



FATCA ALERT

Tax and Legal Services

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“the Government of Vietnam and the United States signed the Competent Authority Arrangement about FATCA implementation in Vietnam pursuant to the Intergovernmental Agreement (IGA) Model 1B on 16 October 2016”

Competent Authority Arrangement between the competent authorities of the United States of America and the Socialist Republic of Vietnam about FATCA implementation in Vietnam

According to the announcement dated 13 February 2017 on the official website of the State Bank of Vietnam (“SBV”), the Competent Authorities of the United States of America and Vietnam entered into a Competent Authority Arrangement (“CAA”) on 16 October 2016 about FATCA implementation in Vietnam.

It is required by the SBV that Vietnamese Financial Institutions (“Vietnamese FIs”) should proactively study the CAA and IGA Model 1B between the Governments of Vietnam and the U.S for proper implementation and compliance.

The CAA addresses matters concerning registration of Vietnamese FIs as well as time and manner of automatic exchange of information. Key points are as follows:

1. Registration of Vietnamese FIs

- Reporting Vietnamese Financial Institution must comply with the applicable registration requirements on the FATCA registration website.
- The Internal Revenue Service (“IRS”) intends to issue a unique Global Intermediary Identification Number (“GIIN”) to each Reporting Vietnamese Financial Institution that successfully completes the FATCA registration requirements. These Vietnamese FIs will be included in the IRS FFI list.
- A registered Vietnamese Financial Institution would be removed from the IRS FFI list if an issue of significant non-compliance is not resolved within a period of 18 months.
- The U.S. Competent Authority intends to provide the Vietnamese Competent Authority annually with the necessary information to identify each registered Vietnamese Financial Institution included on the IRS FFI list.

2. Time and manner of exchange of information

- Vietnamese Competent Authority (i.e SBV) is responsible for collecting information submitted from Vietnamese FIs to exchange automatically with the U.S. Competent Authority within nine (9) months after the end of the calendar year to which the information relates.
- The data is reported in XML format and encrypted in accordance with the IRS’s requirements. Method of information transmission is via the International Data Exchange Service (“IDES”).



3. Remediation and Enforcement

- The Vietnamese Competent Authority (i.e SBV) should ensure that all the required information has been identified and reported by Reporting Vietnamese FIs and by or on behalf of the qualified Non-reporting Vietnamese FIs to the Vietnamese Competent Authority.

The CAA becomes operative on 16 October 2016 and its provisions apply to all information that is exchanged pursuant to the IGA, including information for calendar years that precede the operative date.

In a nutshell, pursuant to the CAA and other previous guidance of the SBV related to FATCA compliance implementation, KPMG would like to note the following:

- *Vietnamese FIs except for FIs that meet the conditions regulated in Annex II of the IGA are required to proactively register for FATCA compliance with the IRS on the FATCA registration website. FIs that already obtained GIIN before IGA entered into force are required to amend FATCA registration status on the FATCA registration website.*
- *FIs are required to prepare necessary processes to ensure FATCA compliance in accordance with the signed IGA. As stipulated in the IGA, a registered Vietnamese Financial Institution would be regarded as Nonparticipating Financial Institution if an issue of significant non-compliance is not resolved within a period of 18 months.*
- *Instead of uploading information to IDES of the IRS, FIs are obliged to report directly to the SBV. SBV is the central hub to receive, establish transmission system receiving reported information from Vietnamese FIs that are FATCA compliant. Accordingly, it is likely that Vietnamese FIs may not need to obtain digital certificates and prepare encrypted data in accordance with the IDES requirements. Although this point is consistent with previous guidance of the SBV, FIs are recommended to discuss with the SBV about specific information and data format to be reported as well as the requirement of digital certificate and data encryption for proper application.*
- *In addition, FIs also need to review customers subject to 2016 report, prepare data to meet 2016 reporting requirements. It is expected that the SBV will soon issue further detailed guidance in relation to this matter before 2016 reporting deadline (i.e 30 September 2017). KPMG will continue to keep you updated if any further development.*

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