

# Tax Status Declaration Form – Entity - Guidance notes

## Guide to completing the tax status declaration

### General information

The following information is intended to guide you through the document.

Please note:

- Please send us back a signed original completed form
- We **can't** complete any of the fields in the form on your behalf

There's an FAQ at the end of this guide to help explain why we are writing to you.

**Please note that we give you these supporting notes and guidance for reference purposes only. They don't constitute tax advice; we can't give you that. International tax can be complicated and you could have tax obligations in more than one country. If you are in any doubt we recommend you get independent tax advice to help you complete the form accurately.**

### Tax status declaration – Entity

#### Please use these guidance notes to support you in completing the form

Parts 1, 2 and 3 are mandatory, so you need to complete them in full.

#### Part 1 – Customer identification

Please use your registered company name.

Please provide your full details within the boxes provided.

If you are a company, enter your country of incorporation. If you are another type of Entity, enter the country under whose laws you are created, organised, or governed.

#### Part 2 – Tax residency information

Please ensure that the country in which you are a resident for tax purposes and your tax identification number (TIN) – or equivalent – are provided.

Where you do not have a TIN, we need to understand why this is. For example, you reside in a jurisdiction that does not issue TINs (e.g. the Cayman Islands) or are in the process of obtaining a TIN (in which case, you would need to provide it to us once you've obtained it).

If you do reside in a jurisdiction that issues TINs we will ask you for further clarification.

We need to know where the Entity is currently a tax resident, if this has changed, or if the Entity has been tax resident in more than 1 country in the last calendar year. If the Entity tax residency has changed or been in more than one country, please list all. For example:

Country	TIN	Initial if TIN unavailable	Tax resident for the past calendar year (Y/N)	If your tax residency has changed in the last calendar year please provide dates below	
				From	To
UK	123456789	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/01/2015	30/06/2015
Australia	987654321	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/07/2015	Present

### **Part 3 – Entity certification**

#### **Specified US person:**

- An individual who is a US citizen or US resident alien
- A partnership, corporation, company, or association created or organised in the US or under the laws of the US
- An estate (other than a non-US estate), or
- A US trust

### **Part 4 – Entity's Tax status certification**

#### **Section A – FATCA tax status certification**

##### **Foreign Financial institution**

Only complete this section if you're a foreign financial institution (An FFI is a non-US financial institution and is one or more of the following: depository institution, custodial institution, investment Entity, specified insurance company or holding company and treasury centre of a financial group)

**GIIN** - A GIIN is a "Global Intermediary Identification Number" which is issued by the Internal Revenue Service. The majority of GIINs will be issued to financial institutions as part of their FATCA registration and compliance process. An FFI will use its GIIN to establish itself for reporting purposes. For further information on GIINs see the glossary.

##### **Non-Financial Foreign Entity (NFFE)**

Only complete this section if you're a non-financial foreign Entity. An NFFE is a non US company, partnership, trust, foundation or any other legal Entity that isn't a Foreign Financial Institution.

**Active NFFE** – the Entity is not a financial institution; generally, less than 50% of such Entity's gross income for the preceding calendar year is passive income; and, less than 50% of the assets held by such Entity at any time during the preceding calendar year are assets that produce or are held for the production of passive income (see glossary for the definition of passive income). Please note that there are a number of reasons why you could be an Active NFFE. A full Active NFFE definition can be found in the glossary below.

**Passive NFFE** – the Entity is not a financial institution or an Active NFFE. Generally a Passive NFFE is an Entity that primarily earns passive income (e.g. interest, dividends, rents, royalties, etc). An Entity primarily earns passive income if more than 50% of its gross income over the last three-year period is passive income.

**Direct Reporting NFFE** – the Entity is not a financial institution; it elects to report information about its direct or indirect substantial U.S owners to the IRS. It registers with the IRS as a Direct Reporting NFFE and meets several other detailed requirements defined by the IRS.

**Sponsored Direct Reporting NFFE** – the Entity is not a financial institution; it is a Direct Reporting NFFE and where another Entity, other than a non-participating FFI, has agreed with the NFFE to act as its sponsoring Entity.

## Section B – CRS tax status certification

### (a) Investment Entity – An Entity:

- That primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
  - Trading in money market instruments, foreign exchange, interest rate and index instruments, transferable securities, or commodity futures trading
  - Individual and collective portfolio management, or
  - Otherwise investing, administering, or managing financial assets or money on behalf of other persons
- The gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, and which is managed by a depository institution, a custodial institution, a specified insurance company, or an investment Entity described above.

### (b) Depository institution – An Entity that accepts deposits in the ordinary course of a banking or similar business

**Custodial institution** – An Entity that holds, as a substantial portion of its business, financial assets for the account of others. A substantial portion is where the Entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of:

- The three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made, and
- The period since it commenced business

**Specified Insurance Company** – An Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a cash value insurance contract or an annuity contract.

### (d)-(h) NFE – An Entity that is not a financial institution

**(d)-(g) Active NFE** - Any NFE can be an Active NFE, provided that it meets any of the criteria listed below. In summary, those criteria refer to:

- Active NFEs by reason of income and assets;
- Publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;
- Holding NFEs that are members of a nonfinancial group;
- Start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- Treasury centres that are members of a nonfinancial group; or
- Non-profit NFEs.

Please note that there are a number of reasons why you could be an Active NFE. A full Active NFE definition can be found in the glossary below.

**(h) Passive NFE** - Under the CRS a "Passive NFE" means any: (i) NFE that is not an Active NFE; and (ii) an Investment Entity described in subparagraph A(6)(b)Section VIII of the CRS.

## **Section C – Controlling person(s)**

Is only to be completed if you have selected passive NFFE in section 4B

A controlling person is defined as a person who exercises, directly or indirectly, control over the account holder. In the case of a trust, the controlling person is generally:

- The settlor
- The trustees
- The protector (if any)
- The beneficiaries or class of beneficiaries, and
- Any other person exercising ultimate effective control over the trust

## **Part 5 – Declaration and Signature**

This section is mandatory and must be signed by an individual who is listed as an authorised signatory on our records for the account and has the capacity to sign for the Entity.

### **Additional Information**

#### **Who can certify documents?**

Your supporting documentation can be certified by any one of the following:-

1. A member of staff at your local branch, your relationship manager or private banking manager (if applicable)
2. A lawyer or solicitor who is listed on a law society or bar association website
3. An accountant who is listed on the Institute of Chartered Accountants or Association of Chartered Accountants website

If you choose to speak to branch staff or a relationship/private manager, please bring this document with you so they can post it all for you.

#### **Certification guidance notes: for lawyers, solicitors or accountants**

Please take a black and white copy of each page of the original document (including blank pages).  
Certifying each page of the copy by including:

- Certification statement(s)
  - 'I certify that this document is a true copy of the original seen document.'
  - 'I certify that the photograph is a true likeness of the named person.' (where photo identification is provided)
- Certifier's signature, full name (printed in capital letters) and date of certification
- Details of the certifier's position or the capacity in which they are signing
- Details of the name of the regulating body of the certifier
- Details of the certifier's registration number issued by the regulating body (if applicable)
- The certifier's contact information in case we have a query

#### **Posting the documentation**

Once you have certified the documents, please put them (including any certified translations where appropriate) in the envelope and post it back to us.

You may want to keep a copy of the documentation you send to us for your own tax records.

## Frequently asked questions

### **Why do I need to complete a tax status declaration (TSD)?**

We've a legal requirement to identify customers' tax residencies and tax statuses. This is because local tax authorities have signed international agreements to share information for tax reasons. This information can include name, address, tax number, account number(s), gross amount of interest paid/received and the balance or value of the account(s).

### **When will I be asked to complete a tax status declaration?**

The law states that we are required to identify customers' tax residencies and tax statuses. To do this we may require new customers to complete a TSD when opening an account with us. If your circumstances change please let us know and we may require you to complete this form again. That could be changing your address, amendments to controlling persons etc.

### **What happens if I do not provide a completed tax status declaration?**

If you don't give us the required TSD we are required under law to provide some of your details to the relevant tax authority as someone who has not replied - providing the form will help us to decide if we need to share your information or take you out of scope.

### **When might you have to send back or reject the forms?**

Altering the documents would mean we'd have to send them back to you. For example:

- If you cross out any information, including the pre-printed text
- If you over-write any information, or use correction fluid to change the content
- If you have not completed all the mandatory sections of the form
- If you haven't submitted all the additional documentation you've been asked for
- If the person signing the form is not listed as an authorised signatory on our records for the account or does not have the capacity to sign for the Entity

## Glossary

**Please note that we give you these supporting notes and guidance for reference purposes only. They don't constitute tax advice; we can't give you that. International tax can be complicated and you could have tax obligations in more than one country. The definitions below are taken from the regulations, and some of the terms used are very technical in nature. If you are in any doubt we recommend you seek independent tax advice to help you complete the form accurately.**

### **Active Non-Financial Foreign Entity (NFFE)**

An "Active NFFE" means any NFFE that meets any of the following criteria:

- a) Less than 50% of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b) The stock of the NFFE is regularly traded on an established securities market or the NFFE is a related Entity of an Entity the stock of which is traded on an established securities market;
- c) The NFFE is organised in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
- d) The NFFE is a non-U.S. Government, a Government of a U.S. Territory, an international Entity, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;

e) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, and providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an NFFE shall not qualify for this status if the NFFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

f) The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intention to operate a business other than that of a Financial Institution; provided, that the NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFFE;

g) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;

h) The NFFE primarily engages in financing and hedging transactions with or for related entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a related Entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution; or

i) The NFFE meets all of the following requirements:

- (1) It is established and maintained in its country of residence exclusively for religious, charitable, scientific, artistic, cultural, or educational purposes;
- (2) It is exempt from income tax in its country of residence;
- (3) It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- (4) The applicable laws of the Entity's country of residence or the Entity's formation documents do not permit any income or assets of the Entity to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the Entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the Entity has purchased; and
- (5) The applicable laws of the Entity's country of residence or the Entity's formation documents require that, upon the Entity's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit Entity, or escheat to the Government of the Entity's country of residence or any political subdivision thereof.

## **Active Non-Financial Entity (NFE)**

An Entity will be classified as Active NFE if it meets any of the following criteria:

- a) Less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b) The stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- c) The NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) Substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or

businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

- e) The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- f) The NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g) The NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h) The NFE meets all of the following requirements:
  - (1) It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
  - (2) It is exempt from income tax in its jurisdiction of residence;
  - (3) It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - (4) The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
  - (5) The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision

## **Controlling person(s)**

Are persons, who exercise, directly or indirectly, control over the account holder or Entity.

In the case of a trust, the controlling person is generally:

- The settlor - person who creates the trust
- The trustees - persons who administer the trust for the benefit of the beneficiaries
- The protector (if any) - a person appointed under the trust instrument to direct or restrain the trustees in relation to their administration of the trust
- The beneficiaries or class of beneficiaries - the person or class of persons who may benefit from the trust
- Any person exercising ultimate effective control over the trust