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--------	----------	---------	----------------------	---------------	--------------	------------------	--------------

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Partnerships
International Businesses
Small Businesses & Self Employed

Revised Qualified Intermediary (QI) Agreement

Form 1099 Reporting Responsibility, Private Arrangement Intermediaries (PAIs) and Joint Account and Agency Options under the Revised QI Agreement, Special Procedures for New QIs during Calendar Year 2014, and QI Application and Renewal Procedures for Central Banks of Issue

This email applies to certain entities that apply to enter into or have entered into the revised Qualified Intermediary (QI) agreement published in Revenue Procedure 2014-39, 2014-29 I.R.B. 151.

I. Form 1099 Reporting Responsibility

Section 8.06 of the revised QI Agreement provides the Form 1099 reporting responsibilities of a QI and incorporates the coordination rule provided in §1.6049-4(c)(4) for Form 1099 reporting with reporting under chapter 4 or an applicable IGA. The following paragraphs are revised as set forth below.

- Section 8.06(A). Reportable Amount. QI must file a Form 1099 in accordance with the instructions to the form for the aggregate amount of a particular type of reportable amount paid to an account holder that is (or is presumed) a U.S. non-exempt recipient (whether a direct or indirect account holder). However, QI is not required to file a Form 1099 on a reportable amount if--
- Section 8.06(A)(1). QI is a non-U.S. payor reporting the account holder of a U.S. account under its FATCA requirements as a participating FFI or registered deemed-compliant FFI (including a reporting Model 1 FFI) and the other conditions of §1.6049-4(c)(4)(i) are satisfied;
- Section 8.06(B)(1). QI is a non-U.S. payor reporting the account holder of a U.S. account under its FATCA requirements as a participating FFI or registered deemed-compliant FFI (including a reporting Model 1 FFI) and the other conditions of §1.6049-4(c)(4)(i) are satisfied;

The corrections described above conform to the coordination rule under §1.6049-4(c)(4)(i) by eliminating the Form 1099 reporting requirement for non-U.S. payors that are reporting Model 1 FFIs if the conditions of §1.6049-4(c)(4)(i) are satisfied. The reference to backup withholding in section 8.06(A) of the revised QI agreement is also removed to be consistent with section 8.06(B) and because the backup withholding requirements are referenced separately, to the extent applicable, in sections 8.06(A)(1)-(6) of the revised QI agreement.

II. Private Arrangement Intermediaries (PAIs) and Joint Account and Agency Options under the Revised QI Agreement

Section 4 of the QI Agreement provides the requirements for a QI that enters into an agreement with a PAI or applies the joint account or agency option to a partnership or trust. Section 4 will include the following:

- A QI may apply the joint account option (section 4.05 of the revised QI agreement) to a partnership or trust that is an owner-documented FFI or an NFFE (other than a WP or WT) that otherwise meets the requirements of section 4.05 of the revised QI Agreement;
- A PAI or partnership or trust to which a QI applies the agency option (section 4.06 of the revised QI agreement) may provide its documentation and other information to the QI for inclusion in the QI's periodic review described in section 10.04 of the revised QI Agreement instead of performing the review itself and providing the QI with a certification of its compliance;
- A partnership or trust to which a QI applies the joint account or agency option must waive any legal prohibitions against providing its records to the QI (rather than the IRS); and
- A QI may continue to apply the rules of sections 4 and 4A of the former QI agreement (as published in Revenue Procedure 2002-12, 2000-1 C.B. 387 (as amended)) to a PAI or a partnership or trust to which it has applied the joint account or agency option until January 1, 2015, provided that the QI has entered into an agreement with such entity prior to June 30, 2014, pursuant to the terms of the former QI agreement.

The modifications described above are consistent with the provisions in the joint account and agency option section of the revised Withholding Foreign Partnership and Withholding Foreign Trust Agreements. See sections 9.01 and 9.02 of the Withholding Foreign Partnership and Withholding Foreign Trust Agreements published in Revenue Procedure 2014-47, 2014-35 I.R.B. 393.

III. New QIs for Calendar Year 2014.

Section 1.03 of Revenue Procedure 2014-39 provides that a QI that submits an application for QI status before July 31, 2014 and is approved during calendar year 2014 may act as a QI in accordance with Revenue Procedure 2000-12 (as amended) until June 30, 2014, as if the QI agreement of such QI were effective on January 1, 2014 and expires on June 30, 2014. The IRS is allowing an entity that submits an application for QI status at any time during the 2014 calendar year, if such application is approved by the IRS by the end of 2014, to act as a QI in accordance with the former QI agreement from January 1, 2014, until June 30, 2014 as if the QI agreement were effective during that period. Thus, a QI does not need to submit its application before July 31, 2014 in order to benefit from this retroactive allowance (as described in section 1.03 of Revenue Procedure 2014-39). The IRS will specify in its approval letter to a QI how such QI may notify the IRS that it will act as a QI for the entire 2014 calendar year. See also IRS Qualified Intermediaries News, Issue Number 2014-03, which is supplemented and modified by this issue.

IV. QI Application and Renewal Procedures for Certain Central Banks of Issue

Section 1.02 of Revenue Procedure 2014-39 provides that a central bank of issue may enter into a QI agreement. A central bank of issue that is not required to register on the registration portal to obtain status as a participating FFI or registered deemed-compliant FFI (as described in sections 1.02 and 3.02 of Revenue Procedure 2014-39) must apply for or renew its QI agreement by submitting an application or request for renewal to the Foreign Intermediaries Program at the address provided in section 3.01 of Revenue Procedure 2014-39. A central bank of issue described in the preceding sentence that renews its QI agreement on or before July 31, 2014, will have a QI agreement with an effective date of June 30, 2014. If such QI renews after July 31, 2014, the effective date of the QI agreement will be the date of renewal provided in the IRS approval notice. A central bank of issue that is not required to obtain status as a participating FFI or registered deemed-compliant FFI and that applies for QI status will have a QI agreement with an effective date of the date it is issued a QI-EIN.

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