



The IRS published new QI/WP/WT FAQs

Closing the distance

The IRS published three FAQs relating to the Certification and Periodic Review required under the Qualified Intermediary Agreement (Rev. Proc. 2017-15) (“QI Agreement”) and one FAQ relating to a Qualified Intermediary’s (“QI”) obligations with respect to certain tax-free savings accounts

As of August 2, 2018, the IRS published new FAQ (Q4) under subsection [Provisions for 2017 QI Agreement](#) of the [FATCA FAQs General page](#) and three other FAQs (Q14, Q15, and Q16) under subsection [Certifications and Periodic Reviews](#) of the same page.

Q4: What are the QI’s obligations under the 2017 and 2014 QI Agreements with respect to certain tax-free savings accounts formed as trust arrangements under applicable non-U.S. law?

Q4 clarifies that the QI is permitted to treat the account holder that is the beneficiary of the trust arrangement as a direct account holder of the QI for purposes of documentation, withholding, and information reporting purposes provided all of the following conditions are satisfied:

- the trust is registered with the applicable government as a tax-free plan;
- to qualify as a tax-free plan, applicable non-U.S. law mandates that where the plan holds assets in a brokerage account, a trust be established for the account holder that is the sole beneficiary under the plan;
- the account holder maintains general control over investments in the plan and can withdraw the funds at any time;
- the QI is required to document the account holder under applicable AML/KYC regulations or procedures; and
- the trust itself is not eligible for a reduced rate of withholding under an applicable income tax treaty.

Q14: Can the sample size calculated for the documentation review (performed as part of the Periodic Review) using the safe harbor statistical sample design contained in Appendix II of the 2017 QI Agreement exceed 321?

According to Q14, a sample size calculated using the safe harbor sample design set forth in Appendix II of the QI Agreement generally should not exceed 321 sample accounts. The possible exceptions are instances where the QI uses optional further stratification by dollar amounts under the QI Agreement, Appendix II, section II.A.6. or when the sample population includes accounts belonging to: (1) Private Arrangement Intermediaries (“PAI”), (2) Partnerships or Trusts for which the QI is using the Agency Option, or the Joint Account Option. Alternatively, the QI or its reviewer may decide to have a sample population larger than that resulting from the safe harbor method.

Q15: In instances where there are less than 60 accounts in a stratum population, must the difference between 60 and the number of accounts in the stratum population be reallocated to the remaining strata?

According to Q15, it is not necessary to reallocate the difference between the 60 accounts and the actual number of accounts in a stratum population to another strata; accordingly, in case of such difference, the total sample size would not be increased.

Q16: If the number of accounts allocated to a stratum is less than 60 and less than the number of accounts in that stratum population, how many accounts from that stratum should be selected for the sample? What effect will this have on the other strata?

The IRS clarified that the number of accounts to be sampled from that stratum is the lesser of the 60 accounts or the number of accounts in that stratum population. The difference between the number of accounts to be sampled and the number of accounts allocated to that stratum should reduce the number of accounts allocated to all other strata with a stratum population greater than 60 accounts, on a pro rata basis. Strata created for a PAI and Agency or Joint Account Option Accounts should not be affected by such stratum.

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