Newsletter - June 2014

The U.S. Foreign Account Tax Compliance Act (FATCA)

FATCA is a tax law enacted in the United States ("U.S.") in March 2010 and will become effective in 1 July 2014. FATCA aims to prevent the non-compliance with U.S. tax obligations by U.S. taxpayers holding foreign financial accounts.

According to the information published by the U.S. Internal Revenue Service (the "IRS"), FATCA requires foreign financial institutions ("FFIs") to comply with certain obligations in order to avoid 30% FATCA withholding taxes on certain payments made to them. The obligations include (i) registration with the U.S. Internal Revenue Service (IRS); (ii)reporting to the IRS certain information concerning foreign financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers own certain interests; (iii) conducting certain due diligence procedures; and (iv)withholding of certain amounts in relation to non-compliant FFIs that hold foreign financial accounts.

Implication of FATCA:

1. Hong Kong

On 9 May 2014, the Hong Kong SAR Government issued a press release advising that Hong Kong and the United States have substantially concluded discussions on the inter-governmental agreement (IGA) and that it is expected to be signed later this year. The Hong Kong SAR Government has also published a set of frequently asked questions (FAQs) providing background information regarding the IGA. The press release and the FAQs are available through the following links:

Press release: http://www.info.gov.hk/gia/general/201405/09/P201405090723.htm
FAQs: http://www.fstb.gov.hk/fsb/info/doc/fatca-faq_e.pdf

2. Investment/ Financial Institution Company

Investment Company may be classified as foreign financial institutions ("FFIs") in accordance with the U.S. Foreign Account Tax Compliance Act (FATCA) and were requested to declare a lot of information (e.g. financial accounts held directly or indirectly by US persons) to the IRS. Under the FATCA Regulations, "FFI" means any

financial institution that is a foreign entity; and "financial institution" is defined to include any entity which primarily conducts as a business the activities of trading in transferable securities for or on behalf of a customer.

The Hong Kong SAR Government has reminded financial institutions in Hong Kong to assess the implications of FATCA for their operations and clientele. Details of the obligations imposed on foreign financial institutions under FATCA are available on the U.S. Internal Revenue Service website (http://www.irs.gov).

3. Who are treated as a 'US person' for US tax purposes

The term US person includes the following (but is not limited to):

- A citizen of the USA, including an individual born in the US but resident in another country (who has not given up their US citizenship)
- A person residing in the USA, including US Green Card holders
- Certain persons who spend a significant number of days in the USA each year
- US corporations, US partnerships, US estates and US trusts

For affected US person, they require to provide full details of the information/documentation for FATCA purposes. Documents may include US tax forms (also referred to as withholding certificates or W forms) or self-declarations of FATCA status.

If you have any enquiries, please feel free to contact your usual Interfocus Account Managers or email us on info@if-services.com