



Council of the
European Union

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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: FATCA - Exchange of information under Intergovernmental Agreements
- Letter to the U.S. Commissioner of the Treasury

Delegations will find in Annex a letter by the German EU Presidency of the Council to the US Commissioner of the Treasury on FATCA, as agreed by the Council High Level Working Party on Tax issues.



General Secretariat of the Council
Chair of the High Level Working Party on Taxation

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Commissioner Charles P. Rettig
Department of the Treasury
Internal Revenue Service
1111 Constitution Avenue, NW
Washington D.C. 20224
United States of America

Brussels, 8 December 2020

Subject **FATCA – Exchange of information under Intergovernmental Agreements**

Dear Mr. Rettig,

I am writing to you as Chair of the EU Council High Level Working Party on Taxation to draw your attention to the continuing challenges EU residents with U.S. citizenship are encountering in connection with the application of the FATCA-Exchange of Information under Intergovernmental Agreements by the EU Member States. I would like to refer to the most recent correspondence on this subject between the preceding Presidencies and the U.S. Department of the Treasury.

I would like to begin by thanking you for the publication of the frequently asked question (FAQ) by the U.S. Internal Revenue Service (IRS) in October 2019, which was welcomed by the financial institutions as a helpful measure to provide practical orientation for cases where account holders cannot obtain a U.S. TIN despite considerable efforts. EU Member States also recognize the IRS's endeavours and are grateful for the explanations given by the U.S. Treasury in its letter dated 12 March 2020.

With the same letter, the EU Member States were invited, together with representatives of the affected financial institutions, to further collaborate with the IRS on the issue of EU residents with a double nationality who are faced with unnecessary closure of bank accounts due to the obligations under the FATCA IGAs. I would like to accept this invitation on behalf of the EU Member States and wish to set up a meeting to this end at your earliest convenience.

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In this meeting, the EU representatives would like to address and illustrate the scope of the problems that EU residents with a double nationality are confronted with. Moreover, the representatives of the financial institutions can share some practical examples of the issues they encounter, the numbers of citizens this affects and what could provide them with greater assurance in refraining from freezing or closing bank accounts.

Some of the persons affected by the current situation are willing to relinquish their U.S. citizenship. The IRS has already provided relief regarding the tax treatment of these cases. The EU representatives would like to bring to your attention that the same persons are nevertheless still facing high renunciation fees and a very complex procedure that makes it extremely difficult for them to follow through with the renunciation. We are aware that the latter issue does not lie within the responsibility of the IRS. However, the EU representatives would highly appreciate your assistance in transmitting these concerns to the relevant U.S. authorities and advocating for measures aiming at further simplifying the expatriation.

I hope to further elaborate on these issues in the requested meeting so that together we can work towards a solution for the problems that both our citizens are facing.

Sincerely,



Martin Kreienbaum
Director General International Taxation
Ministry of Finance
German Presidency of the Council of the EU

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