



# SAUDI ARABIA

## Secondary legislation

### **The Special Regulations for Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party**

See below

### **The Administrative Rules and Procedures for the Implementation of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information, ratified by Royal Decree n° M/125 of 1/12/1438 H., corresponding to 23/8/2017**

See below

**More information on the AEOI portal:** <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/>

**The Special Regulations for Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party**

**Article (1):**

The provisions of these Regulations (the Regulations) shall apply to financial institutions, persons or intermediaries that are required, under the provisions of an effective convention to which the Kingdom is a party, to report to the General Authority of Zakat and Tax (GAZT) any specific information for tax purposes or any certain financial accounts as per the prescribed information tax return and forms for each convention.

**Article (2):**

Every financial institution, person or intermediary shall be considered to be in default of the provisions of the Regulations if it fails to report to the GAZT any specified information or certain financial accounts for tax purposes in accordance with the provisions of an effective convention to which the Kingdom is a party and in accordance with the procedures and forms specified for each convention.

**Article (3):**

Every person who is in default of the provisions of the Regulations shall be liable to the following:

1. A financial penalty of SAR. 500 for each day of delay, after the prescribed period, to file the tax reporting in accordance with each convention, provided that under no circumstances the amount of such penalty exceeds SAR.15.000.
2. A financial penalty of SAR. 5000 for each failure to file a tax information return as required and in the form specified for each convention.
3. A financial penalty of SAR. 5000 on a person who makes a false statement or omission in respect of any information required to be included on an information return related to each convention, unless such information relates to a third person and it is proved that making a false statement or omission was not deliberate.
4. A financial penalty of SAR. 3000 on a person for each failure to file an information return in the manner prescribed for each convention.
5. A financial penalty of SAR. 3000 on a person who does not comply with the requirement of the competent official while the latter is carrying out his duties and exercising his authorities in regard to each convention.

**Article (4):**

The GAZT shall consider failures to comply with the provisions of the Regulations and application of penalties therein. However, a penalty shall be imposed by a decision by Minister of Finance, and such penalty can be appealed in front of the judicial competent office in accordance with applicable laws.

**Article (5):**

The GAZT shall collect the amounts of penalties afore-mentioned in Article (3) of the Regulations in accordance with applicable legal procedures.

**Article (6):**

1. The provisions of the Regulations shall apply to the Agreement between the Government of the Kingdom of Saudi Arabia and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, its annexes 1 & 2, as well as to the Memorandum of Understanding regarding the Agreement between the Government of the Kingdom of Saudi Arabia and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, ratified by Royal Decree No. M/52, dated 10/05/1438 H.
2. The provisions of the Regulations shall apply to the conventions for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital that are effective in the Kingdom.
3. Per a resolution by the Council of Ministers, the provisions of the Regulations may apply to any other bilateral or multilateral convention with respect to exchange of information for tax purposes or to avoid double taxation and prevent tax evasion with respect to income and capital that the Kingdom may conclude or join later.

**Article (7):**

The Minister of Finance shall, in coordination with the GAZT, issue arrangements and procedures required to implement the provisions of the Regulations.

**The Administrative Rules and Procedures for the Implementation of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information, ratified by Royal Decree n° M/125 of 1/12/1438 H., corresponding to 23/8/2017**

**Article 1**

The following words and phrases, wherever mentioned in these Administrative Rules and Regulations, shall have the meanings next to them unless the context requires otherwise:

- **The Administrative Rules and Regulations:** The Rules and Regulations.
- **The Agreement and the Common Standard:** The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information, ratified by Royal Decree n° M/125 of 1/12/1438 H., corresponding to 23/8/2017.
- **CRS:** The Common Standard on Reporting and Due Diligence for Financial Account Information contained in Part II.B of the publication “Standard for Automatic Exchange of Financial Account Information in Tax Matters” approved by the Council of the Organisation for Economic Co-Operation and Development on 15 July 2014 and ratified by the Royal Decree n° M/125 of 1/12/1438 H.. corresponding to 23-8-2017.
- **CRS Commentaries:** The Commentaries on the CRS, contained in Part III.B of the publication “Standard for Automatic Exchange of Financial Account Information in Tax Matters” approved by the Council of the Organisation for Economic Co-Operation and Development on 15 July 2014 as amended from time to time.
- **Kingdom:** The Kingdom of Saudi Arabia.
- **GAZT:** General Authority of Zakat and Tax.
- **Participating Jurisdiction:** Any jurisdiction other than the Kingdom and the United States of America.
- **Pre-existing Account:**
  - a. A Financial Account maintained by a Reporting Financial Institution as of 7 September 2017; or
  - b. Any financial account of an Account Holder, regardless of the date such financial account was opened if:
    1. the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under paragraph (a) of this definition;
    2. the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under this paragraph, as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the CRS, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;
    3. with respect to a Financial Account that is subject to AML/KYC procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC procedures for the Financial Account by relying upon the

AML/KYC procedures performed for the Pre-existing Account described in paragraph (a) of this definition; and

4. the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the CRS.

**- Reportable Jurisdiction:**

- a. For the purposes of applying the CRS due diligence procedures, any jurisdiction other than the Kingdom or the United States of America.
- b. For the purposes of reporting, any jurisdiction other than the Kingdom or the United States of America.

**- Reporting Financial Institution:** Any Kingdom Financial Institution that is not a Non-Reporting Financial Institution.

**- Kingdom Financial Institution:**

1. any Financial Institution that is resident in the Kingdom, but excludes any branch of that Financial Institution that is located outside of the Kingdom; and
2. any branch of a Financial Institution that is not resident in the Kingdom, if that branch is located in the Kingdom.

Any term which is defined in the CRS or the CRS Commentaries, and used but not defined in these Rules and Procedures, has the same meaning in these Rules and Procedures as in the CRS or the CRS Commentaries.

## **Article 2**

CRS commentaries are binding to each and every Reporting Financial Institution.

## **Article 3**

Each financial institution that is a Reporting Financial Institution shall apply the due diligence requirements in Sections II to VII of the CRS to identify Reportable Accounts.

## **Article 4**

**1. A Reporting Financial Institution:**

- a. is allowed to use service providers to fulfil the reporting and due diligence obligations, but these obligations shall remain the responsibility of the Reporting Financial Institution;
- b. may apply the due diligence procedures for New Accounts to Pre-existing Accounts, and the due diligence procedures High Value Accounts to Lower Value Accounts;
- c. may apply the residence address procedure as described in subparagraph B(1) of Section III of the CRS to a Lower Value Account;
- d. may apply paragraphs A to C of Section V of the CRS to determine whether a Pre-existing Entity Account is subject to the due diligence procedures described in Section V of the CRS;
- e. may use as Documentary Evidence any classification in the institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, in accordance with paragraph 154 of the CRS Commentaries on Section VIII of the CRS;

- f. may use "the alternative documentation procedure" for certain employer-sponsored group insurance contracts or annuity contracts in accordance with the provision contained in paragraph 13 of the CRS Commentaries on Section VII of the CRS; and
- g. may align the scope of beneficiary(ies) of a trust treated as Controlling Person(s) of the trust with the scope of the beneficiary(ies) of a trust treated as Reportable Persons of a trust that is a Financial Institution, in accordance with paragraph 134 of the CRS Commentaries on Section VIII of the CRS.

2. Subparagraph E(4) of Section VIII of the CRS shall be read as follows:

"4. An Entity is a Related Entity of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities described in subparagraph A(6)(b) of Section VIII, are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an Entity."

## **Article 5**

- 1. The dates specified in the CRS shall be read as:
  - a. in subparagraph C(6) of Section III, 7 September 2017;
  - b. in paragraph D of Section III, 28 February 2018 in respect of High Value Accounts and 31 December 2018 in respect of Lower Value Account;
  - c. in paragraph A of Section V, 7 September 2017;
  - d. in paragraph B of Section V, 7 September 2017 in both the first and second instances;
  - e. in subparagraph E(1) of Section V, 7 September 2017 in the first instance and 31 December 2018 in the second instance;
  - f. in subparagraph E(2) of Section V, 7 September 2017;
  - g. in subparagraph B(8)(b) of Section VIII, 8 September 2017;
  - h. in subparagraph C(10) of Section VIII, 8 September 2017;
  - i. in subparagraph C(14) of Section VIII, 7 September 2017;
  - j. in subparagraph C(15) of Section VIII, 7 September 2017; and
  - k. in subparagraph C(17)(f)(ii) of Section VIII, 8 September 2017;
- 2. For the purposes of applying subparagraph C(6) of Section III, paragraph A of Section V, paragraph B of Section V, subparagraph E(2) of Section V, and subparagraph C(15) of Section VIII of the CRS, and only for these purposes, references to "a subsequent calendar year" or "subsequent year" in those provisions must be read as including the period from 8 September 2017 to 31 December 2017.

## **Article 6**

- 1. A Reporting Financial Institution shall, in respect of the year 2017 and every following calendar year, file with the GAZT a report including the information required to be reported described in paragraphs A and B of Section I of the CRS,

subject to paragraphs C to E in Section I of the CRS, in relation to every account identified as a Reportable Account that is maintained by the institution at any time during a calendar year.

2. The report referred in paragraph 1 of this Article shall be filed electronically using a technology approved by the GAZT and in the form of the CRS schema in XML.

3. A report required to be filed by these Rules and Procedures shall be submitted on or before 31 May of the year following the calendar year to which the report relates.

4. Notwithstanding paragraph 3 of this Article, the first report of Pre-existing High Value Account the review of which must be completed by 28 February 2018 in accordance with Article 5(1)(b) of these Rules and Procedures must be provided before the 31 May 2018.

5. If a Reporting Financial Institution applies the due diligence requirements in the CRS for a calendar year and no account is identified as a Reportable Account, the institution shall file with the GAZT a report stating that the institution maintains no Reportable Accounts for that year.

## **Article 7**

1. A Reporting Financial Institution shall establish, maintain and document the due diligence procedures required to be applied by these Rules and Procedures that are designed to identify Reportable Accounts maintained by the institution.

2. A Reporting Financial Institution shall:

- a. keep records that the institution obtains or creates for the purpose of complying with the CRS and these Rules and Procedures, including self-certifications and records of Documentary Evidence; and
- b. retain those records for a period of at least five years after the end of the period within which the institution must report the information required to be reported under the CRS.

## **Article 8**

In determining the balance or value of an account denominated in a currency other than USD for the purposes of the CRS, a Reporting Financial Institution shall translate the relevant USD threshold amount described in the CRS into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

## **Article 9**

All USD amounts in the CRS shall be read to include equivalent amounts in Saudi Riyals.

## **Article 10**

If a Financial Institution, intermediary, service provider, or any other person enters into any arrangements or engages in a practice the main purpose or one of the main purposes of which can reasonably be considered to be to avoid an obligation imposed under these Rules and Procedures, such person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

## **Article 11**

Every financial institution, intermediary or other person who does not comply with the provisions of the Agreement and the Common Standard or these Rules and Procedures shall be liable to the terms and penalties as stipulated by the Special Regulations for Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party approved by the Council of Ministers' Decision n° 108 dated 18/2/1439.

### **Article 12**

Concerned parties shall implement the provisions of the Agreement and the Common Standard as of the date of their publication in the official gazette, issue no. 4687, dated 17/12/1438H, corresponding to 8/9/2017.