



# TaxNewsFlash

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### New FAQs for QI / WP / WT

The IRS today announced that it has published new “frequently asked questions” (FAQs) concerning qualified intermediaries / withholding foreign partnerships / withholding foreign trusts (QI/WP/WT) on a FATCA webpage.

The new FAQs are designated as "Added: 05-25-2018" under the subsection “Certifications and Periodic Reviews” (Q11 and Q12) on the [FATCA – FAQs General page](#) as follows:

**Q11. What may a QI rely on for purposes of satisfying the requirement in section 4.05(A)(1) of the 2017 QI Agreement (QI Agreement) and answering question D.3.a of Part I of the certification described in Appendix I to the QI Agreement regarding partnerships and trusts subject to joint account treatment?**

A11. Under section 4.05(A)(1) of the 2017 QI Agreement, a QI is required to obtain a certification from each partnership or trust subject to joint account treatment indicating that the partnership or trust has maintained a permissible chapter 4 status (among the chapter 4 statuses specified in section 4.05(A)(1) of the 2017 QI Agreement) at all times during the certification period. In question D.3.a of Part I of the certification described in Appendix I to the 2017 QI agreement, a QI must certify that each partnership or trust to which the QI applies the joint account option has provided the QI with the certification described in the preceding sentence. For purposes of answering question D.3.a of Part I of the certification described in Appendix I to the 2017 QI Agreement, and to satisfy the requirement in section 4.05(A)(1) of the 2017 QI Agreement to obtain a permissible chapter 4 status for the partnership or trust, a QI may rely upon a valid Form W-8IMY it has on file (and upon which QI may rely under section 5.10 of the 2017 QI Agreement) in lieu of obtaining a representation from each partnership or trust for each certification period. If a QI chooses to rely upon a valid Form W-8IMY for the purposes described in the preceding sentence, and if the chapter 4 status of a partnership or trust was a nonparticipating FFI at any time during the certification period, the QI

must report the name of each such partnership or trust in its certification by uploading this information as an attachment in accordance with the instructions to the QI, WP, and WT Application and Account Management System. A WP or WT may rely on this FAQ for purposes of the similar requirement in section 9.01(A)(1) of the 2017 WP and WT agreements and the certification described in the Appendix to the 2017 WP and WT agreements.

*Added: 05-25-2018*

**Q12. If a QI applies for a waiver of the periodic review requirement under section 10.07 of the 2017 QI agreement and has assumed primary withholding responsibility with respect to payments of substitute interest, is the QI required to complete Part VI of the certification described in Appendix I of the 2017 QI agreement?**

A12. Section 10.07 of the 2017 QI agreement provides the requirements for a QI requesting a waiver of the periodic review requirement. Section 10.07(C) of the QI agreement requires the QI to include the information described in Appendix I when applying for a waiver. The general instructions to Appendix I provide that QIs that assume primary withholding responsibility for payments of substitute interest must complete Part VI. However, in order to provide the information required in Part VI, a QI would need to perform a periodic review. This FAQ clarifies 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. Such QI should instead complete Parts I, II, and III of Appendix I, and in Part III.B, the QI should include information relating to payments of substitute interest for which the QI assumed primary withholding responsibility (in addition to its other QI activities, other than its activities as a QDD).

*Added: 05-25-2018*

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