

Kluwer International Tax Blog

FATCA November GIIN and IDES Updates

William Byrnes (Texas A&M University Law) · Wednesday, November 25th, 2015

This month, [Haydon Perryman](#) and I review the change over the past year, and the immediate previous three months, for FATCA financial institution registrations. The November 1, 2015 GIIN list contains 177,147 registrations from 226 countries and jurisdictions. Of these November 2015 registrations 84 percent were from Model 1 IGAs that had been either signed or recognized as agreed in substance by the IRS. Approximately 19 percent (33,348) of these total registrations of 177,147 were from Cayman Islands firms, and 45 percent of the total from the U.K. and its Crown dependencies and overseas territories.

Origin	Registrations (November 1, 2014)	Registrations (November 1, 2015)
Model 1A IGA	66,619	107,048
Model 1B IGA	25,847	43,134
Model 2 IGA	16,902	19,099
U.S. & U.S. Territories	777	998
Non-IGA	5,959	6,868
Total	116,104	177,147

Contrast this year's registration of 177,147 with last November's of 116,104. Now contrast the difference from the number of Legal Entity Identifiers (LEIs) issued versus GIINs issued. The number of LEIs is interesting because theoretically it should be relatively close to the number of GIIN registrations. As of September 19, 2015, over 393,872 entities from 189 countries had obtained LEIs, twice as many than GIINs as of November 1, 2015.

The IRS stated that "... the full FFI list is expected to be less than 500,000 records." Based on upon industry discussions and a review of industry literature of financial institution compliance officers, the Big 4, and upon revenue authority estimates, it is reasonable to state that approximately 500,000 entities are impacted by Chapter 4 withholding and need to register for a GIIN. Literature actually places the range of impacted entities at a minimum half million to a maximum of 1,000,000. Many U.K. financial industry compliance officers, agree with the HMRC's estimate of 75,000 entities requiring registration for a GIIN. Thus, it is reasonable to infer that approximately two-thirds of U.K. FFIs still must register to obtain a GIIN. Based on the mere increase of FFI registrations of approximately 60,000 to 177,147 since November 1, 2014 and upon industry discussions, upon the IRS and U.K. revenue authority estimates, it is reasonable to conclude that global FATCA registration compliance is at the time of publication less than 30 percent.

But for the Cayman Islands (33,348), FATCA registration remains low over the past year in nearly every country relative to the number of potential entities for registration. Only 5,047 Swiss entities, up from 4,586 last year, have registered, which when contrasted to Cayman Islands and the U.K. seems measly.

The BRIC countries have picked up FFI registration steam over the past year. India and China are well behind Brazil though with only 400 FFIs registering from China moving it from 609 to 1,082, and 600 additional FFI registrations from India moving it from 393 to 910. Brazil experienced the largest amount of registrations, jumping approximately 3,000 from 2,841 to 5,709, whereas less than 400 Russian entities registered (from 961 to 1,306).

NAFTA has not fared better than the BRIC block given the closer relationship to the U.S. Canada's November 1 GIIN list of 4,549 represents an additional 1,500 registrations since last year (3,043), whereas Mexico's 80 additional registrations since last year moved it from only 522 FATCA registered institutions to 605. Only 6,868 of these total 177,147 registrations are from the 131 non-IGA countries.

	Nov 2015 GIINs	Oct 2015 GIINs	Sept 2015 GIINs	Jurisdictions
FATCA IGA Scenarios				
Model 1A IGA	107,048	106,151	104,755	90
Model 1B IGA	43,134	42,663	42,041	8
Model 2 IGA	19,099	18,978	18,884	14
No IGA	6,868	6,756	6,676	131
US	924	922	911	1
US Territory	74	73	79	6
Total	177,147	175,543	173,346	250

Breaking down the 177,147 current GIIN registrations by region:

- EMEA 93,128 (53 percent)
- AMER 60,425 (34 percent)
- APAC 22,633 (13 percent)
- "Other" 961 (1 percent)

It would appear that APAC, the Middle East and Africa are underrepresented in terms of GIIN registrations. BRIC Countries represent 5 percent of the total and NAFTA represents 3 percent of the total. The 34 OECD Members represent 47 percent of the overall total.

The number of jurisdictions treated as having an IGA place in accordance with US Treasury rules remains at 112.

Only 6,868 of these 177,147 registrations are from the 131 countries that have not had an IGA announced with the U.S. Recipients of withholdable payments in these countries and jurisdictions have thus borne the 30 percent withholding of Chapter 4. Albeit for the many countries and jurisdictions that do not have a double tax agreement with the U.S., and considering the phase in applicability of Chapter 4 withholding upon grandfathered obligations and upon gross proceeds, the actual Chapter 4 withholding has little impact at this moment. When Chapter 4 applies to all the portfolio interest of currently grandfathered obligations and upon gross proceeds, neither upon

which Chapter 3 withholding applies, then presumably FFI GIIN registration and FATCA compliance will sharply jump. Some analysts forecast a divestment from the U.S. by these countries. But even if that case scenario comes to pass, the impact of such divestment relative to the size of the U.S. foreign direct investment (“FDI”) based upon U.S. liquidity, perceived stability, and investor protection, will be *de minimis*.

Consequently, global FATCA registration compliance is, as of November 1, 2015, only approximately 20 percent. But for the Cayman Islands (33,348), FATCA registration is low in every country relative to the number of potential entities for registration. Only 5,047 Swiss entities have registered this year, up from 4,586 (November 1, 2014), which when contrasted to Cayman Islands and the U.K. seems measly.

A Deloitte survey, published August 12, 2014 in the Wall Street Journal, of 110 CFOs of large North American companies for which knowledge of and compliance with FATCA should be at its highest found that only one-third of CFOs had begun the basic step of FATCA compliance, which is the classification of internal entities. Only eight percent of CFOs had actually completed the necessary processes to comply with Chapter 4 withholding. Based on the lack of local implementation regulations or guidance by most revenue authorities around the world (e.g. Turkey, India, China), it is unlikely that a goal of 50 percent GIIN registration, much less of FATCA compliance, can be achieved in 2015.

GIIN List (2014)	Total Registrations
June	77,354
July	82,994
August	95,239
September	99,861
October	104,344
November	116,104
December	122,881
January 2015	147,043
February	153,797
March	156,276
April	160,010
May	162,610
June	165,461
July	168,239
August	171,109
September	173,346
October	175,543
November	177,147

For further GIIN analysis by country and by entity type, see Byrnes’ [Guide to FATCA Compliance](#).

Update – FATCA November IDES and ICMM Frequently Asked Questions

Several FATCA IDES frequently asked questions (FAQs) have been added and updated on

IRS.gov. The [FATCA IDES Technical FAQs](#) focus on IDES technical issues such as the IDES alerts, schema, security and much more. In addition, the [FATCA ICMM FAQ](#), NTD Q2, has been corrected and provides information on threat detection.

The Global IT Forum sessions provide updates on major IDES developments and provide an opportunity to discuss technical questions with Host Country Tax Authorities (HCTAs), financial institutions, and related industry organizations. The [Global IT Forum](#) will be held monthly and to participate, email [LB&I FATCA IDES](#) and include the name, email address, and organization of each participant.

The [FATCA XML Schemas and Business Rules for Form 8966](#) webpage has been updated to include FATCA Notifications XML v2.1. The links included on the webpage provide guidance to validate reporting schemas.

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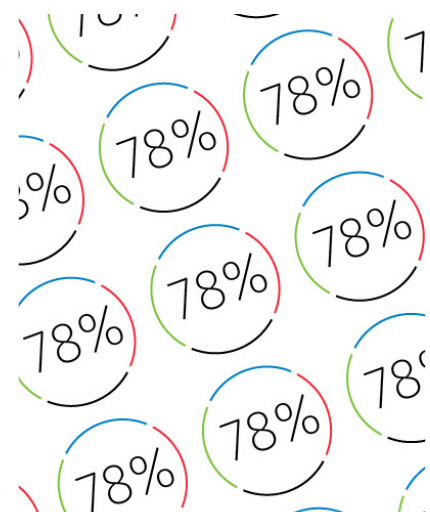
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