

FATCA expert: Law will not be repealed

PORT OF SPAIN
Leah Sorias

leah.sorias@trinidadexpress.com

THERE is no likelihood that United States President Donald Trump's administration would repeal the Foreign Account Tax Compliance Act (FATCA), so Trinidad and Tobago must get its act together and ensure it complies with the law, a US FATCA expert has urged.

"That (repealing law) would actually take an act of our Congress. It's not something that the President can do by executive order, so when you hear things about President Trump going to abolish FATCA that's probably very unlikely," stated Denise Hintzke, global leader of the FATCA Initiative for auditing firm Deloitte & Touche LLP.

"There is a lot of misconception around the fact of if FATCA is going to be repealed. I go to a lot of different locations and the first question they ask me is do we really need to deal with this. We're hearing rumours that this legislation is going to go away and that FATCA is not going to continue to exist, or that the actual implementing of rules in the US has been frozen and so there is nothing hap-

pening. I just want to make sure that everybody understands that that isn't actually the case," she stressed.

Hintzke was speaking yesterday at a breakfast seminar on FATCA, hosted by the Bankers Association of Trinidad and Tobago, at the Courtyard Marriott Hotel, Port of Spain.

FATCA requires foreign financial institutions (FFIs) to report to the US Internal Revenue Service information about financial accounts held by US taxpayers, or by foreign entities in which US taxpayers hold a substantial ownership interest.

Hintzke said apart from a country's reputation being put on the line due to non-compliance and 30 per cent withholding tax being imposed on US source payments, there is a "great risk" to the financial market.

"Not complying with FATCA could lead to a lot of difference issues in the market. It could be that your corresponding banking accounts are closed down, your ability to make various investments could potentially be blocked. Even from a client standpoint, it's possible, because of the way the withholding works, that your clients or

investors, depending on what type of entity you are, may decide that they would go someplace else if you are not complying with these rules," Hintzke said.

She said Trinidad and Tobago and other countries that have signed an inter-governmental agreement (IGA) with the US, indicating their intention to comply with FATCA, must abide by the deadline in which to enact legislation to accommodate the Act.

"Trinidad and Tobago told them (US) that they would enact this legislation by the end of next month. It's very important that they do because if they slip or miss the enactment of the legislation it's very likely that this time the IRS (Internal Revenue Service) would pull them off the list," she said.

Every month the US Treasury Department and the IRS issue updates announcing jurisdictions that have an IGA in effect. The list also includes countries that have reached agreements in substance with the US on the terms of the IGA, even though those agreements have not been signed.

Hintzke said this country also stands the chance of falling off the IRS list if it fails to meet the September deadline for reporting



'MISCONCEPTIONS': FATCA expert Denise Hintzke, left, answers questions during yesterday's Bankers Association of Trinidad and Tobago (BATT) and Deloitte & Touche breakfast presentation and discussion on the US Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standards (CRS), at the Courtyard Marriott, Port of Spain. Looking on is BATT president Anya Schnoor. —Photo: STEPHEN DOOBAY

information on relevant account holders to the IRS.

BATT appears before JSC

The Tax Information Exchange Agreements (TIEA) Bill 2016, which was introduced to facilitate FATCA, was sent to a Joint Select Committee on January 6.

The Committee is mandated to consider and report on the bill by Friday.

According to BATT president Anya Schnoor, the Association appeared before the JSC last week and indicated its acceptance of the Bill in its latest form.

She reiterated that the Associa-

tion has been working to debunk some misconceptions regarding the Bill, including the issue of confidentiality and a person's right to privacy.

"The crux of the matter is that FATCA applies to US persons only who are already subject to US tax laws and disclosures to the IRS. The local TIEA Bill simply provides the mechanism to cooperate with the US IRS on this already existing obligation.

"The IGA signed between Trinidad and Tobago and the US clearly outlines the terms under which this information on US persons can be shared," Schnoor pointed out.

• See Page 22