Part III - Administrative, Procedural, and Miscellaneous

Extension of Temporary Relief for Foreign Financial Institutions to Report U.S. Taxpayer Identification Numbers

Notice 2024-78

SECTION 1. PURPOSE

This notice extends the temporary relief provided in Notice 2023-11, subject to the procedures and requirements of this notice, for certain foreign financial institutions (FFIs) required to report U.S. taxpayer identification numbers (U.S. TINs) for certain preexisting accounts (as defined in an applicable Model 1 intergovernmental agreement (IGA)). If an FFI in an eligible Model 1 IGA jurisdiction (as defined in section 3.04 of this notice) complies with the procedures described in this notice, then the U.S. Competent Authority will not determine there is significant non-compliance (described in Article 5(2) or 5(3) of the relevant IGA) with the reporting Model 1 FFI's obligations under the IGA solely as a result of its failure to report U.S. TINs associated with its preexisting accounts for the 2025, 2026, and 2027 calendar years.

The extension of the temporary relief granted by Notice 2023-11 is intended to enable the Internal Revenue Service (IRS) to continue to collect and analyze additional information for accounts without U.S. TINs. As with Notice 2023-11, to obtain the relief provided by this notice, the reporting Model 1 FFI must use certain codes provided by the IRS that identify features of these accounts that may explain why the reporting Model 1 FFI does not report a U.S. TIN and must comply with other requirements set forth in this notice. The IRS will continue to use this data to enhance IRS compliance

procedures and to inform potential future options for reporting Model 1 FFIs who continue to be unable to obtain and report the U.S. TIN for certain accounts. If permanent relief is granted in the future, it is anticipated that the scope of the accounts for which an FFI may obtain such relief will be narrower than the scope of accounts for which relief is given under this notice.

SECTION 2. BACKGROUND

Chapter 4 of subtitle A of the Internal Revenue Code (Code) (commonly known as the Foreign Account Tax Compliance Act, or FATCA) requires certain FFIs to report to the IRS information about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold certain ownership interests. FATCA was enacted to ensure U.S. taxpayers comply with their tax obligations.

The Department of the Treasury (Treasury Department) collaborated with foreign governments to develop two alternative model intergovernmental agreements (the Model 1 IGA and the Model 2 IGA) to facilitate the implementation of FATCA and avoid legal impediments under local law that would otherwise limit an FFI's ability to comply with FATCA. The Model 1 IGA provides that a reporting Model 1 FFI reports certain information on its U.S. reportable accounts to the Model 1 IGA jurisdiction tax authority, which automatically exchanges the information with the U.S. Competent Authority.

A reporting Model 1 FFI that complies with its reporting and registration obligations in accordance with the IGA is treated as complying with section 1471 of the Code. One requirement is that the reporting Model 1 FFI reports the U.S. TIN of each specified U.S. person that is an account holder and, in the case of a non-U.S. entity with

one or more specified U.S. persons who are controlling persons, the U.S. TIN of each controlling person for its U.S. reportable accounts (required U.S. TINs). The U.S. TIN of a U.S. citizen is the individual's U.S. Social Security number (SSN). Under Model 1 IGAs, a reporting Model 1 FFI that satisfies its reporting and registration obligations is not subject to withholding under section 1471 of the Code unless the FFI is treated by the IRS as a nonparticipating financial institution.

Transitional relief was implemented to provide time for reporting Model 1 FFIs to obtain and report the required U.S. TINs for preexisting accounts, including the publication of a series of codes (TIN Codes) a reporting Model 1 FFI could use to populate the TIN field for certain missing required U.S. TINs.[1] The TIN Codes provide the IRS with information intended to allow it to better understand the issues that FFIs were facing in obtaining required U.S. TINs.

To extend additional transitional relief, on January 17, 2023, the IRS published Notice 2023-11, 2023-3 I.R.B. 404, which provided temporary relief for the 2022, 2023, and 2024 calendar years for reporting Model 1 FFIs in eligible Model 1 IGA jurisdictions that were unable to obtain and report required U.S. TINs for preexisting accounts. Notice 2023-11 required these reporting Model 1 FFIs to provide an accurate TIN Code for each account that was missing a required U.S. TIN, in addition to other obligations specified in the notice.

[1] Reporting FAQ 6 (as of the publication date of this notice, https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal#reporting).

For reporting Model 1 FFIs that complied with the requirements of Notice 2023-11, the U.S. Competent Authority would not determine there was significant non-compliance with the obligations under the applicable Model 1 IGA with respect to reporting required U.S. TINs for preexisting accounts solely because of a failure to obtain and report each required U.S. TIN for such accounts. This relief was limited to reporting on preexisting accounts. It did not apply to U.S. reportable accounts opened after the determination date specified in the applicable Model 1 IGA (new accounts), including new accounts held by account holders of preexisting accounts.

The IRS continues to evaluate the reported TIN Codes and other information provided by Model 1 FFIs to understand account characteristics that may make it difficult for a reporting Model 1 FFI to obtain and report the required U.S. TINs. However, the IRS believes additional information from TIN Code reporting in more calendar years is necessary to develop future potential compliance options. The IRS has also concluded that certain additional data points are necessary to ensure sufficient individual identifiers are reported where required U.S. TINs are missing. Accordingly, section 3 of this notice provides an additional three calendar years of the temporary relief from the U.S. TIN reporting requirements for preexisting accounts provided the reporting Model 1 FFI in an eligible Model 1 IGA jurisdiction complies with the requirements of this notice.

SECTION 3. EXTENSION OF TEMPORARY U.S. TIN RELIEF

.01 Extension of relief for reporting on certain preexisting accounts that are U.S. reportable accounts

This notice extends, for calendar years 2025, 2026, and 2027, the temporary relief provided in Notice 2023-11 for reporting Model 1 FFIs required to report U.S. TINs for certain preexisting accounts, subject to the conditions set forth in this notice. Reporting Model 1 FFIs that comply with sections 3.02 and 3.03 of this notice will not be treated as in significant non-compliance with their obligations under an applicable Model 1 IGA solely because of the failure to report a required U.S. TIN with respect to a preexisting account. Section 3.04 of this notice limits this relief to reporting Model 1 FFIs that are in an eligible jurisdiction that makes good faith efforts to increase the likelihood that U.S. citizens residing in that jurisdiction will report their U.S. TINs to the FFIs and that takes other steps specified in section 3.04.

This relief is limited to reporting on preexisting accounts. It does not apply to U.S. reportable accounts opened after the determination date specified in the applicable Model 1 IGA, including new accounts held by account holders of preexisting accounts.

Nothing in this notice prevents the U.S. Competent Authority from finding significant non-compliance by reporting Model 1 FFIs that do not report required U.S. TINs for preexisting accounts and that do not comply with the relief requirements of this notice or Notice 2023-11, as applicable. Further, nothing in this notice or Notice 2023-11 prevents the U.S. Competent Authority from finding significant non-compliance due to a failure to satisfy an obligation under the applicable Model 1 IGA other than a failure to obtain and report each required U.S. TIN for preexisting accounts.

.02 Requirements for reporting Model 1 FFIs

To obtain the relief for preexisting accounts described in section 3.01 of this

notice for the 2025, 2026, and 2027 calendar years, for each U.S. reportable account (including new accounts) with a missing required U.S. TIN, the reporting Model 1 FFI must do the following:

(1) obtain and report the date of birth of each account holder that is an individual and controlling person whose U.S. TIN is not reported;

(2) annually request from each account holder any missing required U.S. TIN, as described in further detail in section 3.03 below;

(3) annually search electronically searchable data maintained by the reporting Model 1 FFI for any missing required U.S. TINs;

(4) report an accurate TIN Code for each account that is missing a required U.S. TIN;

(5) if the FFI's electronically searchable account information contains a foreign taxpayer identification number (or functional equivalent) assigned to a taxpayer by its country of residence (FTIN), report an FTIN for each specified U.S. person that is missing a required U.S. TIN; and

(6) using the AddressFix element, as described further below, report the city and country of residence for each specified U.S. person with a missing required U.S. TIN.

The AddressFix element is intended to be used generally for all address reporting. To ensure conformity of data reporting and the IRS's ability to process reported data, reporting Model 1 FFIs should use AddressFix for all address information to the extent possible and may use AddressFree as a supplemental element. However, to comply with requirement (6) of this section, the only requirement is that the city and

country of residence of the specified U.S. person must be included in AddressFix.

.03 Annual request for missing required U.S. TINs

Reporting Model 1 FFIs must also make annual requests for missing required U.S. TIN information. To satisfy the requirement to make an annual request from each account holder for missing required U.S. TINs, reporting Model 1 FFIs must use the method of communication that is, in the FFI's reasonable judgment, most likely to reach the account holder. In addition, the communication must include either of the following:

- the web address of the State Department's Joint FATCA FAQs (as of the publication date of this notice, https://travel.state.gov/content/travel/en/international-travel/while-abroad/Joint-Foreign-Account-Tax-Compliance-FATCA-FAQ.html),[2] or
- (i) a copy of the FAQs described in the preceding bullet and (ii) either
  - a copy of the relief procedures provided by the IRS for certain former citizens, or
  - the web address for such procedures (as of the publication date of this notice, https://www.irs.gov/individuals/international-taxpayers/relief-procedures-for-certain-former-citizens).

FFIs seeking to obtain relief under this notice for the 2025, 2026, and 2027 calendar years must retain records of the policies and procedures adopted to satisfy this

[2] The Joint FATCA FAQs provide information on how to obtain an SSN, how to renounce U.S. citizenship, and relevant U.S. tax consequences (including a link to the IRS's relief procedures for certain former U.S. citizens). Additionally, FFIs may wish to include a direct link for U.S. citizens and residents seeking to obtain a U.S. TIN (as of the publication date of this notice, https://www.ssa.gov/foreign/foreign.htm).

requirement and documentation that those policies and procedures were followed to establish its compliance with the requirements of this section until the end of calendar year 2031. To obtain the relief described in this notice, the FFI must also retain until 2031 any records or documentation adopted in previous years for the purpose of obtaining relief under Notice 2023-11 to the extent applicable.

.04 Eligible Model 1 IGA jurisdictions

For a reporting Model 1 FFI to be eligible for the relief described in this section with respect to reporting for a particular calendar year or other appropriate reporting period, the applicable Model 1 IGA jurisdiction must make good faith efforts, by the date that is nine months after the end of the calendar year to which the information relates, to do the following:

(1) Encourage U.S. citizens resident in the jurisdiction to provide U.S. TINs to FFIs when requested;

(2) Take measures to enforce compliance by reporting Model 1 FFIs identified by the U.S. Competent Authority to the Model 1 IGA jurisdiction as potentially non-compliant;

(3) Encourage FFIs located in a Model 1 IGA jurisdiction to not discriminate against U.S. citizens that do provide a U.S. TIN; and

(4) If notified by the U.S. Competent Authority, take steps to conclude Competent Authority Arrangements with the U.S. Competent Authority, to implement an IGA, amend an Annex II to an IGA, or exchange country-by-country information.

SECTION 4. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) requires that a federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information contained within this notice are detailed in sections 3.02 and 3.03. These collections are necessary to provide temporary relief to FFIs required to report U.S. TINs for certain preexisting accounts. These collections are included with the OMB control number 1545-2246.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

SECTION 5. DRAFTING INFORMATION

The principal authors of this notice are Ellen Hancock and Sarah Stein of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Ellen Hancock at (202) 317-5460 or Sarah Stein at (202) 317-4917 (not a toll-free call).