FREQUENTLY ASKED QUESTIONS ABOUT FATCA

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) was enacted as law in the United States of America in March 2010. Its purpose is to prevent tax evasion by individuals considered U.S. Persons for U.S. tax law purposes, through the exchange of information with financial institutions worldwide. Under FATCA, financial institutions are required to annually report certain accounts held by U.S. taxpayers outside the United States. These reports will be made available to the U.S. tax authorities (IRS), either directly or through local regulatory bodies (DIAN). Financial entities that do not comply with FATCA regulations will be subject to a 30% withholding tax, applicable to various types of payments originating in the United States and destined for their clients. Additionally, countries that issue regulations aligned with FATCA will monitor compliance through their own regulatory agencies.

When does the FATCA Law take effect?

According to current regulations published by the United States tax authority (Internal Revenue Service – IRS), the FATCA Law became effective on July 1, 2014.

Who is considered a U.S. Person for FATCA compliance purposes?

• U.S. citizens by birth or naturalization.
• Tax residents (those who have a Green Card or meet the substantial presence requirement of more than 183 days in the last 3 years).
• Companies incorporated in the United States, or under U.S. law, and
• Companies with at least one shareholder or beneficial owner considered a U.S. Person with a shareholding equal to or greater than 10% of the company.

What are "reportable accounts"?

• Reportable accounts are both personal and commercial (non-personal) accounts whose holders or account owners are: One or more U.S. Persons; or certain entities in which one or more U.S. Persons are owners or hold a significant controlling interest.
• Various criteria will be evaluated when determining whether an account is reportable.

What additional documentation will be requested from clients?

Banco AV Villas has included new fields in its onboarding forms to validate any indication of nationality or tax liability with the United States. Additionally, where applicable, documents such as a passport or other identification document and the completion of the following IRS forms will be requested:
• W-8BEN for natural persons (without U.S. tax liability)
• W-8BEN-E for legal entities (without U.S. tax liability)
• W-9 for natural and legal persons (with U.S. tax liability)

How will FATCA affect "U.S. Persons"?

For U.S. Persons, the Bank may request completion of IRS Form W-9 (Request for Taxpayer Identification Number and Certification). Additionally, we may be required to report to the IRS, annually, information about their accounts, either directly or through local regulatory agencies. This should not have greater consequences if the client is already complying with their tax obligations with the IRS; regardless, clients are advised to review this matter with a tax law specialist.

How will FATCA affect "Colombian Persons"?

In principle, FATCA will not have any impact on Colombian natural or legal persons who conduct international transactions (import, export, and transfers) with U.S. citizens.

What happens if a client refuses to answer questions related to FATCA or to complete FATCA-related forms?

If the client chooses not to respond to the Bank's requests for information to assist in determining their tax status, the actions to be taken will be adjusted to the applicable legal and banking and tax regulations. As Colombia has a substantially negotiated IGA (intergovernmental agreement for tax information exchange) with the United States regarding FATCA, local legislation will require us to treat such accounts as reportable. Depending on each case and after analysis of the specific circumstances, it is likely that the Bank will be unable to continue offering certain products or services.

How does the client data protection law apply to FATCA?

Banco AV Villas has a strict policy of compliance with privacy and data protection laws for its clients. Colombia has a substantially negotiated IGA with the United States regarding FATCA, so reporting to the competent authorities (DIAN) will be a legal requirement. Accordingly, the Bank's onboarding forms, regulations, and contracts have been adjusted to include the necessary client consent fields for sharing their information.

What are the main FATCA obligations for financial entities?

a) Identify U.S. clients (U.S. Persons) who meet the indicators and other conditions established by FATCA.
b) Report information on the financial accounts of natural person clients considered U.S. Persons, in accordance with FATCA regulations, and legal entity clients who have a shareholder (beneficial owner) holding 10% or more of the company's capital who is considered a U.S. Person.
c) If necessary, withhold 30% of income received from a "U.S. Source" as tax from clients who do not provide the required information to comply with FATCA (recalcitrant clients).

What is the Government of Colombia doing?

On July 16, 2013, Law 1666 was approved: "Agreement between the Government of the Republic of Colombia and the Government of the United States of America for the exchange of tax information," which already has a constitutionality ruling from the Constitutional Court. The next step is to finalize the negotiation of the FATCA intergovernmental agreement (IGA) with the United States, so that DIAN can issue the relevant regulations and guidelines. It should be clarified that processes and requirements regarding FATCA will be subject to modifications until the agreement and final regulations are issued.

Where can I find more information?

You can find more information about FATCA on the following websites: www.treasury.gov and www.irs.gov (Pages in English).