

Guernsey and Jersey issue draft guidance notes for FATCA-based reporting

Service area / [Corporate](#)

Location / [Guernsey and Jersey](#)

Date / [February 2014](#)

Introduction

On 31 January 2014 the Crown Dependencies of Guernsey and Jersey jointly issued draft Guidance Notes (in conjunction with the Isle of Man) on the implementation of obligations arising under the intergovernmental agreements ("IGAs") signed by each island with the UK in October 2013 and with the US in December 2013. The draft Guidance Notes, as currently published, are substantially the same for each island, subject to certain island-specific differences. The current draft is to be regarded as a work in progress and the views of local industry in each island are being sought.

The draft Guidance Notes state that any comments submitted by 14 March 2014 will be fully considered. The intention is to publish revised draft Guidance Notes by 31 March 2014.

To facilitate this in Guernsey, the Director of Income Tax plans to publish by 7 February 2014 specific questions for local industry to take into account when reviewing the draft Guidance Notes.

Anatomy of draft guidance

The starting point for the draughtsmen of the Guidance Notes was the draft Guidance published by HMRC on 14 August 2013 on the implementation in the UK of the US-UK IGA signed in September 2012. The draft Crown Dependencies' Guidance Notes includes adaptations and interpretational information appropriate to the islands' finance industries. The draft Guidance Notes currently run to 145 pages. There are 22 sections and 4 Appendices. Some sections are yet to be completed.

The Guidance Notes are intended to provide practical assistance to both business and staff of each island's tax office when dealing with entities affected by the IGAs and, in time, other bilateral automatic exchange of information agreements implementing FATCA-based reporting. In particular, the Guidance Notes are intended to assist entities when dealing with the following questions:

- Am I a Financial Institution?
- Do I maintain Financial Accounts?
- Do I need to register with the IRS and, if so, by when and how?
- Do I need to report any information and, if so, what information, when and how?
- I maintain a Financial Account for a Non Financial Foreign Entity. What are my obligations?

The Guidance Notes cover both the US and the UK IGAs and since they are based on the same Model 1 template developed by the US for FATCA-based reporting, the guidance sets out a common approach for many of the obligations under the IGAs. Where applicable, differences between the IGAs are noted. In addition, Appendix 4 sets out key provisions which are different in the UK IGA from the US IGA, including a section on the Alternative Reporting Regime, available to certain UK resident non-domiciled individuals.

The draft Guidance Notes do not include the draft regulations which will implement the IGA obligations for the financial institutions based in each island under domestic law.

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Conclusion

The publication of the draft Guidance Notes at this stage, even as a work in progress, provides a helpful steer for financial institutions based in Guernsey and Jersey and their accountholders on some of the key issues relating to FATCA-based reporting. However, there remain a number of areas in which further guidance would be helpful to have a better understanding of the likely impact of the IGAs.

The invitation to comment on the content of the draft Guidance Notes is an opportunity for stakeholders in the finance industries of Guernsey and Jersey to seek clarification where required and to contribute their insights as they prepare to meet the challenges ahead.



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