

## **Joint Statement regarding an Intergovernmental Approach to Improving International Tax Compliance and Implementing FATCA**

### **A. General Considerations**

- 1. Building on their longstanding and close relationship with respect to mutual assistance in tax matters, the United States, France, Germany, Italy, Spain and the United Kingdom wish to intensify their co-operation in combating international tax evasion.**
- 2. On 18 March 2010 the United States enacted provisions commonly referred to as the Foreign Account Tax Compliance Act (FATCA), which introduce reporting requirements for foreign financial institutions (FFIs) with respect to certain accounts. France, Germany, Italy, Spain and the United Kingdom are supportive of the underlying goals of FATCA. FATCA, however, has raised a number of issues, including that FFIs established in these countries may not be able to comply with the reporting, withholding and account closure requirements because of legal restrictions.**
- 3. An intergovernmental approach to FATCA implementation would address these legal impediments to compliance, simplify practical implementation, and reduce FFI costs.**
- 4. Because the policy objective of FATCA is to achieve reporting, not to collect withholding tax, the United States is open to adopting an intergovernmental approach to implement FATCA and improve international tax compliance.**
- 5. In this regard the United States is willing to reciprocate in collecting and exchanging on an automatic basis information on accounts held in US financial institutions by residents of France, Germany, Italy, Spain and the United Kingdom. The approach under discussion, therefore, would enhance compliance and facilitate enforcement to the benefit of all parties.**
- 6. The United States, France, Germany, Italy, Spain and the United Kingdom are cognizant of the need to keep compliance costs as low as possible for financial institutions and other stakeholders and are committed to working together over the longer term towards achieving common reporting and due diligence standards.**

7. In light of these considerations, the United States, France, Germany, Italy, Spain and the United Kingdom have agreed to explore a common approach to FATCA implementation through domestic reporting and reciprocal automatic exchange and based on existing bilateral tax treaties.

## **B. Possible Framework for Intergovernmental Approach**

1. The United States and a partner country (FATCA partner) would enter into an agreement pursuant to which, subject to certain terms and conditions, the FATCA partner would agree to:

- a) Pursue the necessary implementing legislation to require FFIs in its jurisdiction to collect and report to the authorities of the FATCA partner the required information;*
- b) Enable FFIs established in the FATCA partner (other than FFIs that are exempted pursuant to the agreement or in U.S. guidance) to apply the necessary diligence to identify US accounts ; and*
- c) Transfer to the United States, on an automatic basis, the information reported by the FFIs.*

2. In consideration of the foregoing, the United States would agree to:

- a) Eliminate the obligation of each FFI established in the FATCA partner to enter into a separate comprehensive FFI agreement directly with the IRS, provided that each FFI is registered with the IRS or is exempted from registration pursuant to the agreement or IRS guidance;*
- b) Allow FFIs established in the FATCA partner to comply with their reporting obligations under FATCA by reporting information to the FATCA partner rather than reporting it directly to the IRS;*
- c) Eliminate U.S. withholding under FATCA on payments to FFIs established in the FATCA partner (i.e., by identifying all FFIs in the FATCA partner as participating FFIs or deemed-compliant FFIs, as appropriate);*
- d) Identify in the agreement specific categories of FFIs established in the FATCA partner that would be treated, consistent with IRS guidelines, as deemed compliant or presenting a low risk of tax evasion;*

*e) Commit to reciprocity with respect to collecting and reporting on an automatic basis to the authorities of the FATCA partner information on the U.S. accounts of residents of the FATCA partner*

**3. In addition, as a result of the agreement with the FATCA partner described above, FFIs established in the FATCA partner would not be required to:**

*a) Terminate the account of a recalcitrant account holder;*

*b) Impose passthru payment withholding on payments to recalcitrant account holders;*

*c) Impose passthru payment withholding on payments to other FFIs organized in the FATCA treaty partner or in another jurisdiction with which the United States has a FATCA implementation agreement;*

**4. The United States, France, Germany, Italy, Spain and the United Kingdom would:**

*a) Commit to develop a practical and effective alternative approach to achieve the policy objectives of passthru payment withholding that minimizes burden.*

*b) Commit to working with other FATCA partners, the OECD, and where appropriate the EU, on adapting FATCA in the medium term to a common model for automatic exchange of information, including the development of reporting and due diligence standards.*