TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

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36 | Common Reporting Standards

Common Reporting Standards are at the core of a perfect storm. It has become relatively easy to establish an international business company in an offshore tax haven. And at the same time it is becoming a lot easier for the ATO, and tax authorities worldwide, to find these companies, at least when not layered across several jurisdictions.

And the main reason this is becoming so much easier for the ATO (and other tax authorities) are the Common Reporting Standards. But what are these?

Common Reporting Standards

Common Reporting Standards are a single global standard for banks to deliver financial data to tax authorities worldwide about foreign tax residents. It means that if you open a bank account on the Cayman Islands, the ATO will know about it.

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How It Began

Implementation of the Common Reporting Standards happened surprisingly fast. In September 2013 the G20 Leaders committed to the idea and supported the OECD’s aim to present a single global standard in 2014.

In February 2014 – so less than 6 months later – the G20 Finance Ministers and Central Bank Governors endorsed the Common Reporting Standards. And in November 2014 – so again in less than 6 months – the G20 Leaders gave their sign off. So far, more than 100 jurisdictions have committed to implementing the standard.
In Australia CRS started on 1 July 2017.

Subdiv 396-C TAA 195

Subdivision 396-C of Schedule 1 to the *Taxation Administration Act 1953*(TAA 1953) imposes CRS obligations on Australian financial institutions.

Wider approach

Australia has adopted a relatively wide approach. It requires financial institutions to record the jurisdictions in which a person is a tax resident, be it a country that has currently endorsed the CRS or not. The reason for this is to save banks having to go back and ask again when a new country joins the circle.

From 1 July 2017 financial institutions in Australia need to ask any person opening an account to certify their residence for tax purposes. If the person has tax residency in another jurisdiction, irrespective of whether that jurisdiction has adopted the CRS, then the details of the account need to be reported to the ATO.

For accounts already in existence on 1 July 2017, financial institutions need to use the information on file to establish whether the account holder is likely to be a resident of another jurisdiction. If the answer is yes, then the details of the account need to be reported to the ATO, again irrespective of whether that jurisdiction has adopted the standard or not.

The ATO will then, in turn, exchange that information with other jurisdictions, but only if they have adopted the standard and an agreement for exchange is in effect.

FATCA

FATCA is the US American version of CRS. The USA didn't adopt the CRS since they already had FATCA. FATCA means Foreign Account Tax Compliance Act.

FATCA is a unilateral anti-tax evasion regime enacted by the U.S. Congress in 2010 and applied from 1 July 2014. It is aimed at detecting U.S. taxpayers who use offshore financial institutions to conceal income and assets from the IRS. IRS is the Internal Revenue Service and the US equivalent to the ATO.

On 28 April 2014 Australia and the USA signed the FATCA agreement which started on 1 July 2014.

Subdiv 396-A TAA 1953

Subdivision 396-A of Schedule 1 to the TAA 1953 imposes FATCA obligations on Australian financial institutions.

CRS v FATCA

The CRS does not alter FATCA obligations, but CRS practices may require adjustment to activities previously designed solely for FATCA.

CRS reports to the ATO are separate data files to those provided for FATCA.

Thresholds

FATCA applies a threshold to accounts. So only account balances exceeding this threshold required reporting in the past.

CRS doesn't have a de minimise account balance threshold. And so the FATCA thresholds basically expired on 1 July 2017. So now financial institutions need to identify and report accounts held by US tax residents – regardless of the account balance.

MORE

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