Tax Information Exchange with the United States

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PRESS RELEASES

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On March 20, 2015, the Croatian finance minister Boris Lalovac and the US ambassador to Croatia Kenneth H. Merten signed an intergovernmental agreement on the application of the US *Foreign Account Tax Compliance Act (FATCA)*. The Act that came into force in the US in March 2010 regulates tax compliance obligations of US taxpayers with respect to their accounts held with offshore financial institutions.

As stated by the US Internal Revenue Service (IRS), the purpose of the Act is to prevent non-tax compliance by US taxpayers holding accounts with foreign financial institutions. Under FATCA, the US tax authorities would be informed on financial assets held by US taxpayers abroad, and the taxation of such assets would help prevent non-tax compliance.

FATCA requires foreign financial institutions to report to the US Internal Revenue Service (IRS) once a year, through the competent tax authorities, information concerning financial accounts and assets held by US taxpayers. Should a foreign financial institution fail to meet this requirement, the US reserves the right to withhold 30% tax on certain payments from US sources, e.g. interest payments. Under FATCA, financial institutions in the Republic of Croatia (RC) are required to report to the Croatian Tax Administration information on accounts held by US nationals in the country, which will be forwarded to the IRS. The IRS will in turn inform the Croatian Tax Administration about Croatian owners of bank accounts in the United States.

One of the goals of FATCA is to lift banking secrecy protecting the privacy of US taxpayers. Under the Act, financial institutions are required, in cooperation with the relevant tax authorities, to identify account holders who are US taxpayers and to make available their names, taxpayer identification numbers, addresses, account balances and income paid to and disbursed from such accounts. US taxpayers holding accounts abroad are required to fill out the Form 8938 and attach it to their income tax returns. The FATCA regulations also help close tax loopholes used by foreign investors for avoiding paying taxes on US dividends[1].

The Agreement conclusion procedure between the RC and the US started in 2012. As stated in previous Tax Administration's press releases, the RC, just like most other EU Member States, has committed itself to concluding an intergovernmental agreement to improve international tax compliance and to implement FATCA, based on reciprocity. A prerequisite for the implementation of the agreement is the tax treaty which stipulates information exchange or the signing and ratification of the Convention on Mutual Administrative Assistance in Tax Matters, developed by the Council of Europe and OECD. Therefore, Croatia acceded to the Convention which became applicable in the country as of 1 June 2014.

[1] Garufi, S. (2013). FATCA vs. RUBIK: Two models for Tax information Exchange.

The Croatian Government on 20 February 2014 adopted a Decision to initiate the procedure for the conclusion of an intergovernmental agreement between the Republic of Croatia and USA aimed at improving international tax compliance and implementing FATCA. The Tax Administration was entrusted with harmonising the text of the Agreement through negotiations with the competent US authority (*US Treasury*) and determining possible exemptions (e.g. for housing savings banks and pension fund management companies).

In April 2014, a list of countries and jurisdictions which have signed intergovernmental agreements to improve international tax compliance and to implement FATCA was published on the US Treasury Department's website. Financial institutions from the RC were required to log in to the US Tax Administration web portal, in order to be assigned a Global Intermediary Identification Number (GIIN). Upon the conclusion of the Agreement on 20 March 2015, the intergovernmental agreement between the RC and USA started to be implemented. However, additional documents and agreements are needed to lay down the implementation regulations on the exchange of information and security measures to safeguard data confidentiality.