FATCA Guidance:
Traditional Trade Product Fees Sourcing Analysis

August 2016

Acknowledgments

Special thanks go to the members who participated in the BAFT FATCA Working Group.

This project could not have been completed without the Working Group's dedication and desire to give back to the trade finance industry.

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Introduction

BAFT convened a Working Group to review the impact of the Foreign Account Tax Compliance Act ("FATCA") on certain traditional trade products.[1] This guidance note summarizes the review undertaken and explains how to use the "BAFT FATCA Working Group Fee Sourcing Analysis (the "Sourcing Matrix")"attached hereto.[2] The Working Group collated a list of fees levied by U.S. domestic and foreign banks for handling traditional trade products and performed a sourcing analysis for each fee, as explained below. The conclusions are memorialized in the Sourcing Matrix and are intended to facilitate conversations between BAFT members and their tax advisors. This accompanying guidance is a general supplement to the Sourcing Matrix and is intended to provide further clarity on the analysis.

It is important to emphasize that the review undertaken, and the conclusions reached, by the Working Group, reflect the Working Group's consensus views based on each Working Group member's understanding, neither of which should be construed as determinative. U.S. tax sourcing analysis, as discussed further herein, can be unclear and some BAFT members may disagree with the conclusions reached by the Working Group. It is therefore imperative for members to understand that the purpose of the Sourcing Matrix is to frame a discussion and *not* to advocate a definitive set of rules or guidelines or to be relied upon as tax advice.

FATCA, also referred to as Chapter 4 of the U.S. Federal Internal Revenue Code (the "Code"), became U.S. law in early 2010.[3] The essential thrust of FATCA is to combat offshore tax evasion by requiring foreign financial institutions and other entities to identify and report information regarding accounts and/or investments held by U.S. persons to the Internal Revenue Service (the "IRS"). In order to induce FATCA compliance, entities that do not comply with FATCA are subject to a 30% withholding tax on payments of certain U.S.-source income at the time of payment.[4]

FATCA withholding is effected by Withholding Agents. Withholding Agents can be U.S. or non-U.S. persons, and generally include financial institutions. Although Withholding Agents are not the parties directly subject to FATCA taxes, it is important to note that Withholding Agents who fail to correctly withhold are responsible for the amounts that should have been withheld, and may be subject to potential penalties and interest imposed by the IRS. Because of the liabilities associated with improper withholding and reporting under FATCA, it is imperative that Withholding Agents identify payments that are deemed to be U.S.-source income, maintain proper documentation for payees, withhold where applicable and report in accordance with IRS regulations.

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[1] Traditional trade products include letters of credit, guarantees and documentary collections.

[2] The scope of this guidance document is limited to the impact of FATCA on fees paid for certain traditional trade products, and is not intended as a discussion of other withholding and reporting regulations that impact payments of U.S.-source income. Generally, this refers to 26 U.S.C. §§ 1441-1464 or "Chapter 3" and 26 U.S.C. §§ 6001-6117 or "Chapter 61." The fees described and their sourcing analyses are dependent on various factors. Consult with your tax advisor.

[3] "Chapter 4" refers to 26 U.S.C. §§ 1471-1474.

[4] Documentation and validation rules are complex. Consult with your tax advisor.

Income Source

FATCA is specifically geared toward certain U.S.-source income. The Code contains a number of specific rules to determine the source of income, although the list is not comprehensive. It is therefore necessary in some cases to analogize a payment to a specific type of income in order to select the appropriate sourcing rule. In any event, if a Withholding Agent cannot determine the source of income at the time of payment, it is considered U.S.-source.

The Working Group reviewed traditional trade fees to determine which sourcing rule should apply to each fee. Several sourcing rules are relevant:[5]

(i) payments of true interest and payments that are analogous to interest are sourced to the residence of the obligor,

(ii) payments of fees for a guarantee of indebtedness are sourced to the residence of the party whose obligations are guaranteed, and

(iii) payments of fees for services are sourced to the location where the services were performed.

In general, the Working Group found that traditional trade fees fit into two categories: *risk-based* fees and *service-based* fees. The Working Group concluded that risk-based fees should generally be sourced under the interest or analogous to interest rule, whereas service-based fees should generally be sourced under the services rule. The Sourcing Matrix delineates the identified fees into categories and notes the applicable sourcing rule.

In developing the Sourcing Matrix, the Working Group attempted to compile a comprehensive list of bank-to-bank charges within the trade finance industry. In doing so, the Working Group did not draw distinctions based on how the fees are commonly named, but looked to the predominant feature(s) of the fees. For example, in the case where a bank confirms a letter of credit and charges a commission or fee for that confirmation, the fee is based on assuming a credit risk of the issuing bank. In this case, because this fee is risk-based, the Working Group concluded the predominant feature of the fee is *analogous to interest*.[6] In contrast, in the case where a bank charges a commission or fee for advising a letter of credit, the fee does not include any compensation for credit risk. In this case, because this fee is not risk-based, the Working Group concluded the predominant feature of the fee is *service*. Each fee in the Sourcing Matrix was evaluated for its association with risk or service and classified accordingly.

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[5] As noted above, in many instances it is necessary to analogize to statutory sourcing rules, or to look to other authorities to determine the correct sourcing rule for a given fee. For example, the Code and regulations do not contain an express sourcing rule for payments of fees for providing a guarantee of a risk other than indebtedness. Tax advisors may differ on whether the correct sourcing rule for such fees is analogous to services, interest or some other interpretation. Consult your tax advisor.

[6] The fee is treated as analogous to interest because it is not true interest. Whether a fee is sourced as true interest or analogous to interest may be relevant for applying Chapter 3 and 61 of the Code. Consult your tax advisor.

The evaluation of each fee's predominant feature, including the fee's nature, e.g. whether it is Fixed, Determinable, Annual, Periodical (FDAP)[7], and the subsequent source analysis, are critical steps in identifying which fees may or may not be deemed to be FATCA withholdable. For example, fees that are deemed to be FDAP and U.S.-source are generally deemed to be FATCA withholdable, and those that are foreign-source are not FATCA withholdable.[8] Consequently, when a bank requests payment for fees, vague fee descriptions are problematic as the bank paying the fees may not be able to determine the appropriate nature and source of each fee (e.g., "charges due for the issuance of our guarantee" as the only description). Withholding Agents may wish to request clarification for vague fee descriptions to avoid unnecessary withholding.

Documentation & Entity Status

Once the nature of the fee and whether it is U.S.-source income has been determined, FATCA withholding may be imposed if the payee has failed to provide adequate U.S. tax documentation, or has indicated on such documentation that the payee is subject to FATCA withholding. Therefore, having the right documentation for any counterparty, including known U.S. counterparties, is a critical component of FATCA compliance (a common misconception is that a domestic bank is not required to provide its tax documentation to be exempted from FATCA). It is important to note that exactly what forms, e.g. IRS Forms W-8 or W-9, to gather and how they should be completed, as well as whether there are any withholding or reporting requirements once the forms are obtained, are not questions that are specific to trade transactions, nor are such questions exclusive to FATCA. As such, a detailed discussion of these matters fell outside the scope of the Working Group's mandate. Furthermore, the Working Group acknowledges that in all cases the fee nature and sourcing analyses, as well as the documentation requirements are based on individual fact patterns that should be reviewed with and acted upon with the guidance of each member's own tax advisor.

Instructions on Use of the Sourcing Matrix

The Sourcing Matrix is available in the Appendix titled "BAFT FATCA Working Group Fee Sourcing Analysis." The Sourcing Matrix is divided by product. It sets out which sourcing rule applies to each fee listed and, based on certain common factual scenarios, whether the fee is likely to be "U.S.-source income" to the bank receiving the fee. To illustrate:

- **Interest:** If a foreign bank is asked to take a credit risk, such as adding confirmation to a U.S. bank's letter of credit, the interest sourcing rule looks to the location of the obligor that the foreign bank will be booking their exposure to; for example, in the case of confirming a letter of credit issued by a U.S. bank, the exposure is to that U.S. bank, making the confirmation fee U.S.-source income.

- **Guarantees:** If a foreign bank is asked to take a credit risk by issuing a guarantee based on a counter-guarantee letter of credit from a U.S. bank, the sourcing rule for fees paid for guarantees of indebtedness[9] looks to the location of the obligor that the foreign bank will be booking their exposure to; for example, in the case of a guarantee based on a counter-guarantee letter of credit issued by a U.S. bank, the exposure is to that U.S. bank, making the guarantee fee U.S.-source income.

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[7] The nature of a particular fee, including whether a fee is considered to be FDAP income, is beyond the scope of this document. Consult your tax advisor.

[8] Certain exceptions may apply. Please see FATCA regulations for additional information.

[9] Id at 5.

- **Services:** If a bank in the U.S. sends a letter of credit to a bank outside the U.S. and that foreign bank provides a service, like advising the letter of credit, the sourcing rule for services[10] looks to the location where the services are performed; for example, if the service is provided in the location of that foreign bank, a fee paid for the service would not be considered U.S.-source income.

Using this logic, the Sourcing Matrix becomes fairly easy to understand. Although it lists over 100 different fees, the Working Group observed that U.S.-source income may be most prominent in the following fee payment scenarios:

- **Import or standby letter of credit issued by a bank in the U.S.**: Fees and charges paid to a bank from outside the U.S. for confirmation (or issuance of a local guarantee), acceptance, and discount of time drafts, plus any interest owed due to payment delays are risk-related and therefore U.S.-source and may be subject to FATCA withholding.

- **Export letter of credit**: Where a reimbursing bank that is located within the U.S. requests fees for services performed inside the U.S., such fees are U.S.-source and may be subject to FATCA withholding. Note that fees paid to a bank outside the U.S. for its services would generally be foreign-source.

- **Export collection**: Where a bank that is located within the U.S. requests fees for handling a wire transfer to effect payment for services it performed inside the U.S., this fee payment would be considered U.S.-source and may be subject to FATCA withholding. Whereas fees paid to a bank outside the U.S. for these services would generally be foreign-source.

Disclaimer

The Sourcing Matrix is not comprehensive and does not cover all fees or products in the Trade Finance area. It is current as of the date of this Guidance Note, and the conclusions may change in the event of new law or guidance issued after publication. BAFT does not undertake to update this Guidance Note.

It is important to note that neither the Sourcing Matrix nor this Guidance Note should be construed as or substituted for the advice of a tax advisor. The Working Group identified common themes within the industry when creating the Sourcing Matrix that may be similar to individual firms' determinations. However, you should not rely on this Sourcing Matrix as authoritative because the analysis is dependent on individual fact patterns. To use the Sourcing Matrix, each member must apply their individual facts with the guidance of their own tax advisors.

[10] The Code refers to this rule as "personal services," however this guidance note uses the term "services" throughout as a simplifying convention.

APPENDIX

BAFT FATCA Working Group Fee Sourcing Analysis

Import LC-Time

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Advising Services				
Advising	Processing fee charged by the Advising Bank for authenticating and delivering a commercial letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Confirmation	Fee charged by the Confirming Bank as compensation for the risk of confirming a commercial letter of credit issued by another bank, usually charged as a percentage per quarter or per annum on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Amendment Advising	Processing fee charged by the Advising Bank for authenticating and delivering an amendment to a commercial letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
L/C Transfer-Commercial L/C	Processing fee charged by the bank that transfers a commercial letter of credit for creating the transfer and sending it to the beneficiary. Often a straight percentage; sometimes a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Examination/ Payment Services				
Document Examination	Processing fee charged by the Nominated Bank for examining documents presented under an L/C; sometimes referred to as a "negotiation fee". Most often a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Acceptance/Deferred Payment	Fee charged by the Nominated Bank as compensation for the risk of accepting time drafts or incurring a deferred payment obligation, including when the drafts are drawn on another bank but the Nominated Bank is also the Confirming Bank or has issued a commitment to negotiate time drafts without recourse. As the risk is on the asset, not the liability, this fee is charged even when the draft is discounted or the deferred payment is prepaid by the Nominated Bank. Most often charged as a percentage.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident

Import LC-Time continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Discount Charge/ Fee/Interest	(1) Amount charged by the Nominated Bank for discounting a banker's acceptance accepted by themselves or prepaying their own deferred payment undertaking.	Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
	(2) Also the term for the amount charged by the Nominated Bank for discounting a banker's acceptance accepted by the Issuing Bank or the Issuing Bank's deferred payment undertaking. In this case, the amount includes a spread over the cost of funds as compensation for the risk of the accepting bank/obligor (the Issuing Bank).	Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Discrepancy	Processing fee charged by the Nominated Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Claim Reimbursement	Processing fee charged for the additional work involved in obtaining payment from the Issuing Bank by sending a claim for payment to the Issuing Bank.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Delayed Payment Interest	Interest charged when the Nominated Bank has not received payment from the Issuing Bank in a reasonable time, as compensation for use of funds.	Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident

Import LC-Sight

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Advising Services				
Advising	Processing fee charged by the Advising Bank for authenticating and delivering a commercial letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Confirmation	Fee charged by the Confirming Bank as compensation for the risk of confirming a commercial letter of credit issued by another bank, usually charged as a percentage on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Amendment Advising	Processing fee charged by the Advising Bank for authenticating and delivering an amendment to a commercial letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
L/C Transfer-Commercial L/C	Processing fee charged by the bank that transfers a commercial letter of credit for creating the transfer and sending it to the beneficiary. Often a straight percentage, sometimes a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Examination/ Payment Services				
Document Examination	Processing fee charged by the Nominated Bank for examining documents presented under an L/C; sometimes referred to as a "negotiation fee". Most often a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Import LC-Sight continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Transit Interest	Interest or "float assessment" charged by the Nominated Bank for negotiating or otherwise advancing funds to the beneficiary of a sight letter of credit while documents are in the process of collection.	Interest	Residence of the obligor (the Beneficiary if w/ recourse)	When the obligor (the Beneficiary) is a US resident
			Residence of the obligor (the Issuing Bank if w/o recourse (e.g. confirmed L/C))	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Discrepancy	Processing fee charged by the Nominated Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Claim Reimbursement	Processing fee charged for the additional work involved in obtaining payment from the Issuing Bank by sending a claim for payment to the Issuing Bank.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Delayed Payment Interest	Interest charged when the nominated bank has not received payment from the issuing bank in a reasonable time as compenssation for use of funds.	Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident

Export LC-Time

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Issuance Services				
Issuance	Processing fee charged by the Issuing Bank for issuing a commercial letter of credit; often a flat fee, sometimes a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Issuing Bank for amending a commercial letter of credit; often a flat fee, sometimes a straight percentage if the amendment includes an increase in the amount of the credit.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Exposure	Compensation for the risk of issuing a commercial letter of credit, charged as a percentage on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Examination/ Payment Services				
Document Examination/Payment	Processing fee charged by the Issuing Bank for examining documents presented under the L/C; sometimes referred to as a "negotiation fee". Often a straight percentage, sometimes a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Drawing/Excessive Drawing	A flat administrative (handling) fee charged by the Issuing Bank. This fee is usually charged for each drawing or for each drawing made after a certain number of drawings have been made under the L/C.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Export LC-Time continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Acceptance/ Deferred Payment	Compensation for the risk of accepting time drafts or incurring a deferred payment obligation, including the liability to reimburse a nominated bank that has accepted drafts or incurred a deferred payment obligation. As the risk is on the asset, not the liability, this fee is charged even when the draft is discounted or the deferred payment is prepaid by the Issuing Bank. Charged as a percentage per annum.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Discount Charge/Fee/ Interest	Additional amount charged by the Issuing Bank for discounting a banker's acceptance accepted by themselves or for prepaying a deferred payment.	Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Discrepancy	Processing fee charged by the Issuing Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Overdrawn L/C	A flat administrative (handling) fee charged by the issuing bank for overdrawing the L/C.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Expired L/C	A flat administrative (handling) fee charged by the Issuing Bank when documents are presented under an L/C that has expired.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Safekeeping	Extra charge imposed when documents are refused and being held at the disposal of the presenting bank, particularly when disposal instructions are not received in a timely manner.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Letter of Indemnity/ Steamship Guarantee/ Shipside Bond	Fee charged by a bank for indemnifying the carrier for releasing goods without the Drawee having possession of an original negotiable transport document to surrender.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident

Export LC-Time continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Air Release	Processing fee charged by the Issuing Bank for writing a letter to the airline to authorize release of goods to the L/C applicant when shipment has been consigned to the bank. Usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Charges imposed by Reimbursing Banks				
Set Up Reimbursement Authorization	Processing fee charged by the Reimbursing Bank for setting up a file for a reimbursement authorization received from the Issuing Bank; a flat fee.	Personal Service	Where the service was performed	If the service provided by the reimbursing bank was performed in the US
Issue Reimbursement Undertaking (Exposure)	Fee charged by the Reimbursing Bank as compensation for the risk of undertaking to pay a commercial letter of credit issued by another bank, charged as a percentage on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Honor Reimbursement Claim	Processing fee charged by the Reimbursing Bank for honoring claims received from the Nominated Bank(s) under a reimbursement authorization.	Personal Service	Where the service was performed	If the service provided by the reimbursing bank was performed in the US
Acceptance/ Deferred Payment	Fee charged by the Reimbursing Bank as compensation for the risk of accepting time drafts presented by the Nominated Bank. As the risk is on the asset, not the liability, this fee is charged even when the draft is discounted or the deferred payment is prepaid by the Reimbursing Bank. Usually charged as a percentage.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank) is a US resident
Discount Charge/Fee/ Interest	Amount charged by the Reimbursing Bank for discounting a banker's acceptance accepted by themselves or for prepaying their own deferred payment undertaking.	Interest	Residence of the obligor	When the obligor (Issuing Bank) is a US resident

Export LC-Sight

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Issuance Services				
Issuance	Processing fee charged by the Issuing Bank for issuing a commercial letter of credit; often a flat fee, sometimes a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Issuing Bank for amending a commercial letter of credit; often a flat fee, sometimes a straight percentage if the amendment includes an increase in the amount of the credit.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Exposure	Compensation for the risk of issuing a commercial letter of credit, charged as a percentage per annum on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Examination/ Payment Services				
Document Examination/ Payment	Processing fee charged by the Issuing Bank for examining documents presented under the L/C; sometimes referred to as a "negotiation fee". Often a straight percentage, sometimes a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Drawing/Excessive Drawing	A flat administrative (handling) fee charged by the Issuing Bank. This fee is usually charged for each drawing or for each drawing made after a certain number of drawings have been made under the L/C.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Discrepancy	Processing fee charged by the Issuing Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Export LC-Sight continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Overdrawn L/C	A flat administrative (handling) fee charged by the Issuing Bank in addition to the exposure fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Expired L/C	A flat administrative (handling) fee charged by the Issuing Bank when documents are presented under an L/C that has expired.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Safekeeping	Extra charge imposed by the Issuing Bank when documents are refused and being held at the disposal of the presenting bank, particularly when disposal instructions are not received in a timely manner.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Letter of Indemnity/ Steamship Guarantee/Shipside Bond	Fee charged by a bank for indemnifying the carrier for releasing goods without the L/C applicant having possession of an original negotiable transport document to surrender.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Air Release	Processing fee charged by the Issuing Bank for writing a letter to the airline to authorize release of goods to the L/C applicant when shipment has been consigned to the bank. Usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Charges imposed by Reimbursing Banks				
Set Up Reimbursement Authorization	Processing fee charged by the Reimbursing Bank for setting up a file for a reimbursement authorization received from the Issuing Bank; a flat fee.	Personal Service	Where the service was performed	If the service provided by the Reimbursing Bank was performed in the US
Issue Reimbursement Undertaking	Fee charged by the Reimbursing Bank as compensation for the risk of undertaking to pay a commercial letter of credit issued by another bank, charged as a percentage per quarter or per annum on the amount of the L/C or on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank) is a US resident
Honor Reimbursement Claim	Processing fee charged by the Reimbursing Bank for honoring claims received from the Nominated Bank(s) under a reimbursement authorization.	Personal Service	Where the service was performed	If the service provided by the Reimbursing Bank was performed in the US

Standby LC Issued in US in favor of a Foreign Company

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Advising Services				
Advising	Processing fee charged by the Advising Bank for authenticating and delivering a standby letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Confirmation	Fee charged by the Confirming Bank as compensation for the risk of confirming a standby letter of credit issued by another bank, charged as a percentage on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Amendment Advising	Processing fee charged by the Advising Bank for authenticating and delivering an amendment to a standby letter of credit; a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Automatic Extension	Processing fee charged by the Advising Bank for extending the expiration date of a standby letter of credit that contains an automatic extension clause; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Non-Renewal Letter (Cancellation of Auto-Extending L/C)	Processing fee charged by the Advising Bank for sending a non-renewal notice under a standby letter of credit that contains an automatic extension clause; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Examination/ Payment Services				
Document Examination	Processing fee charged by the Advising/Confirming Bank for examining documents presented under an L/C; sometimes referred to as a "negotiation fee". Most often a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Discrepancy	Processing fee charged by the Advising/ Confirming Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Claim Reimbursement	Processing fee charged for the additional work involved in obtaining payment from the Issuing Bank by sending a claim for payment to the Issuing Bank.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
L/C Transfer-Standby L/C	Processing fee charged by the bank that transfers a transferable standby for sending it to the new beneficiary or acknowledging that the beneficiary has transferred the L/C. Often a flat fee, sometimes a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Foreign Standby LC in favor of a US Company

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Issuance Services				
Issuance	Processing fee charged by the Issuing Bank for issuing a standby letter of credit;usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Issuing Bank for amending a standby letter of credit;usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Exposure	Compensation for the risk of issuing a standby letter of credit, charged as a percentage per annum on the outstanding balance.	Analogous to Interest	Residence of the obligor	When the obligor (Issuing Bank or prior Confirming Bank) is a US resident
Automatic Extension	Processing fee charged by the Issuing Bank for extending the expiration date of a standby letter of credit that contains an automatic extension clause; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Non-Renewal Letter (Cancellation of Auto-Extending L/C)	Processing fee charged by the Issuing Bank for sending a non-renewal notice under a standby letter of credit that contains an automatic extension clause; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Examination/ Payment Services				
Document Examination/ Payment	Processing fee charged by the Issuing Bank for examining documents presented under the L/C; sometimes referred to as a "negotiation fee". Often a straight percentage, sometimes a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Discrepancy	Processing fee charged by the Issuing Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Preparation of Draft L/C	Processing fee charged by the Issuing Bank as compensation for the additional labor required to draft a letter of credit.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Counter Guarantee LC for Issuing a Local Guarantee

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Issuance Services				
Issuance	Processing fee charged by the Foreign Bank for issuing a local guarantee; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Foreign Bank for amending a local guarantee; usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Exposure	Compensation for the risk of issuing a local guarantee, charged as a percentage on the outstanding balance.	Guarantees*	Residence of the obligor	When the obligor (counter-guarantor bank or bank applying for the guarantee) is a US resident
Examination/ Payment Services				
Document Examination	Processing fee charged by the Foreign Bank for examining documents presented under their local guarantee. Most often a straight percentage.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Discrepancy	Processing fee charged by the Foreign Bank as compensation for the additional costs of processing documents that contain discrepancies. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Claim Reimbursement	Processing fee charged for the additional work involved in obtaining payment from the Counter-Guarantor by sending a claim for payment to the Counter-Guarantor.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

*See FATCA Guidance Pages 4 and 5 with accompanying footnotes

Incoming (Import) Collection

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Standard ("Normal"/"Straight")-Sight	Processing fee charged by the Remitting Bank for handling documents sent for sight payment; often a flat fee, sometimes a straight percentage with a maximum.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Standard ("Normal"/"Straight")-Time	Processing fee charged by the Remitting Bank for handling documents sent for acceptance and later payment; often a flat fee, sometimes a straight percentage with a maximum. Sometimes expressed as simply a "collection" charge with an additional charge for "file maintenance."	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Direct Collection-Sight	Discounted processing fee charged by the Remitting Bank for handling documents sent by the foreign supplier directly to the Presenting Bank for sight payment; often a flat fee, sometimes a straight percentage with a maximum.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Direct Collection-Time	Discounted processing fee charged by the Remitting Bank for handling documents sent by the foreign supplier directly to the Presenting Bank for acceptance and later payment; often a flat fee, sometimes a straight percentage with a maximum. Sometimes expressed as simply a "collection" charge with an additional charge for "file maintenance."	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Remitting Bank as compensation for the additional costs of processing changes in collection instructions.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Transit Interest	Interest or "float assessment" charged by the Remitting Bank for negotiating or otherwise advancing funds to the Principal under a sight draft collection while documents are in the process of collection.	Interest	Residence of the obligor (the Principal)	When the obligor (Principal) is a US resident

Incoming (Import) Collection continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Discount Charge/Fee/ Interest	Amount charged by the Remitting Bank for discounting a time draft accepted by the Drawee and possibly avalized by the Presenting Bank. The amount includes a spread over the cost of funds as compensation for the risk of the relevant obligor (depending on whether discount is with or without recourse). Usually calculated as a percentage.	Interest	Residence of the obligor (the Principal if w/ recourse)	When the obligor (Principal) is a US resident
			Residence of the obligor (the Drawee or avalizing bank if w/o recourse)	When the obligor (Drawee or avalizing bank) is a US resident
Partial Payment Fee	Processing fee charged by the Remitting Bank as compensation for the additional costs of processing multiple payments under a single collection.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Cancellation/Return	Processing fee charged by the Remitting Bank as compensation for the additional costs of returning documents to the Principal and in lieu of fees that would have been collected for remitting payment.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Delayed Payment Interest	Interest charged when the Remitting Bank has not received payment from the avalizing bank in a reasonable time after maturity of an avalized time draft, as compensation for use of funds.	Interest	Residence of the obligor	When the obligor (avalizing bank) is a US resident

Outgoing (Export) Collection

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Sight Draft Collection	Processing fee charged by the Presenting Bank for handling documents received for sight payment; often a flat fee, sometimes a straight percentage with a maximum.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Time Draft Collection	Processing fee charged by the Presenting Bank for handling documents received for acceptance and later payment; often a flat fee, sometimes a straight percentage with a maximum. Sometimes expressed as simply a "collection" charge with an additional charge for "file maintenance" or "acceptance safekeeping."	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Amendment	Processing fee charged by the Presenting Bank as compensation for the additional costs of processing changes in collection instructions.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Protest	Processing fee charged by the Presenting Bank as compensation for the additional costs of protesting drafts under a collection for non-payment or non-acceptance such as legal fees and/or filing charges.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Avalization	Fee charged by the Presenting Bank as compensation for the risk of guaranteeing ("avalizing") time drafts accepted by the drawee. This fee is charged when the draft is not being discounted by the Presenting Bank. Charged as a percentage per annum.	Analogous to Interest	Residence of the obligor	When the obligor (Drawee) is a US resident
Discount Charge/ Fee/Interest	Amount charged by the Presenting Bank for discounting a time draft accepted by the Drawee. Such discounting is done without recourse. The amount includes a spread over the cost of funds as compensation for the risk of the Drawee.	Interest	Residence of the obligor	When the obligor (Drawee) is a US resident

Outgoing (Export) Collection continued

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Partial Payment Fee	Processing fee charged by the Presenting Bank as compensation for the additional costs of processing multiple payments under a single collection.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Safekeeping	Extra charge imposed by the Presenting Bank when documents are refused by the Drawee and are being held at the disposal of the Remitting Bank, particularly when disposal instructions are not received in a timely manner.	Personal Service	Where the service was performed	Only iIf the service provided by the foreign bank was performed in the US
Cancellation/Return	Processing fee charged by the Presenting Bank as compensation for the additional costs of returning documents and in lieu of fees that would have been collected for remitting payment.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Letter of Indemnity/ Steamship Guarantee/Shipside Bond	Fee charged by a bank for indemnifying the carrier for releasing goods without the Drawee having possession of an original negotiable transport document to surrender	Analogous to Interest	Residence of the obligor	When the obligor (Drawee) is a US resident
Air Release	Processing fee charged by the Presenting Bank for writing a letter to the airline to authorize release of goods to the drawee when shipment has been consigned to the bank. Usually a flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

Miscellaneous Charges

Charges imposed by other banks		Source Rule	Source	FATCA Withholding May Apply
Communications/ Delivery				
Courier (International)	Fee charged by the Nominated Bank to defray costs incurred to send letter of credit documents to the Issuing Bank by courier.	Cost recovery/ Out of scope	N/A	No
Registered Mail	Fee charged by the Nominated Bank to defray costs incurred to send letter of credit documents to the Issuing Bank by registered mail.	Cost recovery/ Out of scope	N/A	No
Telex/SWIFT-Other	Fee charged by any bank involved in a commercial or standby L/C to defray costs (including overhead) incurred to send a letter of credit or to compose and send miscellaneous communications by teletransmission.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Wire Transfer Fee	Processing fee charged by a bank for effecting payment by wire transfer. A flat fee.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US
Fax/Scan/ Telephone call	Fee charged by any bank involved in a commercial or standby L/C to defray costs (including overhead) incurred to compose and send miscellaneous communications by fax or as scans attached to emails or to make telephone calls.	Personal Service	Where the service was performed	If the service provided by the bank was performed in the US

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