



## 5x5 series: Insights and actions

# 2023 QI Agreement: what to know now

On December 13, 2022, Treasury and the IRS issued Rev. Proc. 2022-43 finalizing the 2023 qualified intermediary (QI) withholding agreement. The 2023 QI Agreement contains significant changes from the 2017 QI Agreement, and the new rules will apply to QI agreements in effect on or after January 1, 2023.

### 5 insights you should know

**Application and renewal:** All QI agreements in effect expire on December 31, 2022. QIs wishing to renew their agreements must do so through IRS QI portal (known as QAAMS) by May 1, 2023 (recently extended from March 31), for the agreement to be effective as of January 1, 2023, and to avoid disruption of its QI status.

**Sections 1446(a) and (f) compliance:** The 2023 QI Agreement includes clarification on solicitation requirements for US TIN collection, requirements for disclosing QIs, partner information reporting, documentation validity period for section 1446 purposes, disallowance of collective refunds, and presumption rule clarification under section 1446(a).

**QDD and QSL requirements:** The final agreement includes several changes impacting Qualified Derivatives Dealers (QDDs) and Qualified Securities Lenders (QSLs), including incorporating IRS Notice 2022-37, which extended prior transition relief for section 871(m) transactions.

**Response to public comments:** The 2023 QI Agreement adopts comments and requests for clarification received since publication of the 2017 QI Agreement, many of which were addressed in FAQs.

**QI compliance and certification:** The 2023 QI Agreement includes modifications to the QI compliance and certification procedures, which relate to sections 1446(a) and (f), for improved compliance.

### 5 actions to take now

- 1 Prepare:** Current QIs should review their QI status and prepare to renew or establish their QI agreements by May 1, 2023. New and renewing applicants will be required to consent to have their QI name, status, and QI-EIN publicly disclosed.
- 2 Evaluate:** QIs that hold publicly traded partnership (PTP) interests should evaluate their compliance obligations considering the modifications to the QI requirements under sections 1446(a) and (f).
- 3 Invest:** Global organizations should continue their systems and processes to ensure compliance with the rules under section 871(m). Although transition relief has been extended, QI certification of a good faith effort to comply is still required.
- 4 Review:** Customer onboarding procedures should include US TIN solicitation requirements, and QIs should review and refresh policies to ensure compliance with the new agreement.
- 5 Consider:** Additional review steps have been added to the scope of periodic review and certification procedures in the context of sections 1446(a) and (f) and otherwise.



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