

FATCA Withholding

from a Security Master and Payment Perspective

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FATCA Withholding

What is and is not subject to FATCA withholding?

You have an account subject to FATCA

- Now what? Do I withhold on every payment?

How do I determine what securities and payments are subject to FATCA based on the final regulations?

**FATCA
WHO IS BEING AFFECTED?**

Classifying Securities under the FATCA Rules

4 Step Process

1. Identify each security based on the income that they pay and set their FATCA status ahead of time
2. Take a snapshot of all U.S. taxable debt resident on your security master on 1/1/14 and any securities identified that pay dividend equivalents and set these to grandfathered
3. When adding securities after 1/1/14. 3 options:
 1. Subject
 2. Never subject
 3. Grandfathered and could become subject
4. Monitor “grandfathered” securities to determine whether the “grandfathered” exception has been lost

Payments Subject to FATCA Withholding on 1/1/14 and Later

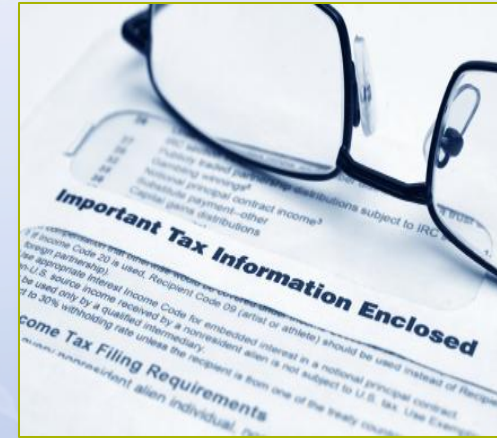
Dividends from U.S. Stocks

Interest Payments from U.S. taxable bonds

- Issued after 1/1/14

Royalties from U.S. sources

Interest paid on bonds that are no longer “Grandfathered Obligations”



Payments Not Subject to FATCA Withholding



Dividend on ADR and other non U.S. source dividends

Interest paid on “Grandfathered Obligations”

- U.S. source taxable bonds outstanding on 1/1/14
- Grandfathered obligation definition differs for securities that pay “dividend equivalents”

Foreign source Royalties

Interest on certain bonds issued by states and localities

- Must be Tax-exempt or subject to AMT
- Over 1.5 Million securities (but over 70,000 are subject to FATCA)

Master Limited Partnership Distributions

Payments Subject to FATCA Starting 1/1/2017



Gross Proceeds paid on a security that is or would be subject to FATCA on the income derived from that security

Capital Gain Distributions from U.S. Mutual Funds (both short and long term)

Non-dividend distributions (return of capital that is paid on a U.S. Stock, REIT or Mutual Fund)

“Grandfathered Obligation”

The regulations exempt U.S. sourced taxable debt from FATCA withholding if it is issued and outstanding on 1/1/14.

A bond can lose its “Grandfathered” Status and become subject to FATCA at a later date.

However, the IRS has indicated that the Issuer of the debt has to make the determination whether the debt is no longer grandfathered and issue a written statement to that effect.

U.S. Withholding Agents cannot make this determination on their own.

Industry groups are working with the IRS to make dissemination of the information standardized across the industry.



Change in “Grandfathered Obligation” Status

Alteration of terms will cause debt to lose their “Grandfathered” status. These are common examples of alterations:

- **Change in Obligor**

(Mergers, acquisitions etc., where the common stock is purchased or exchanged for new stock)

- **Modified due to a Bankruptcy Plan**

The following events are considered alteration of terms if they are not in the original offering document

- **Extension of maturity date**

- **Increase in coupon**

- Either of these two conditions usually requires the consent (an affirmative vote) of the bondholders, and the issuer makes a payment as an inducement to get consent

FATCA vs. NRA Tax Withholding

Subject to FATCA but NOT NRA	Subject to NRA but NOT FATCA
<ul style="list-style-type: none">Short term Original Issue Discount paid at maturity for an obligation maturing in 183 days or fewer	<ul style="list-style-type: none">Interest from a "Grandfathered obligation" that is subject to NRA.<ul style="list-style-type: none">Contingent Interest and Other Non-Portfolio Interest
<ul style="list-style-type: none">Dividends paid by 80/20 companies	<ul style="list-style-type: none">Distributions from Limited Partnerships subject to withholding
<ul style="list-style-type: none">Interest related dividends from mutual funds <p>Note: Short Term and Long Term Gains, and return of capital from Mutual funds and other securities are considered Gross Proceeds and not subject until 1/1/2017</p>	<ul style="list-style-type: none">Grandfathered "Dividend Equivalent" securities that are subject to tax under Internal Revenue Code Section 871(m).Defined as "outstanding at any point prior to 6 months after final regulations (relating to 871(m)) are published"
<ul style="list-style-type: none">Deposit Interest on an instrument that lacks a maturity date	

About Justin Hopkins

Justin Hopkins is a Strategic Project Manager with Broadridge Financial Solutions, Inc. concentrating on new product development and enhancements to current products to ensure compliance with the Internal Revenue Code and associated regulations that impact broker-dealers and financial institutions.


Mr. Hopkins has over a decade of experience in information reporting and tax withholding with various broker-dealers such as Brown Brothers Harriman, Bank of New York (Now BNY Mellon) and U.S. Clearing (Now Apex Clearing).

Mr. Hopkins has a B.A. from Thomas Edison State College in New Jersey and a JD from St. Thomas University School of Law, and is admitted to practice in New Jersey, Florida and before the United States Tax Court in Washington D.C.

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