

## Guidance Note to CRS and FATCA Self-Certification for Individuals

Due to the requirements of the Foreign Account Tax Compliance Act (FATCA) and the automatic exchange of information/Common Reporting Standard (CRS) Swiss financial institutions are required to collect information about the tax residency as well as the US Person status of their clients.

**The form "CRS and FATCA Self-Certification for Natural Persons" is intended exclusively for individuals as account holders or beneficial owners. For joint accounts or banking relations with multiple account holders/beneficial owners, a separate form must be submitted for each account holder/beneficial owner.**

### Part 1 – Information about the Account Holder / Beneficial Owner

In this section of the form information about the account holder / beneficial owner is inquired.

#### Account Holder / Beneficial Owner

Both the account holder as well as any beneficial owners differing from the account holder are to be considered as account holders for CRS and FATCA purposes. A separate form must be filled for each account holder and for each differing beneficial owner.

#### Residence Address

Indicate the address of the **effective** residence of the account holder. The effective residence is located at the place where the account holder resides with the intention of permanent stay. C/o addresses and/or P.O. boxes are not allowed to be provided as residence addresses, unless the P.O. box is part of the effective address.

#### Mailing Address

The mailing address must only be provided if it is in another country than the residence address. In this case, a reason for the divergence must be provided on the respective rows in the form. In case of multiple mailing addresses that deviate from the residence address please provide these on a separate sheet.

### Part 2 – Tax Residence of the Account Holder / Beneficial Owner

In this section of the form, all jurisdictions are to be indicated where the person mentioned in Part 1 of this form is tax resident under local tax law and principles; i.e. the person mentioned in Part 1 of this form is typically subject to tax on his/her worldwide income and wealth (unlimited tax liability). The Tax Identification Number (TIN) must be stated for each corresponding jurisdiction. In case the rows in the form are not sufficient to name all jurisdictions of tax residence please provide the additional jurisdictions and TIN on a supplementary sheet.

#### Tax Identification Number (TIN)

The tax identification number is the number allocated by the jurisdiction of tax residence to identify persons for purposes of the application of its tax laws. Further information to the tax identification numbers of the various jurisdictions can be found on the following link ([www.oecd.org](http://www.oecd.org) > Topics > Tax > Exchange of information > Automatic exchange of information portal > CRS Implementation and Assistance > Tax Identification Numbers).

#### TIN unavailable

If it is not possible for the person mentioned in Part 1 to specify a tax identification number for a jurisdiction of tax residence, please cross the field "TIN unavailable" and provide an explanation (e.g. the relevant tax authority does not issue tax identification numbers, etc.).

#### Tax Residence

The tax residence (unlimited tax liability) must be determined according to the local tax laws and, if applicable, according to the applicable double taxation treaty (DTT). **The bank is not allowed to advise a client Error! Unknown document property name. with regard to the identification and determination of the tax residence. The rules resulting in an unlimited tax liability may be different from jurisdiction to jurisdiction.**

For individuals the residence address or a certain minimum stay could be relevant factors. In case local tax laws provide for an unlimited tax liability for an individual even after relocation, such person continues to be considered a tax resident in that jurisdiction. Furthermore, there are rules that provide for specific individuals to be considered as tax resident of a jurisdiction, even though they do not actually reside in such jurisdiction, (e.g. to determine the tax residence of diplomatic and consular personnel, it is the assigning jurisdiction and not the jurisdiction that gives accreditation, which is relevant). A limited tax liability (e.g. due to income from real estate or a participation in a partnership) does typically not by itself result in a tax residence.

Jurisdictions that implement the automatic exchange of information are expected to provide guidance on how their local laws determine the tax residence, via the OECD-Portal ([www.oecd.org](http://www.oecd.org) > Topics > Tax > Exchange of information > Automatic exchange of information portal > CRS Implementation and Assistance > Tax residency rules).

If an individual is subject to unlimited tax liability in two jurisdictions under their local tax laws reference is to be made to the DTT between these two jurisdictions (if any) to determine the tax residence of such individual. In such cases, the **Tie-Breaker-Rules** in the DTT determine in which of the two jurisdictions an individual is tax resident. If no DTT is available the individual is considered to be tax resident in both jurisdictions for CRS purposes.

The jurisdiction of tax residence is to be indicated in a distinctive manner (Full name of the jurisdiction).

The bank may request further documentary evidence for the declared tax residence.

### **Part 3 – US Person Status of the Account Holder / Beneficial Owner**

In this section of the form the status of the person mentioned in Part 1 as US person is determined.

#### **US Person**

An Individual is a US person when he/she meets one of the following criteria:

- US citizenship (single and dual citizenship)
- US residency (e.g. a green card holder or persons fulfilling the "Substantial Presence Test", see below)
- US place of birth (persons who do not qualify as US persons despite having a US birthplace must provide an explanation as well as documentary evidence proving their status as non-US person, (e.g. Certificate of Loss of Nationality).
- Other reasons for an unlimited US tax liability of an individual who is therefore deemed to be a US persons (not exhaustive) may be:
  - dual residency
  - joint tax return as a spouse of a US person
  - long-term permanent residency in the United States, etc.

#### **Substantial Presence Test**

Individuals are regarded as US persons, in particular, if they meet the criteria's of the so-called "Substantial Presence Test". This test is met, if the natural person has been physically present in the US in the current year for at least 31 days and in the past three years (counting the current year and the two previous) for at least 183 days.

The following formula is used for the calculation of the 183 days:  $([\text{number of days in the current year}] + [\text{number of days in the past (last) year} \times 1/3] + [\text{number of days in the penultimate year} \times 1/6]) \geq 183$ .

More information about the calculation of the length of stay can be found on the following IRS website: <http://www.irs.gov/taxtopics/tc851.html>.

### **Part 4 – Certification**

The form must be signed by the person mentioned in Part 1 of this form. By signing the form, the signatory confirms the accuracy of the information provided therein.