

28.9.2012

Ilkka Holmström

Valtiovarainministeriö
Harri Joiniemi
Kansainvälinen verotus
PL 28
00023 VALTIONEUVOSTO
harri.joiniemi@vm.fi

Muistio/Määritelmä sekä kuvaus työeläkesektorin toimijoista/Foreign Account Compliance Tax Act

Työeläkevakuuttajat TELA esittää seuraavassa valtiovarainministeriölle määritelmän Suomen lakisääteisen työeläkejärjestelmän toimijoista liitettäväksi Suomen ja Yhdysvaltain valtioiden väliseen sopimukseen koskien Yhdysvaltain Foreign Account Compliance Tax Act - säännösten ("FATCA") implementoimista. Toimijoita koskeva määritelmä kattaa eri oikeudellisissa muodoissa Suomessa toimivat, lakisääteistä työeläkevakuuttamista harjoittavat toimijat. Edelleen määritelmän mukaisten toimijoiden soveltuvuus FATCA - säännösten määräyksiin käsitellään kohdassa 2. Lopuksi kohdassa 3 esitetään yleinen kuvaus lakisääteisestä työeläkejärjestelmästä.

1 Määritelmä valtioidenväliseen sopimukseen

Annex II. Non-reporting financial institutions and products

1. Exempt Beneficial Owners. The following categories of institutions are Non-Reporting Finnish Financial Institutions that are treated as exempt beneficial owners for purposes of section 1471 of the U.S. Internal Revenue Code:

A. Pension and retirement funds

Any entity that is duly formed, as evidenced by its Articles of Association or similar certificate of establishment, or by rule of law, to provide statutory employment pension insurance or any collective and regulated pension benefits, and operated under the laws of the Republic of Finland and which entity holds a valid authorization for its operation.

The Finnish Financial Supervisory Authority (FIN-FSA) supervises the operation of and registers all referred entities into a listing at the FIN-FSA webpage, which listing can be used as a further supplementary tool and for reference purposes. The State Pension Fund and Keva (formerly Local Government Pensions Institution) are supervised by the Ministry of Finance and not listed in the FIN-FSA listing.

2 Määritelmän mukaisten toimijoiden soveltuvuudesta FATCA - säännösten määräyksiin

Finnish pension entities as Exempt Beneficial Owners under FATCA regulation

Chapter 4/section 1.1471-6(f)(1)(i) and (ii) of the FATCA regulation contain two optional definitions for certain foreign retirement and pension funds to be classified as Exempt Beneficial Owners. We note that the Finnish pension entities meet the requirements of section 1.1471-

28.9.2012

Ilkka Holmström

6(f)(1)(ii) . The entities are formed for the provision of retirement or pension benefits under the law of the country in which they are established (ii)(A). The entities receive all of their contributions from government, employer or employee contributions that are limited by reference to earned income (ii)(B). None of the entities have a single beneficiary with a right to more than five percent of the entity's assets (ii)(C). The entities receive more than 50 percent of their total contributions from the employer (ii)(D)(*alternative criteria*).

Yleinen kuvaus Suomen lakisääteisestä työeläkejärjestelmästä

General description of the Finnish pension and retirement sector

The Finnish statutory employment pension scheme is administered and managed by private legal entities, which include pension insurance companies, company pension funds, industry-wide pension funds and pension institutions established by law. The administration tasks consist of payment of pension benefits, execution of individual pension decisions and management of the funded assets. Approximately 2/3 of the pension payments are funded on a pay-as-you-go principle, i.e. from monthly contributions and 1/3 from profits accrued to the funded assets under management. In the context of World Bank conceptual pension plan classification, the Finnish statutory employment pension plan falls under the class of I pillar pension plans.

Further, the scheme forms a part of the public social security in place in Finland, although the execution has been trusted by law to private entities. These entities shall include the business of managing the statutory employment pension scheme under their Articles of Association or similar rules of establishment. Further, these entities are prohibited from engaging in any other business. Both employers and employees contribute to the pension scheme, but the share of employers is approximately 3 /4 and share of employees is approximately 1 /4. The employee contribution has a fixed percentage rate from the individual gross salary payment.

TYÖELÄKEVAKUUTTAJAT TELA ry


ILKKA HOLMSTRÖM
LAKIMIES