Foreign account tax compliance act (FATCA)

FATCA (Foreign Account Tax Compliance Act) law was adopted by the USA congress on the 18th of March 2010 and entered into force on the 1st of January 2013. The purpose of FATCA is to prevent the cases of avoiding taxes by the USA citizens by doing transactions with the foreign financial institutions.

It obliges all the non-American financial institutions to identify their clients and to provide information on the accounts of USA taxpayers to the USA tax service (Internal Revenue Service, IRS). The application of penalties is provided in case of failure to observe the FATCA requirements by the Bank or Bank clients.

The United States of America and the Republic of Armenia concluded an agreement for the purpose of improving their cooperation in combating avoidance of international taxes.

For the purpose of performance of the obligations arising from the above mentioned agreement “Mellat bank” CJSC got the following Global intermediary identification number (GIIN number): LEJ5IK.99999.SL.051.

The Bank collects additional information from the clients to clarify the fact of being US taxpayer by the natural (including IE) and legal persons.

The criteria of US tax resident are:

1. US citizen or US tax resident is considered US taxpayer natural person (including IE). The client is considered US tax resident in case of complying with one of the following criteria:

    1) is US resident (owner of “Green card” /form I-551/)
    2) is US citizen
    3) was born or resides in US
    4) physically was in US at least 31 days in current year and 183 days in 3 years (the current year and directly preceding two years are included taking into consideration all the days of being in US in the current year, 1/3 of the days of being in US in the first year preceding the current year and 1/6 of the days of being in US in the second year preceding the current year).

For example:

A person spent 130 days in US in 2013, 120 days in 2012, 120 days in 2011.

So, the calculation will be done as follows: (130+120*1/3+120*1/6)=190.

As the total number of days exceeds 183 and the person spent more than 31 days in US in the current year, he/she will be considered as US resident in 2013.

5) has valid US resident address (including US Post Office Box) or
6) has valid postal address in US (including US Post Office Box)
7) other, according to the FATCA law requirements.

2. The tax resident legal person is considered US taxpayer legal person in case of complying with one of the following criteria:

1) the legal person is US legal person (is registered in US (is established in accordance with US legislation))
2) the legal person is US association
3) the legal person is owned by US resident
4) the legal person is a trust, in case the US court can implement trial of the first instance and one or more US residents are authorized to control all the main decisions of the trust
5) the legal person has US significant owner (the founder/founders owns/own more than 10% of the shares of the given company)
6) the owners (controlling persons) of the legal entity include natural and legal persons that are considered US taxpayer
7) the legal person is US taxpayer, in case more than 10% of its shares (voting or direct or indirect participation by total value) belong to:
   a) natural person who is recognized as US taxpayer (specified US person)
   b) legal person which is registered/established in the territory of US and does not belong to the class of legal persons which are excluded from the specially mentioned tax residents' list, in case more than 50% of the gross income (partly or jointly) of such company comprise "passive incomes" in the previous year and more than 50% of the average amount of assets (in the end of the quarter) (partly or jointly) comprise assets that bring such income.
8) has US residency or US postal valid address
9) has valid US telephone number (the country code starts with "001") in addition to the telephone number out of US
10) other, according to the FATCA law requirements.

3. Recalcitrant clients/accounts are considered the ones who refuse to provide "Mellat bank" CJSC with information which will reveal the fact of being US taxpayer or reject that Bank provides information/report on them, on their accounts and incomes to the US tax service.

In case of recalcitrant accounts, tax in the amount of 30% /thirty percent/ is charged from the incomes with US origin (interest payments, dividends, leasing charges, royalties, salary, annuities, profits and other incomes that are generated in USA or effectively connected with the business or trade carried out in USA.