

BDO Kuwait Tax Alert Implementation of CRS in Kuwait



On 16 July 2017, the Ministry of Finance “the Ministry” has issued Ministerial Resolution No. 36 of 2017 (“the Ministerial Resolution”) setting out instructions for implementing the Common Reporting Standards (“CRS” or “the standard”) in Kuwait.

The Ministerial Resolution comes after Kuwait signed the Multilateral Competent Authority Agreement (“MCAA”) and CRS in August 2016 and the Convention on Mutual Administrative Assistance in Tax Matters (“MAC”) in May 2017.

Broadly, CRS requires financial institutions in Kuwait subject to CRS to carry out certain due diligence to identify, document and report reportable accounts to the Ministry.

The Ministerial Resolution confirms that the date for applying New Accounts procedures under CRS would be 1 April 2017.

Key requirements under the Ministerial Resolution

1. Reporting financial institutions (“RFIs”) must prepare, document and apply certain procedures as outlined in the standard in order to help the RFI to determine the accounts reportable under CRS.
2. From the year ended 31 December 2017 and thereafter, RFIs are required to report to the Ministry each financial account identified by the RFI as reportable account under CRS.

3. RFIs that have no accounts to report under CRS are required to submit a nil report to the Ministry.
4. RFIs should report their reportable accounts electronically via the Ministry’s portal.
5. A report on the reportable accounts must be prepared and submitted to the Ministry on or before 31 May each year relating to the previous year’s financial information.
6. Each RFI should maintain CRS records (such as self-certification forms, documentary evidences etc.) for a period not less than 5 years from the end of the relevant reporting period.
7. With respect to reinstating accounts balance in USD for the purpose of applying the due diligence procedures in the standard, the spot rate of the date of accounts threshold determination should be used.

Flexibility offered by the Ministry in implementing CRS

1. RFIs can utilize third party service providers to carry out the required procedures under CRS; however the ultimate responsibility vests with the RFIs.
2. RFIs are permitted to apply the new accounts due-diligence procedures on pre-existing accounts. Accordingly, the use of self-certifications approach for pre-existing customers will suffice for due-diligence.

3. RFIs are permitted to apply the due-diligence procedures applicable for High Value Accounts on Lower Value Accounts as well.
4. RFIs subject to CRS are permitted to apply the residence address test for Lower Value Accounts. This is an alternative to the electronic search for all the indicia, so long as the address is current and based on documentary evidence.
5. With respect to determining the reportability of controlling persons of new entity accounts of Passive Non-Financial Entities, RFIs can rely only on the CRS self-certification from the account holder or the controlling person.

Date of enforcement of the Ministerial Resolution:

As per Article 6 of the Ministerial Resolution, the reporting requirements under the Ministerial Resolution will become effective as soon as the MAC and MCAA agreements have been passed and become enforceable in Kuwait.



KEY DATES FOR IMPLEMENTING CRS

31 March 2017: Pre-existing Accounts cut-off date - all financial accounts maintained by financial institutions as of such date are to be treated as pre-existing accounts.

1 April 2017: New Accounts procedures - financial accounts maintained by financial institutions that are opened on or after such date are to be treated as new accounts.

31 December 2017: Cut-off date for completing the due-diligence procedures for Pre-existing Individual High Value Accounts.

31 March 2018: Cut-off date for completing due-diligence procedures for pre-existing entity accounts.

31 December 2018: Cut-off date for completing the due-diligence procedures for pre-existing individual Lower Value Accounts.

31 May: reporting deadline for each year beginning 2018.

Lower Value Account: refers to a Pre-existing Individual Account with an aggregate balance or value that does not exceed USD 1 million as of 31 March 2017

High Value Accounts: refers to a Pre-existing Individual Account with an aggregate balance or value that exceeds USD 1 million as of 31 March 2017 or 31 December of that or any subsequent year.

CONTACT DETAILS

BDO has a large experienced team in FATCA and CRS in Kuwait and is ready to assist banks and financial institutions in getting ready for CRS. For more information, please contact one of the following:

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