

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 nonfinancial 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.