

IRS Postpones Key FATCA Deadlines by Six Months; Updated Ropes & Gray FATCA Timeline Attached

On July 12, 2013, the Internal Revenue Service ("IRS") issued [Notice 2013-43](#) (the "Notice"), postponing a number of deadlines under the Foreign Account Tax Compliance Act ("FATCA"). In the Notice, the IRS made a number of changes to registration periods, due diligence deadlines and withholding implementation dates, certain of which are summarized below and reflected in a revised timeline updated to highlight the modifications.

Among other changes:

- The Notice extends the effective date for withholding agents to begin withholding on withholdable payments made to foreign financial institutions ("FFIs") and non-financial foreign entities ("NFFEs") from January 1, 2014 to July 1, 2014.
- The Notice extends the deadline for FFIs to register on the online portal. To ensure inclusion on the first IRS FFI List which is to be posted on June 2, 2014, FFIs need to finalize their registrations by April 25, 2014. (Previously, the first IRS FFI list was to be posted on December 2, 2013, and an FFI was to register via the portal by October 25, 2013 to be included on the first list.)
- The online registration portal itself is now projected to be accessible on August 19, 2013 (as opposed to on July 15, 2013, as per prior guidance).
- From the opening of the online portal through December 31, 2013, FFIs will be able to access the online portal to get familiar with the registration process, to input preliminary information, and to refine that information. On or after January 1, 2014, FFIs will be expected to finalize registration information by logging into the online portal, making any necessary additional changes, and submitting the information as final.
- Prior guidance had provided that the first reporting for participating foreign financial institutions ("PFFIs") would need to be complete by March 31, 2015 with respect to years 2013 and 2014. The Notice continues to require that the first reporting be complete by March 31, 2015, but reporting is now only required for the 2014 calendar year.
- The Notice extends the deadline for withholding agents to implement new account opening procedures to July 1, 2014 (or in the case of a PFFI, by the later of July 1, 2014 or the effective date of its FFI agreement).
- The Notice provides for a general, six-month postponement of the other deadlines for completing due diligence on preexisting obligations.
- In respect of countries that have entered into intergovernmental agreements ("IGAs"), where the IGAs have not yet been entered into force, the Notice provides that the Treasury will treat the IGAs as being in force if the jurisdiction is listed on the [Treasury's webpage](#) as having an IGA in effect.

In the Notice, the IRS also announced its intention to amend the regulations issued in January of 2013 to reflect the above changes. [Appendix A](#) to this Alert provides a timeline summarizing some of the key compliance and effective dates under FATCA, as modified by Notice 2013-43.

For a discussion of the final regulations, please see an earlier Ropes & Gray [Alert](#).

For more information regarding Notice 2013-43 or the FATCA rules more generally, please contact a member of Ropes & Gray's [tax practice group](#) or your regular Ropes & Gray attorney.

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Timeline of Certain Key Dates for Withholding Agents (WAs) and Participating Foreign Financial Institutions (PFFIs)*

LEGEND: ■ Key Information Reporting / Diligence Dates ■ Key Withholding Dates □ Key PFFI Registration Dates

2013

1/1/13

Statutory effective date

- PFFI reporting on accountholders is effective from January 1, 2014. The due date of the 2014 report is March 31, 2015 (PFFIs)

8/19/13 (Delayed from 7/15/13)

Registration portal will become available on this date (PFFIs)

- PFFIs should register and prepare to make ongoing compliance certifications through the online portal

2014

4/25/14 (Delayed from 10/25/13)

Last date for PFFIs to register with online portal to be included in June 2, 2014 PFFI list (PFFIs)

- The list is expected to be updated monthly thereafter

7/1/14 (Delayed from 1/1/14)

Newly opened accounts will no longer be considered pre-existing accounts (PFFIs and WAs)

- New on-boarding procedures must be in place for new accounts

7/1/14 (Delayed from 1/1/14)

Withholding on U.S.-source FDAP commences on new accounts (until appropriate documentation is received) and on pre-existing accounts that have already been documented as non-participating FFI accounts (PFFIs and WAs)

Newly issued obligations and those materially modified on or after this date that generate U.S.-source FDAP or gross proceeds will generally no longer be grandfathered obligations (PFFIs and WAs)

7/1/14

Withholding on U.S.-source FDAP commences on pre-existing accounts that are *prima facie* FFIs (until appropriate documentation is received) (PFFIs and WAs)[‡]

12/31/14 (Delayed from 6/30/14)

Due diligence for pre-existing accounts of *prima facie* FFIs must be complete (PFFIs and WAs)

2015

1/1/15

Withholding on U.S.-source FDAP commences on pre-existing high-value accounts of individuals that have become recalcitrant account holders (PFFIs)[‡]

3/15/15

Deadline for filing of Forms 1042/1042-S to first report withholdable payments of U.S.-source FDAP (for calendar year 2014) (WAs and PFFIs)

3/31/15

Deadline for PFFIs to make their first FATCA reports (for the 2014 calendar year) (PFFIs)

- Reports with respect to calendar year 2015 and beyond on Form 8966 are expected to be due on March 31 of each succeeding year

6/30/15 (Delayed from 12/31/14)

Due diligence of pre-existing high-value accounts of individuals must be complete (PFFIs)

2016

1/1/16

Withholding on U.S.-source FDAP commences on remaining pre-existing accounts (until appropriate documentation is received) (PFFIs and WAs)[‡]

6/30/16 (Delayed from 12/31/15)

Due diligence of all remaining pre-existing accounts must be complete (PFFIs and WAs)

2017

1/1/17

Earliest date that withholding on foreign passthru payments may commence (PFFIs)

Gross proceeds withholding commences (PFFIs and WAs)

2018

3/15/18

Deadline for filing Forms 1042/1042-S to first report withholdable payments of gross proceeds (for calendar year 2017) (WAs and PFFIs)

[‡]The regulations provide that the dates on which withholding may begin on certain entities, accounts and account holders are contingent on the completion of due diligence. While Notice 2013-43 did not address a corresponding change to these withholding dates, it is possible that the Treasury and the IRS may provide further guidance on these withholding dates in the future.

* The above timeline provides a brief summary of certain key dates applicable to WAs and PFFIs (which generally include U.S. financial institutions acting as WAs and foreign financial institutions (FFIs) that have become PFFIs by entering into an FFI agreement with the IRS). This timeline does not cover any other key dates that may be applicable to other entities affected by FATCA, including registered deemed-compliant FFIs or those FFIs that comply with an intergovernmental agreement.