# Table of Contents

About the Author .................................................. vii
Table of Chapters .................................................. ix
Table of Contents .................................................. xi
Acknowledgments ................................................... li
Introduction ........................................................... liii
Frequently Used Terms ........................................... lvii

## Chapter 1  Background of the Foreign Account Tax Compliance Act (FATCA)

Q 1.1 What is the tax policy behind FATCA? .................. 3
Q 1.2 What are the U.S. tax and reporting obligations for taxpayers with offshore bank accounts? .......... 4
  Q 1.2.1 What must be reported on a U.S. income tax return with respect to an offshore bank account? ........ 4
  Q 1.2.2 Under what circumstances is a U.S. taxpayer required to file the FBAR form? ......................... 5
  Q 1.2.3 Under what circumstances is a U.S. taxpayer required to report the existence of certain foreign assets? ... 6
Q 1.3 What led the United States to enact FATCA? ........ 6
Q 1.4 What are the FATCA statutory provisions contained in the Internal Revenue Code (“Code”? ........ 12
  Q 1.4.1 What does Code section 1471 require? .......... 12
  Q 1.4.2 What does section 1472 require? ................. 14
  Q 1.4.3 What does section 1473 require? ................. 14
  Q 1.4.4 What does section 1474 require? ................. 14
Q 1.5 What regulatory guidance regarding FATCA has been issued by Treasury and the IRS since enactment of the law in 2010? .................. 14
Q 1.6 What options exist for U.S. taxpayers with undisclosed offshore bank accounts? ......... 24

## Chapter 2  Key FATCA Terms and Concepts

Q 2.1 What is the definition of the terms “account” and “financial account”? ................................. 34
  Q 2.1.1 What is the definition of a “depository account”? .......... 35
  Q 2.1.2 What is the definition of a “custodial account”? ... 35

---

xi
Q 2.1.3 What is the definition of an “equity or debt interest”?.........36
Q 2.1.4 What is the definition of “cash value insurance contract”?...37
Q 2.1.5 What are the rules for determining when a financial
institution maintains a “financial account”?..........................39
Q 2.1.6 What are the exceptions to the definition of
“financial account”?..........................................................39
Q 2.2 How does an FFI determine the balance or value of a
financial account for FATCA purposes?..................................42
Q 2.2.1 How does an FFI determine the balance or value
of an immediate annuity?..................................................43
Q 2.2.2 How is the account balance determined in the
case of multiple accounts?..................................................43
Q 2.2.3 How does an FFI determine an account’s balance or
value if the account is denominated in foreign currency?.........46
Q 2.3 What is the definition of the term “AML due diligence”?......46
Q 2.4 What is the definition of the term “annuity contract”?.........46
Q 2.5 What is the definition of the term “assumes primary
withholding responsibility”?.............................................47
Q 2.6 What is the definition of the term “backup withholding”?.....47
Q 2.7 What is the definition of the term “blocked account”?.........47
Q 2.8 What is the definition of the term “branch”?.......................47
Q 2.9 What is the definition of the term “broker”?.......................47
Q 2.10 What is the definition of the term “chapter 3”?.................48
Q 2.11 What is the definition of the term “chapter 4”?...................48
Q 2.12 What is the definition of the term “chapter 4 status”?.........48
Q 2.13 What is the definition of the term “chapter 4 withholding
rate pool”?.................................................................48
Q 2.14 What is the definition of the term “clearing organization”?...49
Q 2.15 What is the definition of the term “complex trust”?............49
Q 2.16 What is the definition of the term “Compliance FI”?..........49
Q 2.17 What is the definition of the term “consolidated obligations”?...50
Q 2.18 What is the definition of the term “customer master file”?.....50
Q 2.19 What is the definition of the term “deferred annuity contract”?..50
Q 2.20 What is the definition of the term “documentary evidence”?....51
Q 2.21 What is the definition of the term “documentation”?............51
Q 2.22 What is the definition of the term “dormant account”?.........51
Q 2.23 What is the definition of the term “effective date of the
FFI agreement”?..............................................................51
Q 2.24 What is the definition of the term “EIN”?..........................51
Q 2.25 What is the definition of the term “electronically
searchable information”?..................................................52
Q 2.26 What is the definition of the term “entity”?.........................52
| Q 2.27 | What is the definition of the term “entity account”? | 52 |
| Q 2.28 | What is the definition of the term “exempt beneficial owner”? | 52 |
| Q 2.29 | What is the definition of the term “exempt recipient”? | 53 |
| Q 2.30 | What is the definition of the term “expanded affiliated group”? | 53 |
| Q 2.30.1 | What is the “ownership test” for purposes of an expanded affiliated group? | 53 |
| Q 2.30.2 | How are warrants, options, and obligations convertible into equity treated for purposes of determining ownership? | 54 |
| Q 2.30.3 | How is an investment entity considered for purposes of an expanded affiliated group? | 55 |
| Q 2.30.4 | What other rules apply in the expanded affiliated group context? | 56 |
| Q 2.31 | What is the definition of the term “FATCA ID”? | 56 |
| Q 2.32 | What is the definition of the term “FATF”? | 57 |
| Q 2.33 | What is the definition of the term “FATF-compliant jurisdiction”? | 57 |
| Q 2.34 | What is the definition of the term “FFI”? | 57 |
| Q 2.35 | What is the definition of the term “FFI agreement”? | 58 |
| Q 2.36 | What is the definition of the term “financial institution”? | 58 |
| Q 2.37 | What is the definition of the term “flow-through entity”? | 58 |
| Q 2.38 | What is the definition of the term “flow-through withholding certificate”? | 58 |
| Q 2.39 | What is the definition of the term “foreign entity”? | 58 |
| Q 2.40 | What is the definition of the terms “passthru payment” and “foreign passthru payment”? | 59 |
| Q 2.41 | What is the definition of the term “foreign payee”? | 59 |
| Q 2.42 | What is the definition of the term “foreign person”? | 59 |
| Q 2.43 | What is the definition of the term “Global Intermediary Identification Number” or GIIN? | 59 |
| Q 2.44 | What is the definition of the term “grandfathered obligation”? | 59 |
| Q 2.45 | What is the definition of the term “grantor trust”? | 59 |
| Q 2.46 | What is the definition of the term “group annuity contract”? | 60 |
| Q 2.47 | What is the definition of the term “group insurance contract”? | 60 |
| Q 2.48 | What is the definition of the term “immediate annuity”? | 60 |
| Q 2.49 | What is the definition of the term “individual account”? | 60 |
| Q 2.50 | What is the definition of the term “insurance company”? | 60 |
| Q 2.51 | What is the definition of the term “insurance contract”? | 61 |
| Q 2.52 | What is the definition of the term “intergovernmental agreement”? | 61 |
| Q 2.52.1 | What is the definition of the term “Model 1 IGA”? | 61 |
| Q 2.52.2 | What is the definition of the term “Model 2 IGA”? | 61 |
| Q 2.53 | What is the definition of the term “intermediary”? | 62 |
Q 2.54 What is the definition of the term “intermediary withholding certificate”? .................................................................62
Q 2.55 What is the definition of the term “investment-linked annuity contract”? .................................................................62
Q 2.56 What is the definition of the term “investment-linked insurance contract”? .............................................................62
Q 2.57 What is the definition of the term “IRS FFI list”? .........................63
Q 2.58 What is the definition of the term “Lead FI”? .................................63
Q 2.59 What is the definition of the term “life annuity contract”? .............63
Q 2.60 What is the definition of the term “life insurance contract”? ..........63
Q 2.61 What is the definition of the term “limited branch”? ....................63
Q 2.62 What is the definition of the term “limited FFI”? ............................64
Q 2.63 What is the definition of the term “Member FFI”? .........................64
Q 2.64 What is the definition of the term “nonfinancial foreign entity” or “NFFE”? .................................................................65
Q 2.65 What is the definition of the term “non-exempt recipient”? ...............65
Q 2.66 What is the definition of the term “nonparticipating FFI”? ...............65
Q 2.67 What is the definition of the term “nonqualified intermediary” or “NQI”? ........................................................................65
Q 2.68 What is the definition of the term “nonreporting IGA FFI”? ............65
Q 2.69 What is the definition of the term “non-U.S. account”? ..................66
Q 2.70 What is the definition of the term “nonwithholding partnership” or “NWP”? .................................................................66
Q 2.71 What is the definition of the term “nonwithholding trust” or “NWT”? ...........................................................................66
Q 2.72 What is the definition of the term “offshore obligation”? ..................66
Q 2.73 What is the definition of the term “owner”? .................................66
Q 2.74 What is the definition of the term “participating FFI”? ...................67
Q 2.75 What is the definition of the term “participating FFI group”? ..........67
Q 2.76 What is the definition of the term “passive NFFE”? .........................67
Q 2.77 What is the definition of the term “payee”? .................................67
Q 2.78 What is the definition of the term “payment with respect to an offshore obligation”? ......................................................67
Q 2.79 What is the definition of the term “payor”? .................................68
Q 2.80 What is the definition of the term “permanent residence address”? ...........................................................................68
Q 2.81 What is the definition of the term “person”? .................................69
Q 2.82 What is the definition of the term “preexisting account”? ...............69
Q 2.83 What is the definition of the term “preexisting entity account”? ......69
Q 2.84 What is the definition of the term “preexisting individual account”? ................................................................. 69
Q 2.85 What is the definition of the term “preexisting obligation”? .......... 69
Q 2.86 What is the definition of the term “pre-FATCA Form W-8”? ............ 70
Q 2.87 What is the definition of the term “point of contact”? ....................... 71
Q 2.88 What is the definition of the term “private arrangement intermediary”? ................................................................. 71
Q 2.89 What is the definition of the term “qualified intermediary” or “QI”? ................................................................. 71
Q 2.90 What is the definition of the term “qualified intermediary agreement” or “QI agreement”? ................................................................. 71
Q 2.91 What is the definition of the term “QI branch of a U.S. financial institution”? ................................................................. 71
Q 2.92 What is the definition of the term “recalcitrant account holder”? ....... 72
  Q 2.92.1 When does an account holder’s status as “recalcitrant” begin? ................................................................... 73
  Q 2.92.2 When does an account holder’s status as “recalcitrant” end? ................................................................... 74
Q 2.93 What is the definition of the term “registered deemed-compliant FFI”? ................................................................. 74
Q 2.94 What is the definition of the term “related entity”? ......................... 75
Q 2.95 What is the definition of the term “relationship manager”? ............... 75
Q 2.96 What is the definition of the term “reportable payment”? ............... 75
Q 2.97 What is the definition of the term “Reporting FI”? ......................... 76
Q 2.98 What is the definition of the term “reporting Model 1 FFI”? ............... 76
Q 2.99 What is the definition of the term “reporting Model 2 FFI”? ............... 76
Q 2.100 What is the definition of the term “responsible officer”? ................... 76
Q 2.101 What is the definition of the term “responsible party”? ..................... 77
Q 2.102 What is the definition of the term “simple trust”? .......................... 77
Q 2.103 What is the definition of the term “Single FI”? ........................... 77
Q 2.104 What is the definition of the term “specified insurance company”? ................................................................. 77
Q 2.105 What is the definition of the term “sponsored FFI”? ....................... 78
Q 2.106 What is the definition of the term “sponsored FFI group”? ............... 78
Q 2.107 What is the definition of the term “sponsored direct reporting NFFE”? ................................................................. 78
Q 2.108 What is the definition of the term “sponsoring entity”? .................... 78
Q 2.109 What is the definition of the term “standardized industry code”? 78
Q 2.110 What is the definition of the term “standing instructions to pay amounts”? ................................................................. 79
Q 2.111 What is the definition of the term “subject to withholding”? .......... 79
Q 2.112  What is the definition of the term “substantial U.S. owner”? ....79
Q 2.112.1 What are the rules for determining the extent of a person’s interest in a foreign corporation?..........................80
Q 2.112.2 What are the rules for determining the extent of a person’s interest in a foreign partnership or foreign trust?.................................................................80
Q 2.112.3 What are the rules for determining the extent of a person’s interest in a foreign entity if the person holds an option to acquire such interest?........................................81
Q 2.112.4 What are the rules for determining an individual’s proportionate interest in a foreign entity?...............................81
Q 2.112.5 What are the rules for determining an individual’s interest in a foreign entity where the interests are owned or held by a related person?.........................81
Q 2.112.6 How do you determine if an individual has a beneficial interest in a foreign trust?........................................82
Q 2.112.7 How do you determine the 10% threshold in the case of a beneficial interest in a foreign trust?..........................83
Q 2.112.8 What are the exceptions to the “substantial U.S. owner” rules in the context of foreign trusts?.................................84
Q 2.112.9 How do these rules apply in the context of investment entities and specified insurance companies?...........84
Q 2.112.10 On what date must a foreign entity make the determination as to whether it has a “substantial U.S. owner”?.................................................................85
Q 2.113  What is the definition of the term “territory entity”?..................85
Q 2.114  What is the definition of the term “territory financial institution”?.................................................................85
Q 2.115  What is the definition of the term “territory financial institution treated as a U.S. person”?..............................86
Q 2.116  What is the definition of the term “territory NFFE”? .................86
Q 2.117  What is the definition of the term “TIN”?.................................86
Q 2.118  What is the definition of the term “United States”?...................86
Q 2.119  What is the definition of the term “U.S. account”?...................86
Q 2.119.1 Who is a “specified U.S. person” for purposes of FATCA?.......87
Q 2.119.2 Who is a “U.S. person” for purposes of FATCA?...................88
Q 2.119.3 What is the definition of the term “U.S. owned foreign entity”? .................................................................88
Q 2.119.4 What is the definition of “account holder”?..........................89
Q 2.119.5 What are the exceptions to “U.S. account” status?.............90
Q 2.120  What is the definition of the term “U.S. branch treated as a U.S. person”?.................................................................91
Q 2.121 What is the definition of the term “U.S. financial institution”?
Q 2.122 What is the definition of the term “U.S. indicia”?
Q 2.123 What is the definition of the term “U.S. payee”?
Q 2.124 What is the definition of the term “U.S. payor”?
Q 2.125 What is the definition of the term “U.S. territory or possession of the United States”?
Q 2.126 What is the definition of the term “U.S. withholding agent”?
Q 2.127 What is the definition of “withholdable payment” for FATCA purposes?
Q 2.127.1 What is the definition of “U.S. source FDAP income”?
Q 2.127.2 What is the amount of U.S. source FDAP income?
Q 2.127.3 When is a payment of U.S. source FDAP income made?
Q 2.127.4 What is the definition of the term “gross proceeds”?
Q 2.127.5 For purposes of determining “gross proceeds,” what is the definition of “sale or other disposition”?
Q 2.127.6 What is the definition of “property of a type that can produce interest or dividend payments that would be U.S. source FDAP income”?
Q 2.127.7 When are gross proceeds deemed to be paid?
Q 2.127.8 What is the amount of gross proceeds?
Q 2.127.9 What types of payments are not treated as withholdable payments under FATCA?
Q 2.127.10 Under what circumstances must a flow-through entity, complex trust, or estate treat U.S. source FDAP income as having been paid by such entity to its partners, owners, or beneficiaries?
Q 2.128 What is the definition of the term “withholding”?
Q 2.129 What is the definition of “withholding agent” for purposes of FATCA?
Q 2.129.1 Are participating FFIs and registered deemed-compliant FFIs considered withholding agents?
Q 2.129.2 Are grantor trusts considered withholding agents?
Q 2.129.3 What are a withholding agent’s obligations with regarding to depositing any tax withheld and filing income and information tax returns?
Q 2.129.4 What are the withholding obligations when more than one person qualifies as a withholding agent with respect to a single payment?
Q 2.129.5 What are the withholding obligations when an individual makes a withholdable payment outside the course of such individual’s trade or business?
Q 2.130 What is the definition of the term “withholding certificate”?
Q 2.131 What is the definition of the term “withholding foreign partnership” or “WP”? .................................................................103
Q 2.132 What is the definition of the term “withholding foreign trust” or “WT”? ..............................................................................103
Q 2.133 What is the definition of the term “written statement”? ..........104

Chapter 3 Classification of Non-U.S. Entities As Foreign Financial Institutions ..........................................................115
Q 3.1 What is an FFI? ..................................................................................117
  Q 3.1.1 What is the definition of “financial institution” for FATCA purposes? .................................................................117
  Q 3.1.2 What does it mean to be engaged in “banking or similar business”? .................................................................118
  Q 3.1.3 What does it mean to hold financial assets for others? ....120
  Q 3.1.4 What is an investment entity? ..........................................................121
  Q 3.1.5 What are some examples of investment entities? .............123
  Q 3.1.6 What is a “specified insurance company”? .........................126
  Q 3.1.7 What is a holding company or treasury center? ..............126
Q 3.2 What types of entities are excluded from the definition of “financial institution”? .........................................................127
  Q 3.2.1 What are “excepted nonfinancial group entities”? ..........129
  Q 3.2.2 What is a “nonfinancial group”? ..................................................129
  Q 3.2.3 What is a “holding company”? ....................................................130
  Q 3.2.4 What is a “treasury center”? ..........................................................130
  Q 3.2.5 What is a “captive finance company”? ..................................131
  Q 3.2.6 What are “excepted nonfinancial start-up companies or companies entering a new line of business”? ...............132
  Q 3.2.7 What are “excepted nonfinancial entities in liquidation or bankruptcy”? .................................................................132
  Q 3.2.8 What is an “excepted inter-affiliate FFI”? .............................133
  Q 3.2.9 What is an excluded “section 501(c) entity”? .......................133
  Q 3.2.10 What is an excluded “non-profit organization”? ............133
Q 3.3 What is a deemed-compliant FFI? ..................................................134
  Q 3.3.1 What is a “registered deemed-compliant FFI”? ....................135
  Q 3.3.2 What is a “local FFI”? .................................................................136
  Q 3.3.3 What is a “nonreporting member of a participating FFI group”? .................................................................140
  Q 3.3.4 What is a “qualified investment vehicle”? .............................141
  Q 3.3.5 What is a “restricted fund”? ........................................................143
  Q 3.3.6 What are the requirements to qualify for “restricted fund” status? ...........................................................................145
Table of Contents

Q 3.3.7 What is a “restricted distributor”?.................................148
Q 3.3.8 What is a “qualified credit card issuer”?.........................150
Q 3.3.9 What is a “sponsored investment entity/controlled foreign corporation”?......................................................151
Q 3.3.10 What are the requirements to qualify as a “sponsored investment entity” or “sponsored controlled foreign corporation”?..............................................................152
Q 3.4 What are the procedural obligations of a registered deemed-compliant FFI?.........................................................153
Q 3.5 What if a deemed-compliant FFI becomes a participating FFI or a member of a participating FFI group as a result of a merger or acquisition?.................................................................154
Q 3.6 What is a certified deemed-compliant FFI?..............................154
Q 3.7 What are the types of certified deemed-compliant FFIs recognized by the IRS?.................................................................154
Q 3.7.1 What is a “nonregistering local bank”?................................154
Q 3.7.2 What is an FFI with only low-value accounts?......................157
Q 3.7.3 What is a sponsored, closely held investment vehicle?......157
Q 3.7.4 What is a “limited life debt investment entity”?.................158
Q 3.7.5 What are the requirements to qualify as a “limited life debt investment entity”?.........................................................159
Q 3.7.6 What are the requirements to qualify as an “investment advisor or investment manager”?.................................159
Q 3.8 What is an “owner-documented FFI”?..................................160
Q 3.8.1 What is the definition of a “designated withholding agent” for purposes of an owner-documented FFI?..............161
Q 3.8.2 What are the requirements of owner-documented FFI status?.................................................................162

Chapter 4 Withholding Obligations on Payments to Foreign Financial Institutions.................................................................167

Q 4.1 What is the withholding obligation on payments of U.S. source fixed or determinable annual or periodic (FDAP) income to participating FFIs that are nonqualified intermediaries (NQIs), nonwithholding foreign partnerships (NWPs), or nonwithholding trusts (NWTs)?.................................................................168
Q 4.1.1 What is the withholding obligation of intermediaries and flow-through entities?.........................................................168
Q 4.1.2 What is the obligation to withhold if a participating FFI or registered deemed-compliant FFI makes an election to be withheld upon?.........................................................169
Q 4.1.3 What is the withholding obligation of a territory financial institution? ...............................................................171
Q 4.1.4 What is the withholding obligation of a foreign branch of a U.S. financial institution? ........................................171
Q 4.1.5 What is the withholding obligation on payments of gross proceeds? .................................................................172
Q 4.2 Which entities are deemed to satisfy their withholding obligations under both FATCA and section 1471? .........................172
Q 4.3 How does a withholding agent determine if an otherwise withholdable payment is exempt from withholding? ......................172
Q 4.3.1 What is the withholding obligation if the withholding agent lacks control, custody, or knowledge? ..........................173
Q 4.3.2 What is the withholding obligation for certain payments made prior to July 1, 2016? .............................................174
Q 4.3.3 What is the withholding obligation with respect to payments to a participating FFI? ..............................................175
Q 4.3.4 What is the withholding obligation with respect to payments to a deemed-compliant FFI? ........................................175
Q 4.3.5 What is the withholding obligation with respect to payments to an exempt beneficial owner? .................................176
Q 4.3.6 What is the withholding obligation with respect to payments to a territory financial institution? ............................176
Q 4.3.7 What is the withholding obligation with respect to payments to an account with a clearing organization with FATCA-compliant membership? ..............................................176
Q 4.3.8 What is the withholding obligation with respect to payments to certain excepted accounts? ....................................177
Q 4.4 What is the withholding obligation if the withholding agent is unable to determine the source or character of a payment? .......................................................................................177
Q 4.5 What is the withholding obligation with respect to “grandfathered obligations”? ..........................................................178
Q 4.5.1 What is the definition of “grandfathered obligation”? .........178
Q 4.5.2 What is the definition of the term “obligation”? ...............179
Q 4.5.3 What is the definition of “date outstanding” for purposes of “grandfathered obligations”? .................................180
Q 4.5.4 What is the definition of a “material modification”? ...........180
Q 4.6 How are the “grandfathered obligation” rules applied to flow-through entities? .............................................................181
Q 4.7 How does a withholding agent determine if an obligation is subject to grandfathered treatment under FATCA? ................182
Chapter 5  Identification of Payee

Q 5.1 Who is a “payee” for purposes of FATCA?........................................185
  Q 5.1.1 What are the exceptions to the general rule for determining the “payee”?..............................................................187
  Q 5.1.2 How is “payee” defined in the case of foreign agents or intermediaries?.................................................................188
  Q 5.1.3 How is “payee” defined in the case of a foreign flow-through entity?.................................................................188
  Q 5.1.4 How is “payee” defined in the case of a U.S. intermediary or agent of a foreign person?..................................................189
  Q 5.1.5 How is “payee” defined in the case of a territory financial institution? .................................................................190
  Q 5.1.6 How is “payee” defined in the case of a disregarded entity or branch?.................................................................190
  Q 5.1.7 How is “payee” defined in the case of a U.S. branch of certain foreign banks or foreign insurance companies?......191
  Q 5.1.8 How is “payee” defined in the case of a foreign branch of a U.S. person?.................................................................191

Q 5.2 How does a withholding agent determine the FATCA status of a payee? .................................................................192
  Q 5.2.1 How does a withholding agent determine if a payment is received by an intermediary?..............................................................192
  Q 5.2.2 How does a withholding agent make the determination of entity type? .................................................................193
  Q 5.2.3 How does a withholding agent determine whether a payment is made to a QI, WP, or WT?..............................................................194
  Q 5.2.4 How does a withholding agent determine whether the payee is receiving effectively connected income?........194

Q 5.3 How does a withholding agent reliably associate a payment with a withholding certificate or other appropriate documentation? .................................................................195
  Q 5.3.1 How does a withholding agent reliably associate a payment with documentation if a payment is made through an intermediary or flow-through entity that is not the payee?..............................................................196
  Q 5.3.2 What are the requirements for Form W-9?..............................................................197
  Q 5.3.3 What are the requirements for a beneficial owner withholding certificate (Form W-8BEN or W-8BEN-E)?......197
  Q 5.3.4 What are the requirements for a withholding certificate of an intermediary, flow-through entity, or U.S. branch (Form W-8IMY)?..............................................................198
| Q 5.3.5 | What is the withholding statement required as part of Form W-8IMY? | 199 |
| Q 5.3.6 | What are the requirements for an FFI withholding statement? | 200 |
| Q 5.3.7 | What are the requirements for a FATCA withholding statement? | 202 |
| Q 5.3.8 | What are the requirements for an exempt beneficial owner withholding statement? | 202 |
| Q 5.3.9 | What are the consequences if a withholding certificate fails to provide allocation information? | 203 |
| Q 5.3.10 | What are the rules applicable to a withholding certificate of a QI that assumes primary withholding responsibility under chapter 3? | 203 |
| Q 5.3.11 | What are the rules applicable to a withholding certificate of a QI that does not assume primary withholding responsibility under chapter 3? | 204 |
| Q 5.3.12 | What are the rules applicable to a withholding certificate of a territory financial institution that agrees to be treated as a U.S. person? | 204 |
| Q 5.3.13 | What are the rules applicable to a withholding certificate of a territory financial institution that does not agree to be treated as a U.S. person? | 204 |
| Q 5.3.14 | What are the rules applicable to a withholding certificate of a U.S. branch treated as a U.S. person? | 205 |
| Q 5.3.15 | What are the requirements for a certificate for exempt status (Form W-8EXP)? | 205 |
| Q 5.3.16 | What are the requirements for a certificate for effectively connected income (Form W-8ECI)? | 205 |
| Q 5.4 | What are the requirements for written statements under FATCA? | 206 |
| Q 5.5 | What are the requirements for documentary evidence under FATCA? | 206 |
| Q 5.5.1 | What is acceptable documentary evidence of foreign status? | 207 |
| Q 5.5.2 | What is acceptable documentary evidence of FATCA status? | 208 |
| Q 5.5.3 | Who may sign the withholding certificate or written statement? | 209 |
| Q 5.5.4 | What is the period of validity for a withholding certificate or written statement? | 209 |
| Q 5.5.5 | What is the period of validity for a withholding certificate for effectively connected income? | 212 |
Q 5.5.6 What is the definition of “change in circumstances”? 213
Q 5.6 What are the record retention requirements for withholding certificates, written statements, and documentary evidence? 214
Q 5.6.1 Is a withholding agent permitted to accept electronic transmission of a withholding certificate, written statement, and documentary evidence? 215
Q 5.6.2 What is an acceptable substitute withholding certificate? 215
Q 5.6.3 Is there a procedure to obtain electronic confirmation of a tax identification number on a withholding certificate? 217
Q 5.6.4 May a withholding agent rely upon a prior version of a withholding certificate? 217
Q 5.7 How does a withholding agent address inconsequential errors on a withholding certificate? 217
Q 5.8 How does a withholding agent address documentation received after the time of payment? 218
Q 5.9 Is a withholding agent that is a financial institution required to obtain withholding certificates, written statements, Forms W-9, or documentary evidence on an account-by-account basis? 219
Q 5.9.1 What are the sharing rules within single branch systems? 219
Q 5.9.2 What are the sharing rules within universal account systems? 220
Q 5.9.3 What are the sharing rules within shared account systems? 220
Q 5.9.4 What are the sharing rules for gross proceeds? 221
Q 5.9.5 What are the sharing rules for preexisting accounts? 221
Q 5.10 Is a withholding agent permitted to rely upon a shared documentation system maintained by an agent? 222
Q 5.11 Is a withholding agent permitted to rely upon third-party data providers? 223
Q 5.12 Is a withholding agent permitted to rely upon a certification provided by an introducing broker? 224
Q 5.13 Is a withholding agent permitting to rely upon documentation and certifications provided between principals and agents? 225
Q 5.14 Is a withholding agent permitted to rely upon documentation for accounts acquired in merger or bulk acquisition for value? 227
Q 5.14.1 Is a withholding agent permitted to rely upon a pre-FATCA Form W-8? 229
Q 5.14.2 Under what circumstances must a withholding agent treat a payee as a U.S. person? 229
Q 5.14.3 Under what circumstances may a withholding agent treat a payee as a foreign person? ........................................231
Q 5.14.4 Under what circumstances may a withholding agent treat a payee as a participating FFI or registered deemed-compliant FFI?.................................................................231
Q 5.14.5 Under what circumstances may a withholding agent treat a payee as a certified deemed-compliant FFI?.........234
Q 5.14.6 Under what circumstances may a withholding agent treat a payee as an owner-documented FFI? .................235
Q 5.14.7 Is a payee permitted to provide an auditor’s or attorney’s letter in lieu of the “FFI owner reporting statement”?..................................................................................236
Q 5.14.8 What is acceptable documentation for owners and debt holders of the payee?................................................237
Q 5.14.9 What information is required for the “FFI owner reporting statement”?..............................................................237
Q 5.14.10 How is a withholding agent required to treat preexisting obligations in the context of owner-documented FFIs?......239
Q 5.14.11 How is a withholding agent required to treat offshore obligations in the context of owner-documented FFIs?.....239
Q 5.14.12 How is a withholding agent required to treat offshore obligations of $1 million or less in the context of owner-documented FFIs? .................................................................240
Q 5.14.13 What are a withholding agent’s obligations with respect to nonreporting IGA FFIs? ........................................241
Q 5.14.14 Under what circumstances is a withholding agent required to treat a payee as a nonparticipating FFI?...........242
Q 5.14.15 Under what circumstances may a withholding agent treat a payment made to a nonparticipating FFI as beneficially owned by an exempt beneficial owner? ........................242
Q 5.14.16 Under what circumstances may a withholding agent treat a payee as a foreign government, government of a U.S. territory, international organization, or foreign central bank of issue? .........................................................242
Q 5.14.17 Under what circumstances may a withholding agent treat a payee as a retirement fund? ................................244
Q 5.14.18 Under what circumstances may a withholding agent treat a payee as an entity wholly owned by an exempt beneficial owner?..............................................................245
Q 5.14.19 What are the rules for identifying territory financial institutions that are beneficial owners? ........................245
| Q 5.14.20 | What are the rules for identifying territory financial institutions acting as intermediaries or that are flow-through entities? | 246 |
| Q 5.14.21 | What are the standards of knowledge applicable to a withholding agent with respect to identification of territory financial institutions? | 246 |
| Q 5.14.22 | Under what circumstances may a withholding agent treat a payee as an excepted nonfinancial group entity? | 247 |
| Q 5.14.23 | Under what circumstances may a withholding agent treat a payee as an excepted nonfinancial start-up company? | 248 |
| Q 5.14.24 | Under what circumstances may a withholding agent treat a payee as an excepted nonfinancial entity in liquidation or bankruptcy? | 249 |
| Q 5.14.25 | Under what circumstances may a withholding agent treat a payee as a section 501(c) organization? | 250 |
| Q 5.14.26 | Under what circumstances may a withholding agent treat a payee as a non-profit organization? | 250 |
| Q 5.14.27 | Under what circumstances may a withholding agent treat a payee as an NFFE that is a publicly traded corporation? | 252 |
| Q 5.14.28 | Under what circumstances may a withholding agent treat a payee as an NFFE affiliate? | 252 |
| Q 5.14.29 | Under what circumstances may a withholding agent treat a payee as an excepted territory NFFE? | 254 |
| Q 5.14.30 | Under what circumstances may a withholding agent treat a payee as an active NFFE? | 255 |
| Q 5.14.31 | Under what circumstances may a withholding agent treat a payee as a direct reporting NFFE? | 256 |
| Q 5.14.32 | Under what circumstances may a withholding agent treat a payee as a sponsored direct reporting NFFE? | 258 |
| Q 5.14.33 | Under what circumstances may a withholding agent treat a payee as an excepted inter-affiliate FFI? | 259 |
| Q 5.15 | Under what circumstances may a withholding agent treat a payee as a passive NFFE? | 260 |
| Q 5.15.1 | When is a withholding agent deemed to be on notice that a person’s claim of FATCA compliance is incorrect? | 262 |
| Q 5.15.2 | What is the procedure that must be followed by a withholding agent to verify a GIIN? | 262 |
| Q 5.15.3 | What should an FFI provide to a withholding agent if the FFI has not yet received a GIIN? | 263 |
Q 5.15.4 When is a withholding agent deemed to know that an FFI has been removed from the published IRS FFI list? 

Q 5.15.5 What are the GIIN verification rules for reporting Model 1 FFIs? 

Q 5.15.6 What are the GIIN verification rules for direct reporting NFFEs? 

Q 5.15.7 What are the GIIN verification rules for sponsored direct reporting NFFEs? 

Q 5.15.8 What are the GIIN verification rules for sponsoring entities? 

Q 5.15.9 When is a withholding agent deemed to know that a claim of chapter 4 status is unreliable or incorrect? 

Q 5.15.10 What are the reason-to-know rules applicable to an entity’s FATCA status? 

Q 5.15.11 What are the reason-to-know rules applicable to withholding certificates? 

Q 5.15.12 What are the reason-to-know rules applicable to written statements? 

Q 5.15.13 What are the reason-to-know rules applicable to documentary evidence? 

Q 5.15.14 What are the specific standards of knowledge applicable when the only documentary evidence is a code or classification? 

Q 5.15.15 What are U.S. indicia for entities? 

Q 5.15.16 What documentation is required to cure U.S. indicia with regard to entities? 

Q 5.15.17 What are the specific standards of knowledge applicable to documentation received from intermediaries and flow-through entities? 

Q 5.15.18 What are the limits on the reason-to-know rules as they relate to documentation provided by participating FFIs and registered deemed-compliant FFIs that are intermediaries or flow-through entities? 

Q 5.15.19 What is a withholding agent’s scope of review for preexisting obligations of entities? 

Q 5.15.20 What is a withholding agent’s obligation where there is a U.S. telephone number associated with a preexisting obligation? 

Q 5.15.21 What constitutes a reasonable explanation supporting a claim of foreign status? 

Q 5.15.22 What rules apply to determining a withholding agent’s obligations in the case of a conduit financing arrangement?
Q 5.16 How does a withholding agent determine the FATCA status of a payee in the absence of documentation? ........................................276
Q 5.16.1 What are the rules that a withholding agent must apply to determine whether a payee is an individual or entity? ........................................277
Q 5.16.2 What are the rules that a withholding agent must apply to determine the U.S. or foreign status of the payee? ........277
Q 5.16.3 What are the rules that a withholding agent must apply to determine the chapter 4 status of a foreign entity? .................................................................278
Q 5.16.4 What are the rules that a withholding agent must apply to determine the chapter 4 status of an intermediary? ......278
Q 5.16.5 Under what circumstances may a withholding agent presume that a U.S. branch is the payee of a payment that is effectively connected with the conduct of a trade or business in the United States? ................278
Q 5.16.6 What rules must a withholding agent apply in the case of a payment to joint payees? ................................................279
Q 5.16.7 Under what circumstances may a payee rebut the FATCA presumption rules? ..............................................................279
Q 5.16.8 May a withholding agent be held liable for withholding if it relies upon the FATCA presumption rules? ..................280
Q 5.16.9 What if a withholding agent applies the presumption rules but has actual knowledge of a payee’s chapter 4 status, or reason to know otherwise? ..........................280

Chapter 6 Obligations of Participating Foreign Financial Institutions ...........................................................................291
Q 6.1 What is an FFI agreement? .........................................................................................293
Q 6.2 When is an FFI agreement considered to be in effect? ...............294
Q 6.3 What are the obligations of an FFI under an FFI agreement? ........294
Q 6.3.1 Under what circumstances is a participating FFI required to deduct and withhold tax? ..............294
Q 6.3.2 Under what circumstances is a participating FFI required to identify and document its U.S. accounts? ....294
Q 6.3.3 Under what circumstances is a participating FFI required to report account information to the IRS? ....295
Q 6.3.4 What are the rules for FFIs that are part of an expanded affiliated group? .............................295
Q 6.3.5 How is a participating FFI required to ensure its compliance with the FFI agreement? ..................295
Q 6.3.6 What are the obligations of a participating FFI when an event of default under an FFI agreement occurs? ..........296

xxvii
Q 6.3.7 How does a participating FFI seek a refund on behalf of account holders for which there has been overwithholding? ........................................................................... 296

Q 6.4 In general, what are the withholding obligations of a participating FFI? ................................................................................ 296

Q 6.4.1 How does a participating FFI determine if withholding is required? ................................................................................ 296

Q 6.4.2 How does a participating FFI satisfy its withholding obligations? ............................................................................. 297

Q 6.4.3 What are the obligations of a participating FFI with respect to “foreign passthru payments”? ........................................ 298

Q 6.4.4 What is the obligation of a participating FFI with respect to withholding on limited FFIs? ........................................... 298

Q 6.4.5 What is the obligation of a participating FFI to withholding on limited branches? ....................................................... 299

Q 6.4.6 What is a participating FFI's withholding obligation with respect to dormant accounts? ............................................ 299

Q 6.4.7 What is the obligation of a participating FFI to withholding on limited branches of participating FFIs that are treated as U.S. persons? ............ 300

Q 6.5 What are the obligations of a participating FFI to identify and document its account holders? .............................................. 300

Q 6.5.1 What are the general rules for the identification and documentation of account holders and payees? ....................... 301

Q 6.5.2 What are the standards of knowledge that apply to a participating FFI? ................................................................. 301

Q 6.5.3 What standards of knowledge apply when a participating FFI acquires certain accounts in a merger or bulk acquisition? .................................................. 302

Q 6.5.4 What is an FFI’s obligation in the event of a change in circumstances with respect to an account? ................................. 303

Q 6.5.5 What is the definition of a “change in circumstances”? .......... 304

Q 6.5.6 What are the requirements following a change in circumstances? ................................................................. 304

Q 6.5.7 What are the record retention obligations of a participating FFI? ............................................................................. 305

Q 6.5.8 What are the account due diligence obligations of U.S. branches of participating FFIs that are treated as U.S. persons? .......... 306

Q 6.6 What are the obligations of a participating FFI to identify and document accounts held by entities? .............................................. 306

Q 6.6.1 What is the time frame for applying identification and documentation procedures for entity accounts and payees? ......................... 307
Q 6.6.2 What are the due diligence obligations of a participating FFI with respect to preexisting entity accounts with balances of $250,000 or less? .................................................. 307

Q 6.7 What are the obligations of a participating FFI to identify and document new individual accounts? ........................................ 308

Q 6.7.1 Under what circumstances may a participating FFI rely upon a third party for identification of individual accounts? ............................................................... 309

Q 6.7.2 What is the onboarding procedure that a participating FFI must follow for cash value insurance or annuity contracts? ................................................................. 310

Q 6.7.3 What is the onboarding procedure that a participating FFI must follow for accounts held by beneficiaries of a cash value life insurance contract? ............................................. 310

Q 6.8 What are the account holder due diligence requirements that must be employed by participating FFIs with respect to preexisting accounts? .......................................................... 311

Q 6.8.1 What are a participating FFI's due diligence obligations if a preexisting individual account has been previously documented as a U.S. account? ......................................................... 312

Q 6.8.2 What are a participating FFI's due diligence obligations with respect to preexisting individual accounts with balances of $50,000 or less? ......................................................... 312

Q 6.8.3 What identification and documentation procedures must be employed by a participating FFI for preexisting individual accounts? ......................................................... 313

Q 6.8.4 What are U.S. indicia for individual accounts? ................. 314

Q 6.8.5 What documentation must be retained upon identifying U.S. indicia? ................................................................. 314

Q 6.8.6 Under what circumstances may a participating FFI rely upon electronically searchable account holder information to locate U.S. indicia? ......................................................... 316

Q 6.8.7 What are a participating FFI’s due diligence obligations for accounts that exceed $1 million? ................................................................. 317

Q 6.8.8 What are a participating FFI’s due diligence obligations with respect to preexisting accounts previously documented as held by foreign persons? ........................................ 318

Q 6.9 What account information is required to be reported to the U.S. by a participating FFI? ................................................................. 321

Q 6.9.1 Which financial institution is responsible for reporting U.S. accounts to the IRS? ................................................................. 321
Q 6.9.2 What are the reporting obligations with respect to territory financial institutions? ........................................ 321
Q 6.9.3 What are the reporting obligations of a sponsoring entity? ........................................................................ 322
Q 6.9.4 What are the reporting obligations of a participating FFI with respect to owner-documented FFI accounts? .... 322
Q 6.9.5 Is a participating FFI permitted to report information to the U.S. separately by branch or line of business? ...... 323
Q 6.9.6 What are the reporting obligations of participating FFIs and registered deemed-compliant FFIs with respect to accounts of nonparticipating FFIs? ......................... 323
Q 6.9.7 What are the reporting obligations of a sponsoring entity? ........................................................................ 322
Q 6.10 What is a participating FFI’s obligation regarding the annual reporting of accounts? ................................. 326
Q 6.10.1 What is a participating FFI’s obligation to report accounts held by specified U.S. persons? ......................... 326
Q 6.10.2 What is a participating FFI’s obligation to report accounts held by U.S. owned foreign entities? ................. 326
Q 6.10.3 What is a participating FFI’s obligation to report accounts held by owner-documented FFIs? ...................... 327
Q 6.10.4 What form is used by participating FFIs to report accounts to the IRS? ........................................................ 327
Q 6.10.5 When and how does a participating FFI file the Form 8966, FATCA Report? ................................................... 328
Q 6.10.6 How does a participating FFI obtain an extension of time to file Form 8966? .................................................. 328
Q 6.10.7 What is the address that must be reported with respect to a U.S. account? ....................................................... 328
Q 6.10.8 What is the account number that must be reported with respect to a U.S. account? ........................................ 329
Q 6.10.9 What is the account balance or value that must be reported with respect to a U.S. account? ......................... 329
Q 6.10.10 What information is required to be reported as to “payments made with respect to an account”? ............... 329
Q 6.10.11 What records are required to be retained by a participating FFI? ............................................................... 331
Q 6.11 Under what circumstances may a participating FFI elect to report U.S. account information pursuant to chapter 61 rather than FATCA? ................................................................. 332
Q 6.11.1 What additional information must be reported by a participating FFI that makes an election to perform chapter 61 reporting? ................................................................. 333
Q 6.11.2  What information regarding accounts held by owner-documented FFIs must be reported by a participating FFI that makes an election to perform chapter 61 reporting? ..............................................333
Q 6.11.3  When and how is a participating FFI required to make an election to perform chapter 61 reporting? ....................334
Q 6.11.4  What is the procedure for a participating FFI to revoke an election to perform chapter 61 reporting? ....................334
Q 6.11.5  How does a participating FFI that has made an election to report under chapter 61 report its U.S. account information to the IRS? .............................................................335
Q 6.12   What are a participating FFI’s obligations with regard to the reporting of recalcitrant account holders? ....................335
Q 6.12.1  What is a “dormant account” for FATCA purposes? ....336
Q 6.12.2  When does an account cease to be deemed a “dormant account”? ...............................................................336
Q 6.12.3  What form should be used by a participating FFI to report recalcitrant accounts? ................................................337
Q 6.12.4  When must a participating FFI report regarding its recalcitrant accounts? .............................................................337
Q 6.12.5  May a participating FFI seek an extension of time to report recalcitrant accounts? ................................................337
Q 6.12.6  What are a participating FFI’s record retention requirements with respect to recalcitrant accounts? ............337
Q 6.13   What are the special reporting rules for calendar years 2014 and 2015? .............................................................338
Q 6.13.1  What information is required to be reported for the 2014 and 2015 calendar years by participating FFIs under chapter 4/FATCA? .............................................................338
Q 6.13.2  What information is required to be reported for the 2014 and 2015 calendar years by participating FFIs making an election to perform chapter 61 reporting? ....339
Q 6.13.3  What form should a participating FFI use to report account information for the 2014 and 2015 calendar years? ..................................................................................340
Q 6.14   What are the reporting obligations of QIs, WPs, and WTs? ....340
Q 6.15   What are the requirements for FFIs that are part of an expanded affiliated group? ................................................342
Q 6.15.1  What if a participating FFI has branches that cannot satisfy the participating FFI requirements? ..................343
Q 6.15.2  What is the definition of “branch”? ........................................343
Q 6.15.3  What is the definition of “limited branch”? ..................344
Q 6.15.4  What are the requirements for limited branch status? ......344
Q 6.15.5 What are the time limits applicable to limited branch status? .................................................................345
Q 6.15.6 What if one of the FFIs in an expanded affiliated group cannot satisfy the participating FFI requirements? ........346
Q 6.15.7 What is the definition of a “limited FFI”? ...............346
Q 6.15.8 What are the conditions for limited FFI status? ........346
Q 6.15.9 What are the time limits applicable to limited FFI status? 347
Q 6.15.10 What are the limited FFI rules in the context of a QI agreement? ..........................................................347
Q 6.16 What are the obligations of a participating FFI to ensure compliance with the terms of the FFI agreement? ..........348
Q 6.16.1 What is a participating FFI’s obligation to establish and implement a compliance program? ..........................348
Q 6.16.2 What are the requirements for a compliance program in the context of an expanded affiliated group? ........348
Q 6.16.3 What compliance certifications are required by the participating FFI’s compliance officer? .........................349
Q 6.16.4 What is a “certification of effective internal controls”? ....350
Q 6.16.5 What is a “qualified certification”? ..............................350
Q 6.16.6 What is a “material failure”? .........................................351
Q 6.16.7 How will the IRS ensure that a participating FFI is complying with the terms of its FFI agreement? .................352
Q 6.17 What is the definition of an “event of default” under an FFI agreement? .................................................................353
Q 6.17.1 How does the IRS notify a participating FFI of an event of default? .................................................................354
Q 6.17.2 How does a participating FFI remediate an event of default? .................................................................354
Q 6.18 How does a participating FFI seek a credit or refund from the IRS when there has been an overpayment of withheld taxes? ......355
Q 6.18.1 What are the restrictions on seeking a collective refund? .....355
Q 6.18.2 For which types of payments is a collective refund permitted? .................................................................356
Q 6.18.3 Under what circumstances may a participating FFI use collective refund procedures? ..........................356
Q 6.19 What is a participating FFI’s obligation if foreign law prohibits the reporting of account holder information to the IRS? ........358
Q 6.19.1 When is a participating FFI required to request a waiver of foreign law or close an account? .........................358
Q 6.19.2 What is the definition of a “valid and effective” waiver? ....359
Q 6.19.3 Under what circumstances is a participating FFI required to close or transfer a U.S. account? .........................359
Q 6.19.4 What are a participating FFI’s obligations if foreign law prevents withholding? ............................................359
Chapter 7  Foreign Financial Institution Agreement ...........................................367
Q 7.1  What is the FFI agreement? .................................................................368
Q 7.2  Does the final FFI agreement apply to reporting Model 2 FFIs? .........369
Q 7.3  Does the final FFI agreement apply to reporting Model 1 FFIs? ..........369
Q 7.4  What are the terms of the final FFI agreement? .................................370

Chapter 8  Exempt Beneficial Owners ............................................................427
Q 8.1  What is the definition of a “foreign government” and “any political subdivision of a foreign government” under FATCA? ......428
Q 8.1.1 What is an “integral part” of a foreign sovereign? .........................428
Q 8.1.2 What is a “controlled entity”? ............................................................429
Q 8.1.3 What is the definition of “inurement to the benefit of private persons”? .................................................................429
Q 8.2  What is the definition of an “international organization” under FATCA? ........................................................................430
Q 8.3  What is the definition of a “foreign central bank of issue” under FATCA? ........................................................................430
Q 8.3.1 Under what circumstances may a foreign central bank of issue include an instrumentality? .........................................................430
Q 8.3.2 How does FATCA classify the Bank for International Settlements? ......................................................................................431
Q 8.3.3 How does FATCA treat income on certain collateral held by a foreign central bank of issue? .................................................431
Q 8.4  Under what circumstances does a person or entity constitute a government of a U.S. territory? ..............................................431
Q 8.5  What types of foreign retirement funds are deemed exempt beneficial owners? ....................................................................431
Q 8.5.1 What is a treaty-qualified retirement fund? .........................................432
Q 8.5.2 What is a broad participation retirement fund? .................................432
Q 8.5.3 What is a narrow participation retirement fund? ...............................433
Q 8.5.4 What is a fund formed pursuant to a plan similar to a section 401(a) plan? .............................................................................433
Q 8.5.5 What is an investment vehicle exclusively for retirement funds? .........................................................................................434
Q 8.5.6 What is a pension fund of an exempt beneficial owner? .....................434
Q 8.6  What is an entity wholly owned by an exempt beneficial owner? ............435
Q 8.7  What if an otherwise exempt beneficial owner engages in commercial activity? .......................................................................435
Chapter 9  Withholding Obligations on Payments to Nonfinancial Foreign Entities ..................................................439

Q 9.1  What is an NFFE? ........................................................................................................................................440
Q 9.2  When is a withholding agent required to withhold on a payment to an NFFE? .........................................440
Q 9.3  What exceptions apply to the rule requiring withholding on payments to an NFFE? ..................................441

Q 9.3.1  What is the definition of “publicly traded corporation”?.................................................................442
Q 9.3.2  What is the definition of “certain affiliated entities related to a publicly traded corporation”? .............444
Q 9.3.3  What is the definition of “certain territory entities”? ..............................................................................444
Q 9.3.4  What is the definition of “active NFFE”? .................................................................................................444
Q 9.3.5  What is the definition of “excepted nonfinancial entities”? .............................................................446
Q 9.3.6  What is a “nonfinancial group”? ............................................................................................................446
Q 9.3.7  What is a “holding company”? ...............................................................................................................447
Q 9.3.8  What is a “treasury center”? ..................................................................................................................448
Q 9.3.9  What is a “captive finance company”? ....................................................................................................449
Q 9.3.10 What are “excepted nonfinancial start-up companies or companies entering a new line of business”? ....449
Q 9.3.11 What are “excepted nonfinancial entities in liquidation or bankruptcy”? ..............................................449
Q 9.3.12 What is an “excepted inter-affiliate FFI”? ...............................................................................................450
Q 9.3.13 What is an excluded “section 501(c) entity”? ..........................................................................................450
Q 9.3.14 What is an excluded “nonprofit organization”? .......................................................................................450
Q 9.3.15 What is the definition of a “direct reporting NFFE”? .............................................................................451
Q 9.3.16 How does an NFFE elect to be treated as a direct reporting NFFE? .......................................................454
Q 9.3.17 How does an NFFE revoke its election to be treated as a direct reporting NFFE? ...............................454
Q 9.3.18 What is an event of default for a direct reporting NFFE? ........................................................................455
Q 9.3.19 What is the definition of a “sponsored direct reporting NFFE”? .............................................................455
Q 9.3.20 Under what circumstances may the IRS revoke an entity’s status as sponsoring entity? .......................456
Q 9.3.21 What is the liability of the sponsoring entity for any failure to comply with FATCA’s obligations? ........456
Q 9.3.22 Is withholding required on payments made to a WP, WT, or an exempt beneficial owner? .....................457

Q 9.4  Under what circumstances may a withholding agent treat a withholdable payment as beneficially owned by an excepted NFFE? .................................................................................................................457
### Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q 9.4.1</td>
<td>Under what circumstances may a withholding agent treat a payee as a QI, WP, or WT?</td>
</tr>
<tr>
<td>Q 9.4.2</td>
<td>Under what circumstances may a withholding agent treat a partner or beneficiary of an NFFE that is an NWP or NWT as the payee of a withholding payment?</td>
</tr>
<tr>
<td>Q 9.4.3</td>
<td>Under what circumstances may a withholding agent treat the beneficial owner of a withholdable payment as an NFFE that does not have any substantial U.S. owners or that has identified all of its substantial U.S. owners?</td>
</tr>
<tr>
<td>Q 9.4.4</td>
<td>What is a withholding agent’s obligation in the absence of valid documentation?</td>
</tr>
<tr>
<td>Q 9.5</td>
<td>What are the information reporting requirements imposed upon a withholding agent with respect to payments to NFFEs?</td>
</tr>
</tbody>
</table>

### Chapter 10  Obligations of Withholding Agents to Withhold Tax and File Returns

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q 10.1</td>
<td>What is the extent of a withholding agent’s liability for failure to either withhold or to deposit any tax withheld?</td>
</tr>
<tr>
<td>Q 10.1.1</td>
<td>May a withholding agent utilize an agent to fulfill its obligations under FATCA?</td>
</tr>
<tr>
<td>Q 10.1.2</td>
<td>What is a withholding agent’s liability for failure to obtain proper documentation or to follow applicable presumptions?</td>
</tr>
<tr>
<td>Q 10.2</td>
<td>What is the procedure for a withholding agent to deposit the withheld tax?</td>
</tr>
<tr>
<td>Q 10.2.1</td>
<td>What is the procedure for a withholding agent to deposit tax withheld on foreign passthru payments and payments of gross proceeds?</td>
</tr>
<tr>
<td>Q 10.3</td>
<td>What is the obligation of a withholding agent to file an income tax return?</td>
</tr>
<tr>
<td>Q 10.3.1</td>
<td>What income tax return must be filed by a participating FFI, a registered deemed-compliant FFI, and a U.S. branch treated as a U.S. person?</td>
</tr>
<tr>
<td>Q 10.3.2</td>
<td>What is the process for filing an amended return?</td>
</tr>
<tr>
<td>Q 10.4</td>
<td>What is the obligation of a withholding agent to file an information return?</td>
</tr>
<tr>
<td>Q 10.4.1</td>
<td>What is the definition of “recipient” for FATCA withholding purposes?</td>
</tr>
<tr>
<td>Q 10.4.2</td>
<td>Which persons are excluded from the definition of “recipient”?</td>
</tr>
</tbody>
</table>
Q 10.4.3 What is the definition of “chapter 4 reportable amount”?......472
Q 10.4.4 What information is required to be included on Form 1042-S? .................................................................473
Q 10.5 How do U.S. withholding agents report payments to recipients? .....474
Q 10.5.1 How do withholding agents report payments to certain entities that are not recipients? .........................477
Q 10.5.2 What are the reporting obligations of participating FFIs and deemed-compliant FFIs (including QIs, WPs, and WTs)? .................................................................478
Q 10.5.3 What are the reporting obligations of territory financial institutions? .................................................................479
Q 10.5.4 What are the reporting obligations of nonparticipating FFIs? .................................................................479
Q 10.5.5 What are the reporting obligations of other withholding agents? .................................................................479
Q 10.6 In what format is a withholding agent required to file Form 1042-S? .................................................................480
Q 10.7 Under what circumstances is a withholding agent entitled to be indemnified? .................................................................480
Q 10.8 Under what circumstances may a withholding agent seek an extension of time to file Forms 1042 and 1042-S? .................................................................480
Q 10.9 What penalties are applicable if a withholding agent fails to file Forms 1042 or 1042-S? .................................................................481
Q 10.10 What is the reporting obligation of a withholding agent with respect to owner-documented FFIs? .................................................................481
Q 10.10.1 What is the reporting obligation of a withholding agent with respect to U.S. owned foreign entities that are NFFEs? .................................................................482
Q 10.11 What happens if a withholding agent overwithholds tax? ..........483
Q 10.11.1 What is the definition of “overwithholding”? ..........484
Q 10.11.2 What is the procedure for reimbursement of overwithheld tax? .................................................................484
Q 10.11.3 What records are required to be maintained by a withholding agent that utilizes the reimbursement procedure for overwithheld tax? .................................................................485
Q 10.11.4 What is the set-off procedure? .................................................................485
Q 10.11.5 What are the procedures to be utilized by a withholding agent when underwithholding occurs? .................................................................487
Q 10.12 What is the U.S. tax treatment of a payment to which withholding occurs? .................................................................487
Q 10.12.1 What is the U.S. tax treatment of a payment made to a person other than the beneficial owner? .................................................................488
Q 10.13  If the FATCA withholding tax is paid by the payee, beneficial owner, or withholding agent, may it be collected from any other person? ..................................................488

Q 10.14  What is the procedure to obtain a refund or credit of tax which has been withheld under FATCA? ..............................................................488

Q 10.14.1  What is the treatment of an amount of tax withheld under FATCA and then repaid to the beneficial owner? ..........490

Q 10.15  How do the FATCA withholding regulations coordinate with other withholding provisions under the Internal Revenue Code and regulations? .................................................................491

Q 10.15.1  What are a withholding agent’s obligations with respect to an amount subject to withholding under both FATCA and section 1441, 1442, or 1443? ....................491

Q 10.15.2  What are a withholding agent’s obligations with respect to an amount subject to withholding under both FATCA and section 1445? .................................492

Q 10.15.3  What are a withholding agent’s obligations with respect to an amount subject to withholding under both FATCA and section 1446? .................................493

Q 10.15.4  What is the withholding obligation of a participating FFI that makes a withholdable payment to a recalcitrant account holder? .................................................................494

Q 10.16  What confidentiality rules apply with respect to account information reported by participating FFIs pursuant to FATCA? .......494

Q 10.17  Are financial institutions filing Form 1042-S or Form 8966 required to use magnetic media? .................................................................495

Q 10.17.1  May a financial institution seek a waiver of the magnetic media filing requirements? .................................................................495

Q 10.17.2  What are the consequences to a financial institution that fails to file using magnetic media? .................................................................496

Q 10.17.3  What is the effective date of the magnetic media filing requirements? .................................................................496

Chapter 11  FATCA Responsible Officers and Compliance Programs ..........................501

Q 11.1  How does a participating FFI or registered deemed-compliant FFI designate its FATCA RO? .................................................................501

Q 11.2  What is the FATCA RO’s obligation regarding a participating FFI’s identification procedures for preexisting accounts? ...........503

Q 11.2.1  What is a participating FFI’s obligation to establish and implement a compliance program? .................................................................505

Q 11.2.2  What are the requirements for a compliance program in the context of an expanded affiliated group? ..........................505
Q 11.2.3 What compliance certifications are required by the participating FFI’s compliance officer?.........................506
Q 11.2.4 What is a “certification of effective internal controls”?........506
Q 11.2.5 What is a “qualified certification”?..............................507
Q 11.2.6 What is a “material failure”?........................................507
Q 11.2.7 How will the IRS ensure that a participating FFI is complying with the terms of its FFI Agreement?........508
Q 11.3 What is a registered deemed-compliant FFI’s obligation to establish and implement a compliance program?......509

Chapter 12  FATCA Implementation: 2014 and 2015 As Transition Years.................................................................511
Q 12.1 How does the IRS plan to enforce FATCA’s requirements during the 2014 and 2015 “transition period”?..........512
Q 12.2 How are entity obligations issued, opened, or executed on or after July 1, 2014, treated under Notice 2014-33?........513
Q 12.3 How are the Intergovernmental Agreements (IGAs) affected by Notice 2014-33?.....................................................516
Q 12.4 How are the standards of knowledge rules under chapter 3 affected by Notice 2014-33?.................................517
Q 12.5 How is the definition of “reasonable statement” under chapter 4 affected by Notice 2014-33?.................................519
Q 12.6 How are limited FFIs and limited branches affected by Notice 2014-33?.................................................................520

Chapter 13  Intergovernmental Agreements.........................................................525
Q 13.1 What led Treasury to seek to implement FATCA using IGAs?........526
Q 13.2 What is a Model 1 IGA?....................................................530
Q 13.3 What is a Model 2 IGA?....................................................531
Q 13.4 What is the status of IGA negotiations?.................................532
Q 13.4.1 Which countries have signed Model 1 IGAs to date?........532
Q 13.4.2 Which countries have signed Model 2 IGAs to date?........534

Chapter 14  Frequently Asked Questions and Answers About FATCA Registration, Withholding, and Reporting......537
Q 14.1 How does an FFI register using the FATCA online portal?........539
Q 14.2 Are there any special FATCA registration rules?..............539
Q 14.3 What types of entities are eligible to register on the FATCA website?..........................................................541
| Q 14.4 | How does a financial institution create a FATCA account? | 543 |
| Q 14.5 | How does a financial institution complete the FATCA registration form? | 544 |
| Q 14.5.1 | How does a financial institution register as a Single FI? | 545 |
| Q 14.5.2 | How does a financial institution register as a Lead FI? | 546 |
| Q 14.5.3 | How does a financial institution register as a Member FFI? | 546 |
| Q 14.5.4 | How does a financial institution register as a Sponsoring Entity? | 547 |
| Q 14.5.5 | How does a financial institution obtain approval for its FATCA registration form? | 547 |
| Q 14.6 | What is a GIIN? | 548 |
| Q 14.6.1 | What is the format or composition of a GIIN? | 548 |
| Q 14.6.2 | Are the period (.) separators in the GIIN required? | 551 |
| Q 14.6.3 | Will Limited FFIs and Limited Branches be issued GIINs? | 551 |
| Q 14.6.4 | How are branch GIINs assigned? | 551 |
| Q 14.6.5 | How does a financial institution locate its GIIN? | 551 |
| Q 14.6.6 | If a financial institution is in approved status and has been issued a GIIN, will it lose its GIIN if the financial institution edits its registration? | 551 |
| Q 14.7 | How does a financial institution that is not currently a QI, a WP, or a WT register to become one? | 552 |
| Q 14.7.1 | How do financial institutions that are currently QIs, WPs, or WTs renew their agreements? | 552 |
| Q 14.7.2 | Can a QI/WP/WT use the LB&I registration portal to register for FATCA and become a new QI/WP/WT? | 552 |
| Q 14.7.3 | Must a financial institution become a QI/WP/WT in order to register under FATCA? | 553 |
| Q 14.7.4 | If an FFI has a QI/WP/WT agreement in place, does the Responsible Party for purposes of the QI/WP/WT Agreement also have to serve as the FFI’s Responsible Officer? | 553 |
| Q 14.7.5 | If a member of the EAG is a QI/WT/WT, does the Lead FI renew the QI/WT/WT agreement on behalf of the member or does the member renew its own agreement? | 553 |
| Q 14.7.6 | How will WPs and WTs renew their WP and WT agreements if the revised WP and WT agreements will not be published before June 30, 2014? | 554 |
| Q 14.7.7 | When will the terms of the revised QI Agreement set forth in Revenue Procedure 2014-39 be effective for (a) entities seeking QI status; and (b) entities seeking renewal of their QI Agreements? | 555 |
| Q 14.8 | Which jurisdictions are treated as having in effect a Model 1 or Model 2 IGA? | 556 |
Q 14.8.1 How do FFIs in Model 1 jurisdictions register on the FATCA registration website? .................................................. 556
Q 14.8.2 How do FFIs in Model 2 jurisdictions register on the FATCA registration website? .................................................. 556
Q 14.8.3 How should an FFI register if it is located in a country that has not signed an IGA, and the local laws of which do not permit the reporting of U.S. accounts or withholding of tax? .......................................................... 556
Q 14.8.4 In a Model 1 IGA jurisdiction, does the FFI need to fill out Question 10 about Responsible Officers? ..................... 557
Q 14.8.5 Does an FFI in a Model 1 IGA jurisdiction need to register before July 1, 2014, if the FFI is part of an EAG? .......... 557
Q 14.8.6 Does an entity in a Model 1 jurisdiction that, relying on the definition of a nonreporting financial institution under the applicable IGA, qualifies as a deemed-compliant FFI or an exempt beneficial owner, need to register on the FATCA registration website? ................. 557
Q 14.8.7 Given the additional time provided by Announcement 2014-38 to sign the IGA, does a reporting Model 1 FFI in such a jurisdiction need to register and obtain a GIIN before January 1, 2015? .................................................. 558
Q 14.9 For registration purposes, can an EAG with a Lead FI and two Member FIs be divided into (1) a group with a Lead FI and a Member FI; and (2) a Member FI that will register as a Single FI? .......................................................... 559
Q 14.9.1 What is required for an entity to be a Lead FI? ............... 559
Q 14.9.2 Can a Member FI complete its FATCA registration and obtain a GIIN if the Lead FI for that Member FI has not yet registered? .......................................................... 559
Q 14.9.3 Is a Limited FFI that is a member of an EAG subject to FATCA withholding? .................................................. 560
Q 14.9.4 If a Lead FFI of an Expanded Affiliated Group registers and lists each Member on Part 2 of the registration, does each member of the EAG still need to separately register? .................................................. 560
Q 14.9.5 Once the Lead FI has its FATCA ID, will it be possible for each of the member Expanded Affiliated Group entities to log on at the same time to register? .................................................. 560
Q 14.9.6 Does a Member FI need to wait until the Lead FI has obtained a GIIN before it registers or obtains a GIIN? .......... 560
Q 14.9.7 If an EAG decides to designate more than one Lead FI for its group, how are additional leads added to the registration? .................................................................. 561
Q 14.9.8 How does the Lead FI access its Member FI accounts? .... 561
Q 14.10 What is a Point of Contact (POC)? ...............................................................561
Q 14.10.1 Is the Responsible Officer required to be the same
person for all lines on Form 8957 or the online
registration? ............................................................................................................562
Q 14.10.2 What does it mean for an RO to have the authority
to “establish the statuses of the financial institution’s
home office and branches” as indicated on the
registration form? ..................................................................................................564
Q 14.10.3 Is a financial institution permitted to employ an
outside organization (or individual) solely for the
purpose of assisting with the registration process? ..........564
Q 14.10.4 What type of individual may serve as a Responsible
Officer for purposes of Part 1, Question 10 of the
FATCA registration in the case of a participating FFI,
participating FFI that elects to be part of a
consolidated compliance program, registered
deemed-compliant FFI, reporting Model 1 FFI,
Limited FFI, and U.S. financial institution? .........................................................565
Q 14.10.5 May the Part 4 certification be broken down into two
separate declarations of the RO? ..........................................................566
Q 14.10.6 How do the certifications in Part 4 apply to financial
institutions treated as reporting Model 1 FFIs? ..................567
Q 14.11 Are U.S. financial institutions required to register
under FATCA? .........................................................................................................568
Q 14.12 Is an FFI required to obtain an employee identification
number (EIN)? ........................................................................................................568
Q 14.12.1 How does an FFI apply for a EIN if it does not already
have one? .................................................................................................................569
Q 14.13 Is a foreign central bank of issue subject to FATCA
withholding if it does not register? .................................................................569
Q 14.13.1 Is a foreign pension plan subject to FATCA withholding
if it does not register? ............................................................................................569
Q 14.14 How should an entity seeking the FATCA status of “direct
reporting NFFE” (other than a sponsored direct reporting
NFFE) register for this status to obtain a GIIN in order to
avoid FATCA withholding? .......................................................................................570
Q 14.14.1 How should a sponsor of a sponsored direct reporting
NFFE register itself for this status and obtain a GIIN? ......572
Q 14.14.2 How does a direct reporting NFFE register as a
Member FI? .................................................................................................................573
Q 14.14.3 Does a direct reporting NFFE have to separately
register its branches when it completes its FATCA
registration? ..............................................................................................................573
Q 14.15 What happens when an FFI’s registration is placed in “Registration Incomplete” status? ..................................................573
Q 14.15.1 What is the impact of completing Part 4 of the FATCA registration for each of the FATCA classifications? ........574
Q 14.15.2 How do trustees of Trustee-Documented Trusts register? ......576
Q 14.15.3 What should be done if an FFI’s FATCA account status is placed in “Registration Under Review” status? ..........576
Q 14.15.4 Does an FFI registering to become a participating FFI (including a reporting Model 2 FFI) need to complete a paper version of the FFI Agreement? ..................577
Q 14.15.5 What action should a FATCA registrant take if it improperly completes multiple FATCA registrations? ....577
Q 14.15.6 How does a financial institution update its FATCA registration? ......................................................578
Q 14.15.7 How can the access code for the FATCA account be changed? ............................................................578
Q 14.15.8 How can a financial institution change the FI type in question 1 of the registration? ........................579
Q 14.15.9 How can the Responsible Officer or Points of Contact be changed? ..................................................579
Q 14.15.10 Can a financial institution that is a Limited FFI change to a participating FFI? ..................................................579
Q 14.15.11 How does a financial institution edit its registration information after submitting the registration form? ......580
Q 14.15.12 What does it mean if a financial institution’s registration status is “Registration Incomplete”? .............580
Q 14.15.13 How does a financial institution delete its FATCA registration? ......................................................581
Q 14.16 If a common parent of an EAG sells its interest in a wholly owned FFI that is registered as a Member FI, what impact will the sale have on the Member FI’s FATCA registration? ........581
Q 14.16.1 Can a FATCA registrant change its FI type, which is selected at the beginning of the FATCA registration process, without reregistering? ...........................................582
Q 14.16.2 If a registrant has changed its name but not its FI type, does it need to reregister? ...........................................582
Q 14.16.3 How can an FFI that is registered as a Single FI change its FATCA registration to become a Lead FI? ........582
Q 14.16.4 How can an FFI that is registered as a Lead FI of an EAG change its FATCA registration to become a Single FI? ....582
Q 14.16.5 What steps does a registrant need to complete if it has dissolved? ......................................................583
Q 14.17 How does a disregarded entity (DE) in a Model 1 IGA jurisdiction satisfy its FATCA registration requirements? ........583
Q 14.17.1  How does a branch in a Model 1 IGA jurisdiction satisfy its FATCA registration requirements? .......................... 583
Q 14.17.2  How does a branch or a DE in a jurisdiction that does not have an IGA, or that is in a Model 2 IGA jurisdiction, satisfy its FATCA registration requirements? ........................................ 584
Q 14.17.3  How can a withholding agent find the name and GIIN of a branch on the FFI list? ............................................. 585
Q 14.18  How will certified deemed-compliant FFIs, owner-documented FFIs, or excepted FFIs certify to U.S. withholding agents that they are not subject to FATCA withholding in light of the fact that they are not required to register with the IRS? ............... 585
Q 14.18.1  Is an FFI in a non-IGA country subject to FATCA withholding if it does not register with the IRS? ...................... 585
Q 14.18.2  What are the consequences of terminating the FFI agreement for a participating FFI? ............................................. 586
Q 14.18.3  What happens if an FFI has not registered by May 5, 2014? .............................................................................. 586
Q 14.18.4  Are Forms W-8 still required to be renewed by the appropriate beneficial owners? .................................................. 587
Q 14.18.5  What should a withholding agent do if an entity account holder indicates that box 9a of Form W-8BEN-E is too small to accommodate the entity’s GIIN? ............................................ 587
Q 14.18.6  Notice 2014-33 provides that a withholding agent or FFI may treat an obligation as a preexisting obligation if the obligation (i) is issued, opened, or executed on or after July 1, 2014, and before January 1, 2015; and (ii) is held by an entity. How does this provision apply when the recipient of a payment made under the obligation is a flow-through entity or intermediary? ............... 588
Q 14.18.7  Annex I of the IGA provides that, for certain purposes, a self-certification may be made on an IRS Form W-8 or other “similar agreed form.” What would be considered a similar agreed form? ............................................. 589
Q 14.18.8  What is an acceptable self-certification for purposes of the Annex I due diligence procedures for preexisting and new accounts? Does the self-certification form have to be agreed upon by the IGA jurisdiction and the United States? ........................................................................ 591
Q 14.18.9  If a Reporting Model 1 FFI or a Reporting Model 2 FFI that is applying the due diligence procedures in section III, paragraph B, of Annex I of the IGA cannot obtain a self-certification upon the opening of a new individual account, can the FFI open the account and treat it as a U.S. Reportable Account? ............................................. 592
Q 14.19 Are filers of Form 8966 required to file a NIL report? ..................592
Q 14.20 When is Form 8966 due for reporting with respect to calendar
year 2014 for participating FFIs and Reporting Model 2 FFIs?..............592
Q 14.21 What training is available for the FATCA registration system? ....593
  Q 14.21.1 What help is available for the FATCA registration system? .................................................................593
Q 14.22 In what languages is the FATCA registration system available? .....594
  Q 14.22.1 Is there a mechanism to upload registration data
in bulk? .................................................................................594
Q 14.22.2 Does the system have certain mandatory fields or
are they all mandatory?.............................................................594
Q 14.22.3 Is there an automatic check of legal names against a
database to prevent misspellings or to provide
consistent formatting?................................................................594
Q 14.22.4 What is the maximum number of characters allowed
for name fields? .........................................................................595
Q 14.22.5 How should an FI enter the FI legal name in question 2
or the Member FI legal name in question 12
(for Lead FIs) if the FI legal name is longer than
what the system allows, or has characters that
the system does not allow?.............................................................595
Q 14.22.6 How can a financial institution register an entity in a
newly created country?...............................................................595
Q 14.22.7 Does the system have the capability to show the
questions and responses before the registration
is submitted?............................................................................596
Q 14.22.8 Does the FATCA registration system support multiple
tabs or windows? .....................................................................596
Q 14.22.9 Can the FI registration information be downloaded?..........596
Q 14.23 What is the maximum number of points of contact allowed
on the registration form?...............................................................596
Q 14.24 What is the maximum number of users that can access a
FATCA account at one time?.........................................................597
  Q 14.24.1 What are the password requirements for FATCA
accounts? .....................................................................................597
Q 14.24.2 Does the FATCA registration system use challenge
questions? .....................................................................................598
Q 14.24.3 Can a member of an EAG create its own FATCA account? .....598
Q 14.24.4 What is the time lapse between the creation of the
FATCA ID for the Lead FFI and the FATCA IDs for
the Member FFIs? .........................................................................598
Q 14.25 What type of notifications will the FATCA registration
system provide? .........................................................................599
| Q 14.25.1 | How does a financial institution check its message board? | 599 |
| Q 14.25.2 | How can a financial institution check the status of its registration? | 599 |
| Q 14.25.3 | Can the Responsible Officer list more than one email address on the registration system? | 599 |
| Q 14.25.4 | Can the change of status email notifications go to the Responsible Officer and the Points of Contact? | 600 |
| Q 14.25.5 | What information will be in the notification email the RO receives? | 600 |
| Q 14.25.6 | Why is the RO not receiving FATCA notification emails regarding the FI’s status and account updates? | 600 |
| Q 14.26 | How does a Sponsoring Entity register its Sponsored Entities? | 600 |
| Q 14.26.1 | How does Sponsoring Entity Type FI add its Sponsored Entities in the registration process? | 601 |
| Q 14.27 | Is there an alternative to registering electronically? | 601 |
| Q 14.27.1 | How long will it take to process paper registrations? | 602 |
| Q 14.28 | What is the FFI list? | 602 |
| Q 14.29 | How do you access the FFI list? | 602 |
| Q 14.30 | What training is available for the FFI List Search and Download Tool? | 602 |
| Q 14.30.1 | What fields are contained on the FFI list? | 603 |
| Q 14.30.2 | What are the maximum lengths of each field? | 603 |
| Q 14.30.3 | Will the monthly update to the FFI list contain just the additions and deletions from the prior month after the initial list is published? | 603 |
| Q 14.30.4 | Will an archive of previously released versions of the monthly FFI list be available for viewing and download on the IRS website? | 603 |
| Q 14.30.5 | How frequently will the FFI list file be updated? | 604 |
| Q 14.30.6 | Which financial institutions and branches are included on the FFI list? | 604 |
| Q 14.30.7 | In what languages will the FFI list be published? | 604 |
| Q 14.30.8 | Is there anything in the format of the FFI list that indicates that an FFI is a participating FII or registered deemed-compliant FII? | 604 |
| Q 14.30.9 | How many records are expected in the full FFI list? | 604 |
| Q 14.30.10 | What are the available FFI list file formats for download? | 605 |
| Q 14.30.11 | Do you need to be a registered user with a login and password to access the FFI List Search and Download Tool, and download the FFI list? | 605 |
| Q 14.30.12 | Will there be a web service where FFIs can automatically download the latest version of the FFI list? | 605 |
Q 14.30.13 Is the FFI list file available via FTP? ................................................. 605
Q 14.30.14 Is a search tool available for the FFI list? ........................................ 606
Q 14.30.15 Why is a financial institution not in the downloaded FFI list in CSV format, while it appears in the search results? ............................................................... 606
Q 14.30.16 Why are there two different GIINs associated with a financial institution (same FI name and same country)? .... 606
Q 14.30.17 Why is there more than one branch with the same GIIN? ...... 606
Q 14.30.18 Will legal entity names be standardized in any way, such as “Bank Corp.” vs. “Bank Corporation” or “Chairs Ltd.” vs. “Chairs Limited” vs. “Chairs LTD.”? .......... 607
Q 14.30.19 How do I find the legal entity name of the branches in the FFI list? ......................................................................................................................... 607
Q 14.30.20 Are there any other special names similar to “branch” that might appear on the list? ....................................................................................... 607
Q 14.30.21 Can a financial institution’s legal name be changed once it appears on the FFI list? ................................................................. 607
Q 14.30.22 Will the final FATCA FFI xml file contain a file date/production time identifier/tag? ................................................................. 607
Q 14.30.23 Will the CSV format file contain a trailer record identifying the number of records or a simple end marker? ................................................................. 608
Q 14.30.24 How is the CSV file formatted for the FFI list? ......................... 608
Q 14.31 What is the International Data Exchange Service (IDES) system? ......................................................................................................................... 608
Q 14.31.1 What is the International Compliance Management Model (ICMM) system? ....................................................................................... 609
Q 14.31.2 What is the frequency of the IRS request for information on recalcitrant accounts? ................................................................. 609
Q 14.31.3 What is the IRS expectation for HCTA responses to requests for information on recalcitrant accounts? ......................... 609
Q 14.31.4 What are the IRS standards for HCTA data validation on recalcitrant accounts through the FATCA XML schema? ...... 609
Q 14.31.5 How can HCTA and FFI obtain information as to system development progress and status? ................................................................. 609
Q 14.31.6 What types of technical support will be present during integration testing? How will the HCTAs and FFIs report issues with integration testing back to the IRS? ......................... 610
Q 14.31.7 What is the protocol for HCTAs to contact the IRS with technical issues or questions regarding IDES? ......................... 610
Q 14.31.8 What is the protocol for HCTAs to contact the IRS with issues or questions regarding reporting requirements? ........ 610
Q 14.31.9 When can users enroll in IDES? .......................................................... 610
Q 14.31.10 Does an HCTA need to obtain a GIIN? ........................................610
Q 14.31.11 Can a third party prepare and submit Form 8966 data on behalf of a financial institution? If so, how does it enroll in IDES? .................................................................611
Q 14.31.12 Will an API or standalone application be available to assist with data preparation? ........................................................................611
Q 14.31.13 When will the IDES system be accessible for HCTA and/or FFI use? .................................................................................611
Q 14.31.14 What methods of file transfer are available for the IDES system? .........................................................................................611
Q 14.31.15 Is the IDES system IPv6 compatible? .....................................611
Q 14.31.16 What information will be contained in the IDES alerts? 611
Q 14.31.17 What information will be contained in the ICMM notifications? .........................................................................................612
Q 14.31.18 How does an entity enroll for a testing window? ...............612
Q 14.31.19 When will the IDES system be accessible for User Acceptance Testing? ............................................................................612
Q 14.31.20 In what format should data be provided for the FATCA Report? .........................................................................................612
Q 14.31.21 Is there a naming convention for files pertaining to IRS requests for information on recalcitrant accounts? ..............612
Q 14.31.22 When will a template pertaining to the request for information on recalcitrant accounts be provided? .................612
Q 14.31.23 When will sample XML files related to FATCA submissions be available? .................................................................613
Q 14.31.24 What is the format for sending metadata for file transfers to IDES? .........................................................................................613
Q 14.31.25 Is the XML data based on UTF-8 character encoding? Are there any restrictions on the range of characters that can be used? ........................................................................613
Q 14.31.26 Is there a “not to exceed limit” on the size of the transmitted data file? Is there a method to associate and/or merge files if transmission split due to size restrictions? ........................................................................613
Q 14.31.27 Within the XML schema, is the SendingCompanyIN data element used to determine the origin of the file? ......613
Q 14.31.28 How will the DocTypeIndics reserved for testing purposes be used in production and test environments? ......613
Q 14.31.29 How will the IRS handle updates to the XML schema? Will the system still be able to accept older versions of the schema or will prior years’ files need to be updated to the current schema version? ..........................614
Q 14.31.30 If an individual has only received certain payment types, should the other payment types be listed with a zero amount or should they be omitted from the report for that individual? .................................614

Q 14.31.31 What is the procedure for FFIs, direct reporting NFFEs, and HCTAs to verify test data prior to the launch of IDES? .....614

Q 14.31.32 Can an HCTA create its own standard numbering format for the MessageRefId in the 8966 XML Schema for its financial institutions to use? ..........................615

Q 14.31.33 When submitting a file with amended or corrected entries, what should be included in the MessageRefId field? .................................................................615

Q 14.31.34 Are there any characters that are not allowed due to XML syntax rules and should be avoided in submitted XML documents? .................................................................615

Q 14.31.35 Are there any characters that pose a security threat and should be avoided in submitted XML documents? ........615

Q 14.31.36 Are there any other characters where the IRS recommends replacement with XML entity references? ......616

Q 14.31.37 Is there any element-specific XML guidance? .....................616

Q 14.31.38 Which users are permitted to submit pooled reports? What is the procedure for submission of these reports? .....616

Q 14.31.39 What are the procedures for sending files to IDES and/or ICMM systems? .................................................................616

Q 14.31.40 What are the procedures for sending metadata for files to IDES? ........................................................................617

Q 14.31.41 Will requests from the IRS for information on non-consenting U.S. accounts and non-consenting nonparticipating FFIs be transmitted via email? ...............617

Q 14.31.42 Will IDES be used for transmitting the ICMM notifications? ........................................................................617

Q 14.31.43 How will reciprocal data from the IRS be sent to an HCTA and in what format? .................................................617

Q 14.31.44 How will the HCTA notify IDES of outages of their systems that will be receiving data? .................................617

Q 14.31.45 What is the procedure for sending corrected and/or amended data to receiving HCTA? Will the resubmission need to include only the corrected/amended entries or will the entire report need to be resubmitted? .................................................................618

Q 14.31.46 What required data validation should be done on the FATCA report data prior to being submitted to IDES? .......618

Q 14.31.47 What type of data encryption should be used prior to XML data transmission? .................................................................618
<table>
<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q 14.31.48</td>
<td>What encryption standard will be implemented on the transmission path?</td>
</tr>
<tr>
<td>Q 14.31.49</td>
<td>How will passwords and keys be controlled for data transmission?</td>
</tr>
<tr>
<td>Q 14.31.50</td>
<td>Who is responsible for data transmission security via encryption?</td>
</tr>
<tr>
<td>Q 14.31.51</td>
<td>What type of data encryption is used for reciprocal data sent to an HCTA?</td>
</tr>
<tr>
<td>Q 14.31.52</td>
<td>What are the requirements for digital certificates?</td>
</tr>
<tr>
<td>Q 14.31.53</td>
<td>Can the AES 256 key be reused for subsequent data transmissions or does the key have to be different each time?</td>
</tr>
<tr>
<td>Q 14.31.54</td>
<td>Who is required to obtain a digital certificate?</td>
</tr>
<tr>
<td>Q 14.31.55</td>
<td>Can a digital certificate be shared by multiple organizations?</td>
</tr>
<tr>
<td>Q 14.31.56</td>
<td>May an SSL certificate be used in the manner intended by the IRS?</td>
</tr>
<tr>
<td>Q 14.31.57</td>
<td>How does an organization obtain a Secure Socket Layer (SSL) certificate if it does not have a Fully Qualified Domain Name (FQDN)?</td>
</tr>
<tr>
<td>Q 14.31.58</td>
<td>Is the use of ides-gateway.com or ides-support.com an acceptable FQDN for obtaining a digital certificate for IDES?</td>
</tr>
<tr>
<td>Q 14.31.59</td>
<td>How current are the encryption standards being used for FATCA data?</td>
</tr>
</tbody>
</table>

**Appendix A** Form 1042 ..............................................................631
**Appendix B** Form 8966 ..............................................................635
**Appendix C** Form W-8BEN ..........................................................639
**Appendix D** Form W-8BEN-E ......................................................641
**Appendix E** Form W-8ECI .............................................................651
**Appendix F** Form W-8EXP ............................................................653
**Appendix G** Form W-8IMY ............................................................657
**Appendix H** Form W-9 .................................................................667

Index ..................................................................................................673