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Publications

FATCA Compliance Challenges for Employee Benefit Plans

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Under U.S. law, U.S. citizens and U.S. resident aliens are generally subject to taxation on their worldwide income. While in theory this requirement sounds simple, as events of recent years have highlighted, the IRS's ability to gather knowledge on income and accounts outside the United States has been limited at times. While there have long been existing procedures and processes for obtaining information about foreign financial accounts, there has also been a long-held perception by some that these programs have been insufficient at ensuring tax compliance. As such, in 2010, the Foreign Account Tax Compliance Act (FATCA) (P.L. 111-147) was enacted.

In the context of retirement plans, FATCA has three potentially significant areas of impact:

1. Reporting and withholding obligations for non-U.S. retirement plans
2. Reporting and withholding obligations for non-U.S. investments made by U.S. retirement plans
3. Individual participant reporting obligations

In the attached column, we first provide a brief overview of the Basics of FATCA and then briefly summarize how these rules can impact the both non- U.S. and U.S. retirement plans.

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