

Circular ECHA 3 has just been updated with FATCA XSD 2.0 schema

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In brief

The Luxembourg Tax Authorities (LTA) have issued on 19 January a new circular ECHA 3 regarding the modalities to prepare and file the annual report under the FATCA XSD 2.0 schema. This new circular repeals the previous version, as well as its appendices.

In detail

Luxembourg reporting specificities

The LTA issued an updated version of the circular ECHA 3 and related appendices (“the Circular”) taking into account the Internal Revenue Services (IRS) FATCA XSD 2.0. This new schema will be the only one accepted for reports filed as from now.

The Circular, as well as a track-change version highlighting the changes made by the LTA, is available here:

- <http://www.impotsdirects.public.lu/content/dam/acd/fr/legislation/legi17/echa3-sans-tc-2017-01-19.pdf>
- <http://www.impotsdirects.public.lu/content/dam/acd/fr/legislation/legi17/echa3-avec-tc-2017-01-19.pdf>

In particular, the Circular provides the following changes to the schema and the XML reporting requirements:

- The Circular clearly distinguishes between the name of the reports for Common Reporting Standard (CRS) and FATCA purposes. This confirms that two different XML reports will have to be filed, one for FATCA and one for CRS.
- The Circular adds a new tag “*IdentificationNumberExtension*”, corresponding to the Luxembourg Tax Identification Number (TIN) that may be used notably by sub-funds. Indeed, when a reporting is done at sub-fund level, it’s the umbrella’s TIN that’s currently mentioned as “*IdentificationNumber*” in the XML. The new tag will allow to add the number of the sub-fund in the report. The Circular further provides that this new tag needs to be filed out even when no extension is required (with the reference “*M00000000*”).

- If a Luxembourg Financial Institution (FI) hasn't obtained a TIN from its Account Holders, it may still encode in the 2016 report "9 zeros". However, as from 2017, when a Luxembourg FI hasn't been able to collect a TIN for one of its reportable accounts, it can complete the TIN field with a specific code provided by the LTA. For example #NTA001# will be mentioned when "No TIN has been obtained despite reasonable efforts engaged by the RFI".
- A tag "ReportingPerson" is added in the Luxembourg header even though according to the Circular, it will be the same entity as in the tag "ReportingFI". This will impact both Nil Reports and reports with Reportable Accounts.
- A new field "FilerCategory" has been added, which is a code that identifies the category of filer. For example, a specific code will be assigned for Sponsors.
- The IRS schema 2.0 foresees a new tag for nil reports. However, to submit a valid Luxembourg FATCA XML, this tag should not be completed by Luxembourg Reporting FI as the nil reporting information is contained in the Luxembourg specific header.

The Circular doesn't change the filing process and thus the report will still need to be filed by using one of the two mandatory transmission channels approved by the LTA. Those are Fundsquare and SIX Payment Services (formerly Cetrel).

Additionally, the LTA insists in the Circular to have access to a contact person that is knowledgeable on the data included in the FATCA report. Finally, it's requested that the information regarding the Responsible Officer in the IRS FATCA portal be up-to-date.

As a conclusion, in practice, a Luxembourg FI relying on a group reporting solution or worldwide service provider should ensure that Luxembourg reporting specifics have been taken into account in advance of the preparation of the report. Otherwise, it is likely that the report will be rejected by the LTA.

What's next?

The LTA should still issue a CRS technical circular regarding the modalities to prepare and file the annual report required under CRS.

The Luxembourg government should issue, before the first CRS reporting, the Grand Ducal Decree containing the CRS list of Reportable Jurisdictions (different from the list of Participating Jurisdictions already published) that will allow FIs to determine which Account Holders should be included in the first CRS report.

Let's talk

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