



The IRS released new FAQ on QI certification requirement in the event of material failure or event of default and also a QI certification due date reminder

Closing the distance

The IRS published the new FAQ clarifying the qualified intermediary (“QI”) certification requirements when the QI’s responsible officer (“RO”) has identified an event of default or a material failure under the QI Agreement (“QI Agreement”). The IRS also issued the final reminder regarding the QI certification date.

On August 21, 2018, the IRS published new [FAQ 17](#) (“FAQ”) on [FATCA – FAQs general page](#) that clarifies the certification requirement under section 10.03 and Appendix I of the QI Agreement, when the QI’s RO establishes that there has been an event of default described in section 11.06 of the QI Agreement or a material failure described in section 10.03(b) of the QI Agreement before the QI’s certification date. The IRS also issued a final reminder about the certification due dates for QIs, withholding foreign partnerships (“WPs”) and withholding foreign trusts (“WTs”).

New FAQ regarding QI certification in the event of default or material breach

Section 10.03 of the QI Agreement requires the RO to make certifications described in either Part II.A (Certification of Effective Internal Controls) or Part II.B (Qualified Certification) of Appendix I to the QI Agreement. The same section also provides that the RO must make a qualified certification if the RO determines that there has been an event of default or material failure that has not been cured as of the certification date. After initiation of the certification in the QI Application and Account Management System (“QI System”), the system prompt will ask the RO whether the RO has identified the event of default or the material failure.

If the RO establishes that there has been an event of default, whether or not such event has been cured at the time of certification, the RO must: (1) disclose the event of default when making the certification; and (2) make a qualified certification. The RO is, however, not required to make a qualified certification for only one or more material failures that are not events of default, if the RO: (1) identifies each material failure during the certification; and (2) certifies that each material failure has been corrected at the time of the certification.

If RO has established that an event of default, or a material failure has not been cured as of the certification date, the RO should skip the eight statements in the portal that correspond to those set forth in Part II.A of Appendix I of the QI Agreement (for the Certification of Effective Internal Controls), and proceed directly to the qualified certification described in Part II.B.

Final reminder about QI/WP/WT certification date

On August 20, 2018, the IRS released a reminder stating that all QI/WP/WT entities with a certification period ending on December 31, 2017 must log into the QI System to select the periodic review year of their certification period by September 1, 2018.

The QI/WP/WT certification due date for the entity that selected 2015 or 2016 for its periodic review is September 1, 2018. The QI/WP/WT certification due date for the entity that selected 2017 for its periodic review is December 31, 2018. For these cases, IRS will grant an extension to March 1, 2019 to provide the certification.

A QI/WP/WT entity that is applying for a waiver of the periodic review must select 2015 for its periodic review year, complete Parts I, II, and III of the certification, and submit its waiver application by September 1, 2018. The entity is not required to complete the periodic review if its waiver application is approved.

The IRS will inform the waiver applicants whether their application is approved or denied. If the IRS denies the waiver request within six months before the certification due date, the entity will be granted a six-month extension from the date of denial of the waiver to complete the periodic review and resubmit the certification. In this event, the entity selecting a year other than 2015 as its periodic review year, should first contact the FI Team at lbi.fi.qiwpissues@irs.gov. The resubmitted certification should include a completed Part IV and Part VI (if applicable).

The IRS further advises QI/WP/WT entities to consult [Publication 5262](#), Qualified Intermediary, Withholding Foreign Partnership, and Withholding Foreign Trust Application & Account Management User Guide, before beginning their certifications on the QI System. The IRS also advises QI/WP/WT entities to ensure that all filings (including Forms 1042, 1042-S, 945 and 1099) and related payments are up-to-date.

For more information, please [click here](#) or contact:

[Denise Hintzke](#)

Managing Director, Global
FATCA/CRS Tax Leader
Deloitte Tax LLP
+1 212 436 4792

[Anne Mericle](#)

Senior Manager, Global
Information Exchange PMO
Deloitte Tax LLP
+1 212 436 3908

[Susan Schultz](#)

Managing Director, FATCA
Global Delivery Center (GDC)
Operations Leader
Deloitte Tax LLP
+1 612 397 4604

[Susan Segar](#)

Managing Director, Global
Information Reporting
Deloitte Tax LLP
+1 703 885 6328

Americas

[Phillip Brunson](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 618 4041

[Steve Chapman](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 2339

[David Charlton](#)

Principal, Global Information Reporting
Deloitte Tax LLP
+1 617 437 2118

[James Dockeray](#)

FATCA Leader
Deloitte Caribbean and Bermuda
Deloitte Ltd.
+1 441 299 1399

[Patty Florness](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 7413

[Andrea Garcia Castelao](#)

Senior Manager, Global Information
Reporting-CRS
Deloitte Tax LLP
+1 212 436 3785

[Peter Larsen](#)

Managing Director, Global Information
Reporting
Deloitte Tax LLP
+1 415 783 4575

[Anthony Martirano](#)

Managing Director, Global Information
Reporting
Deloitte Tax LLP
+1 973 602 6986

[Richard Marcovitz](#)

FATCA/CRS Leader
Deloitte Canada
Deloitte LLP
+1 416 775 4760

[Michael Shepard](#)

Principal
Deloitte Transactions and Business
Analytics LLP
+1 215 299 5260

[Kristen Starling](#)

Managing Director, Global Information
Reporting
Deloitte Tax LLP
+1 212 436 4281

[Sagun Vijayananda](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 7329

Asia-Pacific

[Troy Andrews](#)

FATCA/CRS Partner
Deloitte New Zealand
+64 93030729

[Alison Noble](#)

FATCA/CRS Leader
Deloitte Australia
Deloitte Services Pty Ltd
+61 3 9671 6716

[Radish Singh](#)

Forensic SEA for FATCA/CRS
Deloitte Singapore
Deloitte & Touche FAS
+65 6530 8077

[Michael Velten](#)

FATCA/CRS Leader, Asia-Pacific
Deloitte Singapore
Deloitte & Touche LLP
+65 6531 5039

Europe, Middle East & Africa

[Brandi Caruso](#)

Tax Transparency Leader
Deloitte Switzerland
Deloitte AG
+41 58 279 6397

[Eric Centi](#)

FATCA/CRS Tax Partner
Deloitte Luxembourg
Deloitte Tax & Consulting
+352 45145 2162

[Karim Ousta](#)

FATCA Tax Leader, Middle East
Deloitte United Arab Emirates
Deloitte LLP
+971 4 5064700

[Norbert Bramerdorfer](#)

FATCA/CRS Leader, Austria Deloitte Tax
Wirtschaftsprüfungs GmbH
+43 1 53700 6740

[Alex Law](#)

FATCA Leader, Middle East
Deloitte United Arab Emirates
Deloitte LLP
+971 4 506 4700

[Chris Tragheim](#)

FATCA Tax Leader, EMEA
Deloitte United Kingdom
Deloitte LLP
+ 44 20 7303 2848

[Markus Weber](#)

Financial Services Industry Tax Leader
Deloitte Switzerland
Deloitte AG
+41 58 279 7527

[David C. Wright](#)

FATCA/CRS Tax Partner, EMEA
Deloitte United Kingdom
Deloitte LLP
+44 20 7303 4641

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the "Deloitte" name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.