

FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

FREQUENTLY ASKED QUESTIONS

1. What exactly 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 tax.

Under FATCA, US financial institutions must withhold a portion of payments made to foreign financial institutions (FFIs) (see explanation below) that do not agree to identify and report information on their US account holders.

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, 2016, Financial Institutions in Trinidad & Tobago will be required to begin their FATCA reporting to the Board of Inland Revenue, as is required under the Model 1A Inter Governmental Agreement (IGA), which was signed with the US government in August 2016.

2. What will be required of Republic Bank Limited?

The Bank must:-

- Report annually to the Board of Inland Revenue, information on customers who are US persons, US Entities and Non-US Entities with substantial US ownership, commencing September 30, 2016.
- Report accounts of certain customers who fail to provide sufficient information to determine if they are a US person/Entity, commencing September 30, 2016

3. Why did the US introduce FATCA?

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

4. 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. However, if you intend to open a new account, you will be asked specific questions to determine if you are a US Person/Entity.

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FATCA affects:-

Customers with US Indicia who are deemed to be a US Person/Entity and hold cumulative deposit balances above a specified limit.

5. What is a FFI?

Broadly speaking, it is any financial institution which is a non-US entity that:

- 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
- 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

For this purpose, a **non-US** entity is any entity that is **NOT** –

- A partnership, corporation, trust incorporated or created under US law
- A non US incorporated entity having shareholding of 10% or more OR ownership (substantial ownership) held by –
 - A US Person
 - A US incorporated entity

6. Who is a US Person for FATCA purposes?

A US person is:

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

A US Entity is:

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

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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

7. Does FATCA apply to TT\$ accounts?

FATCA applies to your entire account relationship with the Bank i.e. TTD, USD and any other currencies.

8. How are customers being advised?

Letters are sent to existing customers whose accounts with the Bank indicate that they have US Indicia.

As a new account applicant, you will be asked to complete our 'Declaration of US Status' form to determine if you are a US Person/Entity

9. What should you do?

- Complete the 'Declaration of US Status' form to indicate whether you are U.S Person/Entity
- Inform Republic Bank of any changes relating to your US status

10. Who is a Recalcitrant account holder?

Generally, a recalcitrant account holder is any account holder that refuses to co-operate and/or sign the 'Declaration of US Status' Form

11. 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.

12. 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.

13. How are we addressing minors e.g. minor 0-18years (US Person) having a joint RightStart Account with an Adult (Non US Person)?

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

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14. What information will the Bank need to report to the Board of Inland Revenue?

If you are a US Person:

- Your name, address and US TIN
- Your account number;
- Your account balance or value as at the end of the relevant calendar year or other appropriate reporting period
- The total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period

If you are a US Entity:

- The US TIN of the entity
- The name, address and US TIN (if any) of each substantial US shareholder
- The entity's account number;
- The account balance or value as at the end of the relevant calendar year or other appropriate reporting period
- The total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period

If you are a Non-US Entity with substantial US Shareholders:

- The name, address and US TIN (if any) of each substantial US shareholder

15. 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, add additional requirements to the existing regimes.

16. 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.

17. But as US Green Card holder I already pay taxes in Trinidad and Tobago why I am still subject to the FATCA requirements?

A U.S Green Card holder is under U.S law considered a U.S taxpayer.

Under U.S law, Green Card holders are required to declare their financial information directly to the IRS by filing a Form 8938 (Statement of Specified Foreign Financial Assets) and a Form TD F 90-22.1 (Report of Foreign Bank and Financial Accounts). These forms which you are required to do routinely actually obtain more financial information from you than FATCA. FATCA is an extra method being used by the US

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Government to ensure the information is collected and that it is no longer the sole responsibility of the account holder, but now responsibility also lies with the Bank to submit the relevant information to the Board of Inland Revenue for onward submission to the US IRS.

However as a US Green Card holder living outside the United States, as you may already know there are some special exemptions for US citizens and Green Card holders living outside the US, and the US also allows a credit for T&T taxes paid, and so there may not be any US taxes due on your local income. Please check: <http://www.irs.gov/uac/Five-Facts-about-the-Foreign-Earned-Income-Exclusion> or a US tax consultant.

18. What if I am a Green Card holder and living in Trinidad and Tobago and I have a joint account with someone?

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

19. What if I have different accounts at different banks each with under US\$50,000, but amounting to more than that sum in total, will I be subjected to FATCA?

You may not be reported by each financial institution. However the IRS may detect your total balances.

20. 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 amounting to more than US \$50,000 to the United States to support them (e.g. a child at school), will I be subjected to the FATCA requirements?

No, you will not be subjected to the FATCA requirements.

21. 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 subject to the FATCA requirements?

No, only if you are a US person will you be subject to the FATCA requirements

22. 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 subject to FATCA?

No, only if you are a US person will you be subject to the FATCA requirements

23. Do I have a choice in the matter?

Under the Model 1A IGA, Financial Institutions in Trinidad & Tobago will be required to report specific information on US Persons/Entities to the Board of Inland Revenue for onward submission to the US IRS.

Should you refuse to complete our 'Declaration of US Status' Form, you will be considered 'Recalcitrant', and we will be required to report you as such to the BIR for onward submission to the US IRS.

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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 these new reporting 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@republictt.com.

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

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