



Five Ways FATCA Impacts Your Business in 2015

The deadline for compliance with the Foreign Account Tax Compliance Act (FATCA) has expired, requiring corporations to document and report the details of their overseas accounts to the Internal Revenue Service (IRS).

Failure to comply with the new reporting obligations under FATCA will result in the IRS imposing a 30% withholding tax on certain payments made from the U.S. to non-compliant Foreign Financial Institutions (FFIs). In addition, companies that do not deduct and remit FATCA withholding will be liable for 100% of the amount not withheld as well as related interest and penalties.

Starting in 2015, the IRS will begin auditing companies for FATCA compliance. As a result, your organization needs a solution to automate the collection, validation and maintenance of FATCA withholding documents to easily provide the required information on demand and ensure continuous compliance.

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FIVE WAYS FATCA IMPACTS YOUR BUSINESS: ▼

IMPACT #1

Your Current Withholding Requirements Change with FATCA

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You Need to Collect the Correct W-8 Form for Each Foreign Payee

IMPACT #5

You Need to Implement the New W-9 Form (updated as part of FATCA)

This paper provides a brief summary of FATCA, the new withholding requirements that are part of FATCA, five ways these withholding requirements will impact your business this year, and what you can expect in an IRS audit.

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What is FATCA?

FATCA is designed to prevent the use of offshore investments and accounts for tax evasion by U.S. persons. Under FATCA, banks and other financial institutions are required to assist the IRS in collecting taxes from U.S. taxpayers abroad by reporting the details of their overseas financial accounts, including naming and identifying the account holder. Failure to comply will result in a 30% withholding tax on certain U.S. source income.

Corporations also are required to report the details of their overseas accounts, and the IRS will then reconcile the information received in an effort to identify unreported, taxable income. As a result, your organization is now required to determine if the payment of any income from U.S. sources is subject to FATCA regulation when making payments to foreign entities.

Five Ways FATCA Withholding Requirements Impact Your Business



IMPACT #1: Your Current Withholding Requirements Change with FATCA.

While existing withholding rules impose a 30% withholding tax on payments to non-U.S. persons, FATCA broadens the range of payments where withholding is considered. While FATCA and the existing withholding rules are independent of each other, FATCA must now be applied first. This requires you to review your current payment procedures to ensure that they are FATCA compliant. FATCA requires different information from foreign payees, applies to a different set of payments and is designed with different objectives in mind.



IMPACT #2: You Must Determine the Classification of Each of Your Foreign Payees.

As a first step, you must determine the classification of each of your foreign payees. FATCA focuses on two types of foreign payees: Non-Foreign Financial Entities (NFFEs) and Foreign Financial Institutions (FFIs). To determine how your foreign payees are classified under FATCA, ask these important questions:

- Do they accept deposits as a banking or financial business?
- Do they hold financial assets on behalf of others?
- Are they engaged in the business of trading, managing or investing financial assets?
- Do they act as a holding company in connection with an investment vehicle?
- Are they a foreign regulated insurance company?

If you answered “yes” to any one of these questions, your foreign payees are classified as FFIs.



IMPACT #3: Your Foreign Payees Are Likely to Be More Broadly Subject to the 30% Withholding Tax.

Once you’ve determined whether your payee is a FFI or NFFE, you then need to determine the income classification. For any non-U.S. entity that doesn’t comply with the FATCA provisions, your organization must withhold 30% on any U.S. source “withholdable payment” to that entity. Withholdable payments commonly will include U.S. source dividends, rents, interest, royalties, salaries, wages or annuities; gross proceeds from the sale of U.S. property that could produce interest or dividends; or interest paid by a foreign branch of a U.S. bank.

Additionally, NFFEs who receive payments from U.S. sources must disclose ownership of more than a 10% interest by U.S. persons. Without this disclosure, payments to the NFFE are subject to the 30% FATCA withholding tax.

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IMPACT #4: You Need to Collect the Correct W-8 Form for Each Foreign Payee.

Legacy W-8BEN Forms are not sufficient to comply with FATCA. If you have foreign payees who are not subject to FATCA, the IRS is no longer accepting the previous forms. W-8BEN now has been split into two new forms. The new 2014 Form W-8BEN is for use by foreign individuals, and Form W-8BEN-E is for use by foreign entities. Due to the additional FATCA requirements for payment identification and documentation, and to avoid the possibility of any penalties, it is highly recommended that you begin the process of collecting the new W-8BEN-E Forms from all of your foreign payees immediately.



IMPACT #5: You Need to Implement the New W-9 Form (updated as part of FATCA)

Form W-9 is required of payees to confirm they are U.S. persons and to provide their appropriate Taxpayer Identification Number (TIN) for 1099 reporting as appropriate. While the IRS released a new version of the W-9 in March 2014, they did not provide a timeframe for implementation, so it's best to begin using this form immediately. Key changes to this form include the addition of "Exemption for FATCA Reporting Code" and the addition of a FATCA-specific certification statement.

What to Expect in a FATCA Audit

While FATCA-specific audits are just starting, the typical approach the IRS takes when auditing foreign withholdings is to determine:

- Who are your foreign payees
- What payments to your foreign payees are covered under FATCA
- Which payments are subject to withholding

The auditor likely will presume that a 30% withholding applies to your foreign payments. If your organization does not withhold for your foreign payees, you are expected to provide accurate documentation using the new Form W-8BEN-E and the recently updated Form W-9.

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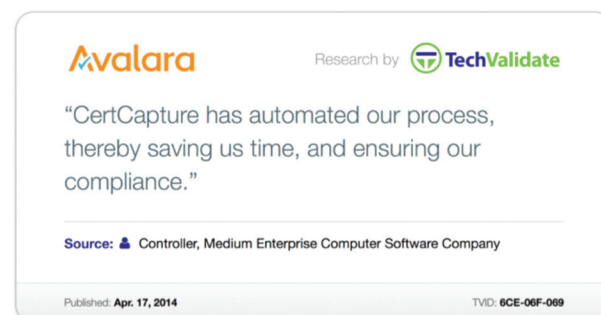
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Avalara CertCapture Can Help You Be Ready for a FATCA Audit

In summary, FATCA is driving a much more complex set of regulations relating to U.S. source payments to foreign entities. Avalara CertCapture is a comprehensive solution that automates the collection, validation and management of W-8 and W-9 Forms to help you be ready for a FATCA audit, while reducing your time and resources to achieve compliance. This scalable, cloud-based system makes access to critical documentation quick and easy, while enabling seamless integration with other software. It even dramatically simplifies the completion of the lengthy new W-8BEN-E Form. Additionally, Avalara partners with many of the industry's leading accounting firms and is ready to work with your accounting partner in helping you address FATCA compliance.

Companies Trust Avalara CertCapture to Ensure Compliance



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