

FATCA Update

India and US signs IGA to implement FATCA



July 2015

FATCA Update: India and United States signs Inter Governmental Agreement on FATCA

After long deliberation, India signed yesterday, an Inter Governmental Agreement (IGA) with the United States to implement the Foreign Account Tax Compliance Act (FATCA). Pursuant to the IGA, foreign financial institutions (FFIs) in India will be required to report tax information about United States (US) account holders directly to the Indian Government which will, in turn, relay that information to the US Internal Revenue Service (IRS).

Further, the US IRS will provide similar information about Indian citizens having any accounts or assets in the US. This automatic exchange of information is scheduled to begin on 30 September 2015.

As per an estimate by Washington-based research and advocacy group, Global Financial Integrity, in its report, Illicit Financial Flows from Developing Countries: 2003-12, around \$439.6 billion of black money left Indian shores, between 2003 and 2012.

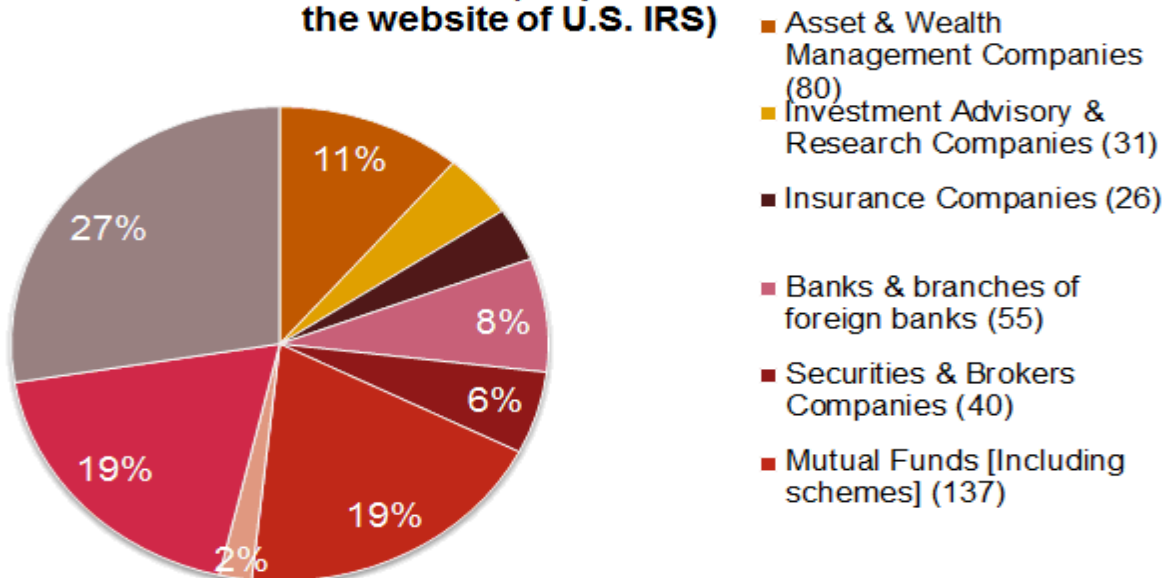
To curb tax evasion, the Indian Government recently enacted a legislation on Black Money, viz., Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, (Black Money Taxation Act) under which those who have undisclosed assets situated overseas acquired from undisclosed income chargeable to tax in India can disclose them by 30 September 2015, pay 30% tax and 30% penalty on the value of assets declared, and escape much steeper penalties and prosecution under that Black Money Taxation Act.

Background

The US enacted FATCA in 2010 to obtain information on accounts held by US taxpayers in other countries. It requires US financial institutions to withhold 30% of the payments made to FFIs who do not agree to identify and report information on US account holders. Till date, the US has IGAs with more than 110 jurisdictions.

Till date, 714 Indian financial institutions have obtained registration with the US IRS (refer diagram below for an industry-wise snapshot).

Number of Indian Financial Institutions already registered with U.S. IRS under FATCA - (As per the data available on the website of U.S. IRS)



Impact

Affected entities: FATCA is likely to impact a wide range of non-US financial institutions: banks, hedge funds, private equity funds, broker-dealers, clearing organisations, trust companies and insurance companies, as they will now have to collect specified details from US persons and/ or withhold tax on qualifying payments.

Requirements: Affected institutions will be required to comply with specific due diligence and verification procedures. Certain information on US account holders must be submitted to the IRS through Indian Government on an annual basis.

Fresh Investments: FATCA will have a major impact on fresh investments coming into India from US entities (including NRIs based in US), as India is one of the world's largest recipient of remittances from its diaspora based abroad, particularly in the US.

The takeaways

Affected institutions should consider the following:

1. Performing a current state assessment of systems and operations and related gap analysis.
2. Developing action plans to implement changes required for FATCA compliance.

Related links

1. Government notifies valuation rules & timelines for one time compliance window under Black Money Taxation Act
[PwC News Alert - 7 July 2015 - Government notifies valuation rules and timelines for one-time compliance window under Black Money Taxation Act](#)
2. Government notifies new income tax return forms for the financial year 2014-15
<http://www.pwc.in/assets/pdfs/news-alert-tax/2015/pwc-news-alert-23-june-2015-government-notifies-new-income-tax-return-forms-for-the-financial-year-2014-15.pdf>
3. Complying with FATCA in United States
<http://www.pwc.com/us/en/financial-services/what-is-fatca.jhtml>

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