



New IRS FAQs for QI / WP / WT Closing the distance

On May 25, 2018, the IRS added [question 11](#) (Q11) and [question 12](#) (Q12) to the Certifications and Periodic Reviews section of its General FATCA FAQs [web page](#). Q11 clarifies the document that a qualified intermediary (QI) may rely on to satisfy their obligation to obtain certification of chapter 4 status from a partnership or trust subject to joint account treatment. Q12 clarifies whether a QI is required to complete Part VI of the certification described in Appendix I of the 2017 QI agreement (Appendix I) if the QI applies for the waiver of the periodic review requirement and the QI has assumed primary withholding responsibility with respect to payments of substitute interest.

Q11: Requirement to Obtain Certification from Certain Partnerships and Trusts about their Permissible Chapter 4 Status

Section 4.05(A)(1) of the 2017 QI agreement (QI Agreement) requires QIs to obtain a certification from each partnership or trust to which it is applying joint account treatment, stating that the partnership or trust has maintained a permissible chapter 4 status at all times during the certification period. The QI must also certify that each partnership or trust to which it is applying the joint account option has provided the QI with such a certification.

This FAQ clarifies that for the above purposes, the QI may rely upon a valid Form W-8IMY that it has on file, in lieu of obtaining a representation from the partnership or trust for each certification period. If the QI relies on a valid Form W-8IMY, and if the chapter 4 status of the partnership or trust was "Nonparticipating FFI" at any time during the certification period, the QI is required to report the name of each such partnership or trust in its certification. The QI will complete this reporting obligation by uploading this information as an attachment in accordance with the instructions to the QI, withholding foreign partnership (WP) or withholding foreign trust (WT) Application and Account Management System.

Importantly, the IRS also clarifies that a WP or WT may rely on the above FAQ for purposes of the similar requirement set out in section in the WP and WT agreements.

Q12: Completion of Certain Certifications when QI Applies for Waiver of the Periodic Review and the QI has Assumed Primary Withholding Responsibility with Respect to Substitute Interest Payments

Section 10.07(C) of the 2017 QI Agreement requires a QI to include the information described in Appendix I when applying for a periodic review waiver. According to Appendix I, a QI that assumes primary withholding responsibility for payments of substitute interest must complete Part VI. However, to provide the information required in Part VI, a QI would need to perform a periodic review. The FAQ has clarified that a QI that assumes primary withholding responsibility for payments of substitute interest and that is eligible for a waiver of the periodic review requirement does not need to complete Part VI of the certification described in Appendix I. The QI should instead (a) complete Parts I, II, and III of Appendix I, and (b) include in Part III.B information relating to the payments of substitute interest for which the QI assumed primary withholding responsibility.

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