

Piecemeal Solutions to Credit Card Charges and Fees Leave Industry Without Firm Guidance as Credit Card Debt Becomes Major National Problem

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Credit cards have become a major segment of the banking industry, with a high proportion of the country using cards, and thereby paying banks finance charges and penalties. One would assume that the tax treatment of income of an industry of this size would be relatively clear.² This, however, has not been the case, and although practices have arisen in the industry and been accepted by the IRS, firm guidance on a number of issues is lacking. The 2005-2006 Priority Guidance Plan includes an item on “the treatment of fees incurred in credit card transactions.”³ With the exception of one plan, this item has been listed as a priority for guidance since 2001.⁴

The recognition of the importance of credit cards in the U.S. economy is reflected in the President’s 2007 budget proposal, which would provide Treasury with authority to issue regulations requiring issuers of credit cards and

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² For a comprehensive review, see Gary M. Wells, “Income Recognition by Credit Card Providers: Developments and Difficult Issues,” 19 J. Taxation and Regulation of Financial Institutions 9 (March/April 2006).

³ IR-2005-80, August 8, 2005 (www.irs.gov/pub/irs-utl/2005-2006_guidance_priority_list.pdf); the plan was updated on March 6, 2006 (JS-4095, www.treasury.gov/press/releases/js4095.htm) without changing this item.

⁴ The 2004-2005 and 2003-2004 Plans included “guidance on credit card transactions” as a project the Service expected to complete in the plan year ending June 30, 2005. The 2001 Plan had included “guidance under section 1272(a)(6) regarding pools of credit card receivables.” The project was not included in the 2002-2003 Plan.

debit cards to report to the IRS annually the aggregate reimbursement payments made to merchants in a calendar year. Backup withholding on such payments would be required in certain instances.

While some consider it inappropriate to single out payment card reimbursements made to merchants for additional information reporting, others respond that reporting is appropriate in this instance because of the large amount of income derived by businesses from payment card transactions and because the unreported income of businesses represents a significant part of the tax gap.⁵

Credit Card Debt a Growing Economic Problem

Credit cardholders are sometimes divided into convenience users, who regularly pay off credit card balances, and revolvers, who generally carry a balance. Though statistical sources vary as to the percentage of users in each category, the proportion of revolvers to convenience users is increasing and a significant percentage of cardholders make only minimum payments every month. The Government Accountability Office recently considered whether personalized disclosures would increase payment rates of revolvers, particularly those making minimum payments.⁶ California attempted to require customized information in 2001, but a district court held the statute was preempted by federal law.⁷ At least five bills are currently in various stages of consideration in Congress that would require customized disclosures.

Credit card penalties alone may be reaping close to \$20 billion a year for card issuers in the U.S.⁸ In all fairness, any given card is likely to charge only some of the fees that will be described below, and consumer organizations advise individuals to analyze their patterns of card usage to determine which card will result in the lowest cost.

Classification of Credit Card Fees

Consumers are often exhausted by the mere enumeration of potential credit card charges, though this complexity can be somewhat reduced for tax purposes. Fees and charges related to credit cards, not including the basic interest or finance charge, include the following:

⁵ From the proposed budget. The President's Advisory Commission on Federal Tax Reform, Chapter 6, p. 128 (www.taxreformpanel.gov/final-report/) also considers credit card reporting by issuers.

⁶ *Customized Minimum Payment Disclosures Would Provide More Information to Consumers, but Impact Could Vary*, GAO-06-434 (April 2006).

⁷ *American Bankers Assoc. v. Lockyer*, 239 F. Supp. 2d 1000 (ED Cal. 2002).

⁸ Extrapolating from data reported by various consumer groups for 2003 and 2004.

1. Application processing fees—These fees can be according to a watchdog organization, such fees are most commonly charged on sub-prime and secured cards when the account is opened.⁹

2. Annual or monthly maintenance fees—These fees can be as much as \$12 a month.¹⁰ Fees are generally imposed regardless of whether the cardholder uses the card and are not imposed for any specific benefit or service provided by the issuer.¹¹

3. Balance transfer fees—These fees can outweigh the low interest rate which induces the cardholder to make the transfer. Also, there may be no grace period on the interest on the amount transferred.¹² Some issuers do not impose the fee if the balance is paid off within a month or two.¹³ Balance transfer fees are, according to one observer, typically 3% of the balance transferred up to a maximum of \$75.¹⁴

Example. Cardholder transfers a \$100 balance at a 2.9% APR to a card that otherwise charges a 15%. There is a \$200 balance on that card from previous purchases. The cardholder sends a \$50 payment at the end of the month. It's important to know how that \$50 payment will be applied. Will the payment go to reduce the "old" high-rate \$200 balance or the "new" low-rate \$100 balance? Quite possibly the payment will be applied to the transfer balance, not the new balance, meaning that the card issuer will col-

⁹ Consumer Action, "Credit Cards: What You need to Know," (www.consumer-action.org/english/articles/credit_cards_what_you_need_to_know) (hereinafter "Consumer Action"). The Consumer Action organization will probably post a study of 2005 credit card fees by mid-June of 2006 on its website. Other consumer oriented credit card websites include Card Web (www.cardweb.com), Card Ratings (www.cardratings.com),

¹⁰ FDIC Consumer News, Spring 2001 (www.fdic.gov/consumers/consumer/news/cnspr01/diduknw.html).

¹¹ See Rev. Rul. 2004-52, IRB 2004-22 IRB 973. Some annual fees in this Ruling might be partially refunded if the cardholder closes the account during the year. Because the annual fees are for all the benefits of holding the card, they are not compensation for the use or forbearance of money, and are thus not interest. "[The issuer] is required to include these annual fees in gross income under § 1.451-1(a) when the fee income becomes due and payable under its agreements, because [the issuer's] right to the income is fixed at that point and the amount of the income can be determined with reasonable accuracy. Thus, the all events test is satisfied when [the issuer] posts an annual fee charge to a cardholder's credit card account even if [the issuer] later is required to refund a portion of a previously posted refundable annual fee charge because the cardholder closes the account during the period covered by that fee."

¹² FDIC Consumer News, Spring 2001 (www.fdic.gov/consumers/consumer/news/cnspr01/diduknw.html) (hereinafter "2001 FDIC Consumer News").

¹³ See "Consumer Action" website.

¹⁴ Jane J. Kim, "As More Rates Go Variable, It's Easy to Get 'Bumped Up'; There are Ways to Fight Back," Wall Street Journal, p. B1 (March 25-26).

lect the maximum rate.¹⁵

4. Cash advance fees—Using a credit card at an ATM is considered a loan that will incur interest charges immediately, with no grace period. The card issuer may also charge a transaction fee, as generally will the institution owning the ATM. Transaction fees may be either a fixed amount (\$1.50 but more recently often \$2.50 or more) or a fixed percent, as much as 3%. Cash advances include ATM withdrawals, convenience checks, wire transfers, and bail bonds.

5. ATM fees—Such fees are for use of an ATM to obtain cash advances, sometimes distinguished (as in TAM 200533023, discussed below) from cash advance fees (a transaction fee on the cash advance).

6. Late payment fees—Missing the payment date on a credit card statement can lead to a late-payment fee that the FDIC describes as having increased from around \$15 to \$39 in recent years. If the card was issued by a bank with which the cardholder has a relationship, he or she may be able to debit a bank account by a phone call before the deadline, but this will often incur a transaction fee of \$10 or so.¹⁶

Note. Many issuers have shortened the payment due date from a month after the statement date to 20 days after the statement date. Sometimes the payment must be received by a certain hour on the due date.¹⁷ If the cardholder does not use the preprinted return envelope, some card-member agreements allow the issuer to record receipt of your payment five days after it actually arrives.¹⁸

Note. A late payment fee can be added to other items to produce an over-the-limit fee.¹⁹

7. Fees for sending in less than minimum monthly payment—Credit cards list minimum payments, and making less than the minimum often produces a fee that can be as much as \$29 according to the FDIC.²⁰

¹⁵ 2001 FDIC Consumer News. See “More Credit Card Fees” from CBS June 10, 2004 (www.cbsnews.com/stories/2004/06/09/earlyshow/contributors/raymartin/main622103.shtml) (hereinafter “CBS More Fees”).

¹⁶ 2001 FDIC Consumer News. FDIC listed \$29 as a maximum, but Consumer Reports mentions \$39. “Outrageous credit card fees,” Consumer Reports, May 2004 (online) (hereinafter “2004 Outrageous credit card fees”).

¹⁷ See “Consumer Action” website.

¹⁸ 2004 Outrageous credit card fees.” On failure to use pre-printed envelope, see CBS More Fees.

¹⁹ 2004 Outrageous credit card fees.

²⁰ 2001 FDIC Consumer News.

8. No-balance fees—Some cards levy a finance charge for paying off the card balance in full.²¹ Some cards impose a fee for not using the card enough or at all.²²

9. Over-the-credit limit fees—A fee is usually imposed if the cardholder exceeds the credit limit.²³

10. Pay-by-phone or pay-by-computer fees—Some issuers add a charge for these methods of payment.²⁴

11. Residual finance charges—A finance charge may be imposed between the time the cardholder receives the statement and mails in a payment if, in the previous billing cycle, he or she carried a balance.²⁵ This is actually part of the finance charge, but often appears to cardholders to be a sort of penalty. Thus, when the next statement arrives, it indicates that even though the preceding statement was paid in full and on time there is still a charge, a “residual” finance charge indicated for the period covered by the payment.

12. Default penalties—Some cards can increase the interest rate if the cardholder is in default to another lender.²⁶ According to a CBS report, credit card companies are increasing rates if the cardholder is late on other types of payments, if his or her overall debt levels increase, if he or she has high “revolving debt,” if the cardholder has “too many credit accounts,” or the cardholder consistently makes only the minimum payments on his or her accounts.²⁷

13. Non-sufficient funds or bounced check fees—These fees are charged if the cardholder’s payment check bounces.²⁸

14. Foreign transaction fees—Such fees are charge for buying from an overseas vendor online, or from using the card in a foreign location. The fee may be embedded in the exchange rate.²⁹

Note. In about half the cards reviewed by one report there was no

²¹ 2004 Outrageous credit card fees, citing the \$2 charge of the Wells Fargo Prime Rate card.

²² See “Consumer Action” website.

²³ See “Consumer Action” website.

²⁴ See “Consumer Action” website.

²⁵ CBS More Fees.

²⁶ 2004 Outrageous credit card fees.

²⁷ CBS More Fees.

²⁸ See “Consumer Action” website.

²⁹ CBS More Fees.

fee if the purchase was made in U.S. dollars. The fee is typically imposed by the credit card association on the bank but is generally passed to the cardholder. The bank may have its own fee, such that there may be a 1% fee to VISA and a 2% fee to the issuing bank.³⁰

15. Foreign currency conversion fees—These fees may be part of or separate from foreign transaction fee.³¹

16. Fees for credit protection services—Cardholders can elect credit protection, and may provide increased notification services where the card number may be used by someone else in a fraud or identity theft situation. The Fair Credit Billing Act³² generally limits customer liability to \$50 per unauthorized transaction on the card.

17. Account reopening fees—Such fees are charged if an account is canceled by the issuer and the cardholder asks to have it reopened.³³

18. Statement copy fees—These fees are charged for an extra copy of a monthly or annual statement.³⁴

19. Stop payment fees—Such fees are charged when the cardholder stops payment on a convenience check.³⁵

20. Wire transfer fees—Such fees are charged when a cardholder buys money orders, lottery tickets, or casino gaming chips, or uses a card to transfer money.³⁶

The author makes no claim that this list of 20 fees and charges that may be separately listed on the cardholder's statement is necessarily complete. There are also merchant fees and interchange fees, which will also be discussed here, that are not charged directly to the user.

Some of these fees will, at least in some circumstances, be considered interest by the IRS. Some will be considered fees for specific services. Some have not been fully analyzed. Even if the IRS has a category for a fee, there may not be much guidance on how the fee is to be accounted for, though various practices have grown up in the industry and been accepted by the field in audits.

³⁰ Laura Bly, "New credit card fees take a further swipe at dollar," USA Today.

³¹ See "Consumer Action" website.

³² 15 U.S.C. 1666i (PL 93-495, October 28, 1974).

³³ See "Consumer Action" website.

³⁴ See "Consumer Action" website.

³⁵ See "Consumer Action" website.

³⁶ See "Consumer Action" website.

The interest charged on the card is often fixed, but many card issuers are converting cards to variable rates. A Wall Street Journal report indicates that roughly two-thirds of cards now carry variable interest rates, up from 55% a year ago (from March). Variable-rate cards in early 2006 climbed to 15.75% from 12.84%, and fixed rate cards climbed to 14.11% from 13.25%. Obviously issuers will prefer the higher rate. At the end of 2005, Americans carried a total of \$838 billion in unpaid balances according to the Nilson Report.³⁷

The Service's pronouncements regarding credit card fees are summarized in Figure 1.

Figure 1: IRS Pronouncements Regarding Credit Card Fees.		
Fee	Classification	Cite
Application processing fee	not interest	Reg. 1.1273-2(g)(2) (fee does not reduce issue price, i.e., does not produce OID; presumably this would apply to an account reopening fee)
Annual fee	not interest	Rev. Rul. 2004-52; TAM 200533023
Late fee	interest	TAM 200533022, TAM 200533023 (issue of amount of OID returned to IRS field); Rev. Proc. 2004-33 (circumstances under which IRS will allow late fees as interest income on pool of credit card loans); FSA 200145013
Over-the-limit fee	interest	TAM 200533023, FSA 200145013
Cash advance fee	interest	Rev. Proc. 2005-47; TAM 200533023; FSA 200145013
ATM fee (3d party surcharge fees)	interest	Rev. Rul. 2005-47
Non-sufficient funds fee	interest	TAM 200533023
Merchant fee	not interest	Rev. Rul. 71-363; TAM 200533022 (to be taken into account in a taxable year in an amount that corresponds to the payor's merchant fee deduction for that tax year)
Interchange fee	not interest	TAM 200533023

Credit Card Interest Income to Issuers

Credit card fees are difficult to account for because the "loan" may be paid off in such a way that no interest is paid and none is includable in the issuer's income,

³⁷ Jane J. Kim, "As More Rates Go Variable, It's Easy to Get 'Bumped Up'; There are Ways to Fight Back," Wall Street Journal, p. B1 (March 25-26).

or it may be paid as slowly as possible by “revolvers” giving the issuer significant interest income from the high rate generated by the card. Interest may be imposed on charges and advances made by the cardholder, but also on other fees that result from the cardholder’s activities. Since the original issue discount rules allow for calculating interest income from variable and even isolated payments, they have been adapted, at least legislatively, to deal with credit card income.

Under Section 1272(a)(1):

[T]here shall be included in the gross income of the holder of any debt instrument having original issue discount ... an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

Section 1272(a)(6) provides for determination of daily portions where principal is subject to acceleration.³⁸ The general rule states:

In the case of any debt instrument to which this paragraph applies, the daily portion of the original issue discount shall be determined by allocating to each day in any accrual period its ratable portion of the excess (if any) of—

- (i) the sum of (I) the present value determined under subparagraph (B) of all remaining payments under the debt instrument as of the close of such period, and (II) the payments during the accrual period of amounts included in the stated redemption price of the debt instrument, over
- (ii) the adjusted issue price of such debt instrument at the beginning of such period.

Section 1272(a)(6)(B) provides that present value is to be determined on the basis of:

- (i) the original yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period),
- (ii) events which have occurred before the close of the accrual period, and

³⁸ Reg. 1.1275-6(b) excludes from the definition of a qualifying debt instrument, that can be integrated with a hedge of such an instrument to be treated as a single instrument, any debt instrument to which Section 1276(a)(6) applies. PLR 200347016 (November 26, 2002) (debt instruments secured by an interest in a revolving pool of credit card receivables could be prepaid only under remote circumstances and the debt was not subject to Section 1272(a)(6) for purposes of Reg. 1.1275-6).

(iii) a prepayment assumption determined in the manner prescribed by regulations.

Section 1272(a)(6) was added by the Tax Reform Act of 1986 to deal with pools of mortgages, or debt instruments collateralized by pools of mortgages, that are issued at a discount, where prepayments on the underlying mortgages make the general OID rules impossible to apply.³⁹ The section was amended by the Taxpayer Relief Act of 1997 to provide that if a taxpayer holds a pool of credit card receivables, the taxpayer must accrue interest and original issue discount on the receivables based on a reasonable assumption regarding the timing of the payments by the obligors. Thus, Section 1272(a)(6)(C)(iii) specifies that these specific OID rules are to apply to:

(iii) any pool of debt instruments the yield on which may be affected by reason of prepayments (or to the extent provided in regulations, by reason of other events). To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business.

The taxpayer is therefore not permitted to assume that all of its credit cardholders will pay their balances by the date specified in the grace period provision of the credit card agreement.⁴⁰ The legislative history explained:

The bill operates as follows. Assume that a calendar year taxpayer issues credit cards, the terms of which provide that if charges for a calendar month are paid within 30 days after the close of the month, no interest will accrue with respect to such charges. However, if the

³⁹ An advance notice of proposed rulemaking, "Interest-Only REMIC Regular Interests," 69 Fed. Reg. 52212 (August 25, 2004), 2004-40 IRB 580 (October 4, 2004), considered the proper timing of income or deduction attributable to an interest-only regular interest in a REMIC. Comments were submitted by numerous parties, including the New York State Bar Association, Report 1078 (January 31, 2005).

⁴⁰ See H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. 522 (1997). See Joint Committee on Taxation, *Summary of Revenue Provisions Contained in Legislation Enacted During the 105th Congress* (JCX-75-98, November 19, 1998).

Thus, if a taxpayer holds a pool of credit card receivables that require interest to be paid if the borrowers do not pay their accounts by a specified date, the taxpayer would be required to accrue interest on such pool based upon a reasonable assumption regarding the timing of the payments of the accounts in the pool. Similar rules apply under present law with respect to the accrual of original issue discount with respect to REMICs. The provision was effective for taxable years beginning after August 5, 1997.

For transition rules, see Notice 97-67, 1997-2 CB 330.

balances are not paid within this 30-day grace period, interest will accrue from the date of the charge until the balance is paid. Further assume that the taxpayer issues a significant number of such credit cards and the card holders incur charges of \$10 million in December 1997. Under present law (depending upon the taxpayer's accounting method), the taxpayer is not required to include any interest income in 1997 with respect to the December charges because it is possible that all the credit card holders will pay off the \$10 million cumulative December balance by January 30, 1998, and therefore will not be subject to interest with respect to such charges. If some of the credit card holders do not pay their December charges by January 30, 1998, the balances of those holders will be subject to interest charges under the terms of the credit cards and the taxpayer would accrue such interest in income in 1998. Under the bill, the taxpayer, in computing its 1997 taxable income, would be required to make a reasonable assumption as to what portion of the \$10 million balances will not be paid off within the 30-day grace period and would be required to accrue interest income through December 31, 1997, with respect to such portion. The taxpayer would then adjust such accrual in 1998 to reflect the extent to which such prepayment assumption reflected the actual payments received in January.

In addition, the Secretary of the Treasury is authorized to provide appropriate exemptions from the provision, including exemptions for taxpayers that hold a limited amount of debt instruments, such as small retailers.⁴¹

The mathematics of how a literal application of the section would work is described in David Garlock, *Federal Income Taxation of Debt Instruments*.⁴²

Among issues that regulations should consider are how prepayment assumptions may be determined, how those assumptions would be adjusted for cardholders whose interest rates are increased as a result of defaults and penalties, which fees can be considered interest and OID and under what circumstances (given that much of the current guidance is technical guidance that cannot always be securely relied upon), how the small business exception provided in Section 1272(a)(6)(C)(iii) is to be implemented, how fees are to be aggregated and when they may be disaggregated, and how additional charges on carryover amounts will be treated.⁴³

⁴¹ H. Rept. 105-148.

⁴² ¶ 10.03.

⁴³ See Linda Beale, blogging on a 2004 session of the ABA Tax Section Banking and Savings Institutions Committee (May 13, 2004, at http://taxprof.typepad.com/taxprof_blog/2004/05/guest_blogger_1.html).

History of IRS Analysis

Annual Fees. In Rev. Rul. 2004-52,⁴⁴ an accrual method credit card issuer charged cardholders an annual fee, no part of which was charged to any cardholder for a specific benefit or service. Some annual fees were nonrefundable, and some were refundable on a pro rata basis if the cardholder closed the account during the period covered by the fee. The fee was due and payable when posted to the cardholder's credit card statement.

The Service's analysis begins with the statement that interest is compensation for the use or forbearance of money.⁴⁵ Financial and regulatory labels do not determine the proper federal income tax characterization.⁴⁶ The annual fee was charged for all the benefits and services available to the cardholder under the cardholder's agreement. Because the fees were paid for the benefits and services, they were not compensation for the use or forbearance of money and therefore were not interest.

Credit card issuers described in Rev. Rul. 2004-52 may, under Rev. Proc. 2004-32,⁴⁷ use a ratable inclusion method for credit card annual fees. The Procedure applies to a taxpayer that uses an overall accrual method of accounting for federal income tax purposes⁴⁸ and that issues credit cards to, and receives annual fees from, cardholders under agreements that allow each cardholder to use a credit card to access a revolving line of credit to make purchases of goods and services and, if so authorized, to obtain cash advances. Under the ratable inclusion method, a credit card annual fee is recognized in income ratably over the period covered by the fee.

(1) *Closed accounts.* If a credit card is cancelled or if a cardholder account is otherwise closed during a taxable year, any remaining unrecognized portion of the credit card annual fee that is allocable to the account must be recognized in income in that year, unless the remaining portion is refunded.

⁴⁴ 2004-22 IRB 989.

⁴⁵ *Deputy v. DuPont*, 308 U.S. 488 (1940), 1940-1 C.B. 118; *Old Colony Railroad Co.*, 284 U.S. 552 (1932), 1932-1 CB 274.

⁴⁶ See *Thor Power Tool Co. v. Commissioner*, 439 U.S. 522, 542-43 (1979), 1979-1 CB 167, 174-75; Rev. Rul. 72-315, 1972-1 CB 49.

⁴⁷ 2004-22 IRB 988.

⁴⁸ Under Reg. 1.451-1(a) of the Income Tax Regulations, income is includable in gross income by a taxpayer that uses an accrual method of accounting when all events have occurred that fix the taxpayer's right to receive that income and the amount of that income can be determined with reasonable accuracy. See also Reg. 1.446-1(c)(1)(ii)(A). Generally, all the events that fix the right to receive income occur when either the required performance takes place, payment is due, or payment is made, whichever occurs first (the all events test). See Rev. Rul. 2003-10, 2003-1 CB 288; Rev. Rul. 80-308, 1980-2 CB 162.

(2) *Fees billed in installments.* If a credit card annual fee is due and payable in installments, each installment must be recognized ratably over the period to which the installment relates.

The Procedure provides that issuers may account for income from credit card annual fees in an aggregate manner. A taxpayer that accounts for annual fees in an aggregate manner must establish that its recognition of credit card annual fee income satisfies the ratable recognition requirement, as well as making appropriate adjustment for closed accounts and fees billed in installments. Change of method requirements are described in section 5 of the Procedure, with section 6 providing audit protection.

Ratable inclusion accepts the conformity position that has been advocated by credit card banks.⁴⁹

Late Fees. Revenue Procedure 2004-33⁵⁰ describes conditions under which the IRS will allow a taxpayer to treat income from credit card late fees as interest income on a pool of credit card loans. A taxpayer may, under the Procedure, obtain the Service's consent to change its method to treat the fees as interest that creates or increases the amount of original issue discount (OID) on the pool of credit card loans to which the fees relate. The Procedure applies to taxpayers if:

1. They issue credit cards allowing cardholders to access a revolving line of credit established by the issuers.
2. None of the cardholders' credit card transactions is treated by the taxpayers for federal income tax purposes as creating either debt that is given in consideration for the sale or exchange of property (within the meaning of Section 1274) or debt that is deferred payment for property (within the meaning of Section 483), or that is charged for property⁵¹ or for specific services performed by the tax-

⁴⁹ See Barnett Banks of Florida, Inc., 106 TC 103 (1996).

⁵⁰ 2004-22 IRB 989.

⁵¹ See GCM 39,434, 1985 IRS GCM LEXIS 99, in which the IRS had previously interpreted bank credit card fees to represent loan commitment fees for a property right — the right to use money — rather than a fee for services. The GCM is cited in *American Express v. U.S.*, 47 Fed. Cl. 127 (2000), 262 F.3d 1376 (Fed. Cir. 2001), which found that a ratable inclusion method could not be used for annual fee payments from cardholders. AMEX was including 1/12th of the annual fee in income in the month the fee was billed and in each of the following 12 months, but the IRS said that Rev. Proc. 71-21, 1971-2 CB 5492, could not be used because the Procedure would only apply to advance payments for services but the fee was in part for credit and goods. The IRS offered AMEX the opportunity to segregate the portions of the payments that were services so that the deferral would be possible, but AMEX failed to convince the IRS that its proposed segregation was satisfactory. As to Barnett Banks and Signet, the Federal Circuit stated:

payers for the benefit of cardholders. (Effectively, the issuer is not a retailer.)

3. The amounts of credit card late fees charged are separately stated on the cardholders' accounts when imposed.

Whether a fee is an interest charge is determined from the facts and circumstances surrounding the imposition of the charge. Neither the label applied by the taxpayer to the charge (e.g., "finance charge") or its treatment for financial or regulatory reporting purposes is determinative of the proper federal income tax characterization of the fee.⁵²

Revenue Ruling 74-187⁵³ held that late fees on utility bills were interest absent evidence the late payment charge assessed by the utility was for a specific service performed in connection with the customer's account. Even a one-time charge imposed as a flat sum in addition to a stated periodic interest rate could be interest.⁵⁴

Original issue discount is, under Section 1273(a)(1), the excess of the stated redemption price at maturity (SRPM) over the issue price of the instrument. Section 1273(a)(2) provides that the SRPM of a debt instrument is the amount fixed by the last modification of the purchase agreement and includes

Both *Barnett Banks* and *Signet* (decided on the same day by different judges of the Tax Court) involved banks that issued credit cards and charged annual fees to their cardholders, which entitled the cardholders to credit. In *Barnett Banks*, the fee was refundable, 106 T.C. at 107, and there was no mention of what consideration was received for payment of the annual fee. On that basis, the Tax Court held that the entire annual fee was ratably deferrable under Rev. Proc. 71-21 because the "cardholders paid annual fees and received services," and because the annual fee was refundable on a pro rata basis if the card were cancelled by the taxpayer. *Barnett Banks*, 106 T.C. at 110-11. In *Signet*, the annual fee was non-refundable and, according to the cardholder agreement, was paid in consideration for opening an account and establishing a credit limit. 106 T.C. at 122. Therefore, the Tax Court held that no part of the annual fee was deferrable as a payment for a "service" under Rev. Proc. 71-21 because the taxpayer performed all the acts it was required to perform when the card was issued and a credit limit was established for the cardholder. 106 T.C. at 126-27. We are not persuaded by the reasoning in either case.

The Federal Circuit concluded that whether credit provided to cardholder was a "service" under Rev. Proc. 71-21 could not "hinge on such factual distinctions as whether or not the fee is refundable or on statements made in the cardholder agreement." The Fourth Circuit affirmed the Tax Court in *Signet*, finding the facts suggested that "the annual fee represented a general revenue raising measure as opposed to an attempt to charge users for the cost of services rendered," *Signet*, 118 F.3d at 241, and held that the entire fee should be included at the time it was charged.

⁵² For which the Procedure cites Rev. Rul. 72-315, 1972-1 CB 49; *Thor Power Tool Co.*, 439 U.S. 533, 542-3 (1979), 1979-1 CB 167.

⁵³ 1974-1 CB 167.

⁵⁴ Citing Rev. Rul. 77-417, 1977-2 CB 60, and Rev. Rul. 72-2, 1972-1 CB 19.

interest and other amounts payable at that time, other than qualified stated interest (QSI). Under Reg. 1.1273-1(b), SRPM is the sum of all payments provided by the debt instrument other than QSI. Regulation 1.1273-1(c) defines QSI as stated interest that is unconditionally payable in cash or property other than debt instruments of the issuer or that will be constructively received under Section 451 at least annually at a single fixed rate.

The Procedure provides audit protection for some taxpayers that used ratable inclusion prior to issuance of the Procedure. Apparently, some taxpayers had been treating late fees as OID and spreading them over the remaining life of the receivables under the catch-up method.⁵⁵

Cash Advance Fees. Under Rev. Proc. 2005-47,⁵⁶ the Service described conditions under which credit card cash advance fees could be treated as creating or increasing original issue discount on a pool of credit card loans that included the cash advances that gave rise to the fees. The Procedure applies to taxpayers issuing credit cards allowing cardholders to access revolving lines of credit both to make credit card purchase transactions and to obtain cash advances, provided the issuer does not treat the credit card purchases as creating debt given in consideration for the sale or exchange of property. A “credit card cash advance fee” is generally a flat fee or a percentage of the face amount of the cash advance, often subject to minimum and maximum limits. Such fees are generally imposed in addition to any stated periodic interest rate charges.

Under Reg. 1.1273-1(b), stated redemption price at maturity (SRPM) is the sum of all payments provided by the debt instrument other than payments of qualified stated interest (QSI). A taxpayer must be able to demonstrate the following:

1. The amount of any credit card cash advance fee charged to a cardholder by the taxpayer is separately stated on the cardholder’s account when that fee is imposed; and
2. Under the credit card agreement, no amount identified as a credit card cash advance fee is charged for property or for specific services performed by the taxpayer for the benefit of the cardholder.

Third-Party ATM Surcharge Fees. In Rev. Rul. 2005-47,⁵⁷ the Service determined that a credit card issuer is to treat third-party ATM surcharge fees

⁵⁵ David Garlock, *Federal Income Taxation of Debt Instruments*, ¶ 10.03[A].

⁵⁶ 2005-32 IRB 269.

⁵⁷ 2005-32 IRB 261.

incurred by cardholders as additional amounts loaned to the cardholders.⁵⁸ This is so whether the credit card issuer reflects the ATM surcharge fee on the cardholder's cash advance or as a separately stated amount. The Ruling considered two situations in which the issuer remitted amounts to the owner or operator of the ATM in satisfaction of the cardholder's liability for an ATM surcharge fee imposed for a cash advance. In the first situation, X issues a credit card to A, who uses it to obtain a cash advance of \$100 at an ATM owned by Y. After A initiates the transaction requesting \$100, A is informed that, for the transaction to be completed, an ATM surcharge fee of \$5 will be deducted from the cash advance requested by A. A accepts the liability and \$95 of funds are disbursed to A. Upon Y's request to X for reimbursement for A's ATM cash advance, X remits \$100 to Y and reflects a \$100 cash advance on A's account. In the second situation, A uses an ATM operated by Z to obtain a \$125 cash advance. Here, A is informed that to complete the transaction, a \$5 surcharge fee will be charged in addition to the cash advance. Thus, \$125 is disbursed to A and on Z's request for reimbursement for A's cash advance, X remits \$130 to Z. A's account reflects both the \$125 cash advance and the \$5 surcharge.

Regulation 1.1273-2(g) provides rules for determining the treatment of certain cash payments made incident to lending transactions, and Reg. 1.1273-2(g)(4) provides rules for payments made between the lender and a person other than the borrower. Thus, if a lender makes a payment to a third party, that payment is treated in appropriate circumstances as an additional amount loaned to the borrower and then paid by the borrower to the third party.⁵⁹ In the situations described in the Ruling, when X remitted amounts to Y and Z, X was making the payments on behalf of A. The Service ruled that the surcharge fee is treated as an additional amount loaned by X to A and then paid by A to Y or Z. This was determined to apply regardless of whether the surcharge fee was reflected on A's account as part of the cash advance (as in the first situation) or as a separately stated amount (as in the second).

⁵⁸ TAM 200533023 (May 10, 2005) considered whether cash advance fees charged by an issuing bank to a cardholder, but did not consider ATM charges within the definition of cash advance fees. Such fees were determined to be interest in the TAM. See "Technical Advice Memos Consider Fees Imposed by Credit Card Issuers," 19(2) J. Taxation and Regulation of Financial Institutions 23 (November/December 2005).

⁵⁹ TAM 200533023 describes a situation in which the Service determined that the circumstances were not appropriate for considering "interchange fees" as part of a lending transaction between a credit card issuing bank and its cardholders. The ATM surcharges were paid by the issuing bank to the bank providing the cash advance, unlike the interchange fees in the TAM, which were paid by a merchant bank to the issuing bank and a credit card association (or its clearinghouse). The interchange fees in the TAM were apparently not included in statements given to cardholders, who would therefore not know of them. In Rev. Rul. 2005-47, on the other hand, cardholders obtaining cash advances know about the ATM surcharge at the time of the cash advance.

In both situations, the credit card issuer treats third-party ATM surcharge fees incurred by its cardholders as additional amounts loaned to those cardholders.

Two Kitchen Sink TAMs From 2005. In TAMs 200533022 and 200533023, the IRS made the following characterizations:

- Annual fees—not interest.
- Late fees—interest.
- Over-the-limit (OTL) fees—interest.
- Cash advance fees—interest.
- Non-sufficient funds (NSF) fees—interest.
- Merchant fees—not interest.
- Interchange fees—not interest.

The late fees, OTL fees, cash advance fees, and NSF fees were not charged for services or property provided by the issuer, but were instead charged for the use or forbearance of money, and hence were interest. “This is so even though the late fees [and OTL fees, cash advance fees, and NSF fees] at issue were not denominated as a finance charge and were imposed as a flat sum in addition to the stated periodic rate finance charge.”⁶⁰ The cash advance, OTL, and NSF fees did create or increase the amount of OID on the cardholder loans to which the fees related. Whether the late fees created or increased OID on the bank’s credit card pool was returned to the field to be considered under Rev. Proc. 2004-33. The annual fees and interchange fees, not being interest, did not create or increase OID on cardholder loans. The factors considered for the specific fees are described as follows.

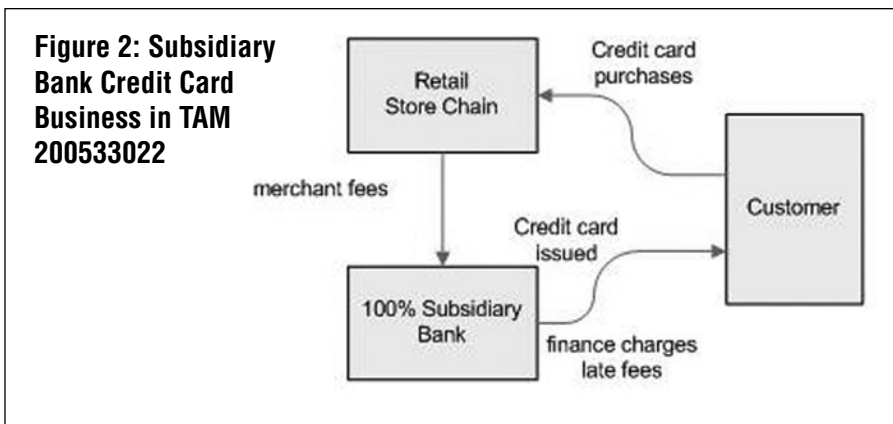
Annual Fees. Annual fees were non-refundable flat fees that amounted to as much as \$a, but initial billing of the fee was normally deferred several months, at which time it was charged ratably over a 12-month period. It was billed annually if the cardholder continued to meet the issuer’s criteria. The issuer sometimes waived the fee at the request of a cardholder to increase customer satisfaction and retention and because this fee was “particularly sensitive to competitive pressures.”

Late Fees. Late fees were specified flat charges imposed if a stated minimum payment from a cardholder was not received by the issuer by the payment due date. If, during Year 1, the late fee charged by the bank in TAM 200533022

⁶⁰ Citing Rev. Ruls. 72-315, 74-187, and 77-417, 1972-1 CB 19. The quoted text is repeated four times, each time with the particular fee under discussion inserted in the sentence.

to a cardholder was “b” dollars,⁶¹ this was added to a delinquent cardholder’s balance, and if the amount due remained unpaid at the next payment due date, an additional late fee was added. This continued until the account was returned to a current condition. The Service concluded that the late fees described in the ruling were charged by the issuer for the use or forbearance of money and, thus, were interest. “This is so even though the late fees at issue were not denominated as a finance charge and were imposed as a flat sum in addition to the stated periodic interest charge.” Late fees could be waived on a case-by-case basis.

Failure to make a timely minimum payment was an event of default under the issuer’s cardholder agreements.



The amount of OID created or increased by late fee income was returned to the field for consideration under Rev. Proc. 2004-33.

Over-the-Limit Fees. Over-the-limit fees were imposed on any day, but not more than once in a billing cycle, that a cardholder exceeded the agreed credit limit. Exceeding the credit limit was also an act of default under the issuer’s cardholder agreements. In certain circumstances, the issuer permitted a cardholder to exceed the credit limit by a certain margin.

Cash Advance Fees. The issuer did not provide a grace period on cash advance transactions, which included ATM withdrawals, convenience checks, wire transfers, and bail bonds. Cash advance fees, for purposes of the TAM, did not include ATM fees, which are fees taken at the time a cash advance is obtained, but were specified percentages of the cash advance, with a minimum fee under the terms of the cardholder agreement.

⁶¹ Using the substitute terms provided in the PLR.

Non-Sufficient Funds Fees. An NSF fee was imposed by the issuer when a cardholder's attempted payment was returned unsatisfied. The amount of the charge was determined "primarily, if not exclusively, based on what [the bank's] competitors charged their customers."

Merchant Fees. In TAM 200533022, the subsidiary bank charged its retail chain/parent a "merchant fee" of $c\%$ of the amount of any cardholder purchases made with a subsidiary bank-issued credit card. The Service held that the parent failed to establish that any portion of the merchant fees was properly allocable to the subsidiary bank's cardholder loans, and that the fees were compensation for services rendered by the subsidiary to the parent. As such, they were intercompany transactions under Reg. 1.1502-13(b)(1)(i),⁶² and because of the parent's separate method of accounting, they were deductible expenses under Section 162(a). Under Reg. 1.1502-13(c)(2)(i) and (ii), the bank was required to take the merchant fees into income in an amount that corresponded to the parent's deduction for those fees.

Interchange Fees. In TAM 200533023, the bank earned interchange fees under interchange programs operated by credit card associations under which the bank issued its credit cards. Credit card associations establish rules for their own interchange programs, and issuing banks issue credit cards under the association programs. Merchant banks enter into agreements with merchants allowing them to accept credit cards under association programs. Association clearinghouses maintain records and perform functions that ensure the flow of information and money. Interchange programs thus promote—

the broad acceptance of credit cards by facilitating the exchange of a large volume of information and money on a standardized and consistent basis and by ensuring that credit card transactions are properly settled among the numerous parties involved in a credit card program.

Under an interchange program, a merchant bank is charged an interchange fee on a credit card purchasing transaction by the issuing bank's cardholder. Most of the fee is received by the issuing bank, and some is received by the association's clearinghouse.

Interchange fees are set and adjusted by the associations, which may differ as to the amount of their fees for different transactions. Interchange fees are not normally remitted on a transaction-by-transaction basis, but rath-

⁶² That regulation provides: "An intercompany transaction is a transaction between corporations that are members of the same consolidated group immediately after the transaction."

er are applied to the face amount of credit card purchases with the addition of a flat amount for each transaction. The “face amount,” for this purpose is the amount charged the cardholder by the merchant for the purchased good or service as reflected on the sales receipt. A purchase of a \$100 item for \$100 means that the face amount of the transaction is \$100.

The Service’s analysis of the interchange fees, paid from third-party merchant banks to the issuing bank, begins with the question of whether these payments could qualify as OID despite not being made by the borrower. The regulatory analysis involves regulations under Section 1273:

Generally, for a third party’s payment to a lender to result in OID, three requirements must be satisfied: (1) under section 1.1273-2(g), the third party’s payment to the lender must be made incident to, and part of, a lending transaction between the lender and the borrower; (2) under section 1.1273-2(g)(4), the circumstances must be appropriate for imputing that payment to the borrower; and (3) when considered under section 1.1273-2(g)(2), that payment is not for property or services.

The Service concluded that Taxpayer 2 had not established that any of these three requirements. Taxpayer 2’s position was described as follows:

Taxpayer argues that credit card purchase transactions are lending transactions, and absent the credit card purchase transactions, interchange fees would not be paid. Also, Taxpayer argues that the amount of the fee is based primarily on the amount of funds loaned and, under the associations’ rules, is intended to compensate Bank for providing a grace period to its cardholders.

The Service, however, stated that these factors alone did not make the interchange fees part of a lending transaction between the bank and its cardholders. The factors the Service felt important in indicating that the interchange fees were not earned incident to the bank’s lending transactions with its cardholders were:

1. Interchange fee rates charged to the merchant banks were set by the associations, which were not parties to the lending transactions, and these rates were determined for each merchant transaction or class of merchant transactions.
2. Unlike seller-paid points, the interchange fee was paid by a merchant bank under the associations’ rules on its own behalf, rather than on behalf of the cardholder.⁶³

⁶³ Taxpayer, according to the TAM, analogized the merchant bank’s payment of an inter-

3. A portion of each interchange fee was paid under the associations' rules to the clearinghouses, which were also not parties to the lending transaction.
4. Interchange programs were developed by the associations to promote the broad acceptance of credit cards by facilitating the consistent exchange of information and money and by ensuring proper settlement.

These factors, according to the IRS, suggested that the interchange fees earned by the bank were "too attenuated from [its] discrete cardholder lending transactions to be considered incident to, and part of, those lending transactions." As a result of this determination, the Service also concluded that the interchange fees were outside the scope of Reg. 1.1273-2(g)(2) and did not result in OID on the bank's cardholder loans.

Even if the interchange fees could be said to be incident to, and part of, the bank's cardholder lending transactions, the IRS did not believe that Taxpayer had established that it would be appropriate to impute payment of the fees to the bank's cardholders under Reg. 1.1273-2(g)(4). Regulation 1.1273-2(g)(2) would reduce the issue price of the debt instrument evidencing the cardholder's loan. Thus, the face amount of a cardholder's credit card purchase transaction would not be, according to the TAM, the correct issue price of any loan by the bank to the cardholder with respect to the credit card purchase transaction.⁶⁴

Because Taxpayer has not clearly established that the circumstances are appropriate to impute the merchant banks' payment of interchange fees to Bank's cardholders, we conclude that these interchange fees are not properly imputed to Bank's cardholders under section 1.1273-2(g)(4). Therefore, these interchange fees do not result in OID on Bank's cardholder loans.

One aspect of TAM 200533033 that receives careful attention from the IRS is whether the interchange payments might be interest and include OID.

change fee to seller-paid points. See Reg. 1.1273-2(g)(5), Example 3.

⁶⁴ A footnote states:

There is no indication that Bank's cardholders have any knowledge of the interchange fees earned by Bank as a result of their respective specific credit card purchase transactions. It is, therefore, not clear to us how a cardholder would be able to determine the correct issue price under section 1.1273-2(g)(2).

The crucial provision in 1.1273-2(g)(4) and the related example state:

Reg. 1.1273-2(g)(4) Payments between lender and third party. If, as part of a lending transaction, a party other than the borrower (the third party) makes a payment to the lender, that payment is treated in appropriate circumstances as made from the third party to the borrower followed by a payment in the same amount from the borrower to the lender and governed by the provisions of paragraph (g)(2) of this section. If, as part of a lending transaction, the lender makes a payment to a third party, that payment is treated in appropriate circumstances as an additional amount loaned to the borrower and then paid by the borrower to the third party. The character of the deemed payment between the borrower and the third party depends on the substance of the transaction.

...

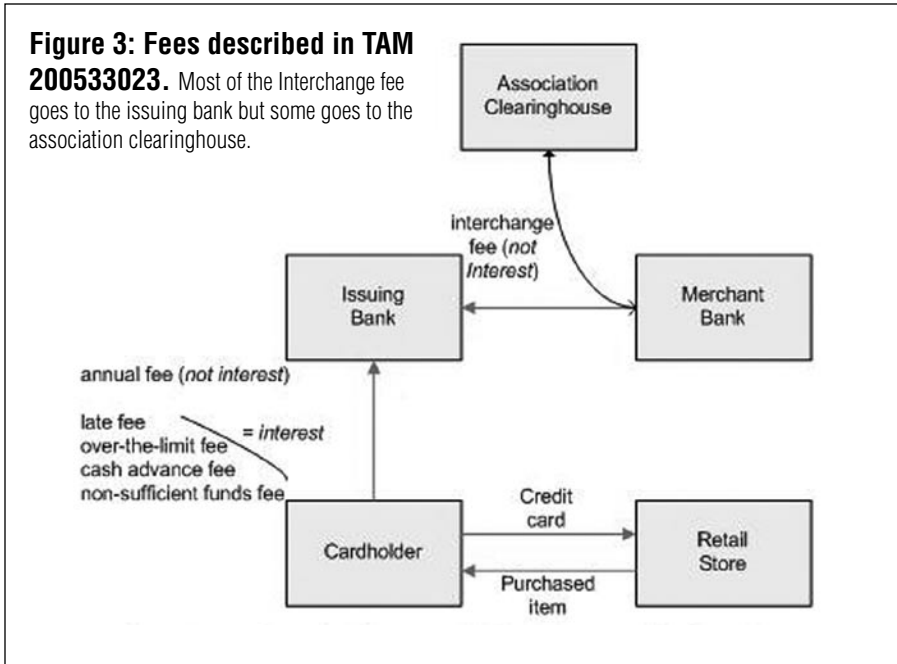
Example 3. Payments between lender and third party (seller-paid points)—

(i) *Facts.* A sells real property to B for \$500,000 in a transaction that is not a potentially abusive situation within the meaning of section 1.1274-3). B makes a cash down payment of \$100,000 and borrows \$400,000 of the purchase price from a lender, L, repayable in annual installments over a term of 15 years calling for interest at a rate of 9 percent, compounded annually. As part of the transaction, A makes a payment of \$8,000 to L to facilitate the loan to B.

(ii) *Payment results in a de minimis amount of OID.* Under the provisions of paragraphs (g)(2)(i) and (g)(4) of this section, B is treated as having made an \$8,000 payment directly to L and a payment of only \$492,000 to A for the property. Thus, B's basis in the property is \$492,000. The payment to L reduces the issue price of B's debt instrument to \$392,000, resulting in \$8,000 of OID (\$400,000 - \$392,000). Because the amount of OID is de minimis under section 1.1273-1(d), L accounts for the de minimis OID under section 1.1273-1(d)(5). But see section 1.1272-3 (election to treat de minimis OID as OID). B accounts for the de minimis OID under section 1.163-7.

The Service noted that under Reg. 1.1273-2(g)(2),⁶⁵ cash payments that

⁶⁵ Reg. 1.1273-2(g)(2) provides that in—



compensate lenders for loan processing costs do not result in OID. A footnote in the TAM adds:

Because interchange obligations between issuers and merchant banks are netted under the associations' interchange programs and because tracing of interchange fees at the cardholder account level is not feasible for Bank, it is not clear to us, even assuming arguendo such fees resulted in OID, that Bank would be able to determine the correct issue price of every individual loan attributable to a cardholder credit card purchase transaction.

Other Tax Developments

There are many tax issues arising from the use of credit cards. Two Tax Court

a lending transaction to which section 1273(b)(2) applies, a payment from the borrower to the lender (other than a payment for property or for services provided by the lender, such as commitment fees or loan processing costs) reduces the issue price of the debt instrument evidencing the loan. (emphasis added)

Section 1273(b)(2) states that where debt instruments are not issued for property or publicly offered, the issue price of the instrument is the price paid by its first buyer. The drafters of the regulation intended to eliminate a line of cases requiring prepaid interest to be included in income when due. See cases cited in TAM 200019041 (March 3, 2000). The carve-out of loan processing costs means that such costs are includable when received.

cases, *Scott*⁶⁶ and *Martins*,⁶⁷ concern cancellation of indebtedness income involving credit card debt. An industry favorable ruling recently issued, PLR 200603019,⁶⁸ rewarded a persistent debt collection business for its tenacity in not giving up on debtors where other businesses had. The ruling indicates that a debt collection business can largely determine when it will issue a Form 1099-C, since substantial collection activities do not require it to report discharges except under other “identifiable events.” Under Reg. 1.6050P-1(b)(2)(iii), a creditor’s policy to discontinue collection activity and abandon debts is considered an event that triggers recognition of cancellation of indebtedness income. If a taxpayer engages in “significant, bona fide collection activity,” it can delay the event that will require recognition of cancellation of indebtedness income. Thus, the credit can determine when to take the loss and when the debtor must take the income from canceling the debt. The Service has also considered issuers arising when credit card receivables are transferred.⁶⁹

Conclusion

There are fees (such as account processing fees) that are includable when received. Annual fees may, under certain circumstances, be spread out over a year. A number of fees have, with varying levels of authority, been determined to be interest, and thereby interest calculated under the as yet not defined OID rules for credit cards. The technical advice indicates that OID issues are being resolved by IRS field agents, hopefully with some degree of consistency. It is time for Treasury to issue proposed rules, or at least an advance notice indicating working concepts for credit card OID rules.

⁶⁶ TC Summary Op. 2006-16 (January 30, 2006). The case was heard Section 7463, involving certain disputes under \$50,000, and therefore cannot be treated as precedent or reviewed by another court.

⁶⁷ TC Summary Op. 2006-43.

⁶⁸ October 19, 2005 (release January 20, 2006). The PLR was signed by Donna Welch, Senior Counsel, Administrative Provisions and Judicial Practice (Procedure and Administration).

⁶⁹ See FSA 200136010 (June 1, 2001), noting:

[T]here are a number of unresolved issues under the OID rules with respect to the proper tax treatment of credit card debt. For example, although we believe that a credit card receivable is an evidence of indebtedness, it is unclear whether, under the OID provisions, each receivable is properly characterized as a separate loan, or whether the outstanding account balance (which includes previous accrued by unpaid interest, finance charges, and other account charges) should be considered the loan.

Appendix: U.S. Credit Card Fees and Features

The following table, adapted from a table in the Federal Reserve website (www.federalreserve.gov/pubs/shop/default.htm), includes the annual percentage rate, type of pricing, grace period, annual fee, and other features of many credit cards issued by U.S. financial institutions. Availability refers to where customers may obtain cards (N = nationally; R = selected states; NY = New York or other state abbreviation). Type of pricing may be fixed (F), variable (V), or tiered (T), the latter with different periodic rates for different levels of outstanding balance. The rate shown applies to the lowest of the balance tiers. Interest on variable-rate plans is based on an index, which the numbers below corresponding to the specified indices:

- 1 = Prime rate
- 2 = One-month Treasury bill rate
- 3 = Three-month Treasury bill rate
- 4 = Six-month Treasury bill rate
- 5 = One-year Treasury bill rate
- 6 = Federal funds rate
- 7 = Cost of funds to card issuer
- 8 = Federal Reserve discount rate
- 9 = Other
- 0 = Not applicable

Other features may include cash rebates, purchase protections, warranty guarantees, travel accident or automobile rental insurance, discounts on goods and services, and incentives such as frequent flyer miles. The numbers in the table correspond to the following features:

- 1 = Rebates on purchases
- 2 = Extension of manufacturer's warranty
- 3 = Purchase protection/security
- 4 = Travel accident insurance
- 5 = Travel-related discounts
- 6 = Automobile rental insurance
- 7 = Non-travel-related goods and services
- 8 = Credit card registration
- 9 = Reduced introductory interest rate available
- 10 = Other, not specified
- N.R. = Not reported

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Adirondack Trust Company	Visa,ny	15	F	0	25	15	4,6
Amalgamated Bank Of Chicago	Amalgamated-mastercard,n	9.25	V	1	25	0	4,5,10
American State Bank	American State Bank Visa, Tx	6.9	F	0	25	0	4,6,10
American Savings Bank, Federal Savings Bank	Classic Visa, Hi	16.25	F	0	25	24	4,6
Armsouth Bank	Visa, R	13.9	V	1	26	0	2,4,6
Arkansas National Bank	Escapes / Anb, N	8.25	F	0	28	0	N.r.
Appalachian Community Bank	Visa Classic, N	11.88	F	0	25	12	1,4,5,8,10
Cross Country Bank	Visa Applied Card Bank, N	23.99	V	1	0	50	N.r.
Arvest Bank	Visa, R	16.9	V	1	25	0	4,6
Atlantic Stewardship Bank	Visa Classic, Nj	8.99	V	1	25	15	2,3,4,5,6
Bancorpsouth Bank	Mastercard, R	15.9	V	1	30	0	N.r.
Bangor Savings Bank	Visa Classic, N	14.15	V	1	25	0	5
The Bank	Visa, Pa	13	V	1	25	0	2,3,4,6
Bank Of America Na Usa	Visa Platinum,n	12.24	V	1	20	0	2,3,4,6,9
Bank Of Kentucky	Name Of Plan: Visa Gold, R	17.28	V	1	25	0	4,9
Bank Of Louisiana	Bank Of Louisiana,n	9.9	F	0	25	0	3,4,5,6,9

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Bank Of The Sierra	Visa, Ca	12.99	F	0	25	0	4,6
Bankers Bank	Prime Advantage Visa, R	9.9	V	1	25	0	N.r.
Banker's Bank Of Kansas Na	Visa, Ks	14.42	V	1	25	0	4
Bar Harbor Bank And Trust Company	Visa Classic, Me	14.5	F	0	25	0	10
Bmw Bank Of North America	Visa, N	11.99	V	1	22	0	2,3,4,6,10
Boone County National Bank Of Columbia	Mastercard/visa, R	17.4	F	0	25	0	4
Branch Banking And Trust Company	Visa, R	9.9	V	1	25	0	3,4,5,6,9
California Commerce Bank	Mastercard Premium, N	12.24	V	1	25	0	4,6,10
Capital One Bank	Mastercard, N	18.9	V	1	25	39	N.r.
Central Bank And Trust Company	Name Of Plan: Visa, Ky	18	F	0	25	20	N.r.
Central Trust Bank	Mastercard / Visa, R	17.4	F	0	25	0	4
Chase Manhattan Bank Usa Na	Visa, N	7.99	F	0	20	0	N.r.
Chemung Canal Trust Company	Mastercard, Ny	11.4	V	1	25	25	N.r.
Citibank Na	Mastercard, N	9.74	V	1	20	0	N.r.
First American Bank State Savings Bank	Visa Classic, Tx	16.92	F	0	25	0	4,6,10
Citizens And Northern Bank	Visa, R	12.4	V	1	25	0	3,4,6

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Citizens Bank Of Massachusetts	Master Card, N	8.99	V	1	25	0	1,2,3,4,6
Citizens Bank Of Pennsylvania	Mastercard, N	8.99	V	1	25	0	1,2,3,4,6
Citizens Bank Of Rhode Island	Master Card, N	8.99	V	1	25	0	1,2,3,4,6
City National Bank Of Taylor	Visa And Mastercard, Tx	13.92	F	0	25	0	4,6
Columbus Bank And Trust Company	Visa Classic, N	14.15	V	1	25	0	N.r.
Commerce Bank And Trust	Visa Classic, Ks	15.13	V	1	25	0	4,9
Commerce Bank Na	Visa Gold, R	13.9	F	0	25	0	N.r.
Commerce Bank Na	Special Connections Visa & Mastercard, R	16.5	V	1	25	0	4,6
Community First Bank And Trust	Name Of Plan: Classic Visa, R	14.25	V	1	25	0	6
Community First Bank	Mastercard, Ar	9.75	F	0	25	50	10
Community National Bank	Visa, Vt	13.56	F	0	25	0	N.r.
Compass Bank	Visa, R	16.24	V	9	25	0	N.r.
Americrest Bank	Mastercard, R	12.65	V	1	25	15	3,4,5,8,9
County National Bank	Visa, N	14.88	F	0	15	15	3,4,5,6,8
Delaware National Bank	Visa, R	13	V	1	25	0	2,3,4,6
Direct Merchants Credit Card Bank Na	Mastercard, N	20.24	V	1	25	0	N.r.
Discover Bank	Discover Card, N	13.99	F	0	25	0	1,4,6,7,9

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Dollar Bank Federal Savings Bank	Name Of Plan: Dollar Bank Visa, R	12.9	V	1	25	0	9
East Penn Bank	Visa Classic, N	12.65	V	1	25	0	4
Exchange National Bank Of Jefferson City	Mastercard, Mo	16.92	F	0	25	0	4
Farm Bureau Bank Federal Savings Bank	Mastercard, N	11.74	V	1	20	0	9,10
Fds Bank	Name Of Plan: Fds Bank Visa, N	16.9	V	1	25	0	N.r.
First Bank And Trust East Texas	Visa Classic, Tx	13.92	F	0	25	0	N.r.
First Commercial Bank	Visa Platinum, Al	10.15	V	1	25	0	4,5,6,8,9
First Command Bank	Visa Platinum, N	7.25	F	0	30	0	2,4,6
First County Bank	Visa, Ct	12.4	V	1	25	25	N.r.
First Financial Bank Na	Name Of Plan: Classic Mastercard, R	11.5	V	1	25	0	N.r.
First Financial Bank Na	Visa Classic, R	14.9	F	0	25	15	4,6
First Federal Savings And Loan Association	Visa, N	9.9	V	1	25	0	N.r.
First Hawaiian Bank	Mastercard Standard, Hi	16.5	F	0	25	15	4,6,7,10
First Interstate Bank	Visa Scorecard, R	18	V	1	25	35	4,5,6,8,9
First National Bank Of The Mid-cities	Mastercard Regular And Gold, N	13.92	F	0	25	0	N.r.
First National Bank Of Fairfield	Visa, Mt	15.6	F	0	25	0	5,7
First National Bank Of Marin	Visa, N	23.9	F	0	25	69	N.r.

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
First National Bank Of Omaha	Visa, N	9.99	V	9	25	0	2,3,4,6,9
First National Bank Of St. Louis	Mastercard / Visa, R	17.4	F	0	25	0	4
First National Bank And Trust	Mastercard, Fl	14.9	F	0	30	20	1,9
First Penn Bank	Visa, N	11.9	V	1	25	0	4,6
First Security Bank	Visa, Ar	9.99	F	0	25	0	1,3,4,6
First State Bank	Mastercard Classic, Nm	15.24	F	0	25	0	4
First-citizens Bank And Trust Company	Visa Gold, R	8	V	1	25	20	4
First-knox National Bank Of Mount Vernon	Name Of Plan: Visa Classic, Oh	15.15	V	1	30	0	4
Firstbank Of Colorado	Visa, R	12.4	V	1	25	0	4,6
Firstmerit Bank Na	Name Of Plan: Visa Classic, R	11.15	V	1	0	5	4,6,9
Franklin Templeton Bank & Trust Federal Svg Bank	Platinum Mastercard, N	13.74	V	1	25	0	2,3,4,6,10
Gardiner Savings Institution Federal Saving Bank	Visa Classic, Me	16.5	T	0	25	0	N.r.
Greenville National Bank	Name Of Plan: Classic Visa, Oh	17.99	F	0	25	0	N.r.
Harleysville National Bank And Trust Company	Visa Classic, Pa	13.08	F	0	25	15	N.r.
Heartland Bank	Name Of Plan: Mastercard, Oh	13.65	V	1	25	18	10

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Hills Bank And Trust Company	Visa Classic, Ia	10.32	V	1	25	18	4,6,10
Hsbc Bank Usa	Master Card, N	14.49	V	1	20	0	5,9,10
Huntington State Bank	Visa,tx	13.92	F	0	25	0	N.r.
Iberiabank	Visa Classic Card, La	10.99	F	0	10	12	2
Infibank Na	Visa, N	10.33	V	9	25	0	N.r.
International Bank Of Commerce	Visa, N	13.24	V	1	22	0	2,3,4,6,8
Intrust Bank Na	Visa Platinum, N	11.9	V	1	25	0	4,6,10
Juniper Bank	Air Tran Airways A-plus Visa, N	16.24	V	1	20	39	2,3,4,5,6
Kentucky Bank	Name Of Plan: Visa, Ky	11.9	V	1	25	0	N.r.
Lafayette Ambassador Bank	Visa, Pa	13	V	1	25	0	2,3,4,6
M&i Bank Federal Savings Bank	Visa Classic, R	13.9	V	1	25	15	6,9
Mbna America Bank Na	Mastercard, N	9.9	F	0	25	0	N.r.
Merrick Bank Corporation	Visa Classic, N	22.7	V	1	25	72	6
National City Bank	Name Of Plan: National City Elite Vi, R	13.24	V	1	23	0	2,3,4,6,9
National Grand Bank Of Marblehead	Mastercard, Ma	16.5	F	0	25	0	N.r.
New Millennium Bank	Visa Secured Credit Card, N	19.5	F	0	0	59	2,6
Nordstrom Federal Savings Bank	Visa, N	10.15	V	1	25	0	4,6,10

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Oak Hill Banks	Name Of Plan: Visa, Oh	17.4	F	0	25	0	4,9
Ohio Valley Bank Company	Name Of Plan: Visa,r	13	F	0	25	15	N.r.
Park National Bank	Name Of Plan: Classic Visa, Oh	18	F	0	25	12	N.r.
Penn Security Bank And Trust Company	Mastercard, N	14.8	F	0	25	0	N.r.
Peoples First Community Bank	Mastercard Gold, Fl	10.9	F	0	25	0	N.r.
Pinnacle Bank	Pinnacle Bank, R	15.96	V	9	25	0	4,5,6,10
Plains Commerce Bank	Visa/mastercard, N	19.8	F	0	25	39	N.r.
Planters Bank & Trust Company	Visa (Gold), Ms	8.4	V	1	25	12	2,3,4,5
Pulaski Bank And Trust Company	Visa, N	6.5	F	0	25	35	N.r.
Rainier Pacific Savings Bank	Visa Gold, N	11	V	1	25	0	N.r.
Rbc Centura Bank	Visa Gold, R	12.74	V	1	25	0	2,3,4,6,9
Richland Trust Company	Name Of Plan: Visa Gold, Oh	7.75	V	1	30	50	4
S & T Bank	Name Of Plan: Visa Classic, Pa	9.5	V	1	25	15	4,6,10
Security Bank	Visa Classic, N	16.9	F	0	25	0	N.r.
Security National Bank And Trust Company	Name Of Plan: Visa, Oh	16.9	F	0	25	0	N.r.
Simmons First National Bank Of Pine Bluff	Visa, N	11.25	F	0	25	35	4
Solvay Bank	Visa, Ny	14.88	F	0	25	0	N.r.

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
State Bank And Trust Of Seguin Texas	Visa, Tx	9	V	1	25	25	2,4,6,9
State Bank & Trust Co.	Name Of Plan: Classic Visa, R	13.75	F	0	25	0	9,10
Steuben Trust Company	Mastercard, R	13.92	F	0	25	18	4,5,6,7,8
Sunflower Bank Na	Visa Classic, N	18	F	0	25	0	4,5,6,8
Tom Bank Na	Visa Platinum, N	12.9	V	1	25	0	3,4,6,9
Texas Bank And Trust Company	Visa Classic, Tx	13.92	F	0	25	0	N.r.
Texasbank	Visa, Tx	13.44	F	0	25	0	N.r.
Tib Independent Bankersbank	Visa And Mastercard, N	13.9	V	1	25	0	N.r.
Town North Bank Na	Platinum Mastercard, N	7.5	V	1	25	0	3,4,8,9
Trustmark National Bank	Visa, R	15.9	F	0	30	0	2,4,5,6,8
Us Bank Na North Dakota	Visa,r	14.49	V	1	25	0	N.r.
Union State Bank	Visa Gold, Ny	13.15	V	1	25	0	4,5,6,7,9
United Bank Incorporated	Visa, R	12	V	1	25	0	9,10
Universal Savings Bank, Federal Association	Upfront Rewards Platinum Visa, N	9.99	V	1	25	0	4,10
Usaa Savings Bank	Mastercard, N	6.25	V	1	25	0	N.r.
Valley National Bank	Mastercard, Nj	16.8	F	0	25	0	N.r.

Institution	Credit Card Plan and Availability	Annual % Rate	Type of Pricing	Index	Grace Period (days)	Annual Fee	Other Features
Wallis State Bank	Visa, Tx	14.92	F	0	25	0	4,5,6,8
Wayne Bank And Trust Company	Visa Classic,n	14.76	F	0	25	0	N.r.
Wells Fargo Bank Na	Visa, N	12.15	V	1	25	0	9
Wells Fargo Financial Bank	Visa, R	13.9	F	0	25	20	N.r.
West Suburban Bank	West Suburban Bank Visa, Il	13.75	V	1	25	0	N.r.
Whitney National Bank	Visa, R	11.75	V	1	25	0	N.r.
Wilmington Savings Fund Society Federal Svg Bank	Mastercard, N	14.9	V	1	25	20	N.r.
Wilmington Trust Company	Mastercard, N	14.75	V	4	25	18	4,5,8,10
World's Foremost Bank	Visa, N	13.99	V	1	20	0	1,6
York State Bank And Trust Company	Visa, N	13.99	F	0	25	0	3,4,6,9,10
Zions First National Bank	Visa Classic, R	15.25	V	1	25	0	2,4,6,10
5 Star Bank (A Colorado Industrial Bank)	5star Visa Platinum, N	11.4	V	1	25	0	N.r.