



THE INTERNATIONAL TAX COMPLIANCE (UNITED KINGDOM) REGULATIONS 2014

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Statutory Document No. 2014/0186



Income Tax Act 1970

THE INTERNATIONAL TAX COMPLIANCE (UNITED KINGDOM) REGULATIONS 2014

Approved by Tynwald: 17 June 2014
Coming into Operation: 30 June 2014

The Treasury makes the following Regulations under section 104D of the Income Tax Act 1970.

1 Title

These Regulations are The International Tax Compliance (United Kingdom) Regulations 2014.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 30 June 2014.

3 Meaning of the Arrangement

In these Regulations “**the Arrangement**” means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Isle of Man to Improve International Tax Compliance signed on 10 October 2013.

4 Purpose of the Arrangement etc

- (1) These Regulations have effect for, and in connection with, the implementation of the obligations arising under the Arrangement.
- (2) In these Regulations “**FATCA**” means sections 1471 to 1474 of the United States of America Internal Revenue Code, commonly referred to as the Foreign Account Tax Compliance Act, as enabled by the Hiring Incentives to Restore Employment Act 2010 of the United States of America.
- (3) In these Regulations, a word or expression which is defined in the Arrangement has the meaning in the Arrangement except to the extent

that a Reporting Isle of Man Financial Institution may use as an alternative a definition in —

- (a) the U.S. Treasury Regulations, or
- (b) the Common Reporting Standard for the Automatic Exchange of Financial Account Information published by the Organisation for Economic Co-operation and Development on 13 February 2014,

in so far as such use would not frustrate the purposes of the Arrangement.

- (4) No liability for direct, indirect or consequential loss arises from a decision taken in connection with paragraph (3) and the application of the Arrangement or these Regulations.
- (5) For the avoidance of doubt, if —
 - (a) a definition within the U.S. Treasury Regulations which is used for the purposes of this Arrangement under Article 1.3 of the Arrangement is amended, or
 - (b) more favourable terms are granted under Article 6 of the Arrangement,

these Regulations are to be read as if they had been correspondingly amended.

5 Scope: definition of “Reportable Account”

- (1) In these Regulations a “**Reportable Account**”, in relation to a Reporting Financial Institution, means a United Kingdom Reportable Account maintained by that institution in the Isle of Man for the purposes of its business as —
 - (a) a Custodial Institution,
 - (b) a Depository Institution,
 - (c) an Investment Entity, or
 - (d) a Specified Insurance Company,but see paragraphs (2) and (3) for exceptions.
- (2) A United Kingdom Reportable Account is not a Reportable Account if —
 - (a) the Account Holder is deceased or is a personal representative within the meaning of section 65(10) of the Trustee Act 1961,
 - (b) the account is held to comply with an order or judgment made or given in legal proceedings, or
 - (c) the funds held in the account are held solely as security for the performance of a party’s obligation under a contract for the disposal of an estate or interest in land or of tangible moveable property.

- (3) The following accounts are not Reportable Accounts for a calendar year if there is an election by the Reporting Financial Institution in force for that year to treat them as not being Reportable Accounts —
- (a) Preexisting Individual Accounts meeting the description at paragraph A of section II of Annex I to the Arrangement,
 - (b) New Individual Accounts meeting the description at paragraph A of section III of Annex I to the Arrangement (including an insurance contract that would be a Cash Value Insurance Contract for the purposes of these Regulations but for the fact that its value is less than or equal to U.S.\$50,000),
 - (c) Preexisting Entity Accounts meeting the description at paragraph A of section IV of Annex I to the Arrangement, and
 - (d) New Entity Accounts meeting the description in paragraph A of section V of Annex I provided that the Isle of Man Financial Institution complies with the requirements of that paragraph to prevent an account balance of any such account owed to the Account Holder exceeding U.S.\$50,000.
- (4) In determining whether or not a Financial Account maintained by an institution meets any of the descriptions in paragraph (3), the institution must apply the account balance aggregation and currency translation rules at paragraph C of section VI of Annex I to the Arrangement.
- (5) Any election under paragraph (3) —
- (a) is made by being given to the Assessor,
 - (b) must be in such form as may be prescribed by the Assessor, and
 - (c) must be made on or before the reporting date under regulation 9(4) for the calendar year in question.
- (6) For the purposes of these Regulations —
- (a) any reference to a Preexisting Individual Account or Preexisting Entity Account is to a Financial Account maintained on 30 June 2014,
 - (b) any reference to a Preexisting Entity Account or New Entity Account is to a Financial Account which is not an account the Account Holder of which (or, if more than one, each Account Holder of which) is an individual holding the account otherwise than as a partner of a partnership,
 - (c) any reference to a Preexisting Individual Account or New Individual Account is to a Financial Account held in the name of an individual (whether solely or jointly with another) but not as a partner of a partnership, and
 - (d) any reference to a New Individual Account or a New Entity Account is to a Financial Account opened on or after 1 July 2014.

- (7) In a case where a Financial Account is held jointly by two or more persons (but not where the account is held solely by a partnership), these Regulations are to be applied separately in relation to each Account Holder and as if the holder were entitled to the whole of the balance or value of the account.
- (8) These Regulations shall be applied having regard to Annex III of the Arrangement.

6 Scope: Non-resident Reporting Financial Institution's Isle of Man representative

If a Reporting Financial Institution is not resident in the Isle of Man, the obligations of the institution under these Regulations are to be treated as if they were the obligations of any Isle of Man representative of the institution.

7 Identification obligation

- (1) This regulation may be subject to the modifications set out in regulation 8.
- (2) In relation to all Financial Accounts which a Reporting Financial Institution maintains, the institution must establish and maintain —
 - (a) arrangements that are designed to identify Reportable Accounts, and
 - (b) arrangements that are designed to establish the territory in which any Account Holder is resident for income tax or for the purposes of any tax imposed by the law of the territory that is of a similar character to such tax.
- (3) The institution is taken to comply with the obligation to establish and maintain arrangements within paragraph (2)(a) only if —
 - (a) the arrangements meet the due diligence requirements as set out in this regulation, and
 - (b) the arrangements secure that the evidence used in accordance with this regulation or regulation 8, or a record of the steps taken in accordance with this regulation or regulation 8, is kept for a period of six years beginning with the end of the year in which the arrangements applied to the Financial Accounts.
- (4) The due diligence requirements for a calendar year for which an election under regulation 5(3) is not in force are —
 - (a) in the case of Preexisting Individual Accounts that are Lower Value Accounts as defined by paragraph B of section II of Annex I to the Arrangement or are Preexisting Individual Accounts that are Reportable Accounts meeting the description at paragraph A of that section, the procedures described at paragraphs B and C of that section,

- (b) in the case of Preexisting Individual Accounts with a balance or value that exceeds U.S.\$1,000,000 as of 30 June 2014, or 31 December 2015 or 31 December in any subsequent year, the procedures described by paragraphs D and E of section II of Annex I,
 - (c) in the case of New Individual Accounts, the procedures described at paragraphs B to D of section III of Annex I,
 - (d) in the case of Preexisting Entity Accounts, the procedures described at paragraphs D and E of section IV of Annex I, and
 - (e) in the case of New Entity Accounts, the procedures described at paragraphs A to D of section V of Annex I.
- (5) The due diligence requirements for a calendar year for which an election under regulation 5(3) is in force are —
- (a) in the case of Preexisting Individual Accounts that are Lower Value Accounts within paragraph B of section II of Annex I to the Arrangement, the procedures described at paragraphs B and C of that section,
 - (b) in the case of Preexisting Individual Accounts that are Lower Value Accounts within paragraph B of section II of Annex I to the Arrangement, with a balance or value that exceeds U.S.\$1,000,000 as of 31 December 2015 or 31 December in any subsequent year, the procedures described at paragraphs D and E of that section,
 - (c) in the case of Preexisting Individual Accounts within paragraph A of section II of Annex I to the Arrangement, with a balance or value that exceeds U.S.\$1,000,000 as of 31 December 2015 or 31 December in any subsequent year, the procedures described at paragraphs D and E of that section,
 - (d) in the case of Preexisting Individual Accounts within paragraph D of section II of Annex I to the Arrangement, the procedures described at paragraphs D and E of that section,
 - (e) in the case of New Individual Accounts that are not within paragraph A of section III of Annex I to the Arrangement, the procedures described at paragraphs B to D of that section,
 - (f) in the case of Preexisting Entity Accounts within paragraphs B and C of section IV of Annex I to the Arrangement, the procedures described at paragraphs D and E of that section,
 - (g) in the case of New Entity Accounts, the procedures described at paragraphs A to D of section V of Annex I to the Arrangement.
- (6) If in the case of an account within either paragraph (4)(a) or (5)(a) —
- (a) an institution has established the Account Holder's United Kingdom tax status from documentary evidence mentioned in paragraph D of section VI of Annex I to the Arrangement, and

- (b) it has done so in order to meet its obligations under a Qualifying Intermediary agreement as mentioned in that paragraph,
- the due diligence requirements in the case of that account do not include the requirement to carry out the electronic search described in paragraph B(1) of section II of Annex I to the Arrangement.
- (7) If in the case of an account within paragraph (4)(b) or regulation 5(6)(b) to (d) —
- (a) an institution has established the Account Holder’s United Kingdom tax status from documentary evidence mentioned in paragraph D of section VI of Annex I of the Arrangement, and
- (b) it has done so in order to meet its obligations under a Qualifying Intermediary agreement as mentioned in that paragraph,
- the due diligence requirements in the case of that account do not include the requirement to carry out the electronic searches described in paragraph B(1) or D(1) of section II of Annex I to the Arrangement or the requirement to carry out the paper record search described in paragraph D(2) of that section.
- (8) If, as a result of this regulation, a person is required to certify their United Kingdom tax status, a Reporting Financial Institution may require the person to supply to the institution such documentary evidence mentioned in paragraph D of section VI of Annex I to the Arrangement as the institution considers appropriate in support of the certification.
- (9) The due diligence requirements in this regulation must be applied by reference to the special rules and definitions at paragraph D(1) to (3) of section I, and section VI of Annex I to the Arrangement.
- (10) For the purposes of this regulation references to the documentary evidence set out in paragraph D of section VI of Annex I to the Arrangement are to be treated as if the words “other than a Form W-8 or W-9” were omitted.

8 Modification of due diligence requirements

- (1) This regulation modifies the due diligence requirements set out in regulation 7 in the case of a Reporting Financial Institution but only if it makes an election applying those modifications.
- (2) If the institution obtains, or is in the process of obtaining, evidence of a person’s United Kingdom tax status in relation to any Preexisting account, it is entitled to rely on the evidence in relation to any New Account unless it has reasonable cause to believe that the person’s United Kingdom tax status has subsequently changed.
- (3) Paragraph (2) has effect in the case of Preexisting Individual Accounts maintained by the institution for an Account Holder only if, for the purpose of establishing which of the procedures for the due diligence

requirements are applicable to those accounts, the institution treats all those accounts as a single Preexisting Individual Account.

- (4) If the institution or a Related Entity obtains, or is in the process of obtaining, evidence of a person's United Kingdom tax status in relation to a Financial Account, the institution is entitled to rely on the evidence in relation to all Financial Accounts maintained by the institution for the Account Holder unless the institution has reasonable cause to believe that the person's United Kingdom tax status has subsequently changed.
- (5) The due diligence requirements set out in regulation 7 do not need to be met in relation to a Financial Account if —
 - (a) the institution maintains the account as a result of a merger with, or acquisition of, a qualifying Financial Institution which had established the United Kingdom tax status of the Account Holder and any Controlling Person, and
 - (b) the institution has no reasonable cause to believe that the United Kingdom tax status of the Account Holder or any Controlling Person has changed.
- (6) For the purpose of this regulation, “**qualifying Financial Institution**”, in relation to a Financial Institution, means another Financial Institution —
 - (a) which has not previously been a Related Entity of the institution, and
 - (b) which immediately before the merger or acquisition was either a Financial Institution for the purposes of these Regulations or a Reporting Isle of Man Financial Institution described under subparagraph 1(p) of Article 1 of the Arrangement.
- (7) An election under this regulation —
 - (a) is to be made by being given to the Assessor,
 - (b) must be in such form as may be prescribed by the Assessor, and
 - (c) has effect in relation to all times on or after the day on which the election is made (unless subsequently withdrawn).

9 Reporting obligation

- (1) This regulation is subject to the modifications set out in regulation 10.
- (2) A Reporting Financial Institution must, subject to modifications set out in regulation 10, in respect of 2014, and every following calendar year, prepare a return setting out —
 - (a) the required information in relation to every Reportable Account that is maintained by the institution at any time during the calendar year in question,

- (b) the institution's Global Intermediary Identification Number (or, if it has not been allocated such a number, the unique taxpayer reference number allocated by the Assessor).
- (3) If during the calendar year in question the Reporting Financial Institution maintains no Reportable Accounts no return is required.
- (4) The institution must send the return in a manner to be prescribed by the Assessor under this regulation to the Assessor on or before 30 June of the year following the calendar year to which the return relates ("**the reporting date**").
- (5) The required information is —
 - (a) the name and address of the Account Holder,
 - (b) if the Account Holder is an individual, the Account Holder's National Insurance Number,
 - (c) if an account is identifiable by an account number, that number or, if not, its functional equivalent,
 - (d) the balance or value of the account (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the cash value or surrender value) as at the end of the calendar year or, if the account was closed during the year, the balance or value on the date that the Reporting Financial Institution closes the account,
 - (e) the relevant total gross credits, or if there are none, a statement of that fact,
 - (f) if the Account Holder is an individual, that person's date of birth, and
 - (g) if the Account Holder is a passive NFFE that has a Controlling Person who is a Specified United Kingdom Person, the name and address of that Specified United Kingdom Person, and, if that person is an individual, that person's —
 - (i) National Insurance Number, and
 - (ii) date of birth.
- (6) The "**relevant total gross credits**" means —
 - (a) in the case of a Custodial Account —
 - (i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to assets held in the account which is paid into, or with respect to, the account during the calendar year, and
 - (ii) the total gross proceeds from the sale or redemption of property paid into the account during the calendar year if

the institution acted as a custodian, broker, nominee or otherwise as an agent for the Account Holder,

- (b) in the case of a Depository Account, the total gross amount of interest paid to the account during the calendar year, and
- (c) in the case of any other account, the total gross amount of sums paid by the institution under a legal obligation to the Account Holder with respect to the account during the calendar year,

and “**interest**” here includes any amount that is chargeable as interest under the law of the Island.

- (7) For the purposes of this regulation —
 - (a) references to the balance or value of an account include a nil balance or value, and
 - (b) references to paying an amount include crediting an amount.
- (8) If a Reporting Financial Institution has an established practice for the periodic valuation of accounts of a particular description otherwise than at the end of a calendar year, the institution may report under paragraph (6)(a) or (c) by reference to a period of 12 months ending with the date (or, if more than one, the latest date) in the calendar year on which the institution values accounts of that description (instead of by reference to the calendar year).
- (9) If a Reporting Financial Institution does not hold the information that it is required to report under paragraph (5)(b) the institution must obtain the information from the Account Holder.

10 Modifications for calendar years 2014 to 2016

- (1) In the case of all Reportable Accounts —
 - (a) there is no requirement to include in the return for the calendar year 2014 information about relevant total gross credits, and
 - (b) there is no requirement to include in the return for the calendar year 2015 any information set out in regulation 9(6)(a)(ii).
- (2) In the case of Preexisting accounts there is no requirement to include in the return for calendar years before 2017 any information set out in regulation 9(5)(b), (f) and (g) if the Reporting Financial Institution does not hold that information.
- (3) In the case of the calendar year 2014 the reporting date is 30 June 2016.

11 Election and certification for the purposes of the Alternative Reporting Regime under Annex IV to the Arrangement

- (1) A Reporting Financial Institution may make an election to the Assessor to use the Alternative Reporting Regime as described in paragraph

B(1)(a) of Annex IV provided that the requirements of paragraph B(1)(b) and (c) of that Annex are met.

- (2) An election under paragraph (1) must be made, in such form as is determined by the Assessor, on or before 30 May following the end of the Relevant Tax Year, as defined in Annex IV.
- (3) A Reporting Financial Institution shall, in relation to each Reportable Account that it must report under paragraph D1 and D2 in respect of which —
 - (a) an election under paragraph B(1) is in force, and
 - (b) the certification requirements in paragraph C(1) and (2) of Annex IV are complied with,

send to the Assessor the information described in paragraph D of Annex IV on or before 30 May following the end of the Relevant Tax Year or by such earlier date as is notified to the Account Holder by the Reporting Financial Institution.

- (4) A Reporting Financial Institution must retain the information in paragraph D that it has not reported to the Assessor for a period of 6 years following the end of the Relevant Tax Year.
- (5) A Reporting Financial Institution shall, in relation to each Reportable Account in respect of which —
 - (a) an election under paragraph B(1) is in force, and
 - (b) the certification requirements in paragraph C(1) and (2) of Annex IV are not complied with,

send to the Assessor the information described in Article 2 of the Arrangement, subject to Article 3(3) by the date that is one year after the reporting date referred to in regulation 9(4) subject to regulation 10.

12 Offences and general provisions relating to compliance

- (1) A person who knowingly fails to comply with any requirement of these Regulations is guilty of an offence and liable to a fine not exceeding £5,000 or both.
- (2) A person who, when required by or for the purposes of these Regulations provides information or produces any document which the person believes to be false or misleading in a material particular, is guilty of an offence and liable to imprisonment of a term of 2 years and to a fine not exceeding £5,000.
- (3) In determining whether a person has complied with any requirement of these Regulations, a court must have regard to any guidance issued or approved by the Assessor.
- (4) A Reporting Isle of Man Financial Institution may use a third party for the purpose of complying with these Regulations but compliance with

such requirements remains the responsibility of the Reporting Isle of Man Financial Institution.

13 Accounts with a negative value

For the purposes of these Regulations, an account balance that has a negative value is treated as having a nil value.

14 Anti-avoidance

If —

- (a) a person enters into any arrangements, and
- (b) the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid any obligation under these Regulations,

these Regulations are to have effect as if the arrangements had not been entered into.

15 Definitions

(1) In these Regulations —

“**Assessor**” means the Assessor of Income Tax,

“**Global Intermediary Identification Number**” means a number allocated to a Financial Institution by the Internal Revenue Service in the United States of America for FATCA purposes.

- (2) (a) All U.S. dollar amounts shall be read to include the equivalent in other currencies,
- (b) “**U.S.\$**” means the official currency of the United States of America.

(3) The following table lists the places where defined expressions that apply for the purposes of these Regulations are defined or otherwise explained —

<i>Expression</i>	<i>Reference</i>
Account Holder	Article 1.1.dd of the Arrangement
Annuity Contract	Article 1.1.w of the Arrangement
Arrangement	Regulation 3
Assessor	Regulation 14(1)

<i>Expression</i>	<i>Reference</i>
Cash Value Insurance contract	Article 1.1.x of the Arrangement
Controlling Persons	Articles 1.1.ll of the Arrangement
Custodial Account	Article 1.1.t of the Arrangement
Custodial Institution	Article 1.1.h of the Arrangement
Depository Account	Article 1.1.s of the Arrangement
Depository Institution	Article 1.1.i of the Arrangement
Entity	Article 1.1.hh of the Arrangement
Entity Account	Regulation 5(6)(b)
FATCA	Regulation 4(2)
Financial Account	Article 1.1.r of the Arrangement
Financial Institution	Article 1.1.g of the Arrangement
Global Intermediary Identification Number	Regulation 14(1)
Individual Account	Regulation 5(6)(c)
Insurance Contract	Article 1.1.v of the Arrangement
Investment Entity	Article 1.1.j of the Arrangement
Isle of Man Financial Institution	Article 1.1.m of the Arrangement
New Individual Account	Section III of Annex 1 to the Arrangement
New Entity Account	Section V of Annex 1 to the Arrangement
Preexisting Account	Regulation 5(6)

<i>Expression</i>	<i>Reference</i>
Related Entity	Article 1.1.kk of the Arrangement
Reportable Account	Regulation 5
Reporting Financial Institution	Article 1.1.n of the Arrangement
Specified Insurance Company	Article 1.1.k of the Arrangement
Specified United Kingdom Person	Article 1.1.ff of the Arrangement
United Kingdom Reportable Account	Article 1.1.bb of the Arrangement

MADE 16TH MAY 2014

W E TEARE
Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made to give effect to the arrangement reached between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Isle of Man to Improve International Tax Compliance, signed on 10th October 2013 (“**the Arrangement**”).

The Assessor of Income Tax of the Isle of Man will issue guidance notes with respect to these Regulations, the Arrangement and the exercise of discretion in connection with the determination of the application of these Regulations.

Regulation 1 states the title of the Regulations.

Regulation 2 states the date from which these Regulations will operate.

Regulation 3 defines the Arrangement.

Regulation 4 explains the purpose of these Regulations and defines the term “**FATCA**”. It permits that words or expressions defined within the Arrangement, the US Treasury Regulations or the Common Reporting Standard for the Automatic Exchange of Financial Account Information published by the Organisation for Economic Co-operation and Development on 13 February 2014 may be used when applying the provisions of these Regulations but only if such use would not frustrate the purposes of the Arrangement. This Regulation also provides for exclusion of liability in connection with such definitions and also with the application of the Arrangement or these Regulations. Regulation 4(5) provides that the Regulations should be read as if any amendments to any definition included in the U.S. Treasury Regulations for the purposes of the Arrangement or more favourable terms applying under Article 6 of the Arrangement, apply.

Regulations 5 and 6 explain the scope of these Regulations, the definition of ‘Reportable Account’ and the obligations of an Isle of Man representative of a non-resident Reporting Financial Institution. Under regulation 5(1) a Reportable Account is a United Kingdom Reportable Account maintained by a Reporting Financial Institution in the Isle of Man for its purposes as such an institution. However, there are two exceptions. Firstly, regulation 5(2) lists three types of account that are not Reportable Accounts for the purposes of the Regulations. Secondly, regulation 5(3) to (5) make provision for a Reporting Financial Institution to elect for a calendar year to treat a further four listed categories of account as if they were not Reportable Accounts. Regulation 5(6) defines Preexisting and New Individual and Entity Accounts providing that new accounts open on or after 1st July 2014. Regulation 5(7) makes special provision for the treatment of joint accounts. Regulation 5(8) provides that exemptions available under Annex III of the Arrangement will apply.

Regulation 7 provides that a Reporting Financial Institution must establish and maintain arrangements designed to identify Reportable Accounts and the territory in which any Account Holder is resident for tax purposes. Regulations 7(4) to (10) state how a Reporting Financial Institution will meet its due diligence requirements with regard to provisions set out in the Arrangement.

Regulation 8 makes certain modifications to the due diligence requirements in regulation 7 but only if a Reporting Financial Institution elects under regulation 8(7) that those modifications are to apply.

Regulation 9 requires Reporting Financial Institutions to make a return each calendar year, commencing with the 2014 calendar year, of the required information as specified and further described in paragraphs (5) to (8), together with the institution's Global Intermediary Identification Number or where no such number has been allocated to the institution, then a unique taxpayer reference number issued by the Assessor. The return must be made to the Assessor of Income Tax before 30 June following the end of the calendar year to which reporting relates. Regulation 9(3) provides that where there are no Reportable Accounts held by a Financial Institution, then no return is required to be made. Where the institution does not hold the Account Holder's National Insurance Number, then this must be obtained to be reported.

Regulation 10 modifies the information required under regulation 9(4) about certain accounts for the calendar years 2014 to 2016. In the case of Preexisting accounts, there is no requirement for a Reporting Financial Institution to report a taxpayer's National Insurance Number or date of birth before 2017 unless it is held by the institution.

Regulation 11 provides that a Reporting Financial Institution may elect to apply an Alternative Reporting Regime pursuant to Annex IV of the Arrangement provided certain conditions are met.

Regulation 12 makes provision for penalties for breach of obligations made under these Regulations.

Regulation 13 makes special provision for the treatment of account balances with a negative value.

Regulation 14 provides anti-avoidance measures addressing the avoidance of obligations under the Regulations.

Regulation 15 provides further definition and an index of particular words and expressions used in these Regulations.