2024 GLOBAL INFORMATION REPORTING UPDATE:

How to Optimize your global business model in the shifting global tax environment

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With you today

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Agenda

Introduction and objectives

Welcome to 2024!

As we start the new year, companies should prepare to manage risk associated with changes in reporting and withholding requirements, increased enforcement efforts, higher volumes of returns, and more focus on the quality and integrity of data.

Objectives

Upon completion of this course, participants will be able to:

01

Understand recent IRS trends and enforcement efforts for 2024 and leading ways to manage risk

02

Understand new developments and how changes impact 2024 U.S. information reporting and withholding requirements

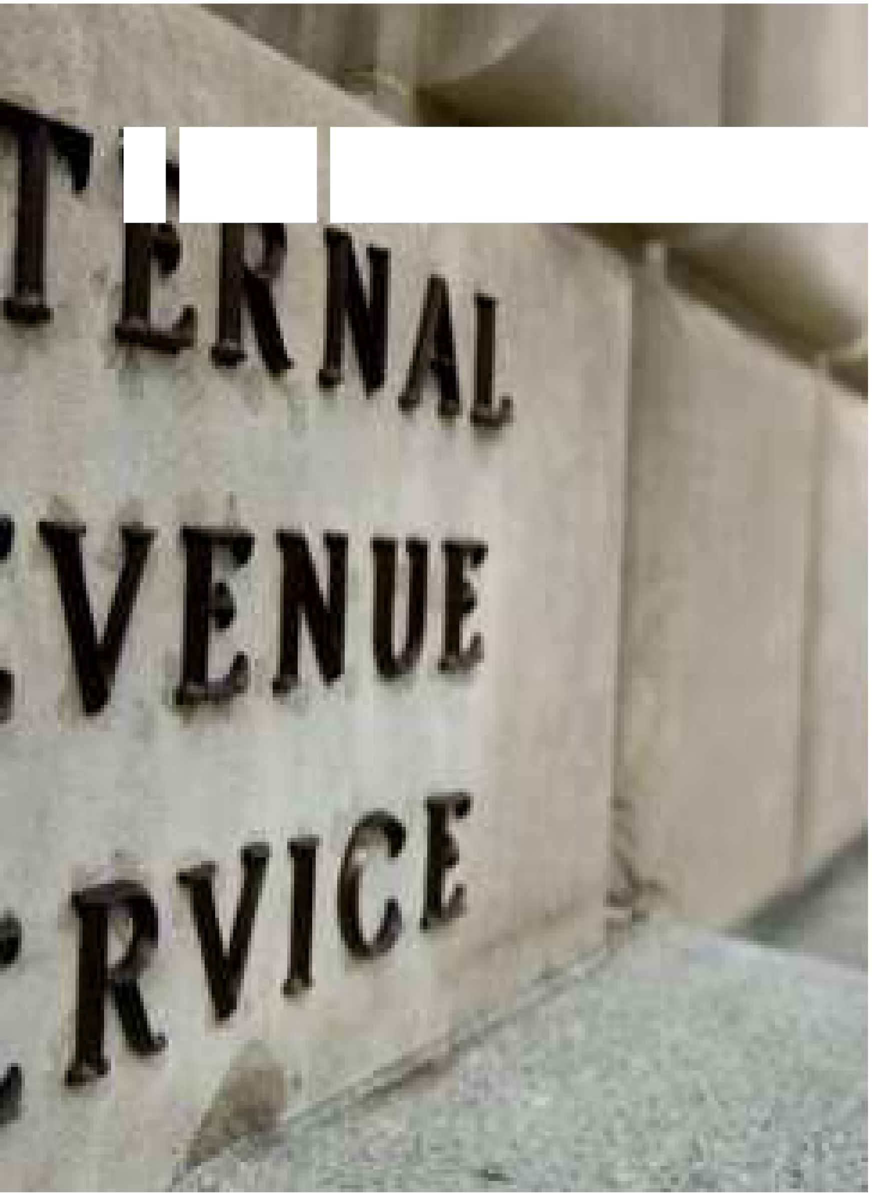
03

Discuss action steps to prepare for 2024 requirements

04

Understand the importance of reviewing your structure, automating certain processes, and performing an assessment to identify gaps in reporting and withholding processes

IRS trends and global regulatory landscape



Recent trends

- Over the past year, governments around the world (including the U.S.) have introduced key legislation and proposed or enacted changes to requirements for information reporting, withholding, and exchange of information.
- We've seen a significant increase in examinations and penalties for U.S. tax information returns.
- Most assessments are for under withholding based on missing or invalid tax withholding certificates while other assessments are for late/unfiled returns, under reported income, or name/TIN mismatches.
- The Internal Revenue Service (IRS) continues to experience delays due to resource constraints and longer processing times are common.
- The volume of information returns that companies must file and the amount of data they must collect as a result of changes in the rules has also increased, which means more risk.
- The IRS' recent increased funding and modernization efforts have resulted in improved analytics and more e-filed returns.

IRS trends and global regulatory landscape

- The IRS previously announced several Large Business and International (LB&I) issue-based compliance campaigns focused on Form 1042 and 1042-S compliance, Foreign Account Tax Compliance Act (FATCA) reporting, refund claims, virtual currency, and withholding on nonresident aliens.
- These campaigns will result in more risk for your organization going forward, so it’s critical to take steps now to manage potential exposure.
- Additionally, as FATCA and the Common Reporting Standard (CRS) have become more established, most financial institutions have operationalized processes for compliance, but do not have controls in place for monitoring changes and variations in local reporting requirements and there’s been soft enforcement of the rules….until now.
- Many organizations have not reviewed their structures or refreshed FATCA classifications since the rules were first enacted almost 15 years ago!

IRS trends and global regulatory landscape

- Besides the IRS' compliance campaigns, global regimes requiring the automatic exchange of information between governments (such as FATCA, the Common Reporting Standard (CRS), and DAC 6) continue to present new reporting and documentation challenges
  - Companies are collecting and managing higher volumes of data that are used for multiple purposes including AML/KYC, tax, and other reasons
  - Many are still struggling to streamline and automate manual processes
  - What started as a common schema for CRS has evolved into fragmented reporting, with many jurisdictions deviating from the OECD common schema
  - Some jurisdictions are harmonizing FATCA and CRS requiring one submission for reporting which encompasses information for FATCA and CRS
- As we enter 2024, companies should consider the impact of these trends and should continue to develop sustainable compliance programs that are reviewed annually and modified to address changes in requirements and to reprioritize risk based on regulatory trends

FATCA recap

Two years ago, the Treasury Inspector General for Tax Administration (TIGTA) issued report number 2022-30-019, entitled “Additional Actions Are Needed to Address Non-Filing and Non-Reporting Compliance Under the Foreign Account Tax Compliance Act.”

The report admonished the IRS for failing to implement and sufficiently enforce FATCA to raise the $8.7 billion in projected tax revenues that congress anticipated between 2010 – 2020. The report notes that costs of FATCA to date ($574 million) had significantly exceeded actual revenue generated from assessments ($14 million). Key metrics noted by TIGTA in the report were:

Costs of FATCA Implementation (2010 – 2020):	$574 million
Campaign Compliance Activity:	847 Letters
Assessments From Campaign Compliance Activity:	$0
Assessments From Other Compliance Activity:	$14 million
Increased Compliance Due to Information Reporting:	Unknown

IRS trends and global regulatory landscape

Although implemented as a revenue raising provision, it has not yielded the results expected since many jurisdictions still do not have the infrastructure to handle the volume of data received.

The U.S. and other jurisdictions are beginning to examine the FATCA and CRS data they are receiving and asking questions.

Is your organization prepared?

The current landscape

AEOI trends

According to the EU Tax Observatory, offshore tax evasion has decreased by a factor of nearly three in less than a decade because of AEOI. Now, only a quarter of offshore household wealth evades taxation, the report says.

The IMF reached a similar conclusion a few years ago noting that there's "strong evidence" that deposits in offshore jurisdictions drop by an average of 25 percent after an AEOI agreement enters into force.

The takeaway — according to the EU Tax Observatory — is that governments can quickly and substantially reduce tax evasion by implementing AEOI regimes.

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes reached a similar conclusion years ago, particularly in the context of developing countries.

The OECD Global Forum's new 2023 annual report shows how patience is beginning to pay dividends particularly for developing countries with low individual income tax collections and low tax-to-GDP ratios.

The current landscape…AEOI trends (cont.)

We continue to see an increase in inquiries by taxing authorities.

Inquiries seem to be increasingly focused on quality of data and compliance standards.

Many banks are now requiring an external legal opinion with the rationale for FATCA/CRS classifications and no longer rely solely on GIINs after a Senate Finance Committee Report said it was “alarmingly simple” to obtain a GIIN and recommended more due diligence for transfers between FIs.

Missing TINs – typical requests from taxing authorities asks for:

- date the account was opened;
- reason for the non-collection of self-certification numbers or for not having a TIN; and
- explanation and evidence of the efforts made to obtain a self-certification.

Use of missing TIN codes – countries are following the IRS’ example and providing for missing TIN codes in reporting schema.

- Singapore for instance has “optional” missing TIN codes (IRSA101 to 104) for AEOI reportable accounts.
- Where codes are not used authorities have followed up with inquiries about collection of TINs.
- Reasonable explanations for no TIN has been challenged where OECD website indicates that TINs are issued to all taxpayers.
- Accuracy of OECD website (particularly acknowledgement of exceptions) could be a problem.
- Challenge by Tax Authorities on Active NFE classifications (e.g., General Partners of Luxembourg limited partnerships).

Preparing for the year ahead

01 Important changes in the rules for 2024 will require you to process more data, file more returns, update systems and processes, and train key personnel

02 Optimizing your global business model in this shifting global tax environment is key

03 Are you ready?

New developments

Key changes and considerations

BOI reporting

The new Corporate Transparency Act (CTA) requires certain businesses organized or registered to do business in the U.S. to report information on their beneficial owners and creators to FINCen starting Jan. 1, 2024

- Have you consulted with your legal counsel on your BOI reporting obligations?
- Do you need assistance with updating or testing your systems and controls to capture reportable data?

Digital asset reporting

Newly proposed regulations will require "brokers" to report information on sales of digital assets that occur after Jan. 1, 2025

- Have you reviewed your activities and products to determine whether you are a broker, if your products are digital assets, or if you're prepared to comply with digital asset reporting rules? Learn more
- Do you have a process for collecting and validating reportable data (such as wallet address)? Consider performing a Tax Information Reporting Evaluation.

Electronic filing

As of Jan. 1, 2024, if you file 10 or more info returns (such as 1099, 1042-S), they must be filed electronically. Also, the threshold for payment processors to file 1099-Ks is back to $20,000 and 200 transactions for now but will be reduced next year to a proposed threshold of $5,000.

- Are you prepared for the increased volume of information returns and are you registered to e-file?
- Have you considered outsourcing preparation of information returns?

Focus on W-8 / W-9

The IRS has increased exams of information returns and most exposure can be traced to missing or invalid tax withholding certificates.

- Do you rely on manually intensive processes for collecting and reviewing W-8 and W-9 forms?
- Are you interested in saving time, reducing costs, and managing risk with an automated solution for collection and review of W-8s? Consider scheduling a RSM Comply Demo

Other New developments: Overview

- New paperless processing initiative
- New TCC code requirements
- Lower electronic filing threshold
- Delay in implementation of lower 1099K filing threshold
- HR 7024 proposed increase in 1099 filing threshold
- New IRS document upload tool
- Changes to tax withholding certificates (including new draft form W-9)
- Delay in Form 8300 reporting for digital assets
- Implementation of CARF regime and amendments to CRS
- New IRS Form 15397 for requesting extensions of time to file information returns
- New requirements for Qualified Intermediaries and 1446(f) withholding for publicly traded partnerships
- Important changes to Forms 1042 and 1042-S reporting

IRS paperless processing initiative

- In Aug. 2023, the IRS announced the launch of its Paperless Processing Initiative
- Initiative will allegedly eliminate up to 200 million pieces of paper annually (including responses to penalty notices), cut processing times in half, and expedite refunds by several weeks
- According to the IRS, by the 2024 filing season taxpayers will be able to digitally submit all correspondence, non-tax forms, and responses to notices digitally
- New rules require electronic filing of information returns
- The IRS plans to achieve paperless processing for all tax returns by filing season 2025

Lower electronic filing threshold

- Effective Jan. 1, 2024, filers of 10 or more information returns must file the forms electronically. The threshold applies in aggregate across all information return types for the year.
- Example: ABC Co. files 9 Forms 1042-S, 4 Forms 1099-MISC, and 6 Forms 1099-NEC. The company must e:file all information returns because it files 19 returns in aggregate for the year.
- Note: Partnerships with more than 100 partners must file electronically regardless of the number of information returns filed.
- A waiver can be requested by filing IRS Form 8508, Application for Waiver of Electronic Filing Requirement, if hardship exists.

New developments: New TCC codes required

- Transmittal Control Codes (TCC) (which are required for filing information returns electronically on the IRS FIRE system) that were issued before Sept. 26, 2021, were required to be renewed by Aug. 1, 2023
- Filers who failed to renew have potential risk of exposure for late filings if a new TCC code is not obtained
  - **Filers who are U.S. Persons**
    - Can not use the old TCC number to file Forms 1099 anymore and must apply for a new TCC code which can take up to 45 days to receive and may impact the ability to file timely, but waivers are available (see below)
    - Can continue to use the old TCC number to file Forms 1042-S until Aug. 28, 2024, or until the FIRE system is decommissioned (whichever is later)
  - **Filers who are Non-U.S. Persons**
    - Can continue to use the old TCC number to file Forms 1099 or 1042-S until further guidance is issued on the authentication process (i.e., ID.me account) for non-U.S. persons
- Waivers of the requirement to file electronically can be requested by filing IRS Form 8508 if undue hardship exists

IRS delays implementation of $600 threshold for TPSOs for 1099-K reporting

On Nov. 21, 2023, the IRS announced that third-party settlement organizations (TPSOs) will not be required to report tax year 2023 transactions on a Form 1099-K to the IRS or to a payee for the lower $600 threshold amount enacted as part of the American Rescue Plan of 2021. Instead, TPSOs are to continue reporting gross aggregate payments greater than $20,000 and more than 200 transactions.

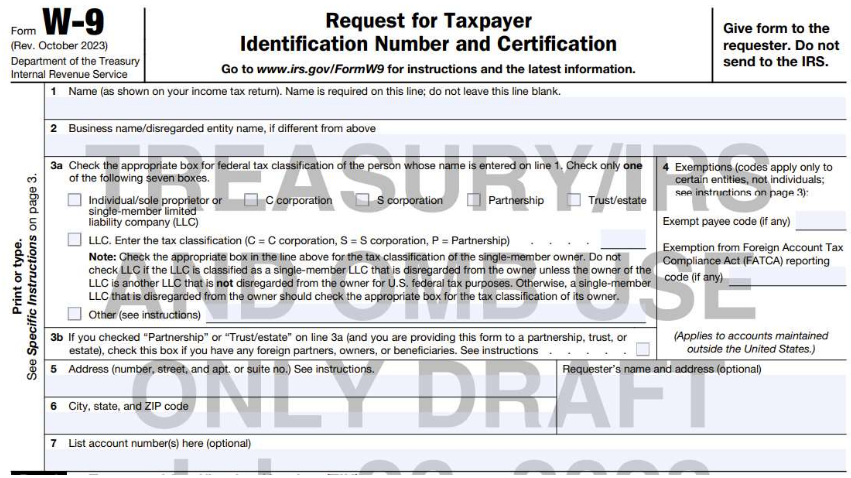
- The delayed reporting effects payment processors and online marketplaces that provide ride share services, etc.
- The $600 reporting threshold will still apply in limited circumstances, such as for payment card transactions and for payments subject to backup withholding
- Beginning with tax year 2024, the IRS will phase in the lower threshold starting at $5,000 for 2024

H.R. 7024 proposed changes to 1099 reporting threshold

- Legislation introduced under H.R. 7024, the "Tax Relief for American Families and Workers Act of 2024" proposes an increase in the threshold for filing IRS Forms 1099-NEC reporting nonemployee compensation for services from $600 or more to $1,000 or more (See Title VI, section 601 of the Act)
- The proposal is effective for payments made after Dec. 31, 2023, but has not been passed
- Builds upon a framework agreement released Jan. 16, 2024
- The House Ways & Means Committee marked up, and ultimately approved by a 40-3 vote signifying strong bipartisan support, the legislative text on Friday Jan. 19, 2024, and the full house will likely take up the measure when they return from recess on January 29, if not sooner
- If passed, the change will provide relief from the cost and administrative burden of filing returns reporting arguably de minimus amounts and may help to eliminate fraud, but will also require updates to budgets, systems and processes to track the new filing threshold
- The provision also creates new section 894A of the IRC, providing substantial benefits to Taiwan residents ("qualified residents of Taiwan"), similar to those that are provided in the 2016 United States Model Income Tax Convention ("U.S. Model Tax Treaty")

Changes to tax withholding certificates

A new draft IRS Form W-9 (dated Oct. 2023) was published but has not been finalized to date which includes a new checkbox on line 3b for partnerships and trusts must disclose whether they have foreign partners, owners or beneficiaries.



Form **W-9**
(Rev. October 2023)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Print or type. See *Specific Instructions* on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3a Check the appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member limited liability company (LLC) ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) . . . . .

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions)

3b If you checked "Partnership" or "Trust/estate" on line 3a (and you are providing this form to a partnership, trust, or estate), check this box if you have any foreign partners, owners, or beneficiaries. See instructions . . . . . . ☐

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any)

Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any)

(Applies to accounts maintained outside the United States.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

TREASURY/IRS AND OMB USE ONLY DRAFT

Changes to tax withholding certificates

- **Changes to Form W-8IMY** have proven to be challenging for financial institutions in particular who have several new data points to capture
- Key changes have included additional certifications that drive section 1446(f) withholding, new certifications for qualified derivatives dealers (QDDs) and qualified securities lenders (QSLs), a check box for when foreign tax identification numbers (FTINs) aren't required, and additional guidance on use of electronic signatures
  - **Partnerships should provide a new W-8IMY forms to counterparties to address the new 1446(f) withholding certifications or they may be subject to withholding**
- Companies should consider automating collection, review, and storage of tax withholding certificates. They will also need to educate key stakeholders on these changes, update procedures for collecting and reviewing forms, and modify systems to incorporate new data fields

Changes to tax withholding certificates

A **new IRS Form W-8EXP** has been issued which includes new certifications for qualified foreign pension funds (QFPF) that qualify for exemption of tax under section 897(l) on gain or loss attributable to the disposition of U.S. real property interests held by QFPFs, gain from distributions described in Section 897(h), and related withholding requirements under Sections 1445 and 1446.

New IRS document upload tool

- The IRS launched a new document upload tool in Oct. 2023 https://www.irs.gov/help/irs-document-upload-tool
- Per the IRS, the tool is a secure, easy and fast way to send information to the IRS
- Taxpayers can use the tool to:
  - Upload documents in response to an IRS notice, phone conversation or in-person visit
  - Upload scans, photos or digital copies of documents as JPGs, PNGs or PDFs
  - Get confirmation that the IRS received your documents
- Taxpayers cannot use the tool to file tax returns and must have an access code or notice number from bottom of the IRS letter or from the IRS employee to whom you spoke
- The tool should help taxpayers with managing risk associated with higher penalties and more notices for increased volumes of information returns. Additionally, RSM teams can use the tool to assist our clients with managing risk, reduce time, and streamline the process of responding to routine penalty notices

IRS document upload tool limitations

01 Although IRS reps indicated that taxpayers could use the document upload system to respond to all notices, there are limitations.

02 IRS reps claim the tool can be used for letters not otherwise listed, which is consistent with the IRS press release indicating that "taxpayers are now able to digitally respond to **all** correspondence."

03 We have determined that to date taxpayers cannot currently use the document system for responding to LB&I campaign letters.

04 Per the IRS, new forms and notices are being added to the database every day!

Form 8300 reporting postponed for digital assets

- The Infrastructure Investment and Jobs Act of 2021 revised the rules that require taxpayers that are engaged in a trade or business to report receiving cash of more than $10,000 and added digital assets to the list of products that are considered cash that is reportable to FinCEN on Form 8300.
- Form 8300 must generally be filed with FinCen if you're in a trade or business and receive more than $10,000 in cash in a single transaction or in related transactions.
- If required, Form 8300 must be filed within 15 days after the date the cash transaction occurred.
- Despite the guidance treating digital assets as cash, the most recent version of Form 8300 published in December 2023 does not list digital assets or cryptocurrency as a type of cash which left taxpayers confused and concerned about penalties for under reporting.
- In response to requests for clarification, on Jan. 16, 2024, Treasury issued additional guidance delaying treatment of digital assets as cash until final regulations are issued by the treasury. As it now stands digital assets are not treated as cash for Form 8300 purposes.

Crypto asset reporting framework update

- In June 2023, the Organization for Economic Co-operation and Development (OECD) issued a document entitled the International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 Update to the Common Reporting Standard (the Standard).
- The Standard contains revisions to the crypto asset reporting framework (CARF) and amendments to the common reporting standard (CRS).
- On Nov. 10, 2023, a joint statement was issued by 48 countries announcing that they will be committing to implement the OECD crypto asset reporting framework (CARF) by 2027.
- According to a policy paper from the United Kingdom, the group of countries intends to transpose CARF into domestic law and activate exchange agreements in order to commence exchanges by 2027.
- The jurisdictions will also implement amendments to CRS as agreed to by the OECD earlier this year.
- FIs resident in participating jurisdictions should implement new systems and procedures and revise compliance programs to manage risk of noncompliance.

Jurisdictions committing to the implementation of CARF under Joint Statement

- Armenia
- Australia
- Austria
- Barbados
- Belgium
- Belize
- Brazil
- Bulgaria
- Canada
- Chile
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Gibraltar
- Greece
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- Iceland
- Ireland
- Italy
- Japan
- Korea
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Mexico
- Netherlands
- Norway
- Portugal
- Romania
- Singapore
- Slovakia
- Slovenia
- South Africa
- Spain
- Sweden
- Switzerland
- United Kingdom
- United States of America
- Guernsey
- Jersey
- Isle of Man
- Cayman
- Islands
- Gibraltar

Key global developments

- In Nov. 2023, Switzerland released an update announcing the finalization of negotiations to transition from a non-reciprocal FATCA Model 2 Intergovernmental Agreement (IGA) to a reciprocal FATCA Model 1 IGA for the automatic exchange of tax information between Switzerland and the United States. Funds resident in Switzerland will now submit FATCA and CRS reports to Switzerland instead of to the U.S. directly which may require updates to systems and procedures.
- On Nov. 29, 2023, the United Kingdom's HMRC issued guidance requiring voluntary disclosure of unpaid tax on income or gains from crypto assets, including exchange tokens, NFT's and utility tokens. The guidance makes it clear that individuals who fail to contact the UK to declare their unpaid tax could be liable for additional penalties and interest.

We recommend reviewing your structure, products and activities now to confirm your FATCA and CRS filing obligations. Additionally, consider performing a gap assessment to drill down on high-risk areas and quick hits now.

So what should you do now ?

Top action steps with quick hits for managing risk and optimizing your business model in 2024

Top 5 action steps

1 Evaluate the impact of changes and new developments to your 1099 and 1042 processes

Q1 2024

- Reallocate resources or outsource preparation of returns to manage increased risk associated with higher volumes of information returns expected this year due to changes in the rules
- Request a new transmitter control code (TCC) and be prepared to file information returns electronically starting Jan. 1, 2024, as required under new rules if filing 10 or more returns and for certain eturns such as Form 1042
- Evaluate your obligation to file Beneficial Owner Information (BOI) reports as required under the new Corporate Transparency Act (CTA)
- Request budget for developing systems and procedures for tracking cost-basis of digital assets as required under newly proposed digital asset regulations

PS0

Top 5 action steps (cont.)

2 Review your structure and register entities that are foreign financial institutions (FFIs) under FATCA as needed

Q1 2024

- Register new funds or entities launched during the calendar year that are FFIs
- De-register FFIs that were liquidated, sold or dissolved during the calendar year
- Review your overall structure to confirm the FATCA and CRS filing obligations of entities in the group

Top 5 action steps (cont.)

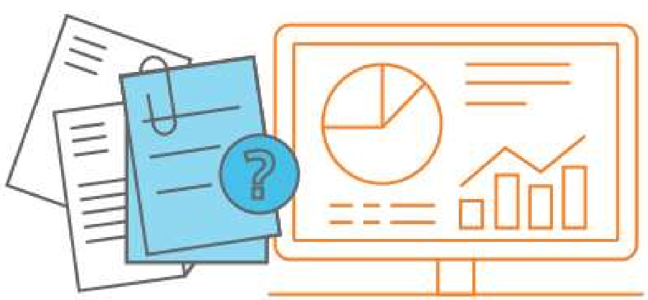
3 Review tax withholding certificates and refresh any expired forms as needed

Q1 and Q3 2024

- Request new W-8 forms from any vendors, customers, or investors with forms that are invalid, or more than three years old
- Analyze forms on record to proactively determine lead time needed to request and receive forms before they expire
- Financial institutions in countries that have adopted the Common Reporting Standard (CRS) reports or implemented FATCA must also collect self-certification forms from investors or account holders

Top 5 action steps (cont.)

4 Submit any unfiled 1042, 1042-S, 1099, FATCA or CRS reports

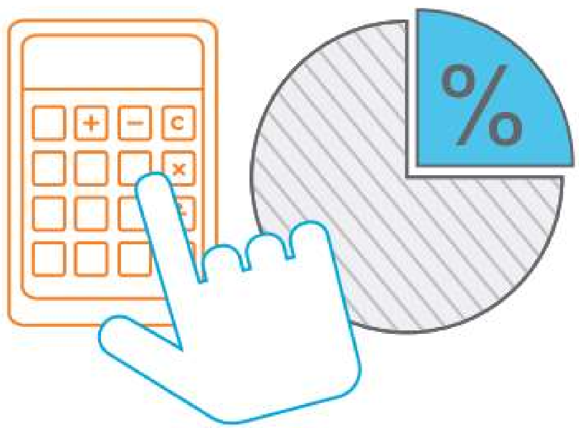


Q4 2024

- Check out the IRS' new procedures for filing delinquent information returns
- Determine whether making a voluntary disclosure to the IRS is appropriate for you
- If you've received a notice from the IRS, consult your tax advisor to determine what options are available for penalty abatement

Top 5 action steps (cont.)

5 Perform a rapid assessment to identify gaps in your processes



Q2 2024

- Consider performing an assessment to quickly identify gaps in your processes and areas with high risk that can be addressed early in the year, or within a short time frame
- Identify high-risk business areas in your organization with processes affecting tax reporting and withholding obligations (such as accounts payable, onboarding, tax or treasury)
- Test the operating effectiveness of controls for collecting and reviewing tax withholding certificates, for identifying payments subject to reporting, and for timely withholding and depositing taxes
- Develop a short-term plan to remediate prioritized gaps before year-end or within 90 days

Question? Please reach out!

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