

Information on FATCA

What is FATCA?

FATCA – Foreign Account Tax Compliance Act – is an American regulation, which has the aim to decrease the tax avoidance of United States citizens, and to tax their financial assets held abroad and the income on these assets.

Hungary and the United States of America has concluded an agreement on February 4, 2014, to enforce FATCA, ratified with Act 19 of 2014 (hereafter: FATCA Act).

The FATCA Act implements identification and reporting obligation towards the National Tax and Customs Administration (NAV), and through this to the U.S. tax authority, the Internal Revenue Services (IRS) for the Hungarian financial institutions on persons (individuals and entities), who are “Specified U.S. Persons” and are owners of accounts subject to FATCA; and on accounts of Non-U.S. entities (companies, organisations, etc.), where any of the controlling people is a “Specified U.S. Person”. The FATCA Act also requires to identify, and in specific cases to report payments to Non-U.S. financial institutions.

Execution of the FATCA Act is obligatory for all Hungarian financial institutions (bank, investment entity, etc.).

To comply with the FATCA regulations, the United States has signed similar agreements with not only Hungary, but with almost all countries having developed financial markets (like other members of the European Union), therefore FATCA related identification of U.S. taxpayers will start from July 1, 2014 not only in Hungary, but in many other countries as well.

Who is subject of FATCA?

According to FATCA Act:

- Our clients already having an account with Duna Takarékszövetkezet Bank Ltd. (account owner, co-owner) will be subject to a due diligence in order to identify a possible reporting liability towards the National Tax and Customs Administration and the IRS, therefore Duna Takarékszövetkezet Bank Ltd. may need to contact certain clients. Our clients wishing to
- open a new account, or
- modify their data

will also be subject to a due diligence in order to identify a possible reporting liability towards the National Tax and Customs Administration and the IRS.

What does due diligence mean?

- Clients having a live (valid) account with Duna Takarékszövetkezet Bank Ltd. as of June 30, 2014 will be reviewed through their data previously provided to Duna Takarékszövetkezet Bank Ltd. Only in special cases (e.g. U.S. data or high value account as per the FATCA Act) will a declaration be necessary relating to U.S. residence.

- Clients wishing to open a new account or modify their data are asked to provide a declaration relating to U.S. residence. In cases defined by the FATCA Act (e.g. in case of data referring to U.S. residence), further documents might be asked for.

Due diligence and reporting – if necessary – are needed to avoid a 30% withholding tax on U.S. source withholdable payments.

Who is a United States (U.S.) Person? An individual, if

- a citizen of the United States (also, with double citizenship), or
- a resident of the United States (e.g. has a green card, or spent 31 days in the current year and 183 days – after corrections – during the last 3 years - incl. current year - in the United States).

Entity (legal person, organisation, institute, corporation, etc.), if

- organised in the United States,
- organised under the laws of the United States (or any state thereof), or
- certain trusts that are controlled by U.S. Persons according to FATCA Act..

Who is a Specified U.S. Person?

A “Specified U.S. Person” means a U.S. Person, other than:

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in the above clause;
- the United States or any wholly owned agency or instrumentality thereof;
- any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code;
- any bank as defined in section 581 of the U.S. Internal Revenue Code;
- any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code; □ any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

Which clients are to be reported and what data are reported?

According to FATCA Act, the reporting obligation refers to:

- United States Persons (with some exceptions),
- Recalcitrant account holders (who do not provide the necessary information to identify their status as per the FATCA law), and
- Payments to Nonparticipating Financial Institutions (who do not comply with FATCA regulations).

The following data are to be reported:

- The name, address and U.S. tax identification number (TIN) of the account holder, if the account holder is a non-U.S. entity with at least one Specified U.S. Person as controlling person, then the name, address and U.S. TIN (if any) of such entity and all its Specified U.S. controlling Person
- The account number
- The account balance or value (at period end or before closure)
- In case of a Depository Account, the total gross amount of interest paid or credited to the account
- In case of any other account, the total gross amount paid or credited to the account holder with respect to which Duna Takarékbank Ltd. is the obligor or debtor.

Can the declaration be declined?

When a declaration is required by the FATCA law, we kindly ask our client to provide a declaration. Based on the available information (e.g. data referring to U.S. residency) Duna Takarékbank Ltd. may ask for additional documents.

After July 1, 2014, in case a client does not provide a declaration or the documents that were asked for, this client and his or her account(s) will be reported to the National Tax and Customs Administration (and through this to the U.S. tax authority, the IRS, i.e. the Internal Revenue Services). However, these clients will also be informed of the declaration obligation as per the FATCA law, and can provide a declaration at any time.

How can a declaration be provided?

- Our clients can provide their declarations personally at any of our 27 branches.

How many times should a declaration be provided?

Each Person (individual, entity) needs to provide one valid declaration, which can be modified or revoked at any time. However, a declaration is necessary again, if the U.S. relevance of the client data (e.g. the client moves to the United States or moves from there to Hungary), or the information provided in the previous declaration change. In this case, further documents may be asked for.