

Qualified Intermediary (“QI”): Deadlines approaching for QI certification and choice of year for QI periodic review

23 July 2018

In brief

The Responsible Officer (“RO”) must make a periodic certification to the U.S. Internal Revenue Service (“IRS”) regarding the compliance with the QI Agreement. The first deadline for taking action is quickly approaching and each QI must take action before 1 September 2018.

In detail

Deadlines to file the QI certification

Under the QI agreement, the RO of each QI must submit a periodic certification (covering the period from 1 January 2015 to 31 December 2017) whereby the QI agreement defines the deadlines for such certification. The year chosen for the QI periodic review, respectively if the QI requests a waiver from the periodic review, is a determining factor for the deadline. In April 2018, the IRS extended the deadlines for the submission of the QI certification:

- For QIs that choose 2015 or 2016 as the periodic review year, the certification must be made by 1 September 2018 (instead of 1 July 2018 as mentioned in the QI agreement);
- The same deadline (1 September 2018 instead of 1 July 2018) applies for QIs that request a waiver from the periodic review (attention, these QIs must enter the year 2015 as review year in the QI certification);
- QIs that choose 2017 as the periodic review year, must submit their certification by 1 March 2019 (instead of 1 January 2019 as mentioned in the QI agreement). However, although the deadline for such certification is only in 2019, these QIs must make their choice of the reviewed year by 1 September 2018 by using the QI certification in the QI portal.

Moreover, entities having terminated their QI status during the certification period must nevertheless submit a certification. In this respect, the QI agreement provides that the QI must make its certification within six months of the date of termination, regardless of whether a periodic review has been completed for such period.

QI portal

QIs must use the QI portal for submitting the certifications, which have seven parts. Depending on the concrete situation (waiver or not, certification of effective internal controls or qualified certification, etc.), not all parts need to be completed.

When preparing the certification, the RO must assess if material failures or events of default are to be declared in the certification. This requires a good knowledge of the QI relevant processes as well as the potential errors occurred during the certification period. This assessment takes time and may also be subject to discussion and approval by the QI's management.

Furthermore, the wording of the certification template and the required factual data to be provided (e.g. number of accounts split down to certain categories of account holder) are not always easy to understand.

In practice, this creates some uncertainty for QIs. And as a result, completing the web-based certification takes in practice often more time than expected. Particularly for QIs having decided to request a waiver or to choose 2015 or 2016 as reviewed year, it is high time to take action despite summer holiday period.

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