



# TaxNewsFlash

## United States

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### United States: New FAQs for QI / WP / WT

The IRS published new “frequently asked questions” (FAQs) for qualifying intermediaries / withholding foreign partnerships / withholding foreign trusts (QI/WP/WT).

The following new FAQs were added under the section concerning new applications and renewals:

- **Q17. Does a QI that is not currently a QDD have to wait for its QI agreement to expire to apply for QDD status for its home office?**

No. A QI that is not currently a QDD does not have to wait for its QI agreement to expire to apply for QDD status. A QI that wants to apply for QDD status should contact the Foreign Intermediary Team by e-mail at: \*LB&I FI QIWPIssues (lbi.fi.qiwpissues@irs.gov). Please note that once a QI is granted QDD status, it can no longer act as a QSL. QSL status will expire for all QIs on 12/31/17.

The abovementioned FAQ does not apply to branches of QIs that want to apply for QDD status. As stated in the FAQ that addresses QDD Branch Registration, branches of QIs must apply for QDD status by completing a separate QDD application.

- **Q18. If a QI applies for and is granted QDD status for its home office outside of the new application or renewal process, when will its QDD status become effective?**

If a prospective QDD applies for QDD status prior to March 31 of a given calendar year and its application is approved, its QDD status will become effective as of January 1 of that year. If a prospective QDD applies for QDD status after March 31 of a calendar year and it has not received any reportable payments prior to submitting its application and its application is approved, its QDD status will become effective January 1 of that year. However, if a prospective QDD applies for

QDD status after March 31 of a calendar year and it has received a reportable payment prior to submitting its application and its application is approved, its QDD status will become effective the first day of the month in which its QDD application is approved. QDD applications should not be submitted prior to the year the QI wants its QDD status to become effective. A prospective QDD that applies for QDD status after 3/31/17 cannot represent status as a QDD on Form W-8IMY before the date the application to be a QDD is approved.

- **Q19. Can a foreign reverse hybrid entity that is a non-financial foreign entity (NFFE) that receives personal services income apply (or submit a renewal) to be a withholding foreign partnership (WP) under the WP agreement effective on or after January 1, 2017?**

A19. Section 1.01 of the WP agreement provides that a WP that is a foreign reverse hybrid entity must comply with the requirements of section 6.03(C) of the WP agreement, which include a requirement that the foreign reverse hybrid be an FFI. Notwithstanding this requirement, a foreign reverse hybrid entity that is a NFFE may apply to be a WP with respect to payments of personal services income that is income effectively connected with a trade or business within the United States if it otherwise meets the requirements of a NFFE under the WP agreement (including reporting the information on withholdable payments distributed to, or included in the distributive share of, a partner that is a NFFE, as described in section 6.05(B) of the WP agreement). If a WP that is a foreign reverse hybrid entity submitted an application and did not check the box in Part 1 to indicate its status as a foreign reverse hybrid entity, it must contact the FI team by email at [lbi.fi.qiwpissues@irs.gov](mailto:lbi.fi.qiwpissues@irs.gov) to correct its status.

The following new FAQs are under the certification and periodic reviews section of the FAQs:

- **Q1. Can a QI that is a QDD apply for a waiver of the periodic review with respect to its QI activities that are not QDD activities if its applicable certification period ends in 2017 or 2018 and it otherwise meets the requirements of section 10.07 of the QI agreement?**

A1. Yes. Section 10.07 of the QI agreement provides that a QI may apply for a waiver of the periodic review requirement if it is a QI that is not acting as a QDD and it meets the other requirements of section 10.07. Under Notice 2017-42, 2017-34 I.R.B. 212, a QI that is a QDD is not required to perform a periodic review with respect to its QDD activities for a certification period ending in calendar year 2017 or 2018. A QI that is a QDD may, however, still be required to conduct a periodic review of its QI activities that are not QDD activities for those years. Thus, the IRS will permit a QI that is a QDD and that has a certification period ending in 2017 or 2018 to apply for a waiver of the periodic review when it otherwise meets the requirements of section 10.07 of the QI agreement with respect to its QI activities that are not QDD activities. To request a waiver, the QDD should complete Part III (Waiver of Periodic Review) of the certification with respect to its QI activities that

are not QDD activities and, in Part A (eligibility for waiver), check the box titled “QI is an FFI that is not also acting as a QDD.”

- **Q2. How should the independence standard for an external reviewer of a QI, WP, or WT be applied for periodic review years prior to 2018?**

A2. Section 10.04 of the QI agreement and section 8.04 of the WP and WT agreements provide that an internal or external reviewer must be independent. The preamble to the QI agreement provides that the reviewer must have sufficient independence to conduct the review objectively and cannot review his or her own work or the work of others in the same “firm.” The IRS has received requests for clarification of the independence standard for external reviewers and, in particular, how the IRS construes the term “firm” for purposes of this requirement. Given these requests, for review years prior to 2018, the IRS will permit an external reviewer of a QI, WP, or WT to apply the standards of independence that would otherwise apply to its engagement to conduct the periodic review (such as the standards for an agreed-upon procedures engagement by a certified public accountant). The IRS intends to update this FAQ to provide further guidance on the independence standard for reviews of calendar years 2018 and later.

Read all of the [FAQs](#) on the IRS website.

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