

KPMG AEOI Updates & Tracking Service FATCA Alert

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Country:	Germany
Regime:	FATCA

Germany: Issued FATCA Newsletter 02/2021

On 11 May 2021, the Federal Central Tax Office of Germany (BZSt) released FATCA Newsletter 02/2021. The FATCA Newsletter contains the following updates:

- Updates regarding US TINs from 2020 Reporting year: The update includes a series of codes developed by the IRS that can be used by Reporting Financial Institutions (FIs) for unknown US Tax Identification Numbers (“TINs”) while making FATCA declarations. The codes are developed to explain the reason provided by an FI for the lack of US TINs, or better understand the detailed circumstances of individual cases. The various codes are listed below:
 - 222222222, for pre-existing individual account where the only US indicia is a US place of birth
 - 333333333, for new individual account where the sole indicia is a US place of birth, and either:
 - there is a change in circumstances to cause the self-certification obtained originally at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or
 - was below the threshold at the time of account opening, for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
 - 444444444, for pre-existing individual and entity account that has US indicia other than a US place of birth, and either:
 - there is a change in circumstances, to cause the self-certification or other documentation obtained originally to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or

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- was below the threshold at the time of account opening, for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained
- 55555555, for new individual or entity account with US indicia other than a US place of birth and either:
 - there is a change in circumstances to cause the self-certification or other documentation obtained originally to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
 - was below the threshold at the time of account opening, for documenting and reporting the account and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained
- 66666666, for pre-existing entity account with an account balance exceeding US\$1,000,000 held by a passive NFFE, for which no self-certifications have been obtained, and no US indicia has been identified in relation to its controlling persons; and
- 77777777, for pre-existing accounts with no TIN available, and the account has been dormant or inactive, but remains above the reporting threshold, also known as a “dormant account”

The codes mentioned above should be used instead of the previous default codes; however, where the codes listed above are not relevant, the previous code “AAAAAAAA” can technically be used in exceptional cases.

Further, the use of these codes is not mandatory for Reporting FIs, they are still obliged to obtain the US TIN from the account holders. These codes should only be used for cases where the TIN is not available and the annual request from the account holder was not successful. The previous code, “00000000,” is no longer applicable due to the new entry option “NA”.

Additionally, since US TIN is mandatory, a Reporting FI will always receive an error notification from the IRS also by using the codes listed above, even if no entry of a US TIN can be made.

The FI can correct any errors regarding unknown US TINs within 120 days of receiving the notification. Consistent with the Intergovernmental Agreement (IGA) and Competent Authority Arrangement (CAA), if applicable if the TIN is not provided within that 120 day period, the IRS will evaluate the data received and determine through a consideration of the facts and circumstances if there is significant non-compliance. The IRS has announced in the past that the absence of the US TIN does not



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automatically lead to significant non-compliance. When determining whether an FI is significantly non-compliant, the IRS takes into account all facts and circumstances, including the reasons why unknown US TINs were not obtained, the procedures taken by the FI to obtain the unknown US TINs and the efforts taken by the FI.

If the IRS determines that an FI is significantly non-compliant, it can take further actions, such as removing the Global Intermediary Identification Number (GIIN) of the respective FI from the Foreign Financial Institution (FFI) List.

- New Entry option "NA": Per the FAQs Q1-Q1b and Q3 updated by IRS on 19 April 2021, the alternative option "NA" has been permitted if the TIN is not in the IRS specified format (e.g. eight digit US TIN). Reporting FIs for account holders and controlling persons who have a US TIN in a format other than the permitted format can specify their country code as the issuing state, and the TIN element with the abbreviation "NA". This simplified procedure is technically not possible for entering the TIN of the reporting FI (ReportingFI/TIN). The entry "NA" can be used with immediate effect as well as for the previous reporting periods.

Additionally, Q3 describes which entries in the TIN element are possible for the accounts of foreign account holders whose controlling person has US Indicia and vice versa. For such cases, a valid US TIN should be provided for the US account holders/controlling person and Foreign TIN should be provided in case of foreign account holders/controlling person. If neither a US TIN nor a Foreign TIN is available, the financial institution can enter their own country code in the IssuedBy element and the letters "NA" in the TIN element .

- No use of lowercase letters in DocRefId: Results from previous years showed that assignment of notifications from the US and the resulting creation of a USEmpfangsbestätigungAnFI (UEFI) can be done faster and without issues if the DocRefIDs used in the associated FATCA messages do not contain lowercase letters. Hence, the use of lowercase letters in DocRefIDs, especially for initial messages (FATCA1) shall be avoided with immediate effect.

However, the exact character string must be used for any correction, deletion or modification of message specified in the initial report.

- ELMA standard headers: Per FATCA Infobrief 01/2021, the FATCA procedures were intended to be updated to introduce the cross-process standard header in the second half of 2021. However, this project has been postponed till the next calendar year, 2022.

Reference (German): [FATCA Newsletter](#)

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For additional summaries of the latest AEOI developments, please visit KPMG's TaxNewsFlash-FATCA/IGA/CRS Insights page, [here](#).

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