

# Frequently asked questions

## FATCA

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## **1. General**

### **What is FATCA ?**

FATCA is the acronym for the U.S. legislation called “**Foreign Account Tax Compliance Act**”. The FATCA provisions were included in the Hiring Incentives to Restore Employment (“HIRE”) Act on 18 March 2010.

FATCA is primarily a reporting system, i.e. a global system of automatic exchange of information between the United States and other countries. Amongst other, non-U.S. Financial Institutions have to

- Identify and obtain information on account holders that is necessary to determine which accounts are U.S. Reportable Accounts;
- Annually report information on their customer data, their account balances and financial income.

### **What is the purpose of FATCA?**

FATCA aims to prevent US taxpayers from avoiding tax by investing through non-US Financial Institutions or offshore investment vehicles and concealing their assets from the US tax authorities (called “Internal Revenue Service” or “IRS”).

### **When does FATCA begin?**

FATCA is applicable as from 1 July 2014.

### **Who is impacted by FATCA?**

FATCA is far-reaching and can impact any person, whether Private Individual or Legal Entity, U.S. or non-U.S.

While FATCA certainly affects U.S. withholding agents and U.S. multinational companies, its greatest impact is on non-U.S. Financial Institutions as all Foreign Financial Institutions (“FFI”) must comply with FATCA or be subject to a 30% penalty withholding

## **What information will ING Luxembourg report to the IRS to comply with FATCA?**

FATCA requires reporting by financial institutions on the identity of the Specified U.S. Persons on their U.S. Reportable Accounts, the balance on these accounts as at 31st December of each year, financial income and, in the future, revenues from the sale of securities. The first reporting in 2015 will cover the year 2014.

For example, a Luxembourgish citizen born in the U.S. will be considered as a Specified U.S. Person and will be reported to the IRS.

Same information will be reported for undocumented clients, i.e. clients with US indicia who have been contacted by ING and who have not responded.

## **Am I allowed to determine which data is going to be reported to the IRS?**

No. What needs to be reported to the IRS is determined by law.

## **What is the withholding tax system under FATCA?**

FATCA introduces a 30% withholding tax penalty system on Withholdable Payments made to a Foreign Financial Institution which does not comply with the disclosure obligations imposed by FATCA ("Non-participating Financial Institutions").

ING Luxembourg will be compliant with FATCA. As a result, there will be no withholding tax applicable to our Private Individual clients.

## **When does FATCA withholding begin?**

A FATCA 30% penalty withholding applies on U.S. Source Fixed or Determinable, Annual or Periodical ("FDAP") Income, which includes interest and dividends. As from 1st July 2014, Foreign Financial Institutions compliant with FATCA will apply the tax on Withholdable Payments made to Foreign Financial Institutions which do not comply with the disclosure obligations imposed by FATCA ("Non-participating Financial Institutions").

On 1st January 2017, withholding will begin for gross proceeds from the sale of property that can produce U.S. Source dividends or interest.

## **What are the consequences for ING Luxembourg of having clients with U.S. Indicia?**

If a customer has a U.S. Indicum, such as the U.S. Citizenship, a U.S. place of birth or mailing address, ING Luxembourg as a Foreign Financial Institution (“FFI”) must obtain documentation to confirm the status (either U.S. or non-U.S.) of the customer.

If documentation is not obtained, the account customer remains Undocumented.

The FATCA legislation requires that documented Specified U.S. Persons as well as Undocumented customers are reported to the IRS.

## **Does FATCA only apply to new clients?**

No. FATCA is applicable to all clients. Both new and pre-existing clients will receive a FATCA status according to their customer details.

## **Pre-existing clients will not be affected by the new FATCA legislation?**

No. FATCA is applicable to all clients. Both new and pre-existing clients will receive a FATCA status according to their customer details. However, only Specified U.S. Persons and Undocumented customers holding a Financial Account will have to be reported the IRS.

## **Can a U.S. legislation be made compulsory in Luxembourg?**

Luxembourg, as most European countries, has entered into an Intergovernmental Agreement (“IGA”) to render FATCA enforceable in our domestic legislation. This IGA was signed on 28th of March 2014.

ING has elected to become FATCA compliant and has been registered with the status of Participating Foreign Financial Institution (“Registered Deemed Compliant Financial institutions”).

## **Isn't ING Luxembourg stricter than other banks when applying FATCA?**

No. FATCA is applicable to all non-U.S. financial institutions ("Foreign Financial Institutions" – "FFI") and other financial intermediaries. Would ING Luxembourg not comply with the disclosure obligations imposed by FATCA, all its -and those of its clients- relevant U.S.-sourced payments, such as dividends and interest paid by U.S. corporations, would be subject to a 30% withholding tax. Therefore, ING Luxembourg, as all other Luxembourgish banks, has decided to implement the changes required by FATCA.

U.S. Citizens are and remain welcome in ING for accounts and savings as long as they are willing to comply with ING's request for FATCA documentation. Customers identified as Specified U.S. Persons and Non-documented Customers will be reported to the IRS as from 2015.

## **Does FATCA change anything to U.S. taxpayers' obligations?**

No. U.S. taxpayers have always had the obligation to declare their worldwide income in their annual tax return.

## ***2. Private Individuals***

### **When am I considered a U.S. Person?**

As a natural person, you are considered a U.S. Person if you are a citizen or resident of the United States (holders of the Permanent Resident Card (Green Card) but also persons who meet the Substantial Test of Presence for the calendar year are considered U.S. Resident for tax purposes).

For more information, see:

<http://www.irs.gov/Individuals/International-Taxpayers/Determining-Alien-Tax-Status>.

### **What are U.S. Indicia?**

U.S. Indicia are indicators that a person, private individual or legal entity, could be considered as a Specified U.S. Person.

For private individuals, they are:

- U.S. Citizenship or a U.S. Residency (this includes having a Green Card allowing to permanently reside in the United States as an immigrant),
- Place of birth is in the U.S.,
- Current (mailing, residence, post office box or c/o) address is in the U.S.,
- Sole address is a care of address or hold mail,
- A U.S. telephone number,
- A power of attorney or signatory authority was granted to a person with a U.S. (mailing, residence, post office box or c/o) address.
- Standing instructions from an ING Luxembourg account to an account in the U.S.

Having one of these indicia does not mean that the client is in fact a U.S. Person, only that he needs closer scrutiny.

## **What is a U.S. Reportable Account?**

Any Financial Account that falls into the scope of FATCA reporting and which is held by:

- a Specified U.S. Person or
- a Passive NFFE (U.S.-owned) or
- any Non-documented Customer.

## **Which information will be reported to the IRS?**

To be compliant a Foreign Financial Institutions is required to disclose details of all “U.S. Reportable Accounts” held on its books by holders who fall into the scope of FATCA.

The information that must be provided includes:

- The name, address and U.S. Taxpayer Identification Number (“TIN”) of each account holder (if the TIN is not available, the date of birth will be reported);
- The account number;
- The year-end account balance or value (starting 31st December 2014) ; and
- Payments made with respect to the account i.e.
  - o gross amount of interest, dividends or other income generated with respect to the assets held in the account (as from 2015);
  - o total gross proceeds from the sale or redemption of property paid or credited to the account (as from 2016).

The reporting to the IRS will take the form of an annual report on each U.S. Reportable Account. Any further information which the IRS may request about those accounts needs to be provided.

### ***Remark:***

The disclosure is required not only in relation to direct account holders but also to any substantial U.S. owners of account holders, such as U.S. shareholders in some Luxembourgish non-financial entities that are Passive NFFE.

## **Does ING have any plans to stop accepting private U.S. customers, due to FATCA?**

U.S. Persons are and remain welcome in ING for accounts and savings as long as they are willing to comply with the FATCA obligations. However, ING will not open new financial accounts for Undocumented U.S. Persons.

## **I'm a U.S. citizen, my spouse is Luxembourgish. We live and work in Luxembourg. I have been advised to get the Luxembourgish citizenship to avoid FATCA. Is it possible to avoid the consequences of FATCA by getting the Luxembourgish citizenship?**

No. After getting the Luxembourgish citizenship, you have both nationalities. For the U.S. tax authorities, you remain a U.S. Citizen as long as you have not officially renounced your U.S. citizenship. In case you would renounce your U.S. citizenship, you should provide ING with a Certificate of Loss of Nationality of the United States.

## **I am already a client of ING Luxembourg and I've been contacted by ING because I have U.S. indicia. Am I obliged to fill in the W-8BEN or W-9 forms?**

It is strongly recommended to fill in the W-8BEN (certification of non-U.S. status) or W-9 (certification of U.S. status) forms. You should be aware that, should you not fill in the appropriate form, you will be considered as an Undocumented client under FATCA if U.S. Indicia are found in your customer data. ING Luxembourg will then be obliged to report your accounts to the IRS.

## **I want to become a client of ING Luxembourg and I have U.S. indicia. Am I obliged to fill in the W-8BEN or W-9 forms?**

Yes. Not filling in the W-8BEN or W-9 forms would render you Undocumented under FATCA. ING Luxembourg has decided not to enter into relations with potential clients who are not willing to comply with the request for FATCA documentation.

## **I'm already a client of ING Luxembourg. Why did I receive a request for documentation?**

You can get a request for documentation in three cases:

- You are an existing customer and hold a Financial Account with ING Luxembourg. Your customer details show one or more U.S. Indicia.
- You have informed us about a change in your customer information, for example providing us with a new address located in the U.S.
- You are an existing customer and hold a Financial Account with ING Luxembourg. Your customer data does not show any U.S. Indicum but you have granted a power of attorney or signatory to a person with a U.S. (mailing, residence, post office box or c/o) address.

## **I was born in the U.S. but have never lived there. I am not to be considered as a U.S. Citizen. What can ING Luxembourg do to help me?**

If you were born in the United States, you automatically acquired U.S. Citizenship at birth. This means you most likely hold dual citizenship.

Unlike most other jurisdictions, U.S. tax liability is attached to citizenship rather than only to residence which means that U.S. Citizens living abroad must, on an annual basis, file U.S. tax returns on their worldwide income regardless of the place where they reside.

In order to attest that you are not tax liable in the United States, you need to provide us with a Certificate of Loss of Nationality of the United States, to support the W-8BEN form.

If you were born in the United States because your parents were working there as diplomats, you probably don't hold U.S. Citizenship. In this case, please inform us about this for additional guidance.

**I have no link with the U.S. but I gave proxy on my account to someone who is a U.S. citizen. What does it mean for me?**

Granting a power of attorney or signatory authority to a person with a U.S. (mailing, residence, post office box or c/o) address is a U.S. indicium.

As a consequence, your accounts will be treated as a U.S. Reportable Accounts and will be reported to the IRS, unless you provide a W-8BEN.

**The information in the ING database is not correct and I have no link with the U.S. What can I do to cure this situation?**

Please contact your ING branch. Depending on the U.S. Indicia in the ING database, you will have to provide additional documentation.

**If I provide ING with the requested documents, does it mean that I can keep my securities account?**

No. There is an ING policy not to provide securities services to U.S. Persons anymore.

**I have a Luxembourgish and a U.S. passport but I live and work in Luxembourg and only use my U.S. passport on the rare occasions I travel to the U.S. on holiday or business. Am I really considered as a U.S. Person?**

Yes. You have double citizenship, Luxembourgish and U.S. As such you are considered as a U.S. Person.

**I am a Luxembourgish student currently on a university exchange within a U.S. university. Am I considered as a U.S. Resident and liable under FATCA?**

You can usually find additional information on your tax status on your university's website or contact the U.S. embassy that has issued your visa.

**My daughter is a student in the U.S. and I have standing instructions to transfer each month a certain amount of money to her account there. Is my account with ING Luxembourg liable under FATCA?**

Having standing instructions to an account in the U.S. is considered as a U.S. Indicum. In order not to be reportable under FATCA, you will have to fill in a W-8BEN form.

### ***3. Legal Entities***

#### **What are U.S. Indicia?**

U.S. Indicia are indicators that a person, private individual or legal entity, could be considered as a Specified U.S. Person.

For legal entities, they usually are:

- The country of incorporation or residence is the United States of America,
- Current (mailing, residence, post office box or c/o) address is in the U.S.,

Having one of these indicia does not mean that the legal entity is in fact a U.S. Person, only that it needs closer scrutiny.

#### **What is a U.S. Reportable Account?**

Any Financial Account that falls into the scope of FATCA reporting and which is held by:

- a Specified U.S. Person or
- a Passive NFFE (U.S.-owned) or
- any Non-documented Customer.

#### **What is a Non-Financial Foreign Entity (“NFFE”)?**

A Non-Financial Foreign Entity is a non-U.S. legal entity that is not a Financial Institution.

There are two categories of NFFEs:

- Active NFFEs are engaged in an active trade or business (production, industry, non-financial services, etc.) where less than 50% of their gross income for the preceding calendar year is passive. Example: A bakery produces bread and has no other income besides the income of this activity.
- Passive NFFEs have gross income that derives for more than 50% from passive income (a. o. dividends, interests, rents, royalties, annuities). Example: A bakery has a large investment portfolio and has more income from financial investments than from its business activity.

## **What information will a Foreign Financial Institution report to the IRS regarding U.S. Reportable Accounts?**

To be compliant a Foreign Financial Institution is required to disclose details of all “U.S. Reportable Accounts” held on its books by holders who fall into the scope of FATCA.

For Legal Entities holding accounts with ING Luxembourg, the disclosure is not only limited to the Legal Entity, but also to any of its U.S. owners who holds at least 25% of the equity in a Passive NFFE (e.g. U.S. individuals holding 30% of the equity in a Luxembourgish passive corporation).

The information that must be provided includes:

- The name, address and the Employer Identification Number (“EIN”) of each account holder;
- The name, address and TIN (if any) of each substantial Specified U.S. Person owner of such entity (if the TIN is not available, the date of birth will be reported);
- The account number;
- The year-end account balance or value (starting 31st December 2014); and
- Payments made with respect to the account i.e.
  - o gross amount of interest, dividends or other income generated with respect to the assets held in the account (as from 2015);
  - o total gross proceeds from the sale or redemption of property paid or credited to the account (as from 2016).

The reporting to the IRS will take the form of an annual report on each U.S. Reportable Account. Any further information which the IRS may request about those accounts needs to be provided.

## ***4. Financial Institutions***

### **What is a Foreign Financial Institution (“FFI”)?**

The definition of an FFI is very broad and includes a number of entities generally not considered to be financial institutions.

An FFI is any non-U.S. entity (thus ‘foreign’ from a U.S. perspective) that:

- Accepts deposits in the ordinary course of a banking or similar business; or
- Has a substantial portion of its business in the form of financial assets for the account of others; or
- Is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest (including futures contracts, forward contracts or options) in such securities, partnership interests, or commodities.

This includes not only banks, insurance companies and brokers but extends to clearing organisations, trust companies, hedge funds, private equity funds, property funds and pension funds. It also includes securitisation vehicles and other investment vehicles

### **What are Foreign Financial Institutions required to do in order to comply with FATCA?**

To be compliant with FATCA, Foreign Financial Institutions are required to:

- Register with the IRS and obtain a G.I.I.N.;
- Identify and obtain information on account holders that is necessary to determine which accounts are U.S. Reportable Accounts;
- Annually report information on U.S. Reportable Accounts;
- Apply a penalty withholding tax of 30% to specific types of U.S. Source income paid to Non-participating Foreign Financial Institution (“NPFFI”);
- Periodically comply and certify that they have met their obligations under FATCA.

A Foreign Financial Institution that does not comply with any of these five key obligations will be considered a Non-participating Foreign Financial Institution (“NPFFI”).

### **What is a Participating Foreign Financial Institution?**

A Foreign Financial Institution that enters into an FFI agreement with the IRS is referred to as a “Participating Foreign Financial Institution” (“PFFI”). An FFI that does not enter into an agreement with the IRS is referred to as a Non-participating Foreign Financial Institution (“NPFFI”), and is subject to withholding under FATCA.

Foreign Financial Institutions located in a country that has signed an IGA Model 1 are considered as Registered Deemed Compliant FFIs. Luxembourg, like most countries in the European Union is an IGA Model 1 country.

### **What is a Participating Foreign Financial Institution?**

A Foreign Financial Institution that enters into an FFI agreement with the IRS is referred to as a “Participating Foreign Financial Institution” (“PFFI”). An FFI that does not enter into an agreement with the IRS is referred to as a Non-participating Foreign Financial Institution (“NPFFI”), and is subject to withholding under FATCA.

Foreign Financial Institutions located in a country that has signed an IGA Model 1 are considered as Registered Deemed Compliant FFIs. Luxembourg, like most countries in the European Union is an IGA Model 1 country.

### **What is a Registered Deemed Compliant Foreign Financial Institution?**

A Foreign Financial Institution incorporated in a country that has entered into an Intergovernmental Agreement (“IGA”) with the U.S. Internal Revenue Service (“IRS”).

Luxembourg and the U.S. signed an IGA on 28th of March 2014. On that day, ING Luxembourg became a Registered Deemed Compliant FFI.

## **What is a Non-participating FFI?**

A Foreign Financial Institution (“FFI”) that is not a Participating FFI, a Registered Deemed-Compliant FFI or an Exempt Beneficial Owner, and that is not compliant with any of the five key FATCA requirements.

## **What is a Global Intermediary Identification Number (G.I.I.N.)?**

Each Participating or Deemed Compliant FFI will be issued a Global Intermediary Identification Number (“G.I.I.N.”) which will be used to identify this entity. A G.I.I.N. will be issued when registering with the IRS.

## **What is ING Luxembourg’s Global Intermediary Identification Number (G.I.I.N.)?**

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## 5. Glossary

### **ACD – Administration des Contributions Directes**

Luxembourgish organization in charge of fixing and organizing the taxes recovery.

### **Certificate of Loss of Nationality of the United States**

Official document issued by a U.S. embassy, to attest that you have renounced your U.S. Citizenship. In case you hold U.S. Citizenship or if you were born in the U.S., you need to provide this document if you want to attest that you are no longer tax liable in the United States.

### **Employer Identification Number ("EIN")**

Federal Tax Identification Number used to identify a business entity. See also <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Employer-ID-Numbers-EINs>.

### **Exempt Beneficial Owner**

Amongst others:

- Any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing; or
- Any international organisation or any wholly owned agency or instrumentality thereof; or
- Any foreign central bank of issue; or
- Any government of U.S. territory; or
- Certain retirement funds; or
- Entities wholly owned by one or more other Exempt Beneficial Owners

## **FDAP Income**

For purposes of FATCA, means Fixed or Determinable Annual or Periodic income, except for gains derived from the sale of real or personal property (including market discount and option premiums, but not including original issue discount).

Examples are compensation for personal services, dividends, interest, pensions and annuities, alimony, rents, other than gains from the sale of real property, royalties, etc.

## **Financial Account**

Includes:

- any depositary or custodial accounts maintained by a Foreign Financial Institutions (FFI),
- any shareholding or debt holdings in the FFI (unless these are regularly traded on an established securities market) and
- cash value insurance contracts.

There are some exemptions from this definition including certain retirement savings accounts and general insurance products.

## **Intergovernmental Agreement (“IGA”)**

Bilateral agreement between a country’s tax authority and the U.S. government that facilitates compliance with FATCA. The model agreements enable Foreign Financial Institutions in the designated jurisdictions to comply with FATCA, especially where privacy laws exist. There are currently two types of IGAs, Model 1 and Model 2.

Luxembourg signed a Model 1 agreement with the IRS. This IGA includes provisions specific to Luxembourg in addition to simplified due diligence and withholding requirements. Under this agreement, Luxembourgish financial institutions report to the local Administration des Contributions Directes ("ACD"). The ACD will supply the information received to the U.S.

## **Internal Revenue Service (“IRS”)**

The United States tax agency. The agency is a bureau of the U.S. Department of the Treasury.

## **Passive NFFE (U.S.-owned)**

A Passive NFFE is an entity for which financial income for the preceding calendar year was more than 50 percent of its gross income and more than 50 percent of the weighted average percentage of assets (tested quarterly) is assets that produce or are held for the production of financial income.

A Passive NFFE (U.S. Owned) is a Non-Financial Foreign Entity which has one or more substantial owners or controlling persons who are Specified U.S. Individuals. A controlling person means the natural person who exercises control over an entity.

## **Specified U.S. Person**

Any U.S. Person, other than:

- any corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a member of the same expanded affiliated group;
- the United States or any wholly owned agency or instrumentality thereof;
- any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code;
- any bank as defined in section 581 of the U.S. Internal Revenue Code;
- any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;

- any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- any dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- any broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

## **Substantial Test of Presence**

You will be considered a U.S. Resident for tax purposes if you meet the “substantial test of presence”. To meet this test, you must have been physically present in the United States for at least:

- 31 days during last year, and
- 183 days during the 3-year period that includes last year and the previous two years, counting:
  - o All the days you were present during last year, and
  - o 1/3 of the days you were present the year before, and
  - o 1/6 of the days you were present the previous year.

## **Taxpayer Identification Number (“TIN”)**

Identifying number used by the Internal Revenue Service for tax purposes in the United States. It is issued either by the Social Security Administration (Social Security number) or by the IRS. See also [http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-\(TIN\)](http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-(TIN)).

## **U.S. Citizen**

Person born or naturalized in the United States and subject to the jurisdiction thereof and of the State wherein he/she resides.

## **U.S. Indicia**

Indicators that a person, private individual or legal entity, could be considered as a Specified U.S. Person.

For private individuals, they usually are:

- U.S. Citizenship or a U.S. Residency (this includes having a Green Card allowing to permanently reside in the United States as an immigrant),
- Place of birth is in the U.S.,
- Current (mailing, residence, post office box or c/o) address is in the U.S.,
- Sole address is a care of address or hold mail,
- A U.S. telephone number,
- A power of attorney or signatory authority was granted to a person with a U.S. (mailing, residence, post office box or c/o) address.
- Standing instructions from an ING Luxembourg account to an account in the U.S.

For legal entities, they usually are:

- The country of incorporation or residence is the United States of America,
- Current (mailing, residence, post office box or c/o) address is in the U.S.

Having one of these indicia does not mean that the account is owned by a U.S. Person, only that it needs closer scrutiny.

## **U.S. Person**

- Any U.S. Citizen or Resident individual,
- Any partnership or corporation organized in the United States or under the laws of the United States or any State thereof,
- Any trust if
  - o a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and

- one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States.

## **U.S. Reportable Account**

Any Financial Account that falls into the scope of FATCA reporting and which is held by:

- a Specified U.S. Person or
- a Passive NFFE (U.S.-owned) or
- any Non-documented Customer.

## **U.S. Resident**

Private Individual who:

- Has a green card allowing him to permanently reside in the United States as an immigrant; or
- Meets the Substantial Test of Presence.

## **U.S. Source**

Derived from sources within the United States. Example: payments made by a U.S. domestic corporation, U.S. citizens, trust, or entity formed under the laws of the U.S. or its states or if they are effectively connected to the conduct of a U.S. trade or business (such as interest paid by a U.S. branch).

## **Undocumented (Non-documented) Customer**

Any customer for whom U.S. Indicia were found and not cured, or were confirmed as U.S., a. o.:

- did not respond to request for information and the time limit was exceeded, OR
- refused to provide W-9 to confirm he is a Specified U.S. Person; OR
- wished to attest that he is not a U.S. Person but did not provide a W-8BEN, W-8-BEN-E or any other documentation requested to confirm his non-U.S. status.

ING Luxembourg will not open any new financial account for Undocumented pre-existing clients nor enter into relationship with Undocumented new clients.

## **W-8BEN**

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting form issued by the Internal Revenue Service. Its purpose is to identify non-U.S. beneficial owners of accounts or transactions. It is for use by Private Individuals only. Legal Entities must use Form W-8BEN-E.

See also instructions on how to fill in the W-8BEN form on the IRS website:

<http://www.irs.gov/pub/irs-pdf/iw8ben.pdf>.

## **W-8BEN-E**

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities) form issued by the Internal Revenue Service. Its purpose is to identify non-U.S. Legal Entities or Foreign Financial Institutions that are beneficial owners of accounts or transactions. It is for use by Legal Entities and Foreign Financial Institutions only. Private Individuals must use Form W-8BEN.

## **W-9**

Request for Taxpayer Identification Number and Certification form issued by the Internal Revenue Service. Its purpose is to request the taxpayer's Taxpayer Identification Number ("TIN"). It is to be used by U.S. Persons only, Private Individuals or Legal Entities.

See also instructions on how to fill in the W-9 form on the IRS website :

<http://www.irs.gov/pub/irs-pdf/iw9.pdf>.

## **Withholdable payment**

- Any payment of interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income (see FDAP Income), if such payment is U.S. Source;

and

- Any sales or other dispositions occurring after 31st December 2016, any Gross Proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States.