

# BECOMING A QUALIFIED INTERMEDIARY (QI)

## THE QI REGIME

The QI regime is a relief at source model implemented by the USA. It allows financial institutions outside of the USA to enter into a QI agreement with the IRS enabling the financial institution to grant relief at source on USA withholding taxes to its clients. The QI agreement is valid for a period of six years.

## WHO SHOULD BECOME A QI?

Any financial institution outside of the USA can enter into a QI agreement with the IRS if it meets the requirements. A financial institution can include a depository institution, a custodial institution, investment entities and certain types of insurance companies.

There are two main considerations which will determine whether a financial institution can benefit from becoming a QI, and that is:

- 1) If the financial institution has exposure to securities in the USA
- 2) If the financial institution has clients who are resident in countries that have signed a tax treaty with the USA.

If the above criteria are met the financial institution can benefit from entering into a QI agreement with the IRS.

## TYPES OF QI'S

There are two types of QI's:

### 1.) Withholding QI

A withholding QI takes on the responsibility of withholding taxes on any USA sourced income received. The financial institution will then also be responsible for depositing the withholding taxes to the USA Treasury.

### 2) Non-withholding QI

A non-withholding QI does not take on primary withholding responsibility. The financial institution upstream will be responsible for withholding taxes as well as depositing it to the USA Treasury. The liability for the withholding taxes will remain with the non-withholding QI.

The financial institution can decide whether it wants to be a withholding QI or a non-withholding QI, depending on its preferred operating model.

## OBLIGATIONS OF A QI

A QI has the following obligations in terms of IRC Chapter 3 and the QI agreement:

- Document the Chapter 3 (QI) status of its clients.
- Withhold tax at the correct rate.
- Deposit tax to the US Treasury in a timely manner (withholding QI).
- File Tax returns to the IRS (Form 1042)
- File information returns to the IRS (Form 1042-S).
- Appoint a responsible officer
- Establish a written compliance Program
- Undergo triennial periodic reviews.



## ADVANTAGES OF BECOMING A QI

There are several advantages to becoming a QI. The most significant advantage is that it significantly reduces the volume of reporting that the financial institution has to perform, other advantages include:

- Simplified access to the USA market.
- No disclosure of clients to upstream financial institutions. There is no need to send W-8's and W-9's received from clients to an upstream financial institution.
- Pooled withholding – The upstream counterparty knows that the financial institution is in agreement with the IRS, and that it knows the tax residency status for each account, and therefore the withholding rate to be applied to each account.
- Pooled reporting – A QI does not have to do beneficial owner level reporting. It simply reports a pooled Form 1042-S to the IRS, instead of a Form 1042-S for each of its accounts. It also does not have to provide its clients with a copy of the Form 1042-S, unless specifically requested.



## HOW THE TAX COMPLIANCE TOOLKIT CAN HELP

The Tax Compliance Toolkit offers several tools that can assist a financial institution with its obligations of being a QI, these tools include:

- 1) Assistance with the application to become a QI.
- 2) Assistance with building a compliance program as per the requirements of the QI agreement.
- 3) Assistance in preparing for a triennial review.
- 4) The Toolkit offers an electronic solution to enable a financial institution to document the IRC Chapter 3 (QI) status of its clients.
- 5) Assistance with the preparation of information return reporting (1042-S) reporting.
- 6) Assistance with submitting reports and returns to the IRS.

The Tax Compliance Toolkit has the ability to become your compliance partner and can assist you in ensuring your obligations as a QI are met in a timely and accurate manner.