



## NOTICE

**For private individuals (natural persons, individual entrepreneurs, prime producers) on the "FATCA (Foreign Account Tax Compliance Act)" agreement concluded between Hungary and the United States of America and promulgated in Act XIX of 2014**

**Effective from: 18 September, 2024**

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Pursuant to the agreement concluded between the governments of Hungary and the United States of America (hereinafter: USA) on 4 February 2014 and promulgated on 15 May 2014 (hereinafter: "Agreement"), both countries commit to ensure that the financial institutions (banks, investment service providers, insurers etc.) registered in each country supply data each year on the customers and their accounts that are residents of the other country under its own laws.

It is the purpose of FATCA to reduce tax evasion of US citizens and to be able to levy taxes on their savings kept abroad and the yield thereof. Hungary has undertaken to implement the FATCA Regulation.

For the purposes of this notice, "Withholdable Payment" means any fixed or determinable annual or periodical gains, profits and income that is from sources within the United States, including but not limited to the following payments: interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments.

### **US tax resident account holders**

In Hungary such an account holding/deposit holding private individual is regarded a US tax resident (hereinafter: account holder), who

a) is a US citizen or b) is a US resident (for a definition on the term "US resident", please see annex of present notice)

The following data available to OTP Bank Plc (hereinafter: Bank) indicate USA tax residence (USA indicator):

- a) the account holder disposes of a US federal taxpayer identifying number
- b) has a permanent place of residence and/or mailing address in the USA, or
- c) was born in the USA and does not certify having renounced and abandoned US

citizenship or

- d) has a telephone number in the USA or
- e) the account holder has nominated a person with permanent credentials in relation to any of his or her product, with a permanent place of residence or mailing address in the USA.

The Bank will register all account holders as US tax residents who qualify as such according to the above criteria. It is the responsibility of the account holder to prove the opposite by presenting authentic documents and making a declaration.

### **Documents to be submitted to certify non-US tax residence**

If the account holder does not dispose of a USA indicator or is a non-US tax resident, no document other than the declaration on tax residence needs to be submitted.

Non-US tax residence may be certified by submitting the following documents, if the account holder disposes of a USA indicator or is a US tax resident:

- Client's declaration made in the branch or submitted to the Bank on foreign, non-US tax resident status; and
- presenting a foreign (non-US) passport or other ID document in proof of foreign citizenship, that is:
  - passport in the case of non-Hungarian citizenship;
  - ID and Certificate of domicile OR
  - passport and Certificate of domicile OR
  - driver's license and Certificate of domicile
- For under 14: ID and Certificate of domicile OR passport and Certificate of domicile; and;
- If the place of birth is the USA, then in addition to the documents referred to above, other documentation to confirm that the account holder has not acquired US citizenship or if they had, but it has expired, a copy of the document confirming the discontinuation of their citizenship; or a reasonable explanation as to why the account holder disposes of no such confirmation even though they discontinued their citizenship in the USA or why the account holder did not acquire US citizenship at birth.
- The certificate of tax residence applied in the procedure specified in Act XCL of 1990 on the Rules of Taxation (Art.) is also acceptable as proof of residence, which must be repeatedly filed once a year.

In the case of documents issued in a language other than Hungarian, OTP Bank Plc is entitled to request an attested copy of the document prepared by the Hungarian Office for Translation and Attestation (Országos Fordító és Fordításhitelesítő Iroda, OFFI) or technical translator resident of Hungary or technical translator-reviser the cost of which will be born by the Client. In the case of a translation prepared by a technical translator

or technical translator-reviser a copy of the document certifying the technical translating and interpreting qualifications needs to be enclosed.

### **Formal requirements related to documents**

The following declarations as private documents providing conclusive evidence may be submitted to the bank by post (regardless of whether the client is staying in Hungary or abroad):

a/ declaration of the client on their tax residence;

b/ reasonable explanation of the client as to (a) why they dispose of no document confirming the discontinuation of US citizenship even though they discontinued their citizenship in the USA or (b) why they did not acquire US citizenship at birth.

At the submission of any other document serving as proof of non-US tax residence of the client, the system of requirements as set forth in the General Business Rules of the Bank shall be observed.

In the case of a document not issued in the territory of Hungary or by a Hungarian jurisdiction, the Bank may require the client to submit a public document, a document endorsed with an Apostille clause or an authentic document certified by a notary public or the authority of the Embassy of Hungary.

### **Making the declaration**

Those account holders who did not have an active bank account (payment or savings account), securities account or savings book (hereinafter savings) at the bank on 30 June, 2014 shall - as new clients - in all cases make a written declaration whether they are US tax resident by the given aspects or not.

The Bank will not conclude contracts with a new customers, and cancel the accounts of existing customers, who do not or will not make tax residency declarations

Upon any change in the data of account holders already holding savings on 20 June 2014, if the change in data results in US tax residence, must also make a written declaration on their US tax residence.

Each private individual shall take one declaration. If the natural person is registered by the Bank as an individual entrepreneur and/or a prime producer, his declaration issued in his capacity as a natural person is to be observed.

A declaration submitted to OTP Bank also applies to the Merkantil Mobile Deposit Account of the Customer kept with OTP Bank as commissioned by Merkantil Bank.

Clients with OTPDirekt access are requested to make the declaration via OTPDirekt as well following successful determination of USA indicator.

A declaration may also be made by submitting the filled in form downloaded from the website of OTP Bank. The declaration is available at the following address:

<https://www.otpbank.hu/portal/en/Retail>

The client's declaration can be submitted in person at the OTP branch or sent to the bank by post to OTP Bank Plc. Hungary-8901, Zalaegerszeg, PO Box 1026., (regardless of whether the client is staying in Hungary or abroad):

### **Reporting to the NAV and the IRS**

In case an account holder qualifies as one of U.S. tax residency according to the Agreement the Bank sends – from after 30 June 2015 – a report to the National Tax and Customs Administration (hereinafter: NTCA) each year by 30 June, provided this is prescribed by law, with content prescribed by law.

Upon calculating the balance on the account, the Bank utilises the exchange rate published by the National Bank of Hungary (MNB). Generally, reporting is based on the balance on the account on 31 December. If the account was closed during the year, the balance on the account must be established on the basis of the closing balance booked on the day preceding the closing of the account.

The NAV forwards the data submitted to the Bank to the IRS.

Clients refusing to declare US tax residence or those whose US tax residence cannot, according to the data kept in the register of the Bank, be definitely excluded, shall be regarded by the Bank as US tax residents and shall provide the relevant data to the NAV, until the customer proves otherwise.

The Bank shall notify the account holder of the fact of data supply in writing, in a letter addressed to the account holder, within 30 (thirty) days following the supply of data to the NTCA.

If the account holder certifies with authenticity that she or he is not a US tax resident within the deadline specified by the Bank in the information letter establishing the fact of

the data provision, the Bank will record this fact among the client's data and shall modify the data provision sent to NAV. The Bank cannot suspend the data transfer regarding declarations submitted beyond deadline.

If on the basis of its contractual legal relationship with the Bank, the account holder used to qualify as a US tax resident but the circumstances on the basis of which it qualified as a US tax resident no longer exist, this fact must be notified by the client within 5 working days by submitting the relevant documents to the Bank and submit a declaration.

The following accounts are exempt from the data provision obligation:

- Stability Savings Financial Account
- Home Savings Account
- Inheritance Accounts

The following accounts are only reported if the deposits paid on them exceed 50.000 USD in the calendar year:

- Pension savings account
- Long Term Investment Deposit Account
- Long Term Investment Securities Account
- Start Deposit Account
- Custodian Authority deposits
- Betétduó (Deposit Duo) and Gyámi Betétduó (Custodian Deposit Duo)

# **GUIDE FOR PRIVATE INDIVIDUALS IN RELATION TO ESTABLISHING US TAX RESIDENCE**

## **GENERAL INFORMATION**

For the purposes of this notice, the term US Reportable Account means a Financial Account maintained by a Reporting Hungarian Financial Institution and held by one or more Specified US Persons or by a Non-US Entity with one or more Controlling Persons that is Specified US Person. Notwithstanding the above, an account shall not be treated as a US Reportable Account if such account is not identified as a US Reportable Account following application of the due diligence procedure as defined in the FATCA.

For the purposes of this notice, the term “Account Holder” means the person listed or identified as the holder of a Financial Account by the Financial Institution maintaining the account. A person other than a Financial Institution holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor or intermediary is not treated as holding the account for the purposes of this Agreement, but another person is treated as holding the account for whose benefit the Financial Account is held. For the purposes of the preceding sentence, the term “Financial Institution” does not include a Financial Institution established or incorporated in a US Dependent Territory.

For the purposes of this notice, the term US Source Withholdable Payment means any payment interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits and income if such payment is from sources within the United States. Notwithstanding the above, a US Source Withholdable Payment does not include payment that is not treated as a withholdable payment in relevant US Treasury Regulations.

For the purposes of this notice, the term “US person” means a US citizen or a resident individual.

The term “US resident” shall be interpreted as defined in Section 7701 of the US Internal Revenue Code. Under the corresponding rules of the Code, any alien who is not a RESIDENT ALIEN is a NON-RESIDENT ALIEN. An alien becomes a RESIDENT ALIEN by meeting one of the following criteria:

1. By being lawfully admitted to the United States as a permanent resident or became a Lawful Permanent Resident under the immigration laws (Green Card Test);
2. By passing the Substantial Presence Test (a formula measuring days of presence in the United States);
3. By making a “First Year Choice” (a formula under which an alien may pass the Substantial Presence Test one year earlier than under normal rules).

### Green Card Test:

You are a resident, for US federal tax purposes, if you are a Lawful Permanent Resident of the United States at any time during the calendar year. This is known as the "Green Card Test".

You are a Lawful Permanent Resident of the United States, at any time, if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the U.S. Citizenship and Immigration Services (USCIS) issued you an alien registration card, Form I-551, also known as a "green card." You continue to have U.S. resident status, under this test, unless:

- You voluntarily renounce (and abandon) this status (in writing) to the USCIS,
- Your immigrant status is administratively terminated by the USCIS, or Your
- immigrant status is judicially terminated by a U.S. federal court.

If you meet the "Green Card Test" at any time during the calendar year, but do not meet the "Substantial Presence Test" for that year, your residency starting date is the first day on which you are present in the United States as a Lawful Permanent Resident. However, an alien who has been present in the United States at any time during a calendar year as a Lawful Permanent Resident may choose to be treated as a RESIDENT ALIEN for the entire calendar year.

### Substantial Presence Test

You will be regarded a U.S. resident for tax purposes if you meet the Substantial Presence Test for the calendar year. To meet this test, you must be physically present in the United States on at least:

1. 31 days during the current year, and
2. 183 days during the 3-year period that includes the current year and the 2 years immediately preceding that, counting:
  - o All the days you were present in the current year, and
  - o 1/3 of the days you were present in the first year before the current year, and
  - o 1/6 of the days you were present in the second year before the current year.

### Days of Presence in the United States

You are treated as present in the United States on any day you are physically present in the country, at any time during the day. However, there are exceptions to this rule. Do not count the following as days of presence in the United States for the substantial presence test.

Days you commute to work in the United States from a residence in Canada or Mexico, if you regularly commute from Canada or Mexico.

Days you are in the United States for less than 24 hours, when you are in transit between two places outside the United States.

Days you are in the United States as a crew member of a foreign vessel.

Days you are unable to leave the United States because of a medical condition that develops while you are in the United States.

Days you are an exempt individual.

### Exempt Individual:

Do not count days for which you are an exempt individual. The term "exempt individual" does not refer to someone exempt from U.S. tax, but to anyone in the following categories who is exempt from counting days of presence in the U.S.:

An individual temporarily present in the United States as a foreign government-related individual

A teacher or trainee temporarily present in the United States under a "J " or "Q " visa, who substantially complies with the requirements of the visa

A student temporarily present in the United States under an "F, " "J, " "M, " or "Q " visa, who substantially complies with the requirements of the visa

A professional athlete temporarily in the United States to compete in a charitable sports event

Even if you passed the substantial presence test you can still be treated as a nonresident alien if you qualify for one of the following exceptions;

3. The closer connection exception available to all aliens.
4. The closer connection exception available only to students.

More details are available at <http://www.irs.gov/Individuals/International-Taxpayers/Introduction-to-Residency-Under-U.S.-Tax-Law>.