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German Tax and Legal News

First draft of decree-law published on implementation of US FATCA rules

The German tax authorities issued a first draft of the decree-law on the implementation of the US FATCA rules into German law on 6 March 2014.

Germany and the US signed an intergovernmental agreement (IGA) for implementing the provisions of the US Foreign Account Tax Compliance Act (FATCA) in May 2013. (Similar IGAs have been concluded between the US and other countries, including France, Italy, Spain and the UK). A new provision in section 117c of the German General Tax Code (AO) authorized the tax authorities to issue a decree-law to implement the new rules applicable to German financial institutions.

The now-published draft decree-law defines the necessary auditing and information reporting responsibilities for German financial institutions to comply with the FATCA rules. Financial institutions (generally banks and insurance companies) face extensive annual reporting obligations for information related to reportable accounts and payments made to "nonparticipating financial institutions" (as defined under the IGA). The necessary data must be submitted to the German federal tax authorities, who then will forward the data to the US tax authorities.

The draft decree-law is expected to enter into force in the near future.

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