

FATCA QUESTIONS FROM VIETNAMESE CREDIT INSTITUTION AND FOREIGN BANKS' BRANCHES

| Question | Answer |
|---|---|
| <p>In Annex I: Due diligence obligations for identifying and reporting on US reportable accounts and on payments to nonparticipating financial institutions, Part B, IRS listed 7 U.S. indicia. However, since Determination date (1/4/2016), new accounts are required to collect two information only: (1) Residence/citizenship and (2) TIIN. Is this correct?</p> | <p>Please see Article 2.2 of the Vietnam IGA regarding “The information to be obtained and exchanged with respect to each U.S. Reportable Account of each Reporting Vietnamese Financial Institution”. This information includes the following:</p> <ul style="list-style-type: none"> a) the name, address, and U.S. TIN of each Specified U.S. Person that is an Account Holder of such account and, in the case of a Non-U.S. Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified U.S. Person, the name, address, and U.S. TIN (if any) of such entity and each such Specified U.S. Person; b) the account number (or functional equivalent in the absence of an account number); c) the name and identifying number of the Reporting Vietnamese Financial Institution; d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year, immediately before closure; e) in the case of any Custodial Account: <ul style="list-style-type: none"> (1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and (2) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Vietnamese Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder; f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and |

| | |
|---|---|
| | <p>g) in the case of any account not described in subparagraph 2(e) or 2(f) of this Article, the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Vietnamese Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.</p> <p>Additionally and as a reminder, you will need to document each account with the applicable rules for new accounts. Accordingly, please see Annex I sections III and V of the Vietnam IGA regarding new accounts.</p> |
| On December 31 st of every financial year, is it required FFI to convert the account balance to US Dollar? If not, how to identify whether the balance exceeds \$50,000? | Please see Annex I(B)(1) of the Vietnam IGA which states: "All dollar amounts are in U.S. dollars and shall be read to include the equivalent in other currencies." Accordingly, at the end of the year the FI should report the equivalent amounts in U.S. dollars. |
| Regarding to accounts held by recalcitrant account holders, In FATCA XML Schema v2.0 User Guide, Part 6.5: Pool Report (page 59), it is written that these accounts are not reported under Pool report. Therefore, how can we report these accounts? | There should not be any recalcitrant accounts in a Model 1 jurisdiction. The FI should report each account as described in Article 2(2) of the Vietnam IGA. |
| In circumstance where an organization is not established in the US or subject to US legislation but one or more controlling persons are US individuals (Passive NFFE), there is no guidance regarding the control or proportion of ownership. Therefore, how to identify the beneficial owners? How much to file their account balance? | Please see "Controlling Persons" as applied in Article 1(1)(y) of the Vietnam IGA. Additionally, please note that the FATF standard is 25% ownership. |
| In cases where Vietnamese organisations are owned by US organisations, do we need to report these Vietnamese organisations? If so, when Vietnamese organisations | If a Vietnamese organization is a passive NFE and an account holder with a Vietnamese FI, the organization has to be reported if there are U.S. controlling persons. The controlling persons should be identified by using the due diligence procedures in Annex I of the Vietnam IGA. |

| | |
|---|--|
| <p>are subject to reporting FATCA? Does the proportion of ownership of US organisations matter? Is there any difference between a Vietnamese organisation owned by an US organisation and a Vietnamese organisation owned by US individuals who are also controlling persons of that US organisation?</p> | |
| <p>In circumstance where a customer has many accounts (the total balance of all accounts is above \$50,000 for individual and \$250,000 for institution), how can we report this customer? Do we fill one Form 8966 for each account or fill in one form 8966 with pool reporting? If so, how can we enter the account balance in Line 3, Part IV: Financial account? Do we enter the balance of each corresponding account or do we enter the total balance of all accounts?</p> | <p>There should not be any pool reporting in a Model 1 jurisdiction. You should report each account separately, following the instructions provided in the FATCA XML Schema: https://www.irs.gov/businesses/corporations/fatca-xml-schemas-and-business-rules-for-form-8966</p> |
| <p>If a Vietnamese institution is partly owned by an US institution, the threshold of the proportion of ownership for cases where we need to report is 10% or 25%?</p> | <p>Please see “Controlling Persons” as applied in Article 1(1)(y) of the Vietnam IGA. Additionally, please note that the FATF standard is 25% ownership.</p> |
| <p>There is one case that the subject is an international school established by the United Nations (the United Nations coordinated with Vietnamese government) and it is a non-profit organization. Members of the management board are not equity owners and they receive no interest or profit from the organization. However, the Board of Directors are US citizens, do we need to report them and if so, how?</p> | <p>Please see Annex I, section VI.B.4(j), which provides an exception from reporting certain nonprofit organizations.</p> |

