



# Controlling Persons

## Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS') - Reasonable Explanation Form

**Note:** Please review the Controlling Persons Frequently Asked Questions (FAQ's) before completing this form.

**To:** AIB

I understand that AIB, in accordance with the Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS'), is required to obtain a reasonable explanation and supporting documentation to support the validity of the tax certification provided in respect of the account holder and its controlling persons.

I confirm that \_\_\_\_\_ is a Controlling Person of \_\_\_\_\_ and is tax resident in the following country(ies) \_\_\_\_\_. I provide the following explanation as to why there is a difference between the country(ies) of tax residence stated on the tax certification form completed and other information held by AIB.

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Please list the documentation provided to support the above explanation (Refer to Q6 for the list of acceptable documents):

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Please note that a separate Reasonable Explanation form must be provided in respect of each Controlling Person.

Sort code \_\_\_\_\_ Bank Account Number \_\_\_\_\_

Name of Controlling Person \_\_\_\_\_

I declare that, to the best of my knowledge and belief, the information I have provided is accurate and complete. I declare that I am authorised to provide this information.

Authorised Signatory \_\_\_\_\_

Position \_\_\_\_\_

Entity Name \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_\_

**Note:** We will review your explanation and will advise you if any additional information is required.

Once completed, please return this form and supporting documentation to the following address:

**Tax Operations, 3rd Floor, Blackthorn Road, Sandyford, Dublin 18**

# Frequently Asked Questions

## Controlling Persons - Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS')

### 1. What is FATCA?

FATCA is a legal framework which requires AIB to report details of financial accounts held by US

Persons to the Irish Revenue on an annual basis who will then exchange this information with the US tax authorities.

### 2. What is CRS?

CRS is a legal framework which requires AIB to report details of financial accounts held by reportable individuals and entities (i.e. customers who are not tax resident in the Republic of Ireland or the US) to the Irish Revenue on an annual basis who may then exchange this information with tax authorities in relevant jurisdictions.

### 3. What is the impact of FATCA and CRS for you?

AIB will be required to undertake the following additional steps in relation to customers opening a new account:

- obtain a tax certification from the entity which enables the bank to determine (a) the entities residence for tax purposes, (b) the entities classification for FATCA and CRS and (c) in certain cases whether the **controlling persons** of the entity are US citizens and/or tax resident in a reportable jurisdiction;
- confirm the reasonableness of the tax certification based on other information that we hold in relation to the entity (including its controlling persons);
- where there is a conflict between the tax certification and other customer information that we have on file, we will require a reasonable explanation and documentation supporting the reasonableness of the tax certification provided at account opening (refer to Q5/6) or alternatively a revised tax certification. An example of such a conflict would be if the controlling person is certified as Irish tax resident but they have a UK mailing address;
- if customers do not provide all of the information requested we will not be able to proceed with opening the new account until the relevant information is provided.
- Further information is available on the Irish Revenue website at <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-38/38-03-24.pdf>

### 4. How should you determine the controlling persons of the entity?

A controlling person is defined as a natural person who exercises control over an entity. Further detail is set out below for each entity type:

#### → Company

Any individual who ultimately owns or controls 25% or more of the shares in the company. Where no individual owns or controls 25% or more of the shares in the company, any individual who otherwise exercises control of the company through other means e.g. as a result of voting rights. Where no individual meets either of the above tests, the details of the individual who holds the position of senior managing official must be provided.

For the purposes of this form, the senior managing official is the person who exercises executive control over the daily or regular affairs of the company through a senior management position e.g. chief executive officer, chief financial officer, managing or executive director, or president.

### → **Incorporated Society**

Any individual who ultimately owns or controls 25% or more of the shares in the incorporated society. Where no individual owns or controls 25% or more of the shares in the incorporated society, any individual who otherwise exercises control of the incorporated society through other means e.g. as a result of voting rights. Where no individual meets either of the above tests, the details of the individual who holds the position of senior managing official must be provided.

For the purposes of this form, the senior managing official is the person who exercises executive control over the daily or regular affairs of the incorporated society through a senior management position e.g. chief executive officer, chief financial officer, managing or executive director, or president.

### → **Partnership / Limited Partnership**

Any individual who ultimately owns or controls 25% or more of the capital or profits in the partnership. Where no individual owns or controls 25% or more of the capital or profits in the partnership, any individual who otherwise exercises control of the partnership through other means e.g. as a result of voting rights. Where no individual meets either of the above tests, the details of the individual who holds the position of senior managing partner must be provided.

### → **Trust**

Controlling persons means any of the following:

- (a) any individual who is entitled to or will in the future be entitled to an interest in the trust property;
- (b) the class of individuals in whose interest the trust is set up;
- (c) the settlor;
- (d) the trustee(s);
- (e) the protector (if any);
- (f) any other person exercising ultimate effective control over the trust (including through a chain of control/ownership) e.g. power to lend/invest trust property; vary the trust or add/remove a beneficiary/trustee.

### → **Unincorporated Entity (e.g. Association, Society, Club/Charity) Society, Club/Charity)**

Any individual who ultimately owns, controls or benefits from 25% or more of the property of the unincorporated entity. Where no individual owns, controls or benefits from 25% or more of the property of the unincorporated entity, any individual who otherwise exercises control of the unincorporated entity through other means e.g. as a result of voting rights. Where no individual meets either of the above tests, the details of the individual who holds the position of senior managing official must be provided.

For the purposes of this form, the senior managing official is the person who exercises executive control over the daily or regular affairs of the unincorporated entity through a senior management position e.g. chief executive officer, chief financial officer, managing or executive director, or president.

## **5. What is a reasonable explanation?**

In certain cases where there is a conflict between the tax certification provided in relation to the controlling persons of the entity and other information that we have on file, AIB is obliged to request a reasonable explanation and documentation supporting the reasonableness of the tax certification provided.

The explanation required will depend on the specific circumstances of each controlling person. It should explain why the authorised signatory is satisfied that the controlling person is tax resident in the country(ies) provided in the tax certification completed at account opening. It should also include a detailed explanation as to why there is a difference between the country(ies) of tax residence included on the tax certification and other information held by AIB.

If we take an example of a controlling person who is certified as Irish tax resident but who has a French mailing address, a reasonable explanation might be that they are living and working in Ireland but continue to have their post sent to their parents address in France.

If the conflict relates to the tax residence or classification of the entity please refer to the Entity Frequently Asked Questions.

## **6. What documentation should be provided to support the reasonable explanation?**

Customers will be required to submit documentation to support the reasonable explanation provided with regards to the tax residency status of controlling persons (refer to Q5). The following are examples of the types of documentation that will be accepted:

**A.** a copy of a utility bill (electricity, gas or landline) or home insurance policy, issued in the past 6 months, which includes the controlling persons address in their country(ies) of tax residence

and

**B.** a copy of one of the following documents which includes the controlling persons address in their country(ies) of tax residence

- Confirmation of tax residence from the appropriate Revenue authority
- A document issued by a government department
- A copy of their Tax Credit Certificate (TCC)
- A Statement of Liability from a Tax Authority
- A social insurance document
- Employment contract
- Payslip
- Lease Agreement

## **7. How should the tax residence of controlling persons be determined?**

In general, tax residence is the place where an individual lives. However, in certain circumstances, such as where an individual lives and works in different countries or lives part of the year in a different jurisdiction, the determination of tax residency may be more complicated. Each country has its own rules on tax residency.

For example, Lucy has her permanent home in Derry. However she travels each day to Letterkenny for work, returning in the evening. She does not have a permanent home available to her outside of Derry. Lucy is tax resident in the UK under UK tax residency rules and is also tax resident in Ireland for the same year as she is present in Ireland for more than 183 days in the tax year. Lucy should include both Ireland and the UK as countries of tax residence on the tax certification.

A person coming to live in Ireland or returning to Ireland after living abroad for a number of years may not be tax resident in Ireland from the date of arrival and may continue to be tax resident in the country in which they previously resided. Further information on tax residency and the implications for people coming or returning to live in Ireland is available at <https://www.revenue.ie/en/jobs-and-pensions/tax-residence/index.aspx>. Similarly a person leaving Ireland to live abroad may not cease to be Irish tax resident from the date of departure.

An overview of the tax residency rules of countries participating in CRS can be found at <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency>

If a controlling person moves to a new country (on a full time or part time basis) their tax residence may change. Please notify AIB if there is a change in the country of tax residence of the controlling person so that we can update the tax information we hold.

### **8. Do you need to provide a Tax Identification Number ('TIN') for controlling persons?**

AIB is required to collect a TIN for any controlling person that is a US citizen or tax resident outside the Republic of Ireland. Except in the limited circumstances where a controlling person is tax resident in a jurisdiction that does not issue TIN's, we may not be able to proceed with opening the new business account until a TIN has been provided. Further information on TIN's is available at: <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>

### **9. Do you need to provide a TIN if the controlling person is a US Citizen?**

A person born in the US is regarded as a US citizen unless born to a foreign diplomat. Where the controlling person of an entity is a US citizen, we cannot proceed to open a business bank account until we receive their US TIN which is typically their social security number. The only exception to this would be if the controlling person can verify that their parents were foreign diplomats or that they have renounced their US citizenship. Further detail on our obligation to collect a TIN in these circumstances can be found at: <https://www.revenue.ie/en/tax-professionals/tm/income-tax-capital-gains-tax-corporation-tax/part-38/38-03-22.pdf>

Controlling persons can apply to the IRS to obtain a US TIN. Further information on how to apply for a US TIN can be found at: <https://www.irs.gov/individuals/international-taxpayers/taxpayer-identification-numbers-tin>

### **10. How frequently will your business have to provide information to AIB for FATCA / CRS purposes?**

Customers should promptly advise AIB of any change in the tax status of the entity or the identity / tax residence of the controlling persons. To the extent that there is a change in the details of the controlling person, we may be required to contact the authorised signatory to provide a new tax certification and/ or reasonable explanation form (refer to Q5) in respect of the controlling person so that we can update the tax information we hold.

### **11. What information is reported to Revenue under FATCA / CRS?**

In general, financial institutions must report the following information to Revenue:

- the account holder's name, address, tax classification, country of tax residence and TIN
- the account number
- the account balance or value at year end
- interest paid or credited to the account during the calendar year and
- the name, address, country of tax residence, US citizenship, date and place of birth (where available), TIN of controlling persons (where applicable) and role of the controlling persons

### **Tax Advice and Disclaimer**

Please note that the information contained in this document is for information purposes only. AIB does not offer tax advice. If you have any questions in relation to FATCA / CRS you should contact your tax advisor or the Irish Revenue at: <https://www.revenue.ie/en/companies-and-charities/international-tax/aeoi/what-does-fatca-and-crs-mean-for-an-account-holder.aspx>

Terms and Conditions apply.

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