



## New QI/WP/WT FAQs

### Closing the distance

On February 26, 2018, the IRS released Announcement 2018-02 providing new FAQs targeted at Qualified Intermediaries ("QIs") and Withholding Foreign Partnerships ("WPs") seeking to reduce their compliance burden by utilizing a consolidated compliance program ("CCP"). The new FAQs can be found in the Certifications and Periodic Reviews subsection (Q4, Q5, Q6, Q7, and Q8) on the [FATCA - FAQs General page](#).

#### Summary of IRS Announcement 2018-02: IRS Publishes New QI/WP/WT FAQs

##### Deadline to file application to form a CCG

For certifications due in calendar year 2018, an application to form a consolidated compliance group ("CCG") should be submitted by e-mail to [lbi.fi.qiwpissues@irs.gov](mailto:lbi.fi.qiwpissues@irs.gov) by the proposed Compliance Entity **no later than April 1, 2018**.

##### Deployment of new online certification system

- The deployment of an online certification system within the QI/WP/WT Application and Account Management System is anticipated during calendar year 2018. CCG applications for certifications must be submitted before the deployment of the new certification system.
  - Once the online certification system is deployed, the responsible officer, or other authorized user, will be required to complete and resubmit the CCG application using the online certification system before initiating a certification.

##### Additional guidance on CCPs and the CCP application process

- New FAQ "Q6," provides guidance on what an application to form a CCG should include;
- New FAQ "Q7," provides that the IRS will consider allowing entities with different certification due dates to be included in the same CCG, as long as the formation of the CCG does not defer the certification for any entity in the group to a year later than would have been required under section 10.03 of the QI Agreement, or section 8.03(C) of the WP Agreement (as applicable);
- New FAQ "Q8," provides guidance on which parts of the required certification the compliance entity of a CCG will complete for the CCG as a whole, and which parts of the certification must be completed on an entity by entity basis;
- The IRS anticipates that once agreed to, the final sample plan required to be submitted by a CCG will specify a sample size for the group larger than if the sample size was calculated treating the group as one entity using the formula in Rev. Proc. 2017-15, but smaller than if the sample sizes were calculated separately for each individual entity and then summed.

We will continue to monitor the situation. Please reach out if you have any questions. Below you will find a more detailed summary of each of the newly released FAQs.

#### **Q4. A group of QIs under common ownership, or a group of WPs with a common sponsoring entity, can reduce their compliance burden by utilizing a consolidated compliance program**

- The FAQ reaffirms that under section 10.02(B) of the 2017 QI Agreement (“QI Agreement”) and section 8.02(c) of the 2017 WP Agreement (“WP Agreement”), the IRS, in its discretion, may permit a consolidated compliance program that includes two or more QIs that are members of a group of entities under common ownership, or two or more WPs that have the same sponsoring entity. The members of the consolidated group should:
  - Operate under a uniform compliance program for purposes of the QI or WP agreements (as applicable);
  - Share practices, procedures, and systems subject to uniform monitoring and control; and
  - Be subject to a consolidated periodic review that includes a review of internal controls and testing of relevant transactions with respect to each QI or WP in the consolidated compliance program.
- The new FAQ acknowledges that formation of a CCG may result in a more efficient use of resources (including smaller periodic review sample size) than conducting periodic reviews on an entity-by-entity basis.

#### **Q5. How can a group of QIs or WPs apply to form a CCG?**

- For certifications due in calendar year 2018, an application to form a CCG should be submitted by e-mail to **lbi.fi.qiwpissues@irs.gov** by the proposed Compliance Entity **no later than April 1, 2018**;
- Following submission (via email) of the application form, the IRS will contact the applying compliance entity to start the application review process and to request any further information necessary to determine if the CCG is acceptable to the IRS;
- The ensuing dialogue between the compliance entity and the IRS will address issues such as the final composition of the CCG members and sample design for any statistical sampling to be utilized for the periodic review;
- Deployment of an online certification system within the QI/WP/WT Application and Account Management System is anticipated during calendar year 2018
  - CCG applications for certifications due in 2018 must be submitted before the deployment of the new certification system. However, once the new system is deployed, the responsible officer or other authorized user of the CCG will be required to complete and resubmit the CCG application using the new online certification system, prior to initiating a certification.
  - It is anticipated that for years subsequent to calendar year 2018, all CCG applications will be submitted solely through the online certification system in the QI/WP/WT Application and Account Management System.

#### **Q6. What should an application to form a CCG include?**

In general an application to form a CCG should include the following:

- CCG Application Letter (mandatory for submitting an application)
  - Must address all the requirements listed in section 10.02(B) of the QI Agreement or section 8.02(C) of the WP Agreement (as applicable) and demonstrate that the entities proposed to be included in the CCG meet those requirements;
  - Must list the legal names, FATCA IDs, Entity IDs, and QI-EINs of all QIs under the same common ownership or WP-EINs of all WPs that have the same sponsoring entity, including those entities that do not intend to be part of the CCG;
  - Must specifically identify which entities want to be included in the CCG. For entities not participating in the CCG, the application must identify which entities intend to perform the periodic review (i.e. certify separately), and which intend to request a waiver of the periodic review;
  - If the Compliance Entity would like to exclude certain entities that are intended to be part of the CCG from the consolidated periodic review, then the application letter must include the total reportable amounts for accounts held by foreign account holders, and reportable payments for accounts held by U.S. account holders during the year of the review, by entity, for every entity of the CCG;
  - The application letter must also include a statement acknowledging that the proposed compliance entity will be jointly and severally liable for the obligations and liabilities of any entity in the CCG relating to the entity’s obligations under the QI or WP Agreement;

- This statement must be signed by the proposed compliance entity's responsible officer;
- If the entity is a WP, and the proposed compliance entity is not the sponsoring entity, the application letter should include a description of the relationship of the proposed compliance entity to the WPs in the proposed CCG and why the proposed compliance entity should be considered for compliance entity status.
- Organizational Chart (mandatory for submitting an application) for all QIs under the same common ownership, or a list of all WPs that have the same sponsoring entity for chapter 4 purposes;
- A proposed sample plan includes sample size, strata, and allocation of sample units over the proposed strata.
  - Sample design should generally be based on the safe harbor methodology outlined in Appendix II, section II.A.3 of the QI Agreement;
  - The safe harbor methodology prescribes three strata: (1) all accounts held by direct account holders that are not U.S. non-exempt recipients; (2) accounts held by direct account holders that are U.S. non-exempt recipients; and 3) accounts held by indirect account holders;
  - Multiple substrata within the three prescribed strata may be proposed, as may alternate sample allocation methods;
  - The sample plan should include population statistics such as number of sample units (QI accounts or WP partners), total reportable amounts for accounts held by foreign account holders or partners, total reportable payments for accounts held by U.S. account holders or partners, total chapter 3 withholding, total chapter 4 withholding, total back-up withholding (if applicable), and the standard deviation of a calculated exposure amount (30% of the applicable amount less actual withholding) on a strata by strata basis;
  - Once agreed to, it is anticipated the final sample plan will specify a sample size for the group larger than if the same size was calculated treating the group as one entity using the formula in Rev. Proc. 2017-15, but smaller than if the sample sizes were calculated separately for each individual entity and then summed;
  - The IRS suggests that a QI or WP contact the financial intermediaries team by email at **lbi.fi.qiwpissues@irs.gov** before final submission of a sample plan to discuss its form and content.

#### **Q7. Will the IRS allow entities with differing certification due dates to be included in the same CCG?**

- All entities in a CCG must have the same periodic review year. The IRS will consider allowing entities with different certification due dates to be included in the same CCG, as long as the formation of the CCG does not defer the certification for any entity in the group to a year later than would have been required under section 10.03 of the QI Agreement, or section 8.03(C) of the WP Agreement.
- Any entity included in a CCG will have its next certification period set to the 3-year period subsequent to the years covered by the certification period of the CCG.
- The CCG application letter should include the certification due date for all entities in the group that would apply under section 10.03 of the QI Agreement, or section 8.03(C) of the WP Agreement.

#### **Q8. How will completing the certification for a CCG differ from completing a certification for an individual entity?**

- A QI or WP that is not part of a CCG completes all parts of the certification as applicable.
- The Compliance Entity of a CCG completes some parts of the certification for the CCG as a whole, while completing other parts of the certification on an entity by entity basis (one for each entity in the CCG).
  - A compliance entity is required to complete Parts I and II for all QIs or WPs in its CCG by providing aggregate information (where applicable);
  - A separate Part IV must be completed for each and every WP in a CCG. A separate Part IV and Part VI must be completed for each and every QI in a CCG;
  - A compliance entity may not complete Part III because an entity included in a CCG is not eligible for a waiver.

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