INTERNAL REVENUE SERVICE

IRS News Release

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Treasury and IRS Issue Guidance Outlining Phased Implementation of FATCA Beginning in 2013

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WASHINGTON — The Treasury Department and the Internal Revenue Service today issued a notice announcing plans to phase in the requirements of the Foreign Account Tax Compliance Act (FATCA). The new law targets noncompliance by U.S. taxpayers through foreign accounts. Under the notice's phased implementation approach, foreign financial institutions (FFIs) and U.S. withholding agents are given adequate time to build the systems needed to fully comply with FATCA.

"FATCA is an important development in U.S. efforts to combat offshore noncompliance. At the same time, the IRS recognizes that implementing FATCA is a major undertaking for financial institutions." said IRS Commissioner Doug Shulman. "Today's notice is a reflection of our serious commitment to implementation of the statute, but also a serious commitment to listen to the implementation challenges of affected financial institutions and make appropriate adjustments to ensure a smooth and timely roll-out."

FATCA was enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act. FATCA requires FFIs to report to the IRS information about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. In order to avoid being withheld upon under FATCA, a participating FFI will have to enter into an agreement with the IRS to:

- Identify U.S. accounts,
- Report certain information to the IRS regarding U.S. accounts, and
- Withhold a 30-percent tax on certain payments to non-participating FFIs and account holders who are unwilling to provide the required information.

FFIs that do not enter into an agreement with the IRS will be subject to withholding on certain types of payments, including U.S. source interest and dividends, gross proceeds from the disposition of U.S. securities, and passthru payments.

Notice 2011-53, issued today by Treasury and the IRS, provides a workable timeline for FFIs and U.S. withholding agents to implement the various requirements of FATCA. Specifically, the notice phases in the implementation of FATCA in the following manner:

- An FFI must enter an agreement with the IRS by June 30, 2013, to ensure that it will be identified as a participating FFI in sufficient time to allow withholding agents to refrain from withholding beginning on January 1, 2014.

- Withholding on U.S. source dividends and interest paid to non-participating FFIs will begin on Jan. 1, 2014, and withholding on all withholdable payments (including on gross proceeds) will be fully phased in on Jan. 1, 2015.

- Due diligence requirements for identifying new and pre-existing U.S. accounts (including certain high-risk accounts) will begin in 2013. Reporting requirements will begin in 2014.

- For purposes of the Notice, high risk accounts include private banking accounts with a balance that is equal to or greater than $500,000.

Treasury and IRS will continue to work closely with businesses and foreign governments to implement FATCA effectively.