



## **ANNOUNCEMENT**

*On the due diligence and reporting rules applicable to clients qualifying as natural persons, specified in Act XXXVII of 2013 on Certain Rules of International Public Administration Cooperation Related to Taxes and Other Public Duties (hereinafter: Tax Cooperation Act)*

**Effective from: 1 January, 2018.**

**Published on: 1 January, 2018.**

For the purposes of this Announcement, private individuals, sole traders and prime producers qualify as natural persons.

In October 2014, Hungary committed to applying the multilateral Competent Authority Agreement and Common Reporting Standard (hereinafter: **CRS**) on the automatic exchange of Financial Account information, developed by the OECD.

Thereafter, the Council of the European Union prescribed the application of the rules related to CRS in the 2014/107/EU Directive (Council Directive of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (hereinafter: **DAC2**)).

Pursuant to the provisions of Tax Cooperation Act effective from 1 January 2016, the domestic financial institutions are obliged to submit the taxpayers (i.e. bank customers) of the countries that committed to applying the CRS to a taxation due diligence procedure and report the result thereof to the tax authority of their countries of residence for tax purposes via the National Tax and Customs Administration (hereinafter: NTCA).

The list of the countries that committed to applying the CRS (hereinafter: Participating Jurisdictions) – also included at the end of this Announcement – is attached as **Annex 1 to Act CXC of 2015** on the Promulgation of the Multilateral Agreement between the Competent Authorities on the Automatic Exchange of Financial Account Information (hereinafter: the Act announcing the Agreement). The list of Participating Jurisdictions may be extended annually with the Newly Joining Jurisdictions – entered into Annex 1 of the Act announcing the Agreement on 1 January, 2017, or with a later effective date (hereinafter: Newly Joining Participating Jurisdiction).

With regard to the foregoing, starting from 1 January 2016, OTP Bank performs the taxation due diligence review of all new clients and performs the due diligence review of its existing clients as well.

## **Declaration**

### ***I. For new clients:***

**Account holders** that on 31 December 2015, or with regard to Newly Joining Participating Jurisdictions, on the last day of the fiscal year prior to year of entering into Annex 1 of the Act announcing the Agreement, had no valid bank account (payment or savings account), securities account or deposit book (hereinafter collectively: **account**) with OTP Bank **will qualify as a new client.**

Upon opening the account OTP Bank will establish the new client's residence for tax purposes.

**New clients are required to make a written declaration on their residence for tax purposes, without exception.**

**The Bank will not establish a contractual relationship with clients failing to make the declaration.**

In case of clients resident for tax purposes in a Participating Jurisdiction/Newly Joining Participating Jurisdiction the mandatory content elements of the declaration include the Tax Identification Number (TIN) of the client used in income tax in the Participating Jurisdiction/Newly Joining Participating Jurisdiction (if the Participating Jurisdiction/Newly Joining Participating Jurisdiction issues such a number), as well as his place and date of birth.

**With regard to the foregoing, we specifically remind our future account holding clients that if they wish to open an account with OTP Bank and they are resident for tax purposes in a Participating Jurisdiction, the declaration of the TIN used in income tax in the Participating Jurisdiction/Newly Joining Participating Jurisdiction is an essential condition for account opening.**

### ***II. For existing clients:***

OTP Bank **will establish the residence for tax purposes** of clients that on 31 December 2015, or with regard to Newly Joining Participating Jurisdictions, on the last day of the fiscal year prior to year of entering into Annex 1 of the Act announcing the Agreement, **had an account with the Bank** as specified in this Announcement (hereinafter: **existing clients**) by checking their data suggesting residence for tax purposes in a Participating Jurisdiction/Newly Joining Participating Jurisdiction (hereinafter: indicator) and by obtaining the clients' declarations on residence for tax purposes **as follows.**

When checking its records, OTP Bank will verify who of its existing clients has data suggesting residence for tax purposes in a Participating Jurisdiction/Newly Joining Participating Jurisdiction.

During the course of the check, the following indicators are taken into consideration:

#### **The existing client's**

- **permanent registered address, address of regular stay, and correspondence addresses registered with his accounts,**
- **valid certificate of residence for tax purposes issued by a tax authority,**
- **phone number if he does not possess a phone number issued in Hungary,**

- **proxy's registered permanent address as well address of regular stay (hereinafter: proxy's address).**

Pursuant to the provisions of the Tax Cooperation Act, **OTP Bank provides an opportunity to its existing clients to make a declaration of residence for tax purposes other than the residence** for tax purposes established by the Bank on the basis of indicators, **within the course of a rebuttal procedure** supported by a certificate of residence for tax purposes issued by the tax authority *and* documentary evidence (valid certificate of residence for tax purposes and valid identity instrument).

If only the address of the existing client's proxy suggests a Participating Jurisdiction, then it is sufficient for the client – within the course of the rebuttal procedure – to make a declaration of residence for tax purposes to the Bank or to support his residence for tax purposes other than the residence for tax purposes established by the Bank on the basis of indicators with documentary evidence.

OTP Bank is entitled to request existing clients to make a declaration of residence for tax purposes even if it only serves the purpose of **reinforcing the residence for tax purposes** in a Participating Jurisdiction/Newly Joining Participating Jurisdiction as established by the Bank. In this case, the client is not required to support his declaration with documentary evidence.

Clients with indicators in Participating Jurisdictions **were notified in letter until 1 September, 2016 and were to certify their residence for tax purposes other than the indicators within 90 (ninety) days** by means of declarations and documentary evidence.

In the absence of a declaration or documentary evidence, OTP Bank will establish the residence for tax purposes for existing clients on the basis of indicators from 1 January, 2017, the latest, until the client concerned makes a valid declaration of residence for tax purposes at the Bank.

Clients with indicators pursuant to Newly Joining Participating Jurisdictions on the last day of the fiscal year prior to the year of entering into Annex 1 of the Act announcing the Agreement **are notified in letter** until 31 January of the given year and **may certify residence for tax purposes other than the residence for tax purposes** on the basis of indicators **within 90 (ninety) days** supported by a declaration of residence for tax purposes and documentary evidence.

In the absence of a declaration or documentary evidence, OTP Bank will establish the residence for tax purposes for existing clients on the basis of indicators from 1 May of the given year (in 2017, from 1 June) the latest, until the client concerned makes a valid declaration of residence for tax purposes at the Bank.

**For foreign private individuals, the Bank takes into consideration the residence for tax purposes established pursuant to the foregoing in Participating Jurisdictions/Newly Joining Participating Jurisdictions when performing tax liability** with regard to the special rules for the taxation of certain income of foreign persons (which is by 31 December 2017 Annex 4 to the Act XCII of 2003 on the rules of taxation, from 1 January 2018 Annex 7 to the Act CXVII of 1995 on personal income tax).

The detailed provisions on tax liability are contained in the currently effective advice entitled “On tax payable for retail deposits” and “Information on taxation with regard to investment services provided by OTP Bank Plc.”

### **The general rules applicable to declarations**

At OTP Bank during the due diligence procedure and identification, both existing and new clients shall **make a joint declaration** pursuant to Act XIX of 2014 on the “Agreement between the Government of Hungary and the Government of the United States of America to improve International Tax Compliance and to implement FATCA” (hereinafter: FATCA Act) and the Tax Cooperation Act.

From 1 January, 2016, during the registration of each new declaration, the clients are requested to sign a joint FATCA and DAC2/CRS declaration of residence for tax purposes; they are not provided the opportunity to make separate declarations for FATCA and DAC2/CRS.

One account holding client may be resident for tax purposes in several Participating Jurisdictions, therefore several residences for tax purposes may be indicated in the declaration. If a natural person is resident for tax purposes in the United States as well, then they are kindly requested to review the FATCA advice (as well) and act according to the information stated therein.

Each natural person must make one declaration of residence for tax purposes. If the natural person appears in the Bank’s records as a sole trader and/or a prime producer as well, then his declaration made in his capacity as a natural person shall be relevant to his residence for tax purposes.

A declaration made to OTP Bank also applies to the Client's Merkantil Mobile Deposit Account kept with OTP Bank on behalf of Merkantil Bank.

If OTP Bank learns or has a good reason to assume that the original declaration is erroneous or unfounded, then the Bank will obtain a valid declaration from the client on the basis of which the client's residence for tax purposes can be established.

When modifying data relating to indicators taken into consideration when establishing residence for tax purposes (e.g. change in address from a non-Participating Jurisdiction to a Participating Jurisdiction) – including modification to data via OTP Direkt – both new and existing clients shall make a new declaration of residence for tax purposes.

The client is obliged to notify the Bank within 5 (five) days of having learnt of the changes.

The declaration may also be made by submitting the declaration downloaded from the website of OTP Bank. The declaration can be downloaded from <https://www.otpbank.hu/portal/en/Retail>.

The declaration, signed by two witnesses, shall be sent to the account-keeping branch. The address of the account-keeping branch is included in the bank account statement.

The declarations related to the residence for tax purposes, in the form of a private deed of full probative value, shall be made and sent to the Bank by ordinary post (irrespective whether the Client is staying in Hungary or abroad).

With regard to instruments not issued in the territory of Hungary or by the Jurisdiction of Hungary, the Bank may request the client to submit an authentic instrument or an instrument with Apostille certificate or authenticated/legalised by Hungary's diplomatic mission abroad.

### **Reporting to the tax authority of the Participating Jurisdiction**

If, on the basis of his declaration, the account holder qualifies as a tax resident in a Participating Jurisdiction, OTP Bank – starting from 30 June 2017 – will send annual reports to the NTCA with the data content specified in the Tax Cooperation Act.

The Bank will notify the client of the fact of the reporting within 30 (thirty) days after submitting the data to NTCA.

The following accounts are exempt from the reporting obligation:

- Stability Savings Account,
- Pension pre-savings account,
- Start deposit and securities account,
- Building society account,
- Guardianship authority forint, foreign currency and securities account, as well as deposit book.

Concurrently to this Announcement becoming effective, the Announcement published on 1 June, 2017, effective from 1 June, 2017, on the due diligence and reporting rules applicable to clients, specified in Act XXXVII of 2013 on Certain Rules of International Public Administration Cooperation Related to Taxes and Other Public Duties (hereinafter: Tax Cooperation Act).

The amendment to this Announcement is deemed necessary due to expansion of Participating Jurisdiction from 1 January 2018 as well as modification of tax legislations.

## **PARTICIPATING JURISDICTIONS:**

### **From 1 January, 2016:**

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|----------------------------|--------------------|--------------------------------------|
| 1. Albania                 | 26. France         | 51. Marshall Islands                 |
| 2. Anguilla                | 27. Ghana          | 52. Mauritius                        |
| 3. Antigua and Barbuda     | 28. Gibraltar      | 53. Mexico                           |
| 4. Argentina               | 29. Greece         | 54. Montserrat                       |
| 5. Aruba                   | 30. Grenada        | 55. Germany                          |
| 6. Australia               | 31. Guernsey       | 56. Republic of Niue                 |
| 7. Austria                 | 32. Netherlands    | 57. Norway                           |
| 8. Barbados                | 33. Croatia        | 58. Italy                            |
| 9. Belgium                 | 34. India          | 59. Portugal                         |
| 10. Belize                 | 35. Indonesia      | 60. Romania                          |
| 11. Bermuda                | 36. Ireland        | 61. Saint Lucia                      |
| 12. British Virgin Islands | 37. Iceland        | 62. Saint Vincent and the Grenadines |
| 13. Bulgaria               | 38. Japan          | 63. Samoa                            |
| 14. Chile                  | 39. Jersey         | 64. San Marino                       |
| 15. Cyprus                 | 40. Cayman Islands | 65. Seychelles                       |
| 16. Cook Islands           | 41. Canada         | 66. Sint Maarten                     |
| 17. Costa Rica             | 42. Colombia       | 67. Spain                            |
| 18. Curaçao                | 43. Korea          | 68. Switzerland                      |
| 19. Czech Republic         | 44. Poland         | 69. Sweden                           |
| 20. Denmark                | 45. Latvia         | 70. Slovak Republic                  |
| 21. South Africa           | 46. Liechtenstein  | 71. Slovenia                         |
| 22. United Kingdom         | 47. Lithuania      | 72. Turks and Caicos Islands         |
| 23. Estonia                | 48. Luxemburg      | 73. New Zealand                      |
| 24. Faroe Islands          | 49. Malta          |                                      |
| 25. Finland                | 50. Isle of Man    |                                      |

### **From 1 January, 2017:**

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|--------------|-------------|---------------------------|
| 1. Andorra   | 5. China    | 9. Nauru                  |
| 2. Brazil    | 6. Kuwait   | 10. Russian Federation    |
| 3. Greenland | 7. Malaysia | 11. Saint Kitts and Nevis |
| 4. Israel    | 8. Monaco   |                           |

### **From 1 January, 2018:**

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|-------------------------|--------------------------------------|------------------|
| 1. Azerbaijan           | 7. Mayotte                           | 13. Pakistan     |
| 2. Bahrein              | 8. Réunion                           | 14. Saudi Arabia |
| 3. United Arab Emirates | 9. Saint-Barthelemy                  | 15. Singapore    |
| 4. French Guiana        | 10. Bonaire, Sint Eustatius and Saba | 16. Turkey       |
| 5. Guadeloupe           | 11. Lebanon                          |                  |
| 6. Martinique           | 12. Nigeria                          |                  |