

Relief for banks, as FinMin relaxes 'FATCA' compliance norm

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Banks need not close accounts by August 31 where self-certification is not obtained

New Delhi, August 31:

Banks and financial institutions in India have received a breather as regards complying with the US-enacted Foreign Account Tax Compliance Act (FATCA).

The Finance Ministry on Wednesday said that banks and financial institutions need not enforce "closure" of accounts by August 31, 2016, in respect of those cases where "self-certification" had not been obtained and due-diligence not completed.

The revised time-lines for completing due diligence in respect of such accounts would be notified in due course, an official release said.

The inter-governmental agreement (IGA) with the US for implementation of FATCA came into force on August 31, 2015. The IGA was signed to implement FATCA with a view to promote transparency between the two countries on tax matters. This was seen as an important step on the part of India and the US to tackle offshore tax evasion and avoidance.

According to the IGA, financial institutions in India will be required to report tax-related information relating to US account-holders directly to the Indian government, which will, in turn, relay that information to the US.

Under the alternative procedure prescribed in the Indian income tax rules, banks and financial institutions needed to obtain self-certification in respect of all individual and entity accounts opened from July 1, 2014 to August 31, 2015.

This was required to be completed by August 31, 2016 — one year after FATCA entering into force — failing which the accounts would be closed and report the same if found to be a "reportable account".

Now, with stakeholders expressing difficulty in following the provision for "closure" of financial accounts, the Finance Ministry has said that financial institutions may not close the accounts by August 31.

In the interim, the financial institutions should continue to work on completing the required due diligence, including obtaining self-certification, the release added.

Experts' take

Aseem Chawla, Managing Partner, ASC Legal, a law firm, said that the announcement comes as a welcome respite and does recognise that sufficient time and enabling environment would yield better compliance in the long run.

Pranay Bhatia, Partner – Direct Tax, BDO India, said that the financial institutions have received a much-awaited relief from closing the accounts opened between July 1, 2014 and August 31, 2015, for which self-certifications were not obtained.

The Finance Ministry will now provide an extended timeline to complete the due-diligence process for these accounts. "Financial institutions also expect that the new notification shall provide for freezing or blocking such accounts instead of closing the accounts, which will bring in operational ease," Bhatia said .

Revised timelines for completing due diligence in respect of US account-holders would be notified in due course

Fact of the matter

- ***FATCA seeks to promote transparency between the US and India on tax matters***
- ***Banks and financial institutions needed to obtain self-certification in respect of all individual and entity accounts opened from July 1, 2014, to August 31, 2015***
- ***This was required to be completed by August 31, 2016 — one year after FATCA entering into force***

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