

§ 1.1471-4T

26 CFR Ch. I (4-1-15 Edition)

4(d)(7); 1.1471-4(e)(2)(v); 1.1471-4(e)(3)(iv).

[T.D. 9610, 78 FR 5942, Jan. 28, 2013; 78 FR 55205, Sept. 10, 2013, as amended by T.D. 9657, 79 FR 12843, Mar. 6, 2014; 79 FR 37178, July 1, 2014]

**§ 1.1471-4T FFI Agreement (temporary).**

(a) [Reserved] For further guidance, see § 1.1471-4(a).

(1) through (2) [Reserved] For further guidance, see § 1.1471-4(a)(1) through (2).

(3) *Reporting.* A participating FFI is required to report the information described in paragraph (d) of this section annually with respect to U.S. accounts under section 1471(c) and accounts held by recalcitrant account holders. A participating FFI must also comply with the filing requirements described in § 1.1474-1(c) and (d) to report payments that are chapter 4 reportable amounts paid to recalcitrant account holders and nonparticipating FFIs (including the transitional reporting of foreign reportable amounts paid to nonparticipating FFIs for calendar years 2015 and 2016 described in § 1.1471-4(d)(2)(ii)(F)). A participating FFI that is unable to obtain a waiver, if required by foreign law, to report an account as required under paragraph (d) of this section must close or transfer such account within a reasonable period of time as described in paragraph (i) of this section.

(4) through (7) [Reserved] For further guidance, see § 1.1471-4(a)(4) through (7).

(b) [Reserved] For further guidance, see § 1.1471-4(b).

(1) *In general.* Except as otherwise provided in a Model 2 IGA, a participating FFI is required to deduct and withhold a tax equal to 30 percent of any withholdable payment made by such participating FFI to an account held by a recalcitrant account holder or to a nonparticipating FFI after June 30, 2014, to the extent required under paragraph (b)(3) of this section. See paragraph (b)(2) of this section for rules for a participating FFI to identify the payee of a payment in order to determine whether withholding is required under this paragraph (b). See paragraph (b)(4) of this section for the extent of a participating FFI's requirement to deduct and withhold tax on a

foreign passthru payment made by such participating FFI to an account held by a recalcitrant account holder or to a nonparticipating FFI. See paragraph (b)(5) of this section for the rules for withholding on payments to limited branches and limited FFIs. See paragraph (b)(6) for the special allowance to set aside in escrow amounts withheld with respect to dormant accounts. See paragraph (b)(7) of this section for the withholding requirements of certain U.S. branches of participating FFIs. See § 1.1471-2 for the exceptions to and special rules for withholding and the exclusion from the definitions of the terms *withholdable payment* and *foreign passthru payment* that applies to any payment made under a grandfathered obligation or the gross proceeds from the disposition of such an obligation. See § 1.1474-1(d)(4)(iii) for the requirement of participating FFIs to report payments that are chapter 4 reportable amounts. See § 1.1474-6 for the coordination of withholding on payments under this paragraph (b) with the other withholding provisions under the Code.

(2) *Withholding determination.* Except as otherwise provided under § 1.1471-2 and, with respect to certain preexisting accounts, under paragraph (c) of this section, a participating FFI is required to determine whether withholding applies at the time a payment is made by reliably associating the payment with valid documentation described in paragraph (c) of this section for the payee of the payment. For a payment made to an account, if the account is held by one or more individuals, the payee is each individual account holder. For a payment made to an account held by an entity, except as otherwise provided in § 1.1471-3(a)(3), the payee is the account holder. If the participating FFI makes a withholdable payment to a payee that is an entity and the payment is made with respect to an obligation that is not an account, except as otherwise provided in § 1.1471-3(a)(3), the payee is the person to whom the payment is made. See § 1.1473-1(a) to determine when a payment is made in the case of a withholdable payment. If a participating FFI cannot reliably associate a payment (or any portion of a payment) with valid documentation, the rules described in paragraph (c) of

this section shall apply to determine the chapter 4 status of the account holder (and payee if other than the account holder). Notwithstanding the foregoing, a participating FFI may establish after the date of payment that withholding was not required to the extent permitted under § 1.1471-3(c)(7) or may apply the procedures provided in § 1.1474-2 when overwithholding occurs.

(3) *Satisfaction of withholding requirements.*

(i) *In general.* A participating FFI that complies with the withholding obligations of this paragraph (b) with respect to accounts held by recalcitrant account holders and payees that are nonparticipating FFIs shall be deemed to satisfy its withholding obligations under sections 1471(a) and 1472 with respect to such account holders and payees.

(ii) *Withholding not required.* A participating FFI that is an NQI, NWP, NWT, or that is a QI that elects under section 1471(b)(3) not to assume withholding responsibility for a payment and that provides its withholding agent with the information necessary to allocate all or a portion of the payment to each payee as part of a withholding certificate described in § 1.1471-3(c)(3)(iii) will generally not be required to withhold under paragraph (b)(1) of this section. See § 1.1471-2(a)(2)(ii), however, for the circumstances under which a participating FFI that is an NQI, NWP, or NWT has a residual withholding responsibility. See also § 1.1471-3(c)(9)(iii)(B) for the circumstances under which a participating FFI that is a broker has a residual withholding responsibility as an intermediary of the payment and may also be liable for any underwithholding that occurs. See §§ 1.1471-2(a) and 1.1472-1(a)(2)(i) and the QI, WP, or WT agreement for the withholding requirements of a participating FFI that is a QI, WP, or WT for purposes of chapter 4.

(iii) *Election to withhold under section 3406.* A participating FFI may elect to satisfy its withholding obligation under paragraph (b)(1) of this section with respect to recalcitrant account holders that are also U.S. non-exempt recipients subject to backup withholding under section 3406 receiving

withholdable payments, to the extent that the payments also constitute reportable payments, by applying withholding under section 3406 at the backup withholding rate to such withholdable payments. A participating FFI may make the election described in this paragraph only if it complies with the information reporting rules under chapter 61 with respect to payments to which backup withholding applies. Nothing in this paragraph relieves a participating FFI of its requirement to backup withhold under section 3406 with respect to reportable payments that are not also withholdable payments. See § 1.1474-6(f) for the general rule that satisfying withholding requirements under chapter 4 will satisfy backup withholding requirements under section 3406 for a payment that is both a withholdable payment and a reportable payment.

(4) through (5)(ii) [Reserved] For further guidance, see § 1.1471-4(b)(4) through (b)(5)(ii).

(6) *Special rule for dormant accounts.* A participating FFI that makes a withholdable payment not otherwise subject to withholding under chapter 3 or backup withholding under section 3406 to a recalcitrant account holder of a dormant account that it maintains must withhold on the account for purposes of chapter 4. However, the participating FFI may, in lieu of depositing the tax withheld, set aside the amount withheld in escrow until the date that the account ceases to be a dormant account. In such case, the tax withheld becomes due 90 days following the date that the account ceases to be a dormant account if the account holder does not provide the documentation required under paragraph (c) of this section or becomes refundable to the account holder if the account holder provides the documentation required under paragraph (c) of this section establishing that withholding does not apply. A participating FFI that maintains a dormant account of a recalcitrant account holder and that elects to escrow withheld tax pursuant to this paragraph (b)(6) may not delegate the responsibility to escrow withheld tax to the withholding agent from which it is receiving payment. Once a dormant

account escheats irrevocably to a foreign government under the relevant laws in the jurisdiction in which the participating FFI (or branch thereof) operates, the participating FFI is no longer required to deposit with the IRS the amount held in escrow with respect to the account. See paragraph (d)(6)(ii) of this section for the definition of dormant account.

(7) [Reserved] For further guidance, see § 1.1471-4(b)(7).

(c) [Reserved] For further guidance, see § 1.1471-4(c).

(1) through (4)(iii)(B) [Reserved] For further guidance, see § 1.1471-4(c)(1) through (c)(4)(iii)(B).

(5) [Reserved] For further guidance, see § 1.1471-4(c)(5).

(i) through (iii)(C) [Reserved] For further guidance, see § 1.1471-4(c)(5)(i) through (c)(5)(iii)(C).

(iv) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv).

(A) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(A).

(B) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(B).

(I) through (I)(vii) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(B)(I) through (c)(5)(iv)(B)(I)(vii).

(2) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(B)(2).

(i) through (v) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(B)(2)(i) through (v).

(vi) *Standing instructions to pay amounts.* If information required to be reviewed with respect to the account contains standing instructions to pay amounts from the account to an account maintained in the United States for an account holder, the participating FFI must retain a record of a withholding certificate and either a form of documentary evidence described in § 1.1471-3(c)(5)(i)(A) through (C) or a written reasonable explanation (as defined in § 1.1441-7(b)(12)) establishing the account holder's status as a foreign person.

(vii) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(B)(2)(vii).

(C) through (D)(4)(vi) [Reserved] For further guidance, see § 1.1471-4(c)(5)(iv)(C) through (c)(5)(iv)(D)(4)(vi).

(E) Exception for preexisting individual accounts previously documented

as held by foreign individuals. A participating FFI that has previously obtained documentation from an account holder to establish the account holder's status as a foreign individual in order to meet its obligations under its QI, WP, or WT agreement with the IRS, or to fulfill its reporting obligations as a U.S. payor under chapter 61, is not required to perform the electronic search described in paragraph (c)(5)(iv)(C) of this section or the enhanced review described in paragraph (c)(5)(iv)(D)(3) of this section for such account. Additionally, a participating FFI with a U.S. payor as its paying agent is not required to perform the electronic search described in paragraph (c)(5)(iv)(C) of this section or the enhanced review described in paragraph (c)(5)(iv)(D)(3) of this section for an account for which its paying agent that is a U.S. payor has previously obtained documentation to establish the account holder's status as a foreign individual under chapter 61. The participating FFI is required, however, to perform the relationship manager inquiry described in paragraph (c)(5)(iv)(D)(2) of this section if the account is a high-value account described in paragraph (c)(5)(iv)(D)(I) of this section. For purposes of this paragraph (c)(5)(iv)(E), a participating FFI has documented an account holder's foreign status under chapter 61 if the participating FFI (or its paying agent that is a U.S. payor) has retained a record of the documentation required under chapter 61 to establish the foreign status of an individual and the account received a reportable payment as defined under section 3406(b) in any prior year that was properly reported in that year. In the case of a participating FFI that is a QI, WP, or WT, the participating FFI has documented an account holder's foreign status under its QI, WP, or WT agreement (as applicable) if the participating FFI has met the relevant documentation and reporting requirements of its agreement with respect to an account holder that received a reportable amount in any year in which its agreement was in effect.

(6) through (7) [Reserved] For further guidance, see § 1.1471-4(c)(6) through (7).

(d) [Reserved] For further guidance, see § 1.1471-4(d).

(1) *Scope of paragraph.* This paragraph (d) provides rules addressing the information reporting requirements applicable to participating FFIs with respect to U.S. accounts, accounts held by owner-documented FFIs, and recalcitrant account holders. Paragraph (d)(2) of this section describes the accounts subject to reporting under this paragraph (d), and specifies the participating FFI that is responsible for reporting an account or account holder. Paragraph (d)(3) of this section describes the information required to be reported and the manner of reporting by a participating FFI under section 1471(c)(1) with respect to a U.S. account or an account held by an owner-documented FFI. Paragraph (d)(4) of this section provides definitions of terms applicable to paragraph (d)(3). Paragraph (d)(5) of this section describes the conditions for a participating FFI to elect to report its U.S. accounts and accounts held by owner-documented FFIs under section 1471(c)(2) and the information required to be reported under such election. Paragraph (d)(6) of this section provides rules for a participating FFI to report its recalcitrant account holders. Paragraph (d)(7) of this section provides special transitional reporting rules applicable to reports due in 2015 and 2016. Paragraph (d)(8) of this section provides the reporting requirements of a participating FFI that is a QL, WP, or WT with respect to U.S. accounts. See chapter 61 for reporting requirements that may apply to a payor that is a participating FFI or registered deemed-compliant FFI with respect to payees. See § 301.1474-1(a) for the requirement for a financial institution to file the information required under this paragraph (d) on magnetic media.

(2) [Reserved] For further guidance, see § 1.1471-4(d)(2).

(i) *Accounts subject to reporting.* Subject to the rules of paragraph (d)(7) of this section, a participating FFI shall report by the time and in the manner prescribed in paragraph (d)(3)(vi) of this section, the information described in paragraph (d)(3) of this section with respect to accounts maintained at any time during each calendar year for which the participating FFI is responsible for reporting under paragraph

(d)(2)(ii) of this section and that it is required to treat as U.S. accounts or accounts held by owner-documented FFIs, including accounts that are identified as U.S. accounts by the end of such calendar year pursuant to a change in circumstances during such year as described in paragraph (c)(2)(iii) of this section. Alternatively, a participating FFI may elect to report under paragraph (d)(5) of this section with respect to such accounts for each calendar year. With respect to accounts held by recalcitrant account holders, a participating FFI is required to report with respect to each calendar year under paragraph (d)(6) of this section and not under paragraph (d)(3) or (5) of this section. For separate reporting requirements of participating FFIs with respect to foreign reportable amounts and for transitional rules for participating FFIs to report certain foreign reportable amounts paid to accounts held by nonparticipating FFIs, see § 1.1471-4(d)(2)(ii)(F).

(ii) [Reserved] For further guidance, see § 1.1471-4(d)(2)(ii).

(A) *In general.* Except as otherwise provided in paragraphs (d)(2)(ii)(B) through (F) of this section, the participating FFI that maintains the account is responsible for reporting the account in accordance with the requirements of paragraph (d)(2)(iii), (d)(3), or (d)(5) of this section (as applicable) for each calendar year. Except as otherwise provided in paragraph (d)(2)(ii)(C) of this section, a participating FFI is responsible for reporting accounts held by recalcitrant account holders that it maintains in accordance with the requirements of paragraph (d)(6) of this section. A participating FFI is not required to report the information required under paragraph (d)(6) of this section with respect to an account held by a recalcitrant account holder of another participating FFI even if that other participating FFI holds the account as an intermediary on behalf of such account holder and regardless of whether the participating FFI is required to report payments made to the recalcitrant account holder of such other FFI under § 1.1474-1(d)(4)(iii).

(B) [Reserved] For further guidance, see § 1.1471-4(d)(2)(ii)(B).

(I) [Reserved] For further guidance, see § 1.1471-4(d)(2)(ii)(B)(I).

(2) If the territory financial institution does not agree to be treated as a U.S. person with respect to a withholdable payment, the participating FFI must report with respect to each specified U.S. person or substantial U.S. owner of an entity that is treated as a passive NFFE with respect to which the territory financial institution acts as an intermediary and provides the participating FFI with the information and documentation required under § 1.1471-3(c)(3)(iii)(G). The participating FFI shall be treated as having satisfied these reporting requirements if it reports with respect to each such specified U.S. person or substantial U.S. owner of a passive NFFE either—

(i) The information required by chapter 61 and described in paragraph (d)(5)(ii) or (d)(5)(iii) of this section (except account number); or

(ii) The information described in paragraph (d)(3)(ii), (d)(3)(iii), or (d)(3)(iv) of this section (except account number and account balance or value).

(C) through (D) [Reserved] For further guidance, see § 1.1471-4(d)(2)(ii)(C) through (D).

(E) *Requirement to identify the GIIN of a branch that maintains an account.* A participating FFI may report under paragraph (d)(3) or (d)(5) of this section either with respect to all of its U.S. accounts and recalcitrant accounts, or separately with respect to any clearly identified group of accounts (such as by line of business or the location of where the account is maintained). A participating FFI shall include the GIIN assigned to the participating FFI or its branches to identify the jurisdiction of the FFI or branch that maintains the accounts subject to reporting under paragraph (d)(3) or (d)(5) of this section. Additionally, a participating FFI shall file with the IRS the information required to be reported on accounts that it maintains in accordance with the forms and their accompanying instructions provided by the IRS. For the definition of a branch that applies for purposes of this paragraph (d), see paragraph (e)(2)(ii) of this section.

(F) *Reporting by participating FFIs (including QIs, WPs, WTs, and certain U.S. branches not treated as U.S. persons) for accounts of nonparticipating FFIs (transitional).* Except as otherwise provided in the instructions to Form 8966, “FATCA Report,” if a participating FFI (including a QI, WP, WT, or U.S. branch of a participating FFI or registered deemed-compliant FFI that is not treated as a U.S. person) maintains an account for a nonparticipating FFI (including a limited branch and limited FFI treated as a nonparticipating FFI), the participating FFI must report on Form 8966 the name and address of the nonparticipating FFI, and the aggregate amount of foreign source payments, as described in paragraph (d)(4)(iv) of this section, paid to or with respect to each such account (foreign reportable amount) for each of the calendar years 2015 and 2016. If, however, the participating FFI is prohibited under domestic law from reporting on a specific payee basis without consent from the nonparticipating FFI account holder and the participating FFI has not been able to obtain such consent, the participating FFI may instead report the aggregate number of accounts held by such non-consenting nonparticipating FFIs and the aggregate amount of foreign reportable amounts paid with respect to such accounts, as described in paragraph (d)(4)(iv) of this section, during the calendar year. A participating FFI may, in lieu of reporting only foreign reportable amounts, report all income, gross proceeds, and redemptions (irrespective of the source) paid to the nonparticipating FFI’s account by the participating FFI during the calendar year. In addition, the participating FFI must retain the account statements related to such nonparticipating FFI accounts. See paragraphs (d)(6)(iv), (v), (vi) and (vii) of this section for rules relating to reporting on recalcitrant account holders. Form 8966 shall be filed electronically with the IRS on or before March 31 of the year following the end of the calendar year to which the form relates.

(iii) [Reserved] For further guidance, see § 1.1471-4(d)(2)(iii).

## Internal Revenue Service, Treasury

## § 1.1471-4T

(A) *Special reporting rule for U.S. payors other than U.S. branches.* Participating FFIs that are U.S. payors (other than U.S. branches) shall be treated as having satisfied the chapter 4 reporting requirements described in paragraph (d)(2)(i) of this section with respect to accounts that the participating FFI is required to treat as U.S. accounts, or accounts held by owner-documented FFIs, if the participating FFI reports with respect to each such account either—

(I) The information required by chapter 61 and described in paragraph (d)(5)(ii) or (d)(5)(iii) of this section; or

(2) The information described in paragraph (d)(3)(ii), (d)(3)(iii), or (d)(3)(iv) of this section. However, such participating FFI that is required to report on such accounts under chapter 61 is not relieved of that obligation.

(B) *Special reporting rules for U.S. branches treated as U.S. persons.* A U.S. branch treated as a U.S. person (as defined in § 1.1471-1(b)(135)) shall be treated as having satisfied the reporting requirements described in paragraph (d)(2)(i) of this section if it reports under—

(I) through (4) [Reserved] For further guidance, see § 1.1471-4(d)(2)(iii)(B)(I) through (4).

(C) *Special reporting rules for U.S. branches not treated as U.S. persons.* A U.S. branch of a registered deemed-compliant FFI or limited FFI that is not treated as a U.S. person shall be treated as having satisfied the reporting requirements described in paragraph (d)(2)(i) of this section if it reports the information described in paragraph (d)(2)(iii)(B)(I) through (4) of this section with respect to account holders of accounts that the U.S. branch is required to treat as U.S. accounts or accounts held by owner-documented FFIs.

(3) [Reserved] For further guidance, see § 1.1471-4(d)(3).

(i) [Reserved] For further guidance, see § 1.1471-4(d)(3)(i).

(ii) [Reserved] For further guidance, see § 1.1471-4(d)(3)(ii).

(A) through (D) [Reserved] For further guidance, see § 1.1471-4(d)(3)(ii)(A) through (D).

(E) Such other information as is otherwise required to be reported under

this paragraph (d)(3) or in the form described in paragraph (d)(3)(v) of this section and its accompanying instructions.

(iii) [Reserved] For further guidance, see § 1.1471-4(d)(3)(iii).

(A) through (E) [Reserved] For further guidance, see § 1.1471-4(d)(3)(iii)(A) through (E).

(F) Such other information as is otherwise required to be reported under this paragraph (d)(3) or in the form described in paragraph (d)(3)(v) of this section and its accompanying instructions.

(iv) through (iv)(F) [Reserved] For further guidance, see § 1.1471-4(d)(3)(iv) through (d)(3)(iv)(F).

(v) [Reserved] For further guidance, see § 1.1471-4(d)(3)(v).

(vi) [Reserved] For further guidance, see § 1.1471-4(d)(3)(vi).

(vii) [Reserved] For further guidance, see § 1.1471-4(d)(3)(vii).

(4) through (4)(v) [Reserved] For further guidance, see § 1.1471-4(d)(4) through (d)(4)(v).

(5) [Reserved] For further guidance, see § 1.1471-4(d)(5).

(i) through (iv) [Reserved] For further guidance, see § 1.1471-4(d)(5)(i) through (d)(5)(iv).

(v) *Time and manner of making the election.* A participating FFI (or one or more branches of the participating FFI) may make the election described in this paragraph (d)(5) by reporting the information described in this paragraph (d)(5) on the form described in paragraph (d)(5)(vii) of this section on the next reporting date following the end of the calendar year for which the election is made. A participating FFI may make an election under this paragraph (d)(5) either with respect to all of its U.S. accounts and recalcitrant accounts or, separately, with respect to any clearly identified group of accounts (such as by line of business or the location where the account is maintained).

(vi) *Revocation of election.* A participating FFI may revoke the election described in paragraph (d)(5)(i) of this section (as a whole or with regard to any clearly identified group of accounts) by reporting the information described in paragraph (d)(3) of this section beginning on the first reporting

date with respect to the calendar year that follows the calendar year for which it last reports an account under this paragraph (d)(5).

(vii) [Reserved] For further guidance, see § 1.1471-4(d)(5)(vii).

(6) [Reserved] For further guidance, see § 1.1471-4(d)(6).

(i) through (v) [Reserved] For further guidance, see § 1.1471-4(d)(6)(i) through (v).

(vi) *Extensions in filing.* The IRS shall grant an automatic 90-day extension of time in which to file Form 8966, Form 8809, "Request for Extension of Time to File Information Returns," (or such other form as the IRS may prescribe) must be used to request such extension of time and must be filed no later than the due date of Form 8966. Under certain hardship conditions, the IRS may grant an additional 90-day extension. A request for extension due to hardship must contain a statement of the reasons for requesting the extension and such other information as the forms or instructions may require.

(vii) [Reserved] For further guidance, see § 1.1471-4(d)(6)(vii).

(7) *Special reporting rules with respect to the 2014 and 2015 calendar years*

(i) *In general.* If the effective date of the FFI agreement of a participating FFI is on or before December 31, 2015, the participating FFI is required to report U.S. accounts and accounts held by owner-documented FFIs that it maintained (or that it is otherwise required to report under paragraph (d)(2)(ii) of this section) during the 2014 and 2015 calendar years in accordance with paragraph (d)(7)(ii) or (iii) of this section.

(ii) [Reserved] For further guidance, see § 1.1471-4(d)(7)(ii).

(A) *Reporting with respect to the 2014 calendar year.* With respect to accounts maintained during the 2014 calendar year—

(I) through (3) [Reserved] For further guidance, see § 1.1471-4(d)(7)(ii)(A)(1) through (3).

(B) [Reserved] For further guidance, see § 1.1471-4(d)(7)(ii)(B).

(I) through (2) [Reserved] For further guidance, see § 1.1471-4(d)(7)(ii)(B)(1) through (2).

(iii) *Participating FFIs that report under § 1.1471-4(d)(5).* A participating

FFI that elects to report under paragraph (d)(5) of this section may report only the information described in paragraphs (d)(7)(ii)(A)(1) and (3) of this section for its 2014 calendar year. With respect to its 2015 calendar year, a participating FFI is required to report all of the information required to be reported under paragraphs (d)(5)(i) through (iii) of this section but may exclude from such reporting amounts reportable under section 6045.

(iv) [Reserved] For further guidance, see § 1.1471-4(d)(7)(iv).

(A) *In general.* Except as provided in paragraph (d)(7)(iv)(B) of this section, reporting under paragraph (d)(7)(ii) of this section shall be made on Form 8966 (or such other form as the IRS may prescribe), in the manner described in paragraph (d)(3)(vi) of this section. Reporting under paragraph (d)(7)(iii) of this section shall be made in accordance with paragraph (d)(5)(vii) of this section.

(B) *Special determination date and timing for reporting with respect to the 2014 calendar year.* With respect to the 2014 calendar year, a participating FFI must report under paragraph (d)(3) or (5) of this section on all accounts that are identified and documented under paragraph (c) of this section as U.S. accounts or accounts held by owner-documented FFIs as of December 31, 2014, (or as of the date an account is closed if the account is closed prior to December 31, 2014) if such account was outstanding on or after the effective date of the participating FFI's FFI agreement. Reporting for the 2014 calendar year shall be filed with the IRS on or before March 31, 2015. However, a U.S. payor (including a U.S. branch treated as a U.S. person (as defined in § 1.1471-1(b)(135))) that reports in accordance with paragraph (d)(2)(iii) of this section may report all or a portion of its U.S. accounts and accounts held by owner-documented FFIs in accordance with the dates otherwise applicable to reporting under chapter 61 with respect to the 2014 calendar year.

(8) *Reporting requirements of QIs, WPs, and WTs.* In general, the reporting requirements with respect to the U.S. accounts maintained by a participating FFI that is a QI, WP, or WT will be

consistent with the reporting requirements with respect to such accounts of a participating FFI that is not a QL, WP, or WT. See the QL, WP, or WT agreement for the coordination of the chapter 4 reporting obligations of a participating FFI that also is a QL, WP, or WT.

(9) [Reserved] For further guidance, see § 1.1471-4(d)(9).

*Example 1.* [Reserved] For further guidance, see § 1.1471-4(d)(9), *Example 1*.

*Example 2.* [Reserved] For further guidance, see § 1.1471-4(d)(9), *Example 2*.

*Example 3. U.S. owned foreign entity.* FC, a passive NFFE, holds a custodial account with PFFI1, a participating FFI. U, a specified U.S. person, owns 3% of the only class of stock of FC. Q, another specified U.S. person, owns 12% of the only class of stock of FC. U is not a substantial U.S. owner of FC. See § 1.1473-1(b). Q is a substantial U.S. owner of FC and FC identifies her as such to PFFI1. PFFI1 does not elect to report under paragraph (d)(5) of this section. PFFI1 must complete and file the reporting form described in paragraph (d)(3)(v) of this section and report the information described in paragraph (d)(3)(iii) with respect to both FC and Q. See paragraph (d)(3)(ii) of this section.

*Example 4.* [Reserved] For further guidance, see § 1.1471-4(d)(9), *Example 4*.

*Example 5. Owner-documented FFI.* DC, an owner-documented FFI under § 1.1471-3(d)(6), holds a custodial account with PFFI1, a participating FFI. U, a specified U.S. person, owns 3% of the only class of stock of DC. Q, another specified U.S. person, owns 12% of the only class of stock of DC. Both U and Q are persons identified in § 1.1471-3(d)(6)(iv)(A)(1) and DC identifies U and Q to PFFI1 and otherwise provides to PFFI1 all of the information required to be reported with respect to DC. PFFI1 must complete and file a form described in paragraph (d)(3)(v) of this section with regard to U and Q. See paragraph (d)(3)(iii) of this section.

*Example 6.* [Reserved] For further guidance, see § 1.1471-4(d)(9), *Example 6*.

*Example 7. Sponsored FFI.* DC2 is an FFI that has agreed to have a sponsoring entity, PFFI1, fulfill DC2's chapter 4 responsibilities under § 1.1471-5(f)(2)(iii). U, a specified U.S. person, holds an equity interest in DC2 that is a financial account under § 1.1471-5(b)(3)(iii). PFFI1 must complete and file a form described in paragraph (d)(3)(v) of this section with regard to U's account on behalf of DC2. See paragraph (d)(2)(ii)(C) of this section.

(e) [Reserved] For further guidance, see § 1.1471-4(e).

(1) *In general.* Except as otherwise provided in this paragraph (e)(1) or

paragraphs (e)(2) and (e)(3) of this section, each FFI that is a member of an expanded affiliated group must have the chapter 4 status of a participating FFI, deemed-compliant FFI, or exempt beneficial owner as a condition for any member of such group to obtain the status of a participating FFI or registered deemed-compliant FFI. Accordingly, except as otherwise provided in published guidance, each FFI other than a certified deemed-compliant FFI or exempt beneficial owner in an expanded affiliated group must submit a registration form to the IRS in such manner as the IRS may prescribe requesting an FFI agreement, registered deemed-compliant status, or limited FFI status as a condition for any member to become a participating FFI or registered deemed-compliant FFI. Except as provided in paragraph (e)(2) of this section, each FFI other than a certified deemed-compliant FFI or exempt beneficial owner that is a member of such group must also agree to all of the requirements for the status for which it applies with respect to all accounts maintained at all of its branches, offices, and divisions. For the withholding requirements of a participating FFI with respect to its limited branches and its affiliates that are limited FFIs, see paragraph (b)(5) of this section. Notwithstanding the foregoing, an FFI (or branch thereof) that is treated as a participating FFI or a deemed-compliant FFI pursuant to a Model 1 IGA or Model 2 IGA will maintain such status provided that it meets the terms for such status pursuant to such agreement.

(2) [Reserved] For further guidance, see § 1.1471-4(e)(2).

(i) [Reserved] For further guidance, see § 1.1471-4(e)(2)(i).

(A) through (C) [Reserved] For further guidance, see § 1.1471-4(e)(2)(i)(A) through (C).

(ii) *Branch defined.* For purposes of this section, a branch is a unit, business, or office of an FFI that is treated as a branch under the regulatory regime of a country or that is otherwise regulated under the laws of a country as separate from other offices, units, or branches of the FFI and also includes an entity that is disregarded as an entity separate from an FFI (including



branches maintained by such disregarded entity). For purposes of this section, a branch includes a unit, business, or office of an FFI located in a country in which it is resident, and a unit, business, or office of an FFI located in the country in which the FFI is created or organized. All units, businesses, and offices of a participating FFI located in a single country, and all entities disregarded as entities separate from a participating FFI and located in a single country, shall be treated as a single branch and may use the same GIIN. An account will be treated as maintained by a branch or disregarded entity if the rights and obligations of the account holder and the participating FFI with regard to such account (including any assets held in the account) are governed by the laws of the country of the branch or disregarded entity.

(iii) through (v) [Reserved] For further guidance, see § 1.1471-4(e)(2)(iii) through (v).

(3) through (4) [Reserved] For further guidance, see § 1.1471-4(e)(3) through (4).

(f) [Reserved] For further guidance, see § 1.1471-4(f).

(1) through (3)(iv)(C) [Reserved] For further guidance, see § 1.1471-4(f)(1) through (f)(3)(iv)(C).

(4) [Reserved] For further guidance, see § 1.1471-4(f)(4).

(i) *General inquiries.* The IRS, based upon the information reporting forms described in paragraphs (d)(3)(v), (d)(5)(vii), or (d)(6)(iv) of this section filed with the IRS for each calendar year, may request additional information with respect to the information reported on the forms or may request the account statements described in paragraph (d)(4)(v) of this section. The IRS may request additional information to determine an FFI's compliance with its FFI agreement and to assist the IRS with its review of account holder compliance with tax reporting requirements.

(ii) *Inquiries regarding substantial non-compliance.* If, based on the information reporting forms described in paragraphs (d)(3)(v), (d)(5)(vii), or (d)(6)(iv) of this section filed with the IRS for each calendar year, the certifications made by the responsible officer described in paragraph (f)(3) of this sec-

tion, or any other information related to the participating FFI's compliance with its FFI agreement, the IRS determines in its discretion that the participating FFI may not have substantially complied with the requirements of its FFI agreement, the IRS may request from the responsible officer (or designee) information necessary to verify the participating FFI's compliance with the FFI agreement. The IRS may request, for example, a description or copy of the participating FFI's policies and procedures for fulfilling the requirements of the FFI agreement, a description of the participating FFI's procedures for conducting its periodic review, or a copy of any written reports documenting the findings of such review in order to evaluate the sufficiency of the participating FFI's compliance program and review of such program. The IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures given the facts and circumstances surrounding the FFI's potential failure to comply with the FFI agreement. The IRS may make these requests to a sponsoring entity with respect to any sponsored FFI.

(g) [Reserved] For further guidance, see § 1.1471-4(g).

(1) *Defined.* An event of default occurs if a participating FFI fails to perform material obligations required with respect to the due diligence, verification, withholding, or reporting requirements of the FFI agreement or if the IRS determines that the participating FFI has failed to substantially comply with the requirements of the FFI agreement. An event of default also includes the occurrence of the following—

(i) [Reserved] For further guidance, see § 1.1471-4(g)(1)(i).

(ii) Failure to significantly reduce, over a period of time, the number of account holders or payees that the participating FFI is required to treat as recalcitrant account holders or non-participating FFIs, as a result of the participating FFI failing to comply with the due diligence procedures for the identification and documentation

of account holders and payees, as set forth in paragraph (c) of this section;

(iii) through (ix) [Reserved] For further guidance, see § 1.1471-4(g)(1)(iii) through (ix).

(2) *Notice of event of default.* Following an event of default known by or disclosed to the IRS, the IRS will deliver to the participating FFI a notice of default specifying the event of default. The IRS will request that the participating FFI remediate the event of default within a specified time period. The participating FFI must respond to the notice of default and provide information responsive to an IRS request for information or state the reasons why the participating FFI does not agree that an event of default has occurred. Taking into account the terms of any applicable Model 2 IGA, if the participating FFI does not provide a response within the specified time period, the IRS may, at its sole discretion, deliver a notice of termination that terminates the FFI's participating FFI status. A participating FFI may request, within a reasonable period of time, reconsideration of a notice of default or notice of termination by written request to the Deputy Commissioner (International), LB&I.

(3) [Reserved] For further guidance, see § 1.1471-4(g)(3).

(h) through (j) [Reserved] For further guidance, see § 1.1471-4(h) through (j).

(k) *Expiration date.* The applicability of this section expires on February 28, 2017.

[T.D. 9657, 79 FR 12844, Mar. 6, 2014; 79 FR 37179, July 1, 2014; 79 FR 68619, Nov. 18, 2014]

#### § 1.1471-5 Definitions applicable to section 1471.

(a) *U.S. accounts*—(1) *In general.* This paragraph (a) defines the term *U.S. account* and describes when a person is treated as the holder of a financial account (account holder). This paragraph also provides rules for determining when an exception to U.S. account status applies for certain depository accounts, including account aggregation requirements relevant to applying the exception.

(2) *Definition of U.S. account.* Subject to the exception described in paragraph (a)(4)(i) of this section, a U.S. account is any financial account maintained by

an FFI that is held by one or more specified U.S. persons or U.S. owned foreign entities. For the definition of the term financial account, see paragraph (b) of this section. For the definition of the term specified U.S. person, see § 1.1473-1(c). For the definition of the term U.S. owned foreign entity, see paragraph (c) of this section. For reporting requirements of participating FFIs with respect to U.S. accounts, see § 1.1471-4(d).

(3) *Account holder*—(i) [Reserved] For further guidance, see § 1.1471-5T(a)(3)(i).

(ii) *Financial accounts held by agents that are not financial institutions.* A person, other than a financial institution, that holds a financial account for the benefit or account of another person as an agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as an account holder with respect to such account for purposes of this section. Instead, such other person is treated as the account holder.

(iii) *Jointly held accounts.* With respect to a jointly held account, each joint holder is treated as an account holder for purposes of determining whether the account is a U.S. account. Thus, an account is a U.S. account if any of the account holders is a specified U.S. person or a U.S. owned foreign entity and the account is not otherwise excepted from U.S. account status under paragraph (a)(4) of this section. When more than one U.S. person is a joint holder, each U.S. person will be treated as an account holder and will be attributed the entire balance of the jointly held account, including for purposes of applying the aggregation rules set forth in paragraph (b)(4)(iii) of this section.

(iv) *Account holder for insurance and annuity contracts.* An insurance or annuity contract is held by each person that is entitled to access the contract's value (for example, through a loan, withdrawal, surrender, or otherwise) or change a beneficiary under the contract. If no person can access the contract's value or change a beneficiary, the account holders are any person named in the contract as an owner and any person who is entitled to receive a future payment under the terms of the contract. When an obligation to pay an