



TaxNewsFlash

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FATCA regulations; final QI and FFI agreements

The U.S. Treasury Department and IRS late today released for publication in the Federal Register several packages of regulations concerning:

- Withholding tax on certain U.S. source income paid to foreign persons
- Information reporting and backup withholding on payments made to certain U.S. persons
- Portfolio interest treatment regulations relating to information reporting by foreign financial institutions and withholding on certain payments to foreign financial institutions and other foreign entities

The IRS also released:

- [Rev. Proc. 2017-16](#) [PDF 226 KB]—a final foreign financial institution (FFI) agreement
- [Rev. Proc. 2017-15](#) [PDF 558 KB]—a final qualified intermediary (QI) withholding agreement (QI agreement)

The purpose of this release is to provide text of the regulations and revenue procedures.

Text of regulations

- Today's final and [temporary regulations](#) [PDF 522 KB] (T.D. 9808) concern withholding of tax on certain U.S. source income paid to foreign persons; information reporting and backup withholding with respect to payments made to certain U.S. persons; and portfolio interest paid to nonresident alien individuals and foreign corporations. According to an introduction to the preamble, today's 303-page release finalizes proposed regulations from March 2014 "with minor changes," and corresponding temporary regulations are withdrawn. There are also temporary regulations providing additional rules under chapter 3 of the Code.

- A separate release of final and [temporary regulations](#) [PDF 443 KB] (T.D. 9809) is made under chapter 4 of the Code (pursuant to sections 1471 through 1474) regarding information reporting by foreign financial institutions (FFIs) with respect to U.S. accounts and withholding on certain payments to FFIs and other foreign entities. These regulations relate to information reporting by FFIs and withholding on certain payments to FFIs and other foreign entities. According to an introduction to the preamble, these 286-page release finalizes “with changes” provisions under the March 2014 proposed regulations, and withdraws corresponding temporary regulations.
- [Proposed regulations](#) [PDF 252 KB] (REG-103477-14) under chapter 4 of the Code relate to verification and certification requirements for certain entities and reporting by FFIs. These 68-page proposed regulations describe the verification requirements (including certifications of compliance) and events of default for entities that agree to perform the chapter 4 due diligence, withholding, and reporting requirements on behalf of certain FFIs or the chapter 4 due diligence and reporting obligations on behalf of certain non-financial foreign entities. These proposed regulations also describe: (1) the certification requirements and procedures for IRS’s review of certain trustees of trustee-documented trusts and the procedures for IRS’s review of periodic certifications provided by registered deemed-compliant FFIs; (2) the procedures for future modifications to the requirements for certifications of compliance for participating FFIs; (3) the requirements for certifications of compliance for participating FFIs that are members of consolidated compliance groups.
- [Proposed regulations](#) [PDF 220 KB] (REG-134247-16) cross-reference the temporary regulations (T.D. 9808) to revise certain provisions of final regulations regarding withholding of tax on certain U.S. source income paid to foreign persons and requirements for certain claims for refund or credit of income tax made by foreign persons.

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