



Background of the Foreign Account Tax Compliance Act (“FATCA”)

The United Arab Emirates (“UAE”) has an intergovernmental agreement in place with the United States (“UAE-US IGA”), which was signed on 17 June 2015 with an effective date of 1 July 2014. The domestic legislative provisions to implement the Foreign Account Tax Compliance Act (“FATCA”) in the UAE are set out in Cabinet of Ministers Resolution No. 63 of 2022. This incorporates the requirements of the FATCA into UAE’s domestic legislative framework (“UAE FATCA Regulations”).

Background regarding reporting of U.S. TINs under FATCA

Pursuant to the FATCA, Reporting Model 1 Foreign Financial Institutions (“RFIs”) are required to obtain and report the U.S. Taxpayer Identification Numbers (“U.S. TINs”) of account holders who are identified as Reportable Account Holders or Controlling Persons of Passive Non-Financial Foreign Entities (NFFE’s) that are Reportable Persons, with respect to financial accounts maintained by such RFIs.

Notwithstanding this reporting requirement, prior to calendar year 2017, a UAE RFI was not required to report a U.S. TIN for a pre-existing account if the U.S. TIN was not in the UAE RFI’s records.

The U.S. Treasury department and the Internal Revenue Services (“IRS”) have received the following concerns regarding calendar years from 2017:

- RFIs potentially closing the accounts of U.S. citizens who have not provided a required U.S. TIN.
- RFIs fear of being deemed significantly non-compliant with their obligations as per the respective intergovernmental agreement.

The IRS issued a transitional relief for calendar years 2017, 2018 and 2019 through [Notice 2017-46](#). With the relief, a UAE RFI would not be deemed significantly non-compliant because of a failure to obtain and report each required U.S. TIN for a pre-existing account (an account opened on or before 30 June 2014), provided that the UAE RFI:

1. obtains and reports the date of birth of each account holder, and of each controlling person, whose U.S. TIN is not reported;
2. requests annually from each account holder any missing required U.S. TIN; and
3. before reporting, searches electronically searchable data maintained by the UAE RFI for any missing required U.S. TINs.

In 2021, the IRS issued [FAQ No. 6 relating to Reporting](#), which extended the relief for reporting of calendar year 2020 data and requested UAE RFIs to use certain TIN codes to inform the IRS regarding the circumstances behind the lack of a U.S. TIN. The use of such TIN codes was optional for reporting of calendar years 2020 and 2021 data.

In 2023, the previous TIN codes were replaced by new codes through the update of the IRS [FAQ No. 6 relating to Reporting](#). Additionally, the IRS [Notice 2023-11](#) extended the temporary relief and determined that, in addition to the existing conditions to avail the relief, the use of the new/updated TIN codes would be mandatory for calendar years 2022, 2023 and 2024 data. As an exception, for calendar year 2022, UAE RFIs could use the previous codes or the updated ones from the IRS Reporting FAQ No. 6 relating to Reporting. Notice 2023-11 also included requirements related to how the annual TIN request should be performed.



IRS Notice 2024-78

More conditions were included in the [IRS Notice 2024-78](#) and must be observed by UAE RFIs wishing to benefit from the temporary relief from obtaining and reporting required U.S. TINs for pre-existing accounts with respect to calendar years 2025, 2026 and 2027.

Under the Notice 2024-78, the IRS will not determine that there is significant noncompliance with the obligations of a UAE RFI under the UAE-US IGA with respect to reporting U.S. TINs for preexisting accounts solely because of a failure to obtain and report each required U.S. TIN for such accounts, provided that the UAE RFI complies with the previously determined requirements and the following additional requirement:

- Foreign taxpayer identification number: For pre-existing accounts without a U.S. TIN, the UAE RFI must report the foreign taxpayer identification number (“FTIN”) or functional equivalent assigned to a taxpayer by its country of residence, if that is available in the UAE RFI’s electronically searchable account information.

In addition to the requirement to annually request the missing U.S. TINs from account holders, UAE RFIs must select a communication method they believe will effectively reach the account holder. The communication must include one of the following options:

- The web address for the U.S. State Department’s [Joint FATCA FAQs](#) , or
- A copy of the Joint FATCA FAQs and either:
 - A copy of the IRS relief procedures for certain former citizens, or
 - The web address for those relief procedures: <https://www.irs.gov/individuals/international-taxpayers/relief-procedures-for-certain-former-citizens>.

Additionally, UAE RFIs are required to retain records of the following until the end of calendar year 2031:

- policies and procedures adopted to satisfy the conditions of the IRS Notice 2024-78;
- documentation demonstrating that such policies and procedures were followed;
- any records or documentation adopted in previous years for the purpose of obtaining relief under Notice 2023-11, to the extent applicable.

Notice 2024-78 also determines that RFIs located in a Model 1 IGA jurisdiction should be encouraged to not discriminate against U.S. citizens that do provide a U.S. TIN.

Refer to link for more information on [Notice 2024-78](#) issued by the IRS.



Annex 1 – TIN Codes

In order to benefit from the relief and mitigate the risk of being considered significantly non-compliant for failing to report a required U.S. TIN, UAE RFIs should use the applicable TIN codes set out in IRS [FAQ No. 6 relating to Reporting](#):

- 22222222: Pre-existing individual account with only U.S. indicia being a U.S. place of birth, other than an account reported under code 000222111. This code takes precedence if any other code (other than 000222111) could also be applicable.
- 000222111: Pre-existing depository individual account with only U.S. indicia being a U.S. place of birth. Additionally, RFI must determine that the account holder is a resident of the jurisdiction where the account is maintained for AML and tax purposes. For reference, “depository account” has the meaning defined in the applicable Model 1 Intergovernmental Agreement (Model 1 IGA). This code takes precedence if any other code could also be applicable.
- 333333333: New individual account that:
 - has indicia of a U.S. place of birth, and
 - either:
 - has a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or
 - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.
- 444444444: Pre-existing individual or entity account that:
 - has U.S. indicia other than a U.S. place of birth, and
 - either:
 - has a change in circumstances that either results in one or more U.S. indicia being associated with the account or causes a self-certification or other documentation originally obtained to be incorrect or unreliable, and a valid self-certification or other documentation has not been obtained subsequent to the change in circumstances, or
 - was below the threshold for documenting and reporting the account on the determination date provided in the applicable Model 1 IGA and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 555555555: New individual or entity account that:
 - has a U.S. indicia other than a U.S. place of birth, and
 - either:
 - has a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
 - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 666666666: Pre-existing entity account held by a passive NFFE with one or more controlling persons with respect to which self-certifications have not been obtained, and no U.S. indicia have been identified in relation to any controlling persons.
- 777777777: Dormant Accounts – For pre-existing accounts where there is no TIN available and the account has been dormant or inactive, but remains above the reporting threshold, also known as a “dormant account.” A “dormant account” is one that meets the definition set out in U.S. Treasury Regulations §1.1471-4(d)(6)(ii) and had had no financial activity for three years, except for the posting of interest. If an account could be classified into multiple TIN codes, the other code takes precedence.
- 999999999: Any account for which the FFI cannot obtain a TIN and none of the other TIN codes would be applicable. The use of this code indicates that an FFI has completed its review of accounts without U.S. TINs and has in good faith applied TIN codes to records when applicable.