



THE FOREIGN ACCOUNTS TAX COMPLIANCE ACT

As part of the Government's anti-tax avoidance measures it recently put into effect the agreement between the UK and USA Governments about disclosure of information, which is referred to as the Foreign Accounts Tax Compliance Act (FATCA).

Many institutions, including banks, investment holders and financial advisers are writing to their clients to ensure compliance with the new rules. This article sets out in brief terms who this affects and their obligations under the rules.

The purpose of the legislation is to enable the USA to receive information concerning any tax which may be due to them on income paid from UK trusts to a person who is or even may be deemed to be a possible US taxpayer.

The UK Government has agreed that the information will be collected from UK Trustees by the Inland Revenue on behalf of the US Inland Revenue Service ("IRS") and passed to the IRS. In certain circumstances the FATCA rules, as they are known, will oblige UK Trustees to register with the IRS even if there may be no US involvement at all. Many institutions, banks and trust advisers are doing this as a matter of precaution.

The trust will be treated as a financial institution under the terms of the Regulations and will need to register with the IRS and make Annual Returns to the UK HMRC which will then pass this to the IRS.

This can be fairly onerous. It is likely that the UK will enter into similar agreements with other countries, in particular those which offer offshore jurisdictions. The Organisation for Economic Co-operation and Development (OECD) is working on a global

agreement and it is likely that the UK will sign up to that.

All UK trusts that fall within the terms of FATCA should be registered.

UK trusts which are purely property owning and have no investments or financial assets do not need to be registered.

The failure to register a trust will have certain penalties imposed including a 30% withholding payment from payments by agents (e.g. banks) who are themselves subject to FATCA obligations.

It is likely that UK trusts will have to declare their status to any bank with which they have dealings.

On registration a Notice of Acceptance will be issued to the trust with the Global Intermediary Identification Number (GIIN) and this will be their FACTA registration number.

Thereafter, there are reporting provisions on an annual basis starting from 31 May 2015. An Annual Return has to be submitted to HMRC even if the trust has no US accounts to report. The form of the Returns has not yet been published.

Mackrell Turner Garrett will be happy to assist Trustees and their advisers with regard to registration and to meet the appropriate reporting requirements and to advise further on the new provisions under FATCA.

If you would like us to assist you or if you have any queries in relation to the above, please contact the Private Client Department at Mackrell Turner Garrett on **00 44 (0) 20 7240 0521**.

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JEFFREY COHEN - HEAD OF PRIVATE CLIENT DEPARTMENT



An experienced and highly regarded private client lawyer, Jeffrey is Head of the Private Client department of Mackrell Turner Garrett's London office and joined the firm in March 2014 from Davenport Lyons.

Jeffrey focuses on all aspects of tax and trust law including estate and inheritance tax planning. He is also experienced in drafting wills, probate administration and running of trusts, as well as court of protection work, powers of attorney and offshore tax planning.

In 2013, Jeffrey was recommended in the prestigious Legal 500 directory of legal services providers. In it he "is recommended for his experience in Inheritance Tax and Capital Gains Tax."

Graduating from Kings College London in 1983 with an Honours degree in Law, Jeffrey completed a Masters Degree from Jew's College, London University in 1989. He trained at Gershon Young Finer & Green (now Finers Stephen Innocent), qualifying in 1986 before making partner. He

moved to Davenport Lyons, becoming a partner in 2001.

Jeffrey is a member of the Society of Trust and Estate Practitioners (STEP) and is often asked to speak on trusts and tax planning. He is also a qualified Rabbi and takes a leading role in The Federation of Synagogues.

Jeffrey's expertise will enhance our existing Private Client services including:

- Will drafting, including international wills
- Estate planning and international estate planning
- All aspects of probate including contentious and non-contentious matters
- Administering intestate and international estates
- Inheritance tax planning
- Lifetime transfers
- Setting up and managing trusts
- Lasting Powers of Attorney

For more information call 00 44 (0) 20 7240 0521 or email Jeffrey.Cohen@mackrell.com



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