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REMINDER: FATCA Is Now In Effect!

TAX

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The Foreign Account Tax Compliance Act entered a new phase on July 1, 2014- the reporting requirements became effective. What does this mean? Treasury, in an effort to improve compliance with US tax laws, has stepped up the reporting requirements related to non-US assets held and income earned by US tax filers. It began a few years ago with enforcement of existing foreign bank account reporting, followed by tax forms related to foreign businesses owned by or owning US filers. The rules have expanded to encompass many US payments to non-US payees, but also to US payees of foreign financial institutions. And now governments will be sharing information. There's just no hiding anymore.

What should you do now?

If you're receiving payments from a foreign financial institution or other withholding agent, you will need to provide your US identification number to the agent.

If you're paying a foreign person, the company should begin to collect and obtain new withholding certificates from foreign payees. The payee will need to provide a valid Form W-9, W-8BEN

(or W-8BEN-E), or other applicable form. Otherwise, you will be required to withhold 30% of certain US sourced income.

Severe civil and criminal penalties can be imposed for noncompliance. For example, civil penalties range from \$10,000- \$50,000 per failure, plus up to 40% underpayment penalties. The IRS has indicated that it will be lenient in enforcing the FATCA reporting requirements for 2014 and 2015, but it is important to make sure your company is compliant with the withholding rules as soon as possible. Keep in mind that there are also withholding obligations under other sections of the Internal Revenue Code, so now is the perfect time to review your overall compliance

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