

**From:** [Tom Groves](#)  
**To:** [Andrew Harding](#)  
**CC:** [Martyn Curphey](#)  
**Date:** Mon, 29 Dec 2014 11:33:32 +0000  
**Subject:** FW: Ferrous Resources Limited - FATCA classification [IWOV-  
IM\_CLIENT.FID79658]  
**Attachment(s):** 1

Hi Andy,

Copy of the advice email below.

Cheers  
Tom

Tom Groves | Manager - Client Accounting

Appleby Trust (Isle of Man) Limited

Tel: +44 (0)1624 647 614

applebyglobal.com

VCARD | LINKEDIN | TWITTER

Bermuda ■ BVI ■ Cayman Islands ■ Guernsey ■ Hong Kong ■ Isle of Man ■  
Jersey ■ London ■ Mauritius ■ Seychelles ■ Shanghai ■ Zurich

From: Tom Groves [mailto:TGroves@applebyglobal.com]  
Sent: 22 August 2014 16:09  
To: leonardo.neves@ferrous.com.br  
Cc: Simon Harding; Martyn Curphey  
Subject: Ferrous Resources Limited - FATCA classification [IWOV-  
IM\_CLIENT.FID79658]

Dear Leonardo,

Further to your emails please see below regarding the classification and next steps for Ferrous Resources Limited (the 'Company') and its holding structure (the 'Structure').

Our understanding, further to the recent structure chart you have

provided, is that the Company owns the shares in various subsidiaries which ultimately own/operate mines in Brazil, South America. The Company is owned by a various shareholders, the only two which are greater than 10% being Arlington Limited, which is ultimately controlled by Ferrexpo PLC (a UK PLC), and IEP Ferrous Brazil LLC, which is controlled by Mr Carl Icahn, a US citizen.

As Ferrous Resources Limited is an Isle of Man company, it is subject to both the Intergovernmental Agreement with the United Kingdom ('UK IGA') and the United States of America ('US IGA') which apply in the Isle of Man.

Under the US IGA the Company falls under one of the following classifications; Foreign Financial Institution (FFI)/Non-Financial Foreign Entity (NFFE), with the NFFE category being further broken down into Active NFFEs and Passive NFFEs. Broadly speaking an FFI is an entity that generates greater than 50% of its income stream from financial assets although there are a number of specific exclusions available. If you are not a FFI then you are an NFFE. Cash is specifically excluded from being a financial asset, which includes transferable securities such as shares.

The difference between an Active NFFE and a Passive NFFE is again relating to the income stream, and again broadly speaking if you generate greater than 50% of your income from non-passive sources you are an active NFFE. Passive sources of income are defined as; distributions, interest, income equivalent to interest including amounts received in lieu of interest, rents and royalties, annuities and foreign currency gains.

If an entity is categorised as an FFI then it must register with the Internal Revenue Service in the USA (by 22 December if the entity is resident in a jurisdiction that has signed a model 1 IGA such as the Isle of Man), be issued with a Global Intermediary Identification Number (GIIN) and then report annually on the value of the accounts of specified persons. Specified persons in this context are those individuals who are US citizens, and the value of their account is defined as the value of their shareholding in the company.

Under the UK IGA the classification process is very similar with the main difference being that any specified persons must be UK tax resident for the reporting provisions to apply.

In order to establish whether or not the shareholders are specified persons a list of indicia is provided by the IRS:

- U.S. citizenship or lawful permanent resident (green card) status;
- A U.S. birthplace;
- A U.S. residence address or a U.S. correspondence address (including a U.S. P.O. box);
- A current U.S. telephone number;
- Standing instructions to transfer funds to an account maintained in the United States or directions regularly received from a U.S. address;
- An "in care of" address or a "hold mail" address that is the sole address with respect to the client; or
- A power of attorney or signatory authority granted to a person with a U.S. address. Having one of these indicia does not mean that the account is owned by a U.S. person, only that it must be given closer scrutiny.

If any of the above are present for shareholders then the company must contact them to establish their status and in which country they are tax resident. This can be done via self-certification forms or the relevant form W8 or equivalent from the IRS website: ([http://apps.irs.gov/app/picklist/list/formsPublications.html;jsessionid=Set9tMUzfxdQ3ZFyTT8+rg\\_\\_?value=w-8&criteria=formNumber&submitSearch=Find](http://apps.irs.gov/app/picklist/list/formsPublications.html;jsessionid=Set9tMUzfxdQ3ZFyTT8+rg__?value=w-8&criteria=formNumber&submitSearch=Find))

The information reported to the IRS via your local income tax office is the usual personal information; name, address, date of birth etc, together with the individuals tax identification number (TIN) and the value of the entity attributed to those specified persons. In future years any payments made to those persons will also be reportable.

#### Classification

From our review of the data we hold, as the Company is a holding vehicle, via two other holding vehicles (Mediterranean Iron Limited in Malta and Atlantic Iron Sarl in Luxembourg) for shares in an operating/trading subsidiaries. Whilst shares would normally fall in to the financial asset category there is a look through provision where those shares are only held as part of a holding structure for a trading/operating group. The company and structure do not therefore generate greater than 50% of their income from financial assets and they do not meet the investment entity criteria set put within the regulations. Accordingly, as any income they would be in receipt of would come from

distributions from the subsidiaries, the company and the structure would be classified as a Passive NFFEs.

As a Passive NFFE there is no requirement to register the Company or structure with the IRS to obtain a GIIN. The companies in the structure may be asked by any 3rd party financial institutions that it does business with (mainly banks) what classification those companies hold and, as Passive NFFEs, they must disclose any substantial (greater than 10%) US or UK specified person ownership. For all companies in the structure except Ferrous Resources Limited this would be nil, however Ferrous Resources Limited would disclose the 14.67% ownership of IEP Ferrous Brazil LLC and the fact that it is controlled by a US citizen. The bank would then use this information in its FATCA reporting, either to the tax authority in the banks jurisdiction in the case of a model 1 IGA or directly to the IRS for a model 2 IGA or non IGA jurisdiction.

Please let me know if you have any questions on the above.

Kind regards

Tom

Tom Groves | Manager - Client Accounting

Appleby Trust (Isle of Man) Limited

Tel: +44 (0)1624 647 614

applebyglobal.com

VCARD | LINKEDIN | TWITTER

Bermuda ■ BVI ■ Cayman Islands ■ Guernsey ■ Hong Kong ■ Isle of Man ■ Jersey ■ London ■ Mauritius ■ Seychelles ■ Shanghai ■ Zurich