

AGF INVESTMENTS

AGF FATCA FAQs



What are you doing after work?®

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a U.S. tax legislation enacted in 2010, designed to target tax avoidance by U.S. persons using financial accounts with financial institutions outside of the U.S. FATCA requires financial institutions outside of the U.S. (like AGF or any other Canadian financial institution) to report information about the financial accounts held by: U.S. persons (individuals), specified U.S. persons (entities), passive non-financial foreign entities in which U.S. person(s) hold a substantial ownership interest, and non-participating financial institutions (collectively, "FATCA reportable accounts").

Effective July 1, 2014, Canada adopted these FATCA rules into the Canadian tax legislation which requires Canadian financial institutions to collect information from account holders and report information on the FATCA reportable accounts (as well as account holders that fail or refuse to certify their FATCA status) to the Canada Revenue Agency (CRA). The CRA may then provide this information to the Internal Revenue Service (IRS) in accordance with the provisions of the Canada-U.S. Tax Convention. In Canada, registered accounts (RRSP, RRIF, TFSA, RESP, RDSP, PRPP, RPP and DPSP) are exempt for FATCA purposes so only non-registered ("cash") accounts are subject to these rules.

When does this take effect?

The new Canadian FATCA requirements are effective July 1, 2014.

Why are Canadian financial institutions complying?

Canadian financial institutions are required to comply with the Canadian tax legislation that implements the FATCA requirements.

Is AGF participating in FATCA?

Same as other Canadian financial institutions, AGF, its group of companies and the funds they manage, are complying with the Canadian tax legislation that implements these FATCA rules.

What happens if I refuse to answer the questions or provide the requested info for FATCA purposes?

If you choose to not provide the information requested for FATCA purposes, we will be required under Canadian tax law to treat your account as a "reportable" account and report it to the CRA (regardless if you are considered a U.S. person or not). The CRA may then provide this information to the IRS.

Does FATCA only apply to investment funds?

No, Canadian tax law relating to FATCA also applies to many other types of financial instruments and accounts, including bank accounts, insurance contracts, and investment or brokerage accounts.

How will FATCA impact me or how will you determine if my account is "reportable" for FATCA purposes?

Your registered dealer may ask you to provide additional documentation or information to determine your non-registered account's classification for FATCA purposes. This can include, amongst others, a self-certification or an IRS W8/W9 tax form.

For an **individual** account (i.e. an account held by a natural person or a sole proprietor), you will likely be asked to complete documentation regarding your U.S. tax status.

For an **entity** account (i.e. an account held by a corporation, limited partnership or a formal trust), new documentation may be required confirming the entity classification for FATCA purposes.

Your registered dealer will review the collected information as well as other documentation in their records against the requirements to determine if your account is a FATCA reportable account. If your account is determined to be a FATCA reportable account, AGF is required to report information relating to this account to the CRA.

Alternatively, the review may indicate that additional supporting documentation is required. If you provide all requested information and your account is determined not to be a FATCA reportable account, no FATCA related information will be reported to the CRA or IRS.

How is a joint account handled?

If at least one of the joint owners is a U.S. person, reporting for FATCA purposes is required on the entire account.

Who is considered as a U.S. person (individual)?

You should consult with your tax advisor to determine whether you are a U.S. person or visit the CRA, IRS or U.S. Citizenship and Immigration Services websites:

<http://www.cra-arc.gc.ca/tx/nnrstdnts/nhncdrprtng/menu-eng.html>

<http://www.irs.gov/Individuals/International-Taxpayers>

<http://www.uscis.gov/us-citizenship>

If I am a snowbird or a frequent traveler to the U.S., am I a U.S. person?

You may be considered a U.S. person. However, a special snowbird certification may be available. Please ask your registered dealer how to certify your snowbird status if you qualify. Please note that this special snowbird certification expires 7 years after the end of the year when it is made and needs to be renewed. You should consult with your tax advisor or visit the CRA website: <http://www.cra-arc.gc.ca/tx/nnrstdnts/nhncdrprtng/menu-eng.html>, to confirm whether you would qualify to make this special certification.

What is as a U.S. person (entity)?

Generally, an entity will be a U.S. person if it is:

- a corporation or partnership organized in the U.S. or a U.S. state;
- a trust subject to U.S. law that is controlled by one or more U.S. citizens or U.S. residents for tax purposes; or
- a testamentary trust of a decedent that was a U.S. citizen or a U.S. resident for tax purposes at the time of death.

Generally, an entity incorporated or organized in Canada or any other place outside of the U.S., is not a U.S. person.

What is a specified U.S. person (entity)?

In general, a specified U.S. person (entity) is a U.S. person (entity) other than a:

- a corporation, the stock of which is regularly traded on one or more established securities markets;
- a corporation that is related to a corporation, the stock of which is publicly traded;
- a U.S. government or agency;

- a dealer in securities, commodities, or derivative financial instruments that is registered under the laws of the U.S or state; or
- an entity that is a bank, a broker, a common trust fund, an organization exempt from taxation, a real estate investment trust, a regulated company or a trust that is exempt from tax, as defined in the relevant U.S. Internal Revenue Code.

What is a passive non-financial foreign entity (NFFE)?

All entities are NFFEs except financial institutions and U.S. persons (entities). A NFFE can be either a Passive NFFE or an Active NFFE.

A Passive NFFE is any NFFE that is not an Active NFFE.

An “Active NFFE” is an entity that meets one of the following criteria (please note this is a not the complete list):

- less than 50% of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income, and less than 50% of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.
- Passive income is generally understood to include income from the mere holding of property, such as interest, dividends, rents and royalties.
- a public corporation with shares that regularly trade on an established securities exchange (e.g., the TSX or the NYSE);
- an entity related to an above-described public corporation;
- a registered charity;
- a government (or an agency or instrumentality thereof) that performs functions of a governmental nature; or
- a start-up entity investing in assets with the intent of operating a business (other than a business of making or managing investments), if the entity was incorporated or otherwise organized less than 24 months before it relies on this criteria to certify its status.

What is a non-participating financial institution?

In general, a foreign financial institution is a financial institution located outside of U.S.

In general, a non-participating financial institution is a foreign financial institution that does not register with the IRS or is in significant non-compliance with FATCA.

The account is held by a[n] endowment fund, pension fund, charitable organization or sovereign wealth fund. Is it exempted from FATCA documentation?

Such entities may be required to provide their FATCA status through a Self-Certification or an IRS W tax form. Please speak with your financial advisor or registered dealer to see what is required to confirm the entity’s FATCA status.

Does the holding of U.S.-dollar investments in my account mean I have to provide FATCA documentation?

Holding of U.S.-dollar investments, in and of itself, does not mean the account is subject to FATCA.

I am a Canadian tax resident (and not a U.S. person), why do I need to complete a self-certification or an IRS W tax form?

Under the Canadian tax law, Canadian financial institutions are required to collect information from all non-registered account holders in order to document and determine if they are U.S. persons for FATCA purposes.

Why did my registered dealer contact me for additional FATCA documentation?

If your registered dealer contacted you for additional documentation (beyond a self-certification or IRS W tax form), it is generally because there is other information in your registered dealer's records that suggests that you may be a U.S. person. Such information may include, but is not limited to: a U.S. place of birth, U.S. address, U.S. phone number, etc.

Do I need to do anything?

If you have been requested to provide FATCA documentation or information, please promptly comply. If you decline or fail to timely respond to such requests, your account information may be reported to the CRA for FATCA purposes.

Can my registered dealer or AGF help me to complete the self-certification, IRS W tax form or any of the other FATCA documentation?

We cannot provide you with advice on how to complete the self-certification or the IRS tax forms or any other FATCA documentation. Should you require assistance in completing the FATCA documentation, please consult with your tax advisor or visit the CRA website: <http://www.cra-arc.gc.ca/tx/nnrstdnts/nhncdrprtng/menu-eng.html>.

To whom will the account information be provided?

To the extent that an account is considered a FATCA reportable account, or where a determination cannot be made due to insufficient or outstanding documentation, Canadian financial institutions are required to report account information to the CRA. The CRA may then provide this information to the IRS in accordance with the provisions of the Canada-U.S. Tax Convention.

Where can I obtain additional information about FATCA?

To obtain additional information about FATCA, you can visit the following websites:

CRA: <http://www.cra-arc.gc.ca/tx/nnrstdnts/nhncdrprtng/menu-eng.html>

Canadian Department of Finance: <http://www.fin.gc.ca/n14/14-018-eng.asp>

Disclaimer:

This document contains general information only and AGF is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This information is not a substitute for such professional advice or services, or should it be used as a basis for any decision or action that may affect you or your business. Before making any decision or taking any action that may affect you or your business, you should consult a qualified professional advisor.

AGF shall not be responsible for any loss sustained by any person who relies on this document or information therein.