

**No. 55908\***

**Canada  
and  
United States of America**

**Agreement between the Government of Canada and the Government of the United States of America to improve international tax compliance through enhanced exchange of information under the Convention between Canada and the United States of America with respect to taxes on income and on capital (with annexes). Ottawa, 5 February 2014**

**Entry into force:** *27 June 2014 by notification, in accordance with article 10*

**Authentic texts:** *English and French*

**Registration with the Secretariat of the United Nations:** *Canada, 30 August 2019*

*\*No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

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**Canada  
et  
États-Unis d'Amérique**

**Accord entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique en vue d'améliorer l'observation fiscale à l'échelle internationale au moyen d'un meilleur échange de renseignements en vertu de la Convention entre le Canada et les États-Unis d'Amérique en matière d'impôts sur le revenu et sur la fortune (avec annexes). Ottawa, 5 février 2014**

**Entrée en vigueur :** *27 juin 2014 par notification, conformément à l'article 10*

**Textes authentiques :** *anglais et français*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *Canada, 30 août 2019*

*\*Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF CANADA**

**AND**

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**TO IMPROVE INTERNATIONAL TAX COMPLIANCE THROUGH**

**ENHANCED EXCHANGE OF INFORMATION UNDER THE CONVENTION**

**BETWEEN CANADA AND THE UNITED STATES OF AMERICA**

**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

**WHEREAS, THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA** (each, a “Party” and together, the “Parties”) have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to conclude an agreement to improve international tax compliance by further building on that relationship;

**WHEREAS**, Article XXVII of the *Convention between Canada and the United States of America with Respect to Taxes on Income and on Capital*, done at Washington on 26 September 1980, as amended by the Protocols done on 14 June 1983, 28 March 1984, 17 March 1995, 29 July 1997 and 21 September 2007 (the “Convention”) authorizes the exchange of information for tax purposes, including on an automatic basis;

**WHEREAS**, the United States of America enacted provisions commonly known as the Foreign Account Tax Compliance Act (“FATCA”), which introduce a reporting regime for financial institutions with respect to certain accounts;

**WHEREAS**, the Governments of Canada and the United States of America are supportive of applying the underlying policy goal of FATCA on a reciprocal basis to improve tax compliance;

**WHEREAS**, FATCA has raised a number of issues, including that Canadian financial institutions may not be able to comply with certain aspects of FATCA due to domestic legal impediments;

**WHEREAS**, the Government of the United States of America collects information regarding certain accounts maintained by U.S. financial institutions held by residents of Canada and is committed to exchanging such information with the Government of Canada and pursuing equivalent levels of exchange;

**WHEREAS**, the Parties are committed to working together over the longer term towards achieving common reporting and due diligence standards for financial institutions;

**WHEREAS**, the Government of the United States of America acknowledges the need to coordinate the reporting obligations under FATCA with other U.S. tax reporting obligations of Canadian financial institutions to avoid duplicative reporting;

**WHEREAS**, an intergovernmental approach to FATCA implementation would facilitate compliance by Canadian financial institutions while protecting the ability of Canadians to access financial services;

**WHEREAS**, the Parties desire to conclude an agreement to improve international tax compliance and provide for the implementation of FATCA based on domestic reporting and reciprocal automatic exchange pursuant to the Convention and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the Convention;

**NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:**

## **ARTICLE 1**

### **Definitions**

1. For purposes of this agreement and any annexes thereto (“Agreement”), the following terms shall have the meanings set forth below:
  - a) The term “**United States**” has the same meaning as in the Convention. Any reference to a “**State**” of the United States includes the District of Columbia.
  - b) The term “**U.S. Territory**” means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.
  - c) The term “**IRS**” means the U.S. Internal Revenue Service.
  - d) The term “**Canada**” has the same meaning as in the Convention.

- e) The term “**Partner Jurisdiction**” means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA. The IRS shall publish a list identifying all Partner Jurisdictions.
- f) The term “**Competent Authority**” means:
  - (1) in the case of the United States, the Secretary of the Treasury or the Secretary’s delegate; and
  - (2) in the case of Canada, the Minister of National Revenue or the Minister of National Revenue’s authorized representative.
- g) The term “**Financial Institution**” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
- h) The term “**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity’s gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the entity’s gross income during the shorter of:
  - (1) the three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
  - (2) the period during which the entity has been in existence.
- i) The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
- j) The term “**Investment Entity**” means any Entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
  - (1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;