

CBDT modifies FATCA & CRS Guidance Note for 'certain funds'

Jul 26, 2023

CBDT issues Clarification dt. Jul 26, 2023 to modify [Guidance Note dt. Nov 30, 2016](#) dealing with Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standards ('CRS'); The Clarification pertains to: (i) Treaty Qualified Retirement Fund, (ii) Non-public Fund of the Armed Forces, and (iii) Gratuity Fund; As per the Clarification a Treaty Qualified Retirement Fund shall not be treated as a non-reporting financial institution for the purposes of maintaining and reporting information in respect of any reportable account other than a US reportable account defined in Rule 114F(11); It further provides that a Non-public Fund of the Armed Forces shall not be treated as a financial institution in case of any reportable account other than a US reportable account defined under Rule 114F(11); With respect to Gratuity Fund, the Clarification provides that: (i) Gratuity funds which are only managed by either individual(s) and/or entity(ies) that is not a financial institution, are not capable of being classified as a Managed Investment Entity under Rule 114F(3)(c)(B), such Gratuity Funds will qualify as a passive non-financial entity as per Rule 114F(6)-Explanation (D)(i), (ii) where a Gratuity Fund is a Managed Investment Entity under Rule 114F(3)(c)(B), it will qualify as a Financial Institution and a Reporting Financial Institution under CRS, (iii) in the event that a Gratuity Fund is a reporting financial institution based on the conditions contained in Rule 114F, relevant accounts held with such a Gratuity Fund fulfilling the conditions specified in clause (h)(i) or h(ii) of the Explanation to Rule 114F(1) will be treated as excluded accounts.