

FATCA: Explanations of key certifications and periodic review requirements

The IRS has revised its general frequently asked questions (FAQs) on the Foreign Account Tax Compliance Act (FATCA). The revisions focus on certification and periodic review requirements involving Qualified Intermediaries (QIs), Withholding Foreign Partnerships (WPs) and Withholding Foreign Trusts (WTs). Here are the pertinent changes:

FAQ 2: How should the independence standard for an external reviewer of a QI, WP or WT be applied for periodic review years before 2019? The IRS says that, for review years before 2019, the agency 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 CPA). The IRS intends to update this FAQ to provide further guidance on the independence standard for reviews of calendar years 2019 and later.

FAQ 5: How should a group of QIs or WPs apply to form a consolidated compliance group (CCG)? The IRS says that, for certifications due in calendar year 2019, an application to form a CCG should have been submitted by the responsible officer, or other authorized user of the proposed Compliance Entity, no later than April 1, 2019. Such a submission must be made using the QI/WP/WT Application and Account Management system.

If you missed the deadline, FAQ 5 still contains useful information for future applications. That is, upon submission of an application to form a CCG, the IRS will contact the applying Compliance Entity to request any further information necessary to determine whether the CCG is acceptable to the agency. This ongoing discussion will also address issues such as the final composition of the group members and sample design for any statistical sampling to be used for the periodic review.

FAQ 18: What's the deadline for QI/WP/WT entities, with a certification date of July 1, 2019, to select the periodic review year of their certification? The IRS says all QI/WP/WT entities with a certification due date of July 1, 2019, must have selected the periodic review year of their certification period by July 1, 2019. This includes entities with an effective date later than January 1, 2015, and earlier than January 2, 2016. It also includes those entities selecting 2018 as their periodic review year. This FAQ doesn't apply to termination certifications.

If you missed this deadline, ask your CPA about what you should do next. He or she can also help you better understand the FATCA and comply with its other requirements. •