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Treasury still targets expansion of global information exchange

Global Information Reporting

On March 11, 2024, the Treasury Department released revenue proposals and explanations in the General Explanations of the Administration's Fiscal Year 2025 Revenue Proposals ("Green Book"). As in the fiscal year 2024 Green Book, Treasury proposes a significant expansion in US financial institution reporting obligations on behalf of non-US account holders, including transactions in digital assets. This proposal aims to accomplish more robust reciprocal tax information exchange between the US and jurisdictions with which it maintains reciprocal income tax treaties or intergovernmental agreements under the Foreign Account Tax Compliance Act (FATCA). The rules would require US financial institutions to report the following:

- Account balances for financial accounts maintained in the US that are held by foreign persons
- Non-US source income payments to accounts held in the US by foreign persons
- Gross proceeds from the sale or redemption of property, including digital assets, custodied in financial accounts held in the US by foreign persons
- Information regarding passive entities and their substantial foreign owners

The proposal does not address the documentation or form updates that will be required to collect and report this new information.

Additionally, the proposal would require digital asset exchanges—defined as brokers under the amended section 6045—to report substantial foreign owners of passive entities. These updates would require reporting of gross proceeds from digital asset sales effectuated on behalf of foreign customers and, in the case of passive entities, substantial foreign owners. By obtaining this information, the US will be able to exchange information with partner jurisdictions to reciprocally receive information related to digital asset transactions involving US taxpayers. This reporting update will effectively bring digital assets into the scope of the FATCA reporting requirements. The amendments are proposed to be effective for returns required to be filed after December 31, 2026.

In line with the above proposed amendments, the Green Book also includes a proposal to require individuals and certain domestic entities to disclose digital assets maintained in a "foreign digital asset account," defined as "any account that holds digital assets maintained by a foreign digital asset exchange or other foreign digital asset service provider." Taxpayers report this information on IRS Form 8938, Statement of Specified Foreign Financial Assets, and disclosure would be required only where a taxpayer holds an aggregate of foreign accounts or assets that exceed $50,000 in value. The amendments are proposed to be effective for returns required to be filed after December 31, 2024.

Another proposal is to expand the IRS Taxpayer Identification Number (TIN) Matching Program beyond only payments subject to backup withholding. The proposal would amend section 6103 to permit TIN matching for filers of all information returns requiring the reporting of names and TINs and would be effective upon enactment. A related proposal is to extend the requirement for a US payee to provide a certified TIN, generally on a Form W-9, beyond only payments of interest, dividends, patronage dividends, and amounts subject to broker reporting. The IRS proposes to require payees of any payments subject to backup withholding to furnish their TINs to payors under penalty of perjury. This proposal would be effective for payments made after December 31, 2024.

One proposal new to this year's Green Book is to modify the rule that defines 10% shareholders for purposes of the exclusion from the exemption for portfolio interest to conform with the definition of US shareholders in the controlled foreign corporation (CFC) context. The CFC rules calculate the 10% ownership by voting power and interest value, whereas the portfolio interest rule only looks to voting power. Conforming the definitions is intended to promote uniformity and prevent taxpayers from manipulating their voting rights to qualify for the portfolio interest exemption. This proposal would apply to payments of US-source interest made on debt instruments issued on or after the date that is 60 days after enactment.

Another new proposal is to require earlier electronic filing deadlines for certain information returns. Currently, most information returns are due by March 31 of the following year (employee wage information and nonemployee compensation are due by January 31 of the following year). Payee copies of information returns are generally due by January 31 of the following year (February 15 for Form 1099-B). Many individuals file their income tax returns earlier than the required April 15 deadline, leaving the IRS with limited time to match information reporting to filers' returns. Accelerating the IRS's receipt of third-party information would facilitate detection of noncompliance earlier in the filing season and thereby reduce identity theft and fraud. The proposal would amend Section 6071(b) to require information returns made under sections 6041 through 6050Z of the Code (other than returns and statements required to be filed with respect to nonemployee compensation) to be filed on or before the date returns are required to be furnished to payees and other recipients. The proposal would be effective for information returns required to be filed after December 31, 2024.

Get in touch

[Susan Segar]
[Jonathan Cutler]

30 Rockefeller Plaza
New York, NY 10112-0015
United States