

### What is FATCA?

FATCA (**F**oreign **A**ccounts **T**ax **C**ompliance **A**ct) adopted by the US Government on 18<sup>th</sup> of March 2010 and enacted as of 1<sup>st</sup> of January 2013. This Act requires both US citizens and other taxpayers to disclose on their foreign bank accounts, as well as foreign financial institutions to disclose information about such customers to the Internal Revenue Service of the USA (IRS). Main objective of FATCA is to combat tax evasion by USA taxpayers and increase federal tax revenues.

Resolution of the Cabinet of Ministers of Azerbaijan Republic numbered 103s dated April 22, 2014 approved Interstate Treaty to implement FATCA requirements in Azerbaijan. Following the Presidential Decree dated September 04, 2015, a Treaty was signed between the Government of Azerbaijan Republic and Government of USA to improve compliance with international regulations to improve taxation requirements and meet provisions of FATCA.

Azerbaijan has introduced FATCA as of 1 July 2014.

For more detailed information on FATCA please follow the link to official IRS webpage (<https://www.irs.gov/businesses/corporations/foreignaccount-tax-compliance-act-fatca>) or official webpage of Ministry of Taxes of Azerbaijan Republic (<http://www.taxes.gov.az/modul.php?name=beynelxalq&cat=92>).

### What is CRS?

**CRS**(**C**ommon **R**eporting **S**tandard) identifies unified principles for collecting information by various foreign states on financial accounts of foreign citizens in such states for taxation purposes and automatic exchange of such information among states where such persons are residents. This standard was developed by the Organization for Economic Cooperation & Development (OECD) in 2014.

“Tax Reforms for 2016” approved by the Presidential Decree dated 4 August 2016, provide for Interstate Agreements to ensure automatic exchange of financial information and data with other governments to ensure transparent taxation of income originated in foreign countries and support efficient taxation control.

Azerbaijan has introduced CRS as of 1 July 2017.

For more detailed information on CRS please visit official webpage of OECD (<http://www.oecd.org/tax/automaticexchange/common-reporting-standard/>) or official webpage of Ministry of Taxes of Azerbaijan Republic (<http://www.taxes.gov.az/vn/metbuat/chixish/2017/ZFatizade.pdf>).

Ministry of Taxes of Azerbaijan Republic is the authorized body responsible for ensuring information exchange on the basis of both Interstate Treaties.

### What are FATCA and CRS requirements?

#### Requirements to Banks:

Information on foreign citizens or residents among individual and legal entity account holders of banks shall be submitted to the Ministry of Taxes of Azerbaijan Republic on annual basis. Ministry of Taxes submits information on USA citizens or residents to the IRS, and information on citizens or residents of other countries to the OECD.

## Requirements to Customers:

Individuals and Legal Entities opening new accounts in banks are required to fill out “Self-Assessment Template to Identify Tax Residency” provided by the Ministry of Taxes of Azerbaijan Republic and relevant W-8BEN, W-8BEN-E, or W9 forms provided by the IRS.

***If the Customer who wishes to open a bank account refuses to fill out the self-assessment template, the account opening is declined.***

Templates\surveys of Individuals: [Self-assessment survey to identify tax residency of individuals.docx](#); W 8 BEN.pdf; W 9.pdf

Templates\surveys of Legal Entities: [Self-assessment survey to identify tax residency of legal entities.docx](#); W 8 BEN E.pdf

## **Which accounts should be reported?**

According to responses to the survey\template questions, accounts subject to FATCA or CRS reporting are identified:

### For Individuals:

- Citizens of foreign countries;
- Persons periodically making payments to any foreign bank accounts;
- Persons issuing power of attorney of signature proxy to another person with foreign address;
- Persons reporting to financial institution “intermediary address” or “deposit\post box address” as their sole address;
- Persons holding a foreign telephone number;
- Green card holders;
- Persons meeting requirements of substantial presence test\*.

\*Substantial presence test criteria: You will be eligible to pass the test if you spend 183 days or more on foreign soil. For US residency purposes calculations are as follows: [all days of current year (at least 31 days)] + [1/3 of days from previous year] + [1/6 days from two years ago]  $\geq$  183 days. *This rule is not applicable to diplomats, teachers, students or athletes.*

### For Legal Entities:

- Companies founded on foreign soil;
- Branches and representative offices of companies founded abroad;
- Type of Legal Entity (located in non-participating jurisdiction or if one of supervisors\administrators of financial institution managed by another financial institution or a passive NFE is a foreign citizen or resident).