

CRS, FATCA and beneficial ownership registers: what an international structure must report

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An international trust, foundation or holding company is rarely confidential towards tax authorities today. The Common Reporting Standard, the US Foreign Account Tax Compliance Act and beneficial ownership registers together ensure that the persons behind a structure are identified and, in many cases, reported to their countries of residence. Understanding the classification of each entity is the starting point for getting the reporting right.

1 Automatic exchange of information

The Common Reporting Standard, developed by the OECD, requires financial institutions to identify the tax residence of account holders and report account information to their local tax authority, which passes it on to partner states. Switzerland implemented the standard through its Federal Act on the International Automatic Exchange of Information in Tax Matters, collecting data from 2017 and exchanging it for the first time in 2018. The network of partner states has expanded considerably since then, and the OECD has supplemented the standard with rules on crypto-assets.

2 Trusts and other entities as financial institutions

A trust or foundation whose assets are managed by a professional trustee or asset manager is frequently classified as a financial institution itself, more precisely as an investment entity. It then has its own reporting duties and must report its settlor, beneficiaries and other persons holding equity interests to the tax authority of the jurisdiction where it is resident, or where its trustee is resident. The classification depends on the facts, and the same structure can be treated differently depending on who manages the assets.

3 Passive NFEs and controlling persons

Where an entity is not a financial institution and earns mainly passive income, such as dividends and interest, it is usually a passive non-financial entity. In that case, the bank holding its account looks through the entity and reports its controlling persons. For a trust, these are the settlor, the trustees, any protector, the beneficiaries or classes of beneficiaries, and any other person exercising ultimate effective control. For a company, they are generally the persons who own or control it, determined in line with anti-money laundering rules.

4 US persons in structures

FATCA requires foreign financial institutions to identify and report accounts held by US persons and by entities with substantial US owners. Switzerland has applied FATCA under an intergovernmental agreement with the United States since 2014, and a transition to a reciprocal model has been agreed. A US citizen or green card holder among the settlors or beneficiaries of a trust changes the analysis considerably, both for reporting and for US tax, and should be identified at the outset.

5 Beneficial ownership registers

Many jurisdictions now require companies, and in some cases trusts, to record their beneficial owners in a central register. Access rules differ, ranging from authority-only access to access for persons with a legitimate interest. Switzerland has adopted legislation for a federal register of beneficial owners of legal entities. Information in these registers is expected to match what banks hold on their beneficial-owner forms.

6 What pays off in practice

- **Classify every entity in writing.** A short memo on the CRS and FATCA status of each vehicle avoids inconsistent self-certifications.
- **Keep self-certifications current.** A change of residence by a beneficiary or protector must be notified to the bank and, where relevant, the trustee.
- **Align all registers and forms.** Discrepancies between bank records, register entries and tax filings attract questions.

7 How Ressos Legal helps

I advise trustees, families and companies on the CRS, FATCA and beneficial ownership classification of their structures and on regularising past reporting gaps. [Contact me](#) for a first conversation.

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