

Are we all Americans now?

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Recent draft guidance issued by HMRC has provided some much welcomed clarity in respect of the scope of the new rules on the US/UK Intergovernmental Agreement to improve international tax compliance and implement the US FATCA rules (which impose onerous compliance requirements). The rules will affect UK trusts even if they have no US beneficiaries and even if they have no US investments. The requirements will need to be satisfied in relation to any trust which has assets of over \$250,000 as at 31 December 2013 (essentially to carry out due diligence and to provide annual information about the trust assets and any US beneficiaries to HMRC). If the trust is not compliant then, penalties may apply even when there are no US assets or beneficiaries.

For UK resident trusts with a corporate trustee, the required compliance and reporting will need to be done in most cases by the corporate trustee. For most other UK resident trusts, it is likely that the reporting and compliance will be done by investment managers/banks or third party service providers. It will be important to ensure the trustees know who has the reporting obligation so that it is not missed and penalties incurred.


There remain a number of important areas of uncertainty and final details are awaited. At that stage, trustees will need to seek advice. The obligation to comply with the IGA will commence on 1 January 2014.

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