

# Clarifications of Qualified Intermediary Agreement Provisions and Procedures

## Notice 2001-4

### I. Purpose

Certain issues have arisen regarding the implementation of the new withholding and reporting regulations (T.D. 8734, 1997-2 C.B.109, and T.D. 8881, 2000-23 I.R.B. 1158) and the qualified intermediary agreement contained in Rev. Proc. 2000-12 (2000-4 I.R.B. 387). This notice provides guidance regarding certain transitional and other issues for qualified intermediaries (QIs) and U.S. withholding agents. In addition,

this notice provides a clarification regarding the use of the term “know your customer” in the context of the new withholding and reporting regulations. The Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) will continue to monitor the implementation of the new regulations and the qualified intermediary agreement and will provide, as appropriate, other guidance designed to ensure that the implementation process occurs as smoothly as possible.

### II. Background

In T.D. 8734, as modified by T.D. 8881, (the “new withholding regulations”), Treasury and the IRS issued comprehensive regulations under chapter 3 (sections 1441-1464) and subpart G of subchapter A of chapter 61 (sections 6041-6050S) of the Internal Revenue Code (the “Code”). The regulations are a significant revision of the procedural rules regarding the withholding, documentation, and information reporting requirements that apply to payments of income to foreign persons, particularly as they relate to payments handled by financial in-

termediaries. The regulations generally become effective January 1, 2001.

The provisions relating to QIs are a key component of the new regulations. Those provisions are intended to reduce the administrative burdens of both foreign financial institution intermediaries (as well as foreign branches of U.S. intermediaries) and the U.S. withholding agents from whom the foreign intermediaries and foreign branches receive income. To become a QI, an entity must submit an application and enter into a qualified intermediary withholding agreement (QI agreement) with the IRS. The application procedures and terms of the QI agreement are set forth in Rev. Proc. 2000-12. Additional guidance has been provided to qualified intermediaries in Announcement 2000-48 (2000-23 I.R.B. 1243).

### III. Transitional Guidance for QIs.

#### A. Acting as a QI Prior to Execution of the QI Agreement

##### 1. Provisions Applicable to QIs.

Some potential QIs have expressed concerns about their ability to act as QIs on January 1, 2001, if they file an application for a QI agreement before January 1,