With reference to your 2022 U.S. tax return, please read the information below. It explains clearly what FATCA is and why we are asking you to submit certain financial documents.

Several countries enacted a law some years ago: the **Foreign Account Tax Compliance Act (FATCA)**. Since then, many things have changed in terms of how U.S. tax returns are completed.

FATCA is an agreement between a country and the U.S. by which the two governments agree to share information on financial accounts that **'U.S. Persons'** have both in that country and other countries, as well as in the U.S.

We will try to explain briefly and in a way that everyone can understand how this law can affect you. Please read these details carefully to understand how you will be affected and what situation applies to you.

The U.S. government already has several agreements with many countries regarding this **FATCA** law, and it is expected that countries that have not yet enacted this law, will bring it into effect. This means it will become almost impossible for a **U.S. Person** to hide their money in countries outside of the U.S., wherever they live in the world.

1. What does a U.S. Person mean?

A U.S. person is any person who is:

a) **a U.S. citizen** - that is, a person who holds a U.S. passport. This includes persons with dual citizenship (e.g. Italian and American citizenships); or

b) a **person holding a Green Card**. This person is called a **Resident Alien**, and for tax purposes, s/he is considered the same as a U.S. citizen. This also includes:

- people whose Green Card has expired or lost it, or
- persons whose Green Card has been taken from them by the U.S. Embassy/airport in any country and have not been given a receipt or letter stating so,

but does **NOT** include

- a person who has received written notice from the U.S. Citizenship and Immigration Service (USCIS) that their Green Card has been revoked. This means that person is no longer considered to be a U.S. Person.

2. How is FATCA going to affect me?

If you are a U.S. Person as defined above, FATCA will affect you as follows. This applies if you live in any country that has a FATCA agreement with the U.S. Please check **here** to see of your country is listed.

a) Your country's banks (and other financial entities, such as your country's Stock Exchange, insurance companies or stockbrokers) will identify those persons who fall under the definition of a U.S. Person and will send the details to that country's government about all the accounts that a U.S. Person has. That country's government will then share this information with the Internal Revenue Service (IRS), which is the tax department of the U.S.

b) In turn, the IRS will do the same with any U.S. accounts held by that U.S. Person and will share information with the government of your country (i.e., they will send to the government of your country details about the accounts held by that person in the U.S.). This includes how much money the person had in each account, the interest they earned each year, and other details.

c) U.S. Persons are required by U.S. law to complete IRS **Form 8938** - Statement of Specified Foreign Financial Assets for financial accounts (including bank accounts, time deposits/CDs, stocks, bonds, mutual funds, annuities and insurance contracts) that they have outside the U.S., if the amounts referred to in paragraph (d) below are exceeded. This should be done annually. The fine for not completing this form is $10,000.

d) **The following are the amounts (thresholds) for U.S. Persons living *OUTSIDE the U.S.* all year round or having spent at least 330 days (about 11 months) living outside the U.S.** If these amounts are exceeded, the person will have to fill in this form. The fine for not completing this form is $10,000. This form must be submitted annually with the tax return by 15 April (if there is any tax due) but not later than October 15 if a filing extension is requested. If there is no tax due and you are not obliged to fill in the tax form for that particular year, this form does not need to be filled in, even if the amounts below are exceeded.

- ***Unmarried/widowed persons:*** If the total value of financial assets **outside** of the U.S. is more than $200,000 on the last day of the year or more than $300,000 at any time during the year

- ***Married persons completing the U.S. tax return as a Joint Return:*** If the total value of financial assets **outside** the U.S. exceeds $400,000 on the last day of the year or more than $600,000 at any time during the year

- ***Spouses who complete the U.S. tax return as a Separate Return:*** If the total value of financial assets **outside** of the U.S. is more than $200,000 on the last day of the year or more than $300,000 in any time during the year.

If you reside *IN the U.S.,* the thresholds are:

- ***Unmarried/widowed persons:*** If the total value of financial assets is more than $50,000 on the last day of the year or more than $75,000 at any time during the year.

- ***Married persons completing the U.S. tax return as a Joint Return:*** If the total value of financial assets exceeds $100,000 on the last day of the year or more than $150,000 at any time during the year.

- ***Spouses who complete the U.S. tax return as a Separate Return:*** If the total value of financial assets is more than $500,000 on the last day of the year or more than $75,000 in any time during the year.

e) U.S. Persons are also required to submit online Form TD F 90-22.1 **“Report of Foreign Bank and Financial Accounts” (FBAR)** if the total amount of their bank accounts outside of the U.S. (including stocks, bonds, mutual funds, annuities and insurance contracts) is more than $10,000 at any time during the year. There is a fine for not submitting this information (the lowest fine is $10,000). This means that anyone who falls under the definition of U.S. Person must fill in and send this form. This form must be completed online no later than April 15, or by October 15 if an extension is requested.

3. Double Taxation Relief

If you are U.S. Person as defined above, and living outside the U.S., you are supposed to be reporting all income from any source around the world, annually to the IRS. However, if there is a **Double Taxation Agreement** between your country and the U.S.

a) you will not pay double tax on work and earnings that you have made in your country and on which you are paying tax in your country. This also applies to interest and dividends

b) the U.S. Social Security pension ***might not*** be taxable in your country and your country’s retirement pension is not taxable in the U.S. – please check **here** to see if your country is on the list.

c) interest declared in the U.S. and on which the tax was paid in the U.S., cannot be taxed again in your country (although it must still be declared). Interest declared in your country and on which tax was paid in your country, cannot be taxed again in the U.S. (even though it still has to be declared). The Double Taxation rules will apply

4. What do I need to do?

To avoid potential problems with the tax authorities of your country and the IRS in the future, it is recommended that you do the following:

a) check with each bank/financial institution with which you have money invested, to see if they are obliged to report information to the IRS about the accounts you have with them

b) if you fall under the definition of U.S. Person, and you have accounts in a bank/entity/financial institution or abroad, and their total amount at any time during the year was more than the equivalent of $10,000, you must fill in online Form TD F 90-22.1 Report of Foreign Bank and Financial Accounts (FBAR) by April 15 (or by October 15 if an extension is requested)

c) if the total of all accounts you have in your country/overseas banks/financial institutions exceeds the amounts mentioned for **IRS Form 8938** - Statement of Specified Foreign Financial Assets above, you must complete and submit this form

d) declare on your country’s tax return the interest/dividends/union pensions/other pensions (but not Social Security, if applicable) and other earnings that you receive from the U.S.

We suggest that you speak with the Compliance Officer/Manager of each bank/financial institution you have an account with, or with someone (for example someone in your country's Tax Department) who understands FATCA law, to see how it will affect you. If your bank tells you that you are not on their records as a U.S. Person as defined above, this does not mean you can relax, because as soon as you open a new account at any bank, you will be asked if you are a U.S. citizen or have a Green Card, and will be asked to sign a form (either W-9 or W8-BEN, depending on whether you are a U.S. citizen or a Green Card holder).

If this happens, you can assume that every account that you have in that bank will be updated and you will be marked as a U.S. Person, and if you are marked as such at one bank, the chances are that sooner or later, any account you have in your country will be marked as belonging to U.S. Person, and therefore FATCA will apply to you. Today, with the software that banks have, it is very easy to find all the information they want to find about you.

5. Is there any way I can avoid this FATCA law if I am a U.S. Person?

As far as we know there is only one way to do this - to revoke your Green Card or your U.S. citizenship.

• To revoke your Green Card, you must complete and submit INS Form I-407 along with your Green Card. You do not have to pay anything to do this procedure. This procedure frees you from any effect of the FATCA law, but, if you revoke your Green Card, you will no longer be able to complete the U.S. tax return to recover the 30% tax withheld from you on any Social Security retirement benefits you receive from the U.S.

• To revoke U.S. citizenship, the process is longer and more complicated and there is a fee of $2,350 to apply to have it revoked. You may also have to pay an exit tax if you have a high net worth.

Because of this FATCA law, the U.S. tax form has become more complicated and takes much longer to complete. We advise you to do the following:

1. Declare EVERYTHING without any exception or excuse. We will not assume any responsibility if the IRS sends you an outstanding tax bill on any undeclared amounts, and the fines/interest associated with them. If the IRS suspects that you did not file a tax return in previous years and you owed taxes on your income,

they may go back up to six (6) years and you may end up having to pay all amounts due. Not only that, but there are also large fines (and interest on them) that you have to pay. If you do not pay on time, the IRS has the authority to withdraw the amounts due from your U.S. bank accounts.

2. Our intention is to complete your tax forms as accurately as possible, based on the information you supply. To hide or lie on any bank account or not to declare any income/interest/rent/profit that you are supposed to declare, will only mean that sooner or later you will be risking getting caught. With all the software available today, there is a great chance that eventually you will be caught. We do not want to frighten anyone, but we feel the responsibility to explain the entire situation to you and all the consequences you might face, and let you decide whether you want to sleep well at night or worry constantly that the IRS will discover that you did not declare everything you should have. The choice is yours, and yours alone. You now have all the information. Read it carefully, understand it, and decide what to do.

If you do not understand any of the above or have any questions, please contact us or send us an email at info@taxandpension.com