

FATCA FACTS!

Request to Customers Concerning the "Foreign Account Tax Compliance Act (FATCA)"

The Foreign Account Tax Compliance Act ("FATCA") was introduced in March 2010 in the United States (U.S.). It is designed to prevent tax evasion by U.S. taxpayers using their accounts opened in financial institutions overseas (meaning countries other than the U.S.). As a result of the FATCA agreement between our country and the U.S. our Bank has introduced new procedures under the FATCA effective July 1, 2014.

If our customers are U.S. citizens for the purpose of FATCA (U.S. taxpayers) as described below, Demerara Bank Limited will report on specified accounts periodically to the U.S. Internal Revenue Service either directly or through our local regulatory agencies. We therefore will require our customers who are subject to this reporting to submit documents stipulated by the Bank including a statement agreeing to the information disclosure. Failure of non-compliance with the Act results in a 30% withholding of certain payments to accounts held by non-cooperating citizens.

Who does FATCA apply to?

1. U.S. citizens for the purpose of FATCA refer to U.S. citizens under the U.S. taxation laws. They are not limited to people who have U.S. citizenship or nationality, but include people who have permanent residency in the U.S. (Green Card) and people who are residents in the U.S.
2. US Entities – A partnership, Sole Trader, Company or Association or Trust, created or organized or incorporated in the U.S. or under laws of the U.S.
3. Individual and Entities with US Indicia. A US Indicia is an indicator that an individual/entity has some affiliation to the United States.

Below is a list of indicators for U.S. Indicia

Individuals

- US citizen or resident (green card) status
- US place of Birth
- US home or mailing address
- If your only address is a US Post Office Box, 'in care of' US address or hold mail address
- A person that meets the substantial presence test.
- Power of Attorney granted to someone with a US address
- A US telephone number
- Standing Order to transfer funds to an account maintained in the US or instructions regularly received from a US address.

Entities

- An entity formed in the US or under the US laws
- Entities where shareholders with more than 10% shareholding have US Indicia

If you have US Indicia, you are required to fill Forms W-9, W-8BEN, and/or W-8BEN-E and/or a Bank declaration. Further, you will be required to provide appropriate documentary evidence (eg. Passport, ID, driver's license, green card) to the Bank.

The Bank cannot offer advice on your FATCA Tax status or classification. For more information on FATCA you can visit the IRS website at www.irs.gov/FATCA or contact a professional tax advisor.

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Please note that Demerara Bank Limited is unable to offer tax advice. For tax related questions please contact your professional tax advisor or refer to the IRS website.

FATCA overview

1. What is FATCA?

FATCA stands for the Foreign Account Tax Compliance Act. It is a new piece of legislation to help counter tax evasion in the US. Introduced by the United States Department of Treasury (Treasury) and the US Internal Revenue Service (IRS), the purpose of FATCA is to encourage better tax compliance by preventing US Persons (see glossary) from using Banks and other Financial Organisations to avoid US taxation on their income and assets.

2. What is the impact of FATCA?

On an annual basis, Banks and other Financial Organisations will be required to report information on financial accounts held directly or indirectly by US Persons. Demerara Bank Limited has made a commitment to being fully FATCA compliant. We will therefore be reviewing our existing customer base to confirm the FATCA statuses of our customers and where necessary we may have to contact our customers for further information and documentation.

3. When will the FATCA legislation become effective?

The FACTA legislation became effective from 30 June 2014.

4. Under what circumstances would Demerara Bank Limited need to report information about my account to my local tax authority or to the IRS?

The purpose of FATCA is to prevent US Persons from using Banks and other Financial Organisations to avoid US taxation on their global income and assets. The Bank will therefore report information to the IRS or local tax authority on all accounts held directly or indirectly by US Persons. In addition, the Bank may also need to report information about customers who do not provide the required documentation to us.

5. Is FATCA applicable to personal or business customers?

FATCA legislation will impact both personal and business customers who hold an account, with Demerara Bank Limited.

6. How do I know if I am affected?

FATCA legislation will affect both personal and business customers who are treated as a 'US Person' for US tax purposes. The FATCA legislation will also affect certain types of businesses with US owners. The term US person includes the following (but is not limited to):

- A citizen of the US, including an individual born in the US but resident in another country (who has not given up their US citizenship)
- A person residing in the US, including US green card holders
- Certain persons who spend a significant number of days in the US each year
- US Corporations, US Partnerships, US estates and US trusts

7. Does FATCA replace existing US tax rules that I already follow?

FATCA does not replace the existing US tax regimes, it may however add additional requirements and complexity to the existing tax rules you may already follow. We recommend you contact a professional tax advisor to discuss your personal tax situation.

8. Is Demerara Bank Limited the only bank to be affected by FATCA?

No. All Banks and other Financial Organisations will be affected by FATCA, however their approach to adopting FATCA may differ.

9. What does Demerara Bank Limited have to do to comply with FATCA?

To comply with FATCA, the Bank will conduct a review of new and existing customers to identify those that are reportable under FATCA, report information to the IRS or local tax authority on all accounts held directly or indirectly by US Persons. The Bank may also need to report information about customers who do not provide the required documentation to us. In certain circumstances and where customers fail to provide the appropriate documentation the Bank may be required to apply 30% US withholding tax on certain types of US income paid to such customers.

10. What information will the Bank report to my local tax authority or the IRS?

The information reported to the local tax authority or the IRS will depend on the FATCA classification of the customer. This information will typically be of a personal nature [in relation to business – to the substantial US owners of the business] (e.g., Name, Address, US Taxpayer Identification Number), and of a financial nature (e.g. Account number, Account balance/Value). We will be communicating with the affected customers in detail on these requirements.

Personal Customers

11. Am I only affected if I am a citizen of the US?

No. If an individual's account holds any of the following seven criteria, the Bank may request further information/ documentation to determine if you are a US Person under FATCA.

- US citizenship or US residence
- US place of birth
- US address including US PO boxes
- US telephone number
- Repeating payment instructions to pay amounts to a US address or an account maintained in the US
- Current Power of Attorney or signatory authority granted to a person with a US address
- In Care of or Hold mail address which is the sole address for the account holder

12. What does FATCA mean for me if I am a US Person?

If you are considered a US Person, you may be asked to supply the Bank with additional information/documentation. The Bank may be required to report information about you and your account to the local tax authority or the IRS on an annual basis.

You may also wish to visit the IRS website to determine if you need to complete and submit any additional IRS forms.

13. What does FATCA mean for me if I am not a US Person?

For most customers, FATCA will have minimal impact, and there will be no action required.

However, the Bank may still contact you to confirm your status as a non-US person if we have reason to believe you are potentially a US person for FATCA purposes.

14. What happens if a joint account is held by a US person and a non US person?

A joint account which has one US owner is treated as a US account and therefore the entire account is subject to the FATCA legislation.

Business Customers

15. Am I only affected if I am a US Company?

No. The impacts of FATCA are wider than just US companies. The Bank will be reaching out to many business customers to determine their status under FATCA. The aim of this exercise is to identify customers which are reportable under FATCA. We will be communicating with customers who need to take further action.

16. What do I need to do as a business customer?

In order to establish your tax status under FATCA, we may need you to provide additional information/documentation. This documentation could be a Bank declaration or a US tax form from the IRS. We will be communicating with affected customers that need to complete these forms, detailing when they will need to be completed by.

What do I need to do?

17. What types of information and/or documents can I expect to supply to Demerara Bank Limited?

We will be communicating with the affected customers and provide full details of the information/ documentation the Bank needs for FATCA purposes. Documents may include US tax forms (also referred to as withholding certificates or W forms) or self-declarations of FATCA status.

18. Will Demerara Bank Limited supply me with all the forms I need to complete?

The Bank cannot offer advice on your FATCA Tax status or classification. For more information on FATCA you can visit the IRS website at www.irs.gov/FATCA or contact a professional tax advisor.

19. How frequently will I have to provide the requested information and/or documentation for FATCA?

FATCA is an ongoing process. If your information changes, we may be required to contact you to obtain additional information/documentation so that we are able to update your account classification under FATCA. In general, customers should supply the requested documentation and information by the date contained within the communication.

20. What will Demerara Bank Limited do if I do not provide the information required under FATCA?

The Bank is committed to being fully FATCA compliant. The Bank may not open new accounts or offer additional products and services to customers who choose not to comply with the Bank's requests for documentation to establish a customer's status under FATCA. The Bank may even exit the relationship with customers who decide not to provide the necessary information and documentation and may also need to report information about customers who do not provide the required documentation to us. In addition, we may also be required to withhold tax on certain US-source payments coming into your account.

21. Why has my other Bank asked for different documentation than Demerara Bank Limited?

The way in which Banks and Financial Organisations collect information from their customers in order to confirm their tax status under FATCA may vary. This may mean that in some instances you are asked for different documentation from Demerara Bank than another Bank.

22. Do I meet the substantial presence test?

You will be considered a United States resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States (U.S.) on at least:

1. 31 days during the current year, and
2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
 - o All the days you were present in the current year, and
 - o 1/3 of the days you were present in the first year before the current year, and
 - o 1/6 of the days you were present in the second year before the current year.

Example:

You were physically present in the U.S. on 120 days in each of the years 2012, 2013, and 2014. To determine if you meet the substantial presence test for 2014, count the full 120 days of presence in 2014, 40 days in 2013 (1/3 of 120), and 20 days in 2012 (1/6 of 120). Since the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 2014.

Days of Presence in the United States

You are treated as present in the U.S. on any day you are physically present in the country, at any time during the day. However, there are exceptions to this rule. Do not count the following as days of presence in the U.S. for the substantial presence test.

- Days you commute to work in the U.S. from a residence in Canada or Mexico, if you regularly commute from Canada or Mexico.
- Days you are in the U.S. for less than 24 hours, when you are in transit between two places outside the United States.
- Days you are in the U.S. as a crew member of a foreign vessel.
- Days you are unable to leave the U.S. because of a medical condition that develops while you are in the United States.
- Days you are an exempt individual (see below).

For details on days excluded from the substantial presence test for other than exempt individuals, refer to [Publication 519, U.S. Tax Guide for Aliens](#).

GLOSSARY

Summary of terms included:

- IRS Forms
- Inter-governmental agreement (IGA)
- Internal Revenue Service (IRS)
- Tax Identification Number (TIN)
- US Person (USP)
- US citizen
- Withholding tax

IRS Forms

Withholding certificates, also referred to as W-forms, are US IRS tax forms. Form W-9 is a Request for Taxpayer Identification Number and Certification. This US Tax Form is provided by an account holder to confirm and certify their US status.

The W-8 series forms are currently used by foreign persons (including corporations) to certify their non-U.S. status. The form establishes that one is a non-resident alien or foreign corporation, to avoid or reduce tax withholding from U.S. source income. These forms will permit a non-US customer to self-certify their status under FATCA.

Inter-governmental agreement (IGA)

An IGA is an agreement between the US and specific countries to build FATCA compliance into the country's legal framework so that the country can implement FATCA. An IGA will require financial institutions to provide the information on US accounts which they hold either:

- directly to the IRS
- to the local tax authority of the resident country

Internal Revenue Service (IRS)

The IRS is the United States government agency responsible for tax collection and tax law enforcement.

Tax Identification Number (TIN)

A US IRS specific term: Tax Identification Number. For an individual this would be their US social security number, for an entity their employer identification number.

US Person (USP)

The term "United States person" means:

- A citizen or resident of the United States,
- A partnership created or organized in the United States or under the law of the United States or of any State, or the District of Columbia,
- A corporation created or organized in the United States or under the law of the United States or of any State, or the District of Columbia,

- Any estate or trust other than a foreign estate or foreign trust. (See Internal Revenue Code section 7701(a)(31) for the definition of a foreign estate and a foreign trust.),
- A person that meets the substantial presence test, or

US Citizen

The term “United States Citizen” means:

- An individual born in the United States,
- An individual whose parent is a U.S. citizen,
- A former alien who has been naturalized as a U.S. citizen,
- An individual born in Puerto Rico,
- An individual born in Guam, or
- An individual born in the U.S. Virgin Islands.

Withholding tax

A 30% withholding tax applies under FATCA on ‘withholdable payments’ in respect of financial institutions that do not comply with the FATCA requirements and/or customers who do not provide the requisite FATCA documentation. The term withholdable payment means:

- Fixed or determinable, annual or periodical (FDAP) income, if such payment is from sources within the US – this will include any payment of interest and dividends. This will apply from 1 July 2014.
- Any gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the US. This will apply from 1 January 2017. Various exceptions apply, including for income connected with a US business.