREMENTS

Reporting financial institutions have an obligation to review their financial accounts to identify reportable accounts by applying due diligence rules, and then report information to their local tax authority



INFORMATION ON REPORTABLE ACCOUNT

Reporting financial institutions must report the following information on each reportable account:

A. Identity

- Name
- Address
- Jurisdiction of residence
- Taxpayer identification number (TIN)
- Date of birth of each reportable person; and
- in the case of entity, each controlling person who is a reportable person

B. Financial account information

- Account balance and value as at the end of the relevant year (or on date of closure of the account)
- Amount of dividends and income paid or credits to the account
- Amounts of interest paid or credited to the account
- Payments made to the account holder

INVESTMENT ENTITIES

Investment entities comprise:

- **Funds, investment managers and fund administrators**, who primarily conduct as a business investing, administering or managing funds, for and on behalf of a customer (the activities test); or
- **Managed investment entities** where gross income is primarily attributable to investing, reinvesting or trading financial assets, and the entity itself is managed by (discretionary mandate/corporate trustee/...) a Financial Institutions (the managed investor test).

NON-FINANCIAL ENTITIES (NFE)

An NFE is any entity that is not a financial institution

Two types:

1. Active NFE

- <50% of gross income is passive income and <50% assets held to produce passive income
- start-up (other than that of a FI)
- engage in financing with or for related companies which are not Fis

2. Passive NFE

A NFE that is not an Active NFE

TAX TRANSPARENCY

- CRS has shaken up the International wealth management industry
- Easy route of running and hiding assets will no longer be rewarded or even tolerated



IS IT MAKING OR PROTECTING MONEY THAT SHOULD BE THE MAIN CONCERN ?

WHAT IS NOW ON THE CLIENTS AGENDA ?

- **Succession Planning** of international assets to avoid legal costs of probate or family disputes
- **Asset Protection** to reduce/minimize the potential adverse consequences of the political, economic and geographic instability as well as against creditor claims
- **Confidentiality** to keep anonymous the direct owner of the assets

Summary

- The world is transparent from a tax point of view

Whether you are discussing estate taxes, gift taxes, income taxes, all of these factors need to be considered carefully and transparently

- The cost of advice in doing things right is insignificant in comparison to the cost of getting it wrong
- Early and advanced planning is essential
- One size does not fit

THANK YOU



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