

FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

FREQUENTLY ASKED QUESTIONS

1. What is FATCA?

FATCA is rapidly becoming the global model for combating offshore tax evasion and promoting transparency. FATCA is an acronym for the United States (US) Foreign Account Tax Compliance Act (FATCA), which was introduced by the US Government in October 2009, but became law as part of the Hiring Incentives to Restore Employment (HIRE) Act on March 18, 2010. FATCA is aimed at ensuring that US persons with financial assets outside of the US are paying US taxes.

Under FATCA, US financial institutions must withhold a portion of payments made by foreign financial institutions (FFIs) (see FAQ#13 for a definition) that do not identify and report information on US Reportable Accounts.

FFIs have the option of entering into agreements directly with the US Inland Revenue Service (IRS), or through one of two alternative Model Intergovernmental Agreements (IGAs) signed by their home country.

Effective September 30, 2017, Financial Institutions in Trinidad & Tobago commenced FATCA reporting to the Board of Inland Revenue, as is required under the Model 1 Intergovernmental Agreement (IGA), which was signed with the US government in August 2016.

2. Why did the US introduce FATCA?

FATCA was introduced to increase transparency for the US Internal Revenue Service (IRS) with respect to US Persons/US Entities that may be investing and earning income through non-US institutions. The primary goal of FATCA is to obtain information about these US persons/US Entities.

3. What is required of Republic Bank Limited?

- Report to the Board of Inland Revenue, information on the following customers from 2014, and every year thereafter:
 - US persons
 - US Entities
 - Non-US Entities with substantial US ownership (US Shareholders with 10% or more shareholding)
 - Passive Non-Financial Foreign Entities (Passive NFFE's) with substantial US ownership
 - Non-Participating Foreign Financial Institutions (NPFIs)
- Report information on certain customers with US Indicia who fail to provide sufficient information to determine their US Status. These customers would be deemed 'Recalcitrant' under FATCA Law.

4. What is a US Person?

A citizen or resident of the United States (including a green card holder).

5. What is A US Entity?

- A partnership, corporation, estate, trust incorporated or created under US law

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- A non US incorporated entity having shareholding of 10% or more or ownership held by -
 - A US Person
 - A US incorporated Company

6. What is a Passive Non-Financial Foreign Entity with substantial US owners?

A company that is not a financial institution and was not incorporated in the U.S., but derives $\geq 50\%$ or more of its gross income from the preceding calendar year, from investment-type proceeds (e.g. dividends, interest, annuities), **AND** has substantial U.S. Owners (U.S. shareholders with $\geq 10\%$ shareholding).

7. What is a Non-Participating Foreign Financial Institution?

A Financial Institution that was not incorporated in Trinidad & Tobago or the US, and has not entered into an Agreement directly with the IRS to undergo FATCA Reporting.

8. What is U.S. Indicia?

- Individuals
 - US Passport
 - US Green Card
 - US Place of Birth
 - Current US mailing or residence (incl. US P.O. Box)
 - Current US Telephone number
 - Standing instructions to transfer funds to an account maintained in the US
 - Power of Attorney or signatory authority granted to a person with a US address
 - A US 'In care of' address that is a sole address
- Entities
 - Incorporated or created under US Law
 - US Shareholders with 10% or more shareholding
 - Current US mailing or residence (incl. US P.O. Box)
 - Current US Telephone number
 - Standing instructions to transfer funds to an account maintained in the US
 - Power of Attorney or signatory authority granted to a person with a US address
 - A US 'In care of' address that is a sole address

9. What information does the Bank need to report to the Board of Inland Revenue?

If you are a US Person:

- Full name
- Address
- US Tax Identification Number (US TIN)
- Account number
- Account balance or value as at the end of the relevant calendar year or other appropriate reporting period
- Total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period

If the Entity is a US Entity:

- Registered Name
- Address
- US Tax Identification Number (US TIN) of the Entity and of each substantial US shareholder (US Shareholders with 10% or more shareholding)

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- Account number
- Account balance or value as at the end of the relevant calendar year or other appropriate reporting period
- Total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period

If the Entity is a Passive Non-Financial Foreign Entity with substantial US Shareholders:

The Name, address and US Tax Identification (US TIN) of such Entity and each substantial US shareholder (US Shareholders with 10% or more shareholding).

If the Entity is a Non-Participating Foreign Financial Institution (NPFFI):

For reporting periods 2015 onwards, the name of each NPFFI to which the reporting Financial Institution has made payments and the aggregate amount of such payments.

10. What is a US Tax Identification Numbers (US TIN)?

A US Tax Identification Number is an identifying number used for tax purposes in the US.

Type of U.S. Tax Identification Number	Applicable to:
<ul style="list-style-type: none">• SSN : Social Security Number <i>or</i>• ITIN : Individual Taxpayer Identification Number	US Persons <i>as well as</i> US Persons with $\geq 10\%$ Shareholding in a Company (Substantial US owner)
<ul style="list-style-type: none">• EIN : Employer Identification Number	Entities incorporated in the U.S.

11. What if I do not have a US Tax Identification Number or I am unable to locate it?

Under the obligations of the Model 1 IGA between T&T and the US, Financial Institutions are required to obtain and report the US TINs of all US Persons and US Entities incorporated in the US. Therefore, you will be required to obtain this from the US IRS for our records.

12. Who does FATCA affect?

FATCA does not directly affect the ordinary Trinidad and Tobago citizen with a bank account and no ties to the US.

FATCA affects:-

- Customers with US Indicia who certify that they are a US Person/US Entity/Passive NFFE with substantial US ownership who hold cumulative deposit balances above a specified limit.
- Customers who certify that they are Non-Participating Foreign Financial Institutions (NPFFIs)
- Customers with US Indicia who fail to provide sufficient information to determine their US Status i.e. Recalcitrant customers

13. What is a Foreign Financial Institution (FFI)?

Broadly speaking, it is any financial institution that was not incorporated or created under US law:

- Accepts deposits in the course of a banking or similar business;
- Holds financial assets for the account of others as a substantial part of its business;
- Is engaged primarily in business of investing, reinvesting or trading in securities; and

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- Is an insurance company (or the holding company of an insurance company) that issues or makes payments with respect to a financial account

Entity types that are covered are:

- Banks
- Broker dealers
- Asset managers and investment funds
- Insurance companies other than pure property and casualty (general insurance) or pure term life entities
- Trust companies
- Other financial intermediaries (such as custodians and related service providers)
- Credit unions and cooperatives

14. Does FATCA apply to TT\$ accounts?

FATCA applies to your entire account relationship with the Bank i.e. TTD, USD and any other currencies provided that the aggregate balance falls within the reportable threshold.

15. How are closed accounts treated under FATCA?

Under the Model 1 IGA, Financial Institutions are required to report on US Reportable customers whose account(s) were closed during the reporting period.

16. How are accounts of deceased persons treated under FATCA?

Accounts of deceased persons are not treated as financial accounts if the institution has received formal notification of death (such as a death certificate) and are not reportable in the year of the account holder's death.

17. How does the Bank determine that a customer is reportable under FATCA Law?

- Your records indicate US Indicia
- Aggregate balances meet the reportable criteria
- Completion of the 'Declaration of US Status Form'

18. Why am I required to complete the 'Declaration of US Status Form'?

The 'Declaration of US Status' Form is used to determine the US Status of customers and it is a requirement of all new and existing customers.

19. What is a Recalcitrant account holder?

Generally, a recalcitrant account holder is any account holder with US Indicia that refuses to co-operate and/or sign the 'Declaration of US Status' Form i.e. customers who fail to provide sufficient information to determine their US Status.

20. Who is authorized to sign the 'Declaration of US Status' form particularly where there are multiple signatories and signing limits on Entity accounts?

The 'Declaration of US Status' form must be signed by an authorized signatory, a senior officer or director of the entity, partner if partnership, trustee if trust, executor/administrator if estate.

21. Does a Bank official need to witness my signature on the 'Declaration of US Status' Form?

Staff are not required to witness the signing of the 'Declaration of US status' Form but we are to verify the customer signature against our records.

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22. For minors 0-18years having a joint Account with an Adult, who will sign the Bank's 'Declaration of US Status' Form?

A child can sign once the child understands the form i.e. due to the age of the child, he or she understands the meaning of the document. If not, the parent or guardian can sign on behalf of the child.

23. Does FATCA replace the existing US tax withholding and reporting regimes?

No. It does not replace the existing US tax withholding and reporting regimes. It does, however, provide additional requirements to the existing regimes.

24. I live and work in Trinidad and Tobago, but I am the holder of a US Green Card and I travel to the US every year for short periods to maintain my US Green Card status, will I be affected by FATCA?

Yes, under FATCA law, you will be considered a US Person.

25. As a US Green Card holder I already pay taxes in Trinidad and Tobago. Why I am still subject to the FATCA requirements?

U.S Green Card holders are considered U.S taxpayers under U.S law.

However, exceptions may exist for US Green Card holders living outside the US. Please visit: <http://www.irs.gov/uac/Five-Facts-about-the-Foreign-Earned-Income-Exclusion> or a US tax consultant.

26. What if I am a Green Card holder and living in Trinidad and Tobago and I have a joint account with someone who is not a US Person?

If the other person(s) is not a US Person your account will still be reportable because you are considered a US tax payer as the Green Card holder.

27. What if I have different accounts at different banks each with balances under the reporting threshold but amounting to more than the reportable threshold in total, will I be reportable?

No, you will not be reportable as customer balances are not aggregated across Financial Institutions for FATCA.

28. If I am a Trinidad and Tobago citizen with no formal connections to the United States but I have immediate family members living there and I send money via wire transfers over the reporting threshold to the United States to support them (e.g. a child at school), will I be reportable?

No, only if you are a US Person will you be reportable.

29. If I do not have a US Green Card or Passport, but I spend several weeks each year in the United States will I be reportable?

No, only if you are a US person will you be reportable.

30. I live in Trinidad and Tobago and I have no official ties to the United States but I shop online using a US mailing address, which is also attached to my credit card, will I be reportable?

No, only if you are a US person will you be reportable.

31. Do I have a choice in the matter?

Under the Model 1A IGA, Financial Institutions in Trinidad & Tobago is mandated to report specific information on US Persons/US Entities/Passive NFFEs/Non-Participating FFIs and Recalcitrant customers to the Board of Inland Revenue (BIR) for onward submission to the US IRS.

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Should you refuse to complete our 'Declaration of US Status' Form and our records indicate that you have U.S. Indicia, you will be considered 'Recalcitrant', and we will be required to report you as such under FATCA Law to the US IRS.

32. How will I know if my information was reported to the Board of Inland Revenue for onward submission to the US IRS?

Under Section 17 of the Tax Information Exchange Agreements (United States of America) Act, 2017, you will be notified via letter following the first year in which you became reportable and your information was reported to the BIR.

In light of the aforementioned, we urge you to cooperate. We also encourage you to seek advice from an independent tax advisor should you need assistance in understanding the scope of FATCA requirements, and the consequences of non-compliance.

Should you have any questions relating to the Bank's requirements, please contact our hotline at 1 868 8001725 (Toll Free) or email us at email@rfl.com.

For updates and further information on FATCA, please visit the IRS FATCA page at www.irs.gov/FATCA.

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