A brief guide to FATCA and Trusts

The Foreign Account Tax Compliance Act (FATCA) was devised to combat US tax avoidance. The UK included the legislation as part of the 2013 Finance Act, however this has resulted in additional reporting requirements for many UK trusts, even those without any connection to the US.

How do I check if the trust is affected?
Where more than 50% of the trust's income arises from assets managed by a "discretionary fund manager", or where there is a corporate trustee, the trust will be required to make a declaration to the Internal Revenue Service (IRS).

What are the next steps?
The trustees need to register with the Internal Revenue Service (IRS) to obtain a 'global intermediary identification number' (GIIN).

The trustees will then be required to file a return for the calendar year, via HMRC. The deadline for this return is the end of May following the end of the year.

Penalties for non-compliance
HMRC have the power to levy penalties of up to £3,000 for non-compliance.
In addition, where income is received from the US, recipients without a GIIN will be subject to a 30% tax withholding at source.

Options
In some (but not all) cases, discretionary fund managers have agreed to undertake the compliance process for their trust clients.

Whiting & Partners have registered a number of trust clients for FATCA purposes, and can assist the trustees with submission of annual returns and declaration required under the legislation.

Find out more

For further information, advice and guidance please contact one of our specialists:

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