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HIGHLIGHTS OF THIS ISSUE

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These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

ADMINISTRATIVE

Rev. Proc. 2026-1, page 1.

This revenue procedure contains revised procedures for letter rulings and information letters issued by the Associate Chief Counsel (Corporate), Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), Associate Chief Counsel (Energy, Credits, and Excise Tax), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (International), Associate Chief Counsel (Passthroughs, Trusts, and Estates), and Associate Chief Counsel (Procedure and Administration). This revenue procedure also contains procedures for determination letters issued by the Large Business and International Division, Small Business/Self Employed Division, Wage and Investment Division, and Tax Exempt and Government Entities Division. Rev. Proc. 2025-1, 2025-1 I.R.B. 1, is superseded.

Rev. Proc. 2026-2, page 119.

This revenue procedure explains when and how an Associate office within the Office of Chief Counsel provides technical advice, conveyed in technical advice memoranda (TAMs). It also explains the rights that a taxpayer has when a field office requests a TAM regarding a tax matter. Rev. Proc. 2025-2, 2025-1 I.R.B. 118, is superseded.

Rev. Proc. 2026-3, page 143.

This revenue procedure provides a revised list of areas under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), and the Associate Chief Counsel (Procedure and Administration) relating to issues on which the Internal Revenue Service will not issue letter rulings or determination letters. Rev. Proc. 2025-3, 2025-1 I.R.B. 142, is superseded.

EMPLOYEE PLANS

Rev. Proc. 2026-4, page 160.

This revenue procedure contains updates relating to the types of advice the Internal Revenue Service provides to taxpayers on issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, Employee Plans Rulings and Agreements, and the procedures that apply to requests for determination letters and private letter rulings. Rev. Proc. 2025-4, 2025-1 I.R.B. 158, is superseded.

EXEMPT ORGANIZATIONS

Rev. Proc. 2026-5, page 258.

This revenue procedure sets forth procedures for issuing determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements. Specifically, it explains the procedures for issuing determination letters on tax-exempt status (in response to applications for recognition of exemption from Federal income tax under § 501 or § 521 other than those subject to Rev. Proc. 2026-4, this Bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans), private foundation status, and other determinations related to tax-exempt organizations. These procedures also apply to revocation or modification of determination letters. This revenue procedure also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under § 7428. Finally, this revenue procedure provides guidance on applicable user fees for requesting determination letters. Rev. Proc. 2025-5, 2025-1 I.R.B. 260, is superseded.

Finding Lists begin on page ii.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.
This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part III

26 CFR § 601.201: Rulings and determination letters.

Rev. Proc. 2026-1

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SECTION 1. WHAT IS THE PURPOSE OF THIS REVENUE PROCEDURE?

This revenue procedure explains how the Service provides advice to taxpayers on issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), and the Associate Chief Counsel (Procedure and Administration). It explains the forms of advice and the manner in which advice is requested by taxpayers and provided by the Service. A sample format for a letter ruling request is provided in Appendix B. *See* section 4 of this revenue procedure for information on certain issues outside the scope of this revenue procedure on which advice may be requested under a different revenue procedure.

Description of terms used in this revenue procedure

.01 For purposes of this revenue procedure—

(1) the term "Service" includes the four operating divisions of the Internal Revenue Service and the Associate offices. The four operating divisions are:

(a) Large Business & International Division (LB&I), which generally serves corporations, S corporations, and partnerships, with assets in excess of $10 million. It also serves U.S. citizens and residents with offshore activities and non-residents with U.S. activities.

(b) Small Business/Self-Employed Division (SB/SE), which generally serves corporations, including S corporations, and partnerships, with assets less than or equal to $10 million; filers of gift, estate, excise, employment and fiduciary returns; individuals filing an individual Federal income tax return with accompanying Schedule C (Profit or Loss From Business (Sole Proprietorship)), Schedule E (Supplemental Income and Loss), Schedule F (Profit or Loss From Farming), or Form 2106, *Employee Business Expenses*;

(c) Taxpayer Services (TS), which generally serves individuals with wage and investment income only (and with no international tax returns) filing an individual Federal income tax return without accompanying Schedule C, E, or F, or Form 2106; and

(d) Tax Exempt and Government Entities Division (TE/GE), which serves three distinct taxpayer segments: employee plans (including IRAs), exempt organizations, and government entities.

(2) the term "Associate office" refers to the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates), or the Office of Associate Chief Counsel (Procedure and Administration), as appropriate.

(3) the term "Director" refers to the Practice Area Director, LB&I; Director, Field Operations, LB&I; Area Director, Field Examination, SB/SE; Director, Specialty Examination Policy, SB/SE; Program Manager, Estate & Gift Tax Policy, SB/SE; Program Manager, Employment Tax Policy, SB/SE; Program Manager, Excise Tax Policy, SB/SE; Director, Return Integrity & Compliance Services, TS; Director, Employee Plans; Director, Employee Plans, Rulings and Agreements; Director, Employee Plans Examinations; Director, Exempt Organizations; Director, Exempt Organizations, Rulings and Agreements; Director, Exempt Organizations Examinations; or Director, Government Entities, as appropriate.

(4) the term “field office” refers to the respective offices of the Directors, as appropriate.

(5) the term "taxpayer" includes all persons subject to any provision of the Internal Revenue Code and, when appropriate, their representatives. More specifically, the term includes tax-exempt organizations, as well as issuers of tax-exempt obligations, mortgage credit certificates, and tax credit bonds.

(6) the terms “Appeals” and “Appeals office” refer to the Internal Revenue Service Independent Office of Appeals.

Updated annually

.02 This revenue procedure is updated annually as the first revenue procedure of the year, but it may be modified, amplified or clarified during the year.

SECTION 2. WHAT ARE THE FORMS IN WHICH THE SERVICE PROVIDES ADVICE TO TAXPAYERS?

The Service provides advice in the form of letter rulings, closing agreements, determination letters, information letters, and oral advice.

Letter ruling

.01 A "letter ruling" is a written determination issued to a taxpayer by an Associate office in response to the taxpayer’s written inquiry, filed prior to the filing of returns or reports that are required by the tax laws, about its status for tax purposes or the tax effects of its acts or transactions. A letter ruling interprets the tax laws and applies them to the taxpayer's specific set of facts. A letter ruling is issued when appropriate in the interest of sound tax administration. One type of letter ruling is an Associate office’s response granting or denying a request for a change in a taxpayer’s method of accounting or accounting period. Once issued, a letter ruling may be revoked or modified for a number of reasons. *See* section 11 of this revenue procedure. A letter ruling may be issued with a closing agreement, however, and a closing agreement is final unless fraud, malfeasance, or misrepresentation of a material fact can be shown. *See* section 2.02 of this revenue procedure.

Letter rulings are subject to exchange of information under U.S. tax treaties or tax information exchange agreements in accordance with the terms of such treaties and agreements (including terms regarding relevancy, confidentiality, and the protection of trade secrets).

Closing agreement

.02 A "closing agreement" is a final agreement between the Service and a taxpayer on a specific issue or liability. It is entered into under the authority in § 7121, and it is final unless fraud, malfeasance, or misrepresentation of a material fact can be shown. A closing agreement may be entered into when it is advantageous to have a matter permanently and conclusively closed or when a taxpayer can show that there are good reasons for an agreement and that making the agreement will not prejudice the interests of the Government.

A taxpayer may request a closing agreement with a letter ruling or in lieu of a letter ruling, with respect to a transaction that would be eligible for a letter ruling. If the Service agrees that a closing agreement is appropriate, the Associate Chief Counsel with subject matter jurisdiction signs the closing agreement on behalf of the Service.

In appropriate cases, the Service may ask a taxpayer to enter into a closing agreement as a condition for the issuance of a letter ruling or in lieu of issuing a letter ruling.

If, in a single case, a closing agreement is requested for each person or entity in a class of taxpayers, separate agreements are entered into only if the class consists of 25 or fewer taxpayers. If the issue and holding are identical for the class and there are more than 25 taxpayers in the class, a "mass closing agreement" will be entered into with the taxpayer who is authorized by the others to represent the class.

Determination letter

.03 A "determination letter" is a written determination issued by a Director that applies the principles and precedents previously announced by the Service to a specific set of facts. It is issued only when a determination can be made based on clearly established rules in a statute, a tax treaty, the regulations, a conclusion in a revenue ruling, or an opinion or court decision that represents the position of the Service.

Information letter

.04 An "information letter" is a statement issued by an Associate office or Director that calls attention to a well-established interpretation or principle of tax law (including a tax treaty) without applying it to a specific set of facts. An information letter may be issued if the taxpayer's inquiry indicates a need for general information or if the taxpayer's request does not meet the requirements of this revenue procedure and the Service concludes that general information will help the taxpayer. An information letter is advisory only and has no binding effect on the Service. If the Associate office issues an information letter in response to a request for a letter ruling that does not meet the requirements of this revenue procedure, the information letter is not a substitute for a letter ruling. The taxpayer should provide a daytime telephone number with the taxpayer's request for an information letter.

Information letters that are issued by the Associate offices to members of the public are made available to the public. Information letters that are issued by the field offices are generally not made available to the public.

Because information letters do not constitute written determinations as defined in § 6110, they are not subject to public inspection under § 6110. The Service makes the information letters available to the public under the Freedom of Information Act (the "FOIA"). Before any information letter is made available to the public, an Associate office will redact any information exempt from disclosure under the FOIA. *See, e.g.*, 5 U.S.C. § 552(b)(6) (exemption for information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy); 5 U.S.C. § 552(b)(3) in conjunction with § 6103 (exemption for returns and return information as defined in § 6103(b)).

The following documents also will not be available for public inspection as part of this process:

(1) transmittal letters in which the Service furnishes publications or other publicly available material to taxpayers, without any significant legal discussion;

(2) responses to taxpayer or third party contacts that are inquiries with respect to a pending request for a letter ruling, technical advice memorandum, or Chief Counsel Advice (which are subject to public inspection under § 6110 after their issuance); and

(3) responses to taxpayer or third party communications with respect to any investigation, audit, litigation, or other enforcement action.

Oral Advice

.05

(1) **No oral rulings and no written rulings in response to oral requests.** The Service does not orally issue letter rulings or determination letters, nor does it issue letter rulings or determination

letters in response to oral requests from taxpayers. Service employees ordinarily will discuss with taxpayers or their representatives inquiries about whether the Service will rule on particular issues and about procedural matters regarding the submission of requests for letter rulings or determination letters for a particular case.

(2) **Discussion possible on substantive issues.** At the discretion of the Service and as time permits, Service employees may also discuss substantive issues with taxpayers or their representatives. Such a discussion will not bind the Service or the Office of Chief Counsel, and it cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

Service employees who are not directly involved in the examination, appeal, or litigation of particular substantive tax issues will not discuss those issues with taxpayers or their representatives unless the discussion is coordinated with Service employees who are directly involved. The taxpayer or the taxpayer's representative ordinarily will be asked whether an oral request for advice or information relates to a matter pending before another office of the Service or before a Federal court.

If a tax issue is not under examination, in Appeals, or in litigation, the tax issue may be discussed even though the issue is affected by a nontax issue pending in litigation.

A taxpayer may seek oral technical guidance from a taxpayer service representative in a field office or Service Center when preparing a return or report.

The Service does not respond to letters seeking to confirm the substance of oral discussions, and the absence of a response to such a letter is not a confirmation.

(3) **Oral guidance is advisory only, and the Service is not bound by it.** Oral guidance is advisory only, and the Service is not bound by it, for example, when examining the taxpayer's return.

SECTION 3. ON WHAT ISSUES MAY TAXPAYERS REQUEST WRITTEN ADVICE UNDER THIS REVENUE PROCEDURE?

Taxpayers may request letter rulings, information letters, and closing agreements under this revenue procedure on issues within the jurisdiction of the Associate offices. Taxpayers uncertain as to whether an Associate office has jurisdiction with regard to a specific factual situation may call the telephone number for the Associate office listed in section 10.07(1) of this revenue procedure.

Except as provided in section 6.14 of this revenue procedure, taxpayers also may request determination letters from the Director in the appropriate operating division. *See* sections 7 and 12 of this revenue procedure. For determination letters from TE/GE, *see* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

Issues under the jurisdiction of the Associate Chief Counsel (Corporate)

.01 Issues under the jurisdiction of the Associate Chief Counsel (Corporate) include those that involve consolidated returns, corporate acquisitions, reorganizations, liquidations, redemptions, spinoffs, transfers to controlled corporations, distributions to shareholders, corporate bankruptcies, the effect of certain ownership changes on net operating loss carryovers and other tax attributes, debt vs. equity determinations, allocation of income and deductions among taxpayers, acquisitions made to evade or avoid income tax, certain earnings and profits questions, and the excise tax on repurchases of corporate stock under § 4501.

For information on letter rulings under § 355 involving businesses in certain development (R&D) and other activities that have not collected income, *see* IRS Statements issued on May 6, 2019 and September 25, 2018. *See* the IRS Statement issued on October 13, 2017 for information regarding letter rulings involving retention of stock, drop-spin liquidate transactions, and transfers

of a portion of a subsidiary's assets to its corporate shareholder in transactions not qualifying under § 332 or § 355 but that are intended to qualify as tax-free. These IRS Statements are available at https://www.irs.gov/newsroom/statements-from-office-of-the-chief-counsel.

For the procedures to obtain fast-track processing of certain requests for letter rulings solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate), *see* Rev. Proc. 2023-26, 2023-33 I.R.B. 486.

Issues under the jurisdiction of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes)

.02 Issues under the jurisdiction of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) include those that involve the application of employment taxes and taxes on self-employment income, exemption requirements for tax-exempt organizations, tax treatment (including application of the unrelated business income tax) of tax-exempt organizations (including federal, state, local, and Indian tribal governments), political organizations described in § 527, qualified tuition programs described in § 529, qualified ABLE programs described in § 529A, trusts described in § 4947(a), certain excise taxes, disclosure obligations and information return requirements of tax-exempt organizations, employee benefit programs (including executive compensation arrangements, qualified retirement plans, deferred compensation plans, and health and welfare benefit programs) and IRAs, issues integrally related to employee benefit programs and IRAs (such as, for example, the sale of stock to employee stock ownership plans or eligible worker-owned cooperatives under § 1042), and changes in method of accounting associated with employee benefit programs.

Note that certain issues involving exempt organizations, employee plans, and government entities fall under the jurisdiction of the Commissioner, TE/GE, of the Internal Revenue Service. *See* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

Issues under the jurisdiction of the Associate Chief Counsel (Energy, Credits, and Excise Tax)

.03 Issues under the jurisdiction of the Associate Chief Counsel (Energy, Credits, and Excise Tax) include certain excise taxes, depletion, and other engineering issues, cooperative housing corporations, subchapter T cooperatives, the low-income housing credit under § 42, the New Markets Tax Credit under § 45D, the rehabilitation credit under § 47, disabled access credit, qualified electric vehicle credits, research and experimental expenditures, shipowners' protection and indemnity associations under § 526, and certain homeowners associations under § 528.

Issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products)

.04 Issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) include those that involve income taxes and changes in method of accounting of banks, savings and loan associations, real estate investment trusts (REITs), regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), insurance companies and products, tax-advantaged bonds (including whether a governmental entity is a political subdivision of a State or of an Indian tribal government, or an "on-behalf-of" issuer of tax-advantaged bonds), tax-exempt obligations, mortgage credit certificates, tax credit bonds (including specified tax credit bonds and build America bonds), and financial products.

For supplemental procedures to obtain letter rulings involving tax-exempt state and local obligations, *see* Rev. Proc. 96-16, 1996-1 C.B. 630.

Issues under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting)

.05 Issues under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting) include those that involve recognition and timing of income and deductions of individuals and corporations, sales and exchanges, capital gains and losses, installment sales, equipment leasing, long-term contracts, inventories, amortization, depreciation, the alternative minimum tax, net operating losses generally, including changes in method of accounting for these issues, and accounting periods. (Note that certain issues involving individual retirement accounts (IRAs) are under the jurisdiction of the Commissioner, TE/GE. *See* section 4.02 of this revenue procedure).

Issues under the jurisdiction of the Associate Chief Counsel (International)

.06 Issues under the jurisdiction of the Associate Chief Counsel (International) include the tax treatment of nonresident aliens and foreign corporations, withholding of tax on nonresident aliens and foreign corporations, foreign tax credit, determination of sources of income, income from sources outside the United States, subpart F questions, domestic international sales corporations (DISCs), foreign sales corporations (FSCs), exclusions under § 114 for extraterritorial income (ETI), international boycott determinations, treatment of certain passive foreign investment companies, income affected by treaty, U.S. territories, and other matters relating to the activities of non-U.S. persons within the United States or U.S.-related persons outside the United States, and changes in method of accounting for these persons.

For the procedures to obtain advance pricing agreements under § 482, *see* Rev. Proc. 2015-41, 2015-35 I.R.B. 263 (or its successor).

For competent authority procedures related to bilateral and multilateral advance pricing agreements, *see* Rev. Proc. 2015-40, 2015-35 I.R.B. 236 (or its successor).

Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs, Trusts, and Estates)

.07 Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs, Trusts, and Estates) include those that involve income taxes of S corporations (except accounting periods and methods) and certain noncorporate taxpayers (including partnerships, common trust funds, and trusts), entity classification, estates (excluding § 6166), gifts, and generation-skipping transfer.

Issues under the jurisdiction of the Associate Chief Counsel (Procedure and Administration)

.08 Issues under the jurisdiction of the Associate Chief Counsel (Procedure and Administration) include those that involve Federal tax procedure and administration, disclosure and privacy law, reporting and paying taxes (including payment of taxes under § 6166), assessing and collecting taxes (including interest and penalties), abating, crediting, or refunding overassessments or overpayments of tax, and filing information returns.

SECTION 4. ON WHAT ISSUES MUST WRITTEN ADVICE BE REQUESTED UNDER DIFFERENT PROCEDURES?

Issues involving alcohol, tobacco, and firearms taxes

.01 The procedures for obtaining letter rulings, closing agreements, determination letters, information letters, and oral advice that apply to Federal alcohol, tobacco, and firearms taxes under subtitle E of the Code are under the jurisdiction of the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

Certain issues involving qualified retirement plans, individual retirement accounts (IRAs), and exempt organizations

.02 The procedures for obtaining certain letter rulings, closing agreements, determination letters, information letters, and oral advice on qualified retirement plans and IRAs that are under the jurisdiction of the Commissioner, TE/GE, are provided in Rev. Proc. 2026-4, this Bulletin. Rev. Proc. 2026-4 also includes the procedures for issuing determination letters on the qualified status of pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans under §§ 401, 403(a), 403(b), 409, and 4975(e)(7), and the status for exemption of any related trusts or custodial accounts under § 501(a). *See also* Rev. Proc. 2026-5, this Bulletin, for the procedures for issuing determination letters on the tax-exempt status of organizations under § 501 and § 521, the foundation status of organizations described in § 501(c)(3) and the foundation status of nonexempt charitable trusts described in § 4947(a)(1).

For the user fee requirements applicable to requests under the jurisdiction of the Commissioner, TE/GE, *see* Section 30 of Rev. Proc. 2026-4, and Section 14 of Rev. Proc. 2026-5.

SECTION 5. UNDER WHAT CIRCUMSTANCES DO THE ASSOCIATE OFFICES ISSUE LETTER RULINGS?

In income and gift tax matters

.01 In income and gift tax matters, an Associate office generally issues a letter ruling on a proposed transaction or on a completed transaction if the letter ruling request is submitted before a return containing a tax position on the completed transaction is filed.

An Associate office will not ordinarily issue a letter ruling on a completed transaction if the letter ruling request is submitted after a return containing a tax position on the completed transaction is filed. "Not ordinarily" means that unique and compelling reasons must be demonstrated to justify the issuance of a letter ruling submitted after the return is filed for the year in which the transaction is completed. The taxpayer must contact the field office having audit jurisdiction over their return and obtain the field's consent to the issuance of such a letter ruling. *See* section 7.05(2) of this revenue procedure.

Special relief for late S corporation and related elections in lieu of letter ruling process

.02 In lieu of requesting a letter ruling under this revenue procedure, a taxpayer may obtain relief for certain late S corporation and related elections by following the procedure in Rev. Proc. 2013-30, 2013-36 I.R.B. 173. This procedure is in lieu of the letter ruling process and does not require payment of any user fee. *See* section 3.01 of Rev. Proc. 2013-30, and section 15.03(3) of this revenue procedure.

A § 301.9100 request for extension of time for making an election or for other relief

.03 An Associate office will consider a request for an extension of time for making an election or other application for relief under § 301.9100-3 of the Treasury Regulations, even if submitted after the return covering the issue presented in the § 301.9100 request has been filed, an examination of the return has begun, the issues in the return are being considered by Appeals or a Federal court, or the liability reflected on the return has been assessed and subject to collection. Except for certain requests pertaining to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE, **a § 301.9100 request is a letter ruling request. Therefore, the § 301.9100 request should be submitted pursuant to this revenue procedure**. However, a § 301.9100 request involving recharacterization of an IRA (*see* § 1.408A-5, Q&A-6) should be submitted pursuant to Rev. Proc. 2026-4, this Bulletin. An election made pursuant to § 301.9100-2 for an automatic extension of time is not a letter ruling request and does not require payment of any user fee. *See* § 301.9100-2(d) and section 15.03(1) of this revenue procedure.

(1) **Format of request**. A § 301.9100 request (other than an election made pursuant to § 301.9100-2 and certain requests pertaining to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE which are addressed in Rev. Proc. 2026-5) **must be in the general form of, and meet the general requirements for, a letter ruling request. These requirements are given in section 7 of this revenue procedure.** A § 301.9100 request must include an affidavit and declaration from the taxpayer and other parties having knowledge or information about the events that led to the failure to make a valid regulatory election and to the discovery of the failure. *See* § 301.9100-3(e)(2) and (e)(3). In addition, a § 301.9100 request must include the information required by § 301.9100-3(e)(4).

(2) **Period of limitation**. The filing of a request for relief under § 301.9100 does not suspend the running of any applicable period of limitation. *See* § 301.9100-3(d)(2). The Associate office ordinarily will not issue a § 301.9100 ruling if the period of limitation on assessment under § 6501(a) for the taxable year in which an election should have been made, or for any taxable years that would have been affected by the election had it been timely made, will expire before receipt of a § 301.9100 letter ruling. *See* § 301.9100-3(c)(1)(ii). If, however, the taxpayer consents to extend

the period of limitation on assessment under § 6501(c)(4) for the taxable year in which the election should have been made and for any taxable years that would have been affected by the election had it been timely made, the Associate office may issue the letter ruling. *See* § 301.9100-3(d)(2). Note that the filing of a claim for refund under § 6511 does not extend the period of limitation on assessment. If § 301.9100-3 relief is granted, the Associate office may require the taxpayer to consent to an extension of the period of limitation on assessment. *See* § 301.9100-3(d)(2).

(3) **Taxpayer must notify the Associate office if examination of its return begins while the request is pending**. The taxpayer must notify the Associate office if the Service begins an examination of the taxpayer's return for the taxable year in which an election should have been made, or for any taxable years that would have been affected by the election had it been timely made, while a § 301.9100-3 request is pending. This notification must include the name and telephone number of the examining agent. *See* § 301.9100-3(e)(4)(i) and section 7.05(1)(b) of this revenue procedure.

(4) **Associate office will notify examination agent, Appeals officer, or attorney of a § 301.9100 request if the taxpayer's return is being examined by a field office or is being considered by an Appeals office or a Federal court**. If the taxpayer's return for the taxable year in which an election should have been made, or for any taxable years that would have been affected by the election had it been timely made, is being examined by a field office or considered by an Appeals office or a Federal court, the Associate office will notify the appropriate examination agent, Appeals officer, or attorney that a § 301.9100 request has been submitted to the Associate office. The examination agent, Appeals officer, or attorney is not authorized to deny consideration of a § 301.9100 request. The letter ruling will be mailed to the taxpayer and a copy will be sent to the Appeals officer, attorney, or appropriate Service official in the operating division that has examination jurisdiction over the taxpayer's tax return.

(5) **Inclusion of statement required by section 4.04 of Rev. Proc. 2009-41.** Eligible entities requesting a letter ruling because they do not meet all of the eligibility requirements of section 4.01 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439, must include either the following representation as part of the entity's request for a letter ruling or an explanation regarding why they do not qualify to do so: "All required U.S. tax and information returns of the entity (or, if the entity was not required to file any such returns under the desired classification, then all required U.S. tax and information returns of each affected person as defined in Section 4.02 of Rev. Proc. 2009-41) were filed timely or within 6 months of the due date of the respective return (excluding extensions) as if the entity classification election had been in effect on the requested date. No U.S. tax or information returns were filed inconsistently with those described in the prior sentence."

(6) **Relief for late classification election.** In lieu of requesting a letter ruling under § 301.9100-1 through § 301.9100-3 and this revenue procedure, entities that satisfy the requirements set forth in section 4.01 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439, may apply for late classification election relief under Rev. Proc. 2009-41. Requests for such relief are not subject to user fees. *See* section 3.01 of Rev. Proc. 2009-41 and section 15.03(2) of this revenue procedure.

Determinations under § 999(d)

.04 As provided in Rev. Proc. 77-9, 1977-1 C.B. 542, the Associate Chief Counsel (International) issues determinations under § 999(d) that a particular operation of a person, or of a member of a controlled group (within the meaning of § 993(a)(3)) that includes that person, or a foreign corporation of which a member of the controlled group is a U.S. shareholder, constitutes participation in or cooperation with an international boycott. The effect of that determination is to deny certain benefits of the foreign tax credit and the deferral of earnings of foreign subsidiaries and domestic international sales corporations (DISCs) to that person. The same principles shall apply with respect to exclusions under § 114 for exterritorial income (ETI). Requests for determinations under Rev. Proc. 77-9 are letter ruling requests and should be submitted to the Associate office pursuant to this revenue procedure.

In matters involving § 367

.05 Unless the issue is covered by section 6 of this revenue procedure, the Associate Chief Counsel (International) may issue a letter ruling under § 367 even if the taxpayer does not request a letter ruling as to the characterization of the transaction under the reorganization provisions of the Code. The Associate office will determine the § 367 consequences of a transaction but may indicate in the letter ruling that it expresses no opinion as to the characterization of the transaction under the reorganization. The Associate office may decline to issue a § 367 ruling in situations in which the taxpayer inappropriately characterizes the transaction under the reorganization provisions.

In estate tax matters

.06 In general, the Associate Chief Counsel (Passthroughs, Trusts, and Estates) issues letter rulings on transactions affecting the estate tax on the prospective estate of a living person. The Associate office will not issue letter rulings for prospective estates on computations of tax, actuarial factors, or factual matters. With respect to the transactions affecting the estate tax of the decedent's estate, generally the Associate office issues letter rulings before the decedent's estate tax return is filed.

If the taxpayer is requesting a letter ruling regarding a decedent's estate tax and the estate tax return is due to be filed before the letter ruling is expected to be issued, the taxpayer should obtain an extension of time for filing the return and should notify the Associate office branch considering the letter ruling request that an extension has been obtained.

If the return is filed before the letter ruling is received from the Associate office, the taxpayer must disclose on the return that a letter ruling has been requested, attach a copy of the pending letter ruling request to the return, and notify the Associate office that the return has been filed. *See* section 7.05(2) of this revenue procedure. The Associate office will make every effort to issue the letter ruling within 3 months of the date the return was filed.

If the taxpayer requests a letter ruling after the return is filed, but before the return is examined, the taxpayer must notify the field office having jurisdiction over the return that a letter ruling has been requested, attach a copy of the pending letter ruling request, and notify the Associate office that a return has been filed. *See* section 7.05(2) of this revenue procedure. The Associate office will make every effort to issue the letter ruling within 3 months of the date the return has been filed.

If the letter ruling cannot be issued within that 3-month period, the Associate office will notify the field office having jurisdiction over the return, which may, by memorandum to the Associate office, grant an additional period for the issuance of the letter ruling.

In matters involving additional estate tax under § 2032A(c)

.07 In matters involving additional estate tax under § 2032A(c), the Associate Chief Counsel (Passthroughs, Trusts, and Estates) issues letter rulings on proposed transactions and on completed transactions that occurred before the return is filed.

In matters involving qualified domestic trusts under § 2056A

.08 In matters involving qualified domestic trusts under § 2056A, the Associate Chief Counsel (Passthroughs, Trusts, and Estates) issues letter rulings on proposed transactions and on completed transactions that occurred before the return is filed.

In generation-skipping transfer tax matters

.09 In general, the Associate Chief Counsel (Passthroughs, Trusts, and Estates) issues letter rulings on proposed transactions that affect the generation-skipping transfer tax and on completed transactions that occurred before the return is filed. In the case of a generation-skipping trust or trust equivalent, letter rulings are issued either before or after the trust or trust equivalent has been established.

In employment and excise tax matters

.10 In employment and excise tax matters, the Associate offices issue letter rulings on proposed transactions and on completed transactions, if the letter ruling request is submitted before the return is filed for the year in which the transaction is completed.

Letter ruling requests regarding employment status (employer/employee relationship) from Federal agencies and instrumentalities or their workers must be submitted to the Internal Revenue Service as set forth in the current Instructions for Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*. If the Federal agency or instrumentality service recipient (the firm) makes the request, the firm will receive any issued letter ruling. A copy will also be sent to any identified workers. If the worker makes the request and the firm has been contacted for information, both the worker and the firm will receive any issued letter ruling. The letter ruling will apply to any individuals engaged by the firm under substantially similar circumstances. *See* section 12.04 of this revenue procedure for requests regarding employment status made by taxpayers other than Federal agencies and instrumentalities or their workers.

In procedural and administrative matters

.11 The Associate Chief Counsel (Procedure and Administration) issues letter rulings on matters arising under the Code and related statutes and regulations that involve the time, place, manner, and procedures for reporting and paying taxes; or the filing of information returns.

In Indian tribal government matters

.12 Pursuant to Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, and this revenue procedure, determinations recognizing a tribal entity as an Indian tribal government within the meaning of § 7701(a)(40) are issued by the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) if it determines, after consultation with the Secretary of the Interior, that the entity satisfies the statutory definition of an Indian tribal government and determinations recognizing a tribal entity as a political subdivision of an Indian tribal government under § 7871(d) are issued by the Office of Associate Chief Counsel (Financial Institutions and Products) if it determines, after consultation with the Secretary of the Interior, that the entity has been delegated governmental functions of an Indian tribal government. Requests for determinations under Rev. Proc. 84-37 are letter ruling requests, and, therefore, should be submitted to the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) or the Office of Associate Chief Counsel (Financial Institutions and Products), as applicable, pursuant to this revenue procedure.

(1) **Definition of Indian tribal government.** The term "Indian tribal government" is defined under § 7701(a)(40) to mean the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary of the Treasury, after consultation with the Secretary of the Interior, to exercise governmental functions. Section 7871(d) provides that, for purposes of § 7871(a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a state if the Secretary of the Treasury determines, after consultation with the Secretary of the Interior, that the subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

(2) **Inclusion in list of tribal governments.** Rev. Proc. 2008-55, 2008-2 C.B. 768, designates the Indian tribal entities that appear on the current or future lists of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, as Indian tribal governments that are treated similarly to states for certain Federal tax purposes. Rev. Proc. 84-36, 1984-1 C.B. 510, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, provides a list of political subdivisions of Indian tribal governments that are treated as political subdivisions of states for certain Federal tax purposes. Under Rev. Proc. 84-37, as modified by Rev. Proc. 86-17, tribal governments or subdivisions recognized under § 7701(a)(40) or § 7871(d) will be included in the list of recognized tribal government entities in future lists of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, or revised versions of Rev. Proc. 84-36.

On constructive sales price under § 4216(b) or § 4218(c)

.13 The Associate Chief Counsel (Energy, Credits, and Excise Tax) will issue letter rulings in all cases on the determination of a constructive sales price under § 4216(b) or § 4218(c) and in all other cases on prospective transactions if the law or regulations require a determination of the effect of a proposed transaction for Federal tax purposes. *See* section 6.14(5) of this revenue procedure.

In exempt organizations matters

.14 In exempt organizations matters, the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) generally issues letter rulings on proposed transactions or on completed transactions if the letter ruling request is submitted before the return is filed for the year in which the transaction is completed. The Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will not ordinarily issue a letter ruling on a completed transaction if the letter ruling request is submitted after the return is filed for the year in which the transaction is completed. "Not ordinarily" means that unique and compelling reasons must be demonstrated to justify the issuance of a letter ruling submitted after the return is filed for the year in which the transaction is completed. The taxpayer must contact the field office having audit jurisdiction over their return and obtain the field's consent to the issuance of such a letter ruling.

See Rev. Proc. 2026-5, this Bulletin, for the procedures for issuing determination letters on issues under the jurisdiction of the Director Exempt Organizations Rulings and Agreements, including determination letters on the tax-exempt status of organizations under § 501 and § 521, the foundation status of organizations described in § 501(c)(3), and the foundation status of nonexempt charitable trusts described in § 4947(a)(1).

In qualified retirement plan and IRA matters

.15 In qualified retirement plan and IRA matters (other than those listed in Rev. Proc. 2026-4, this Bulletin), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will generally issue letter rulings on proposed transactions and on completed transactions, if the letter ruling request is submitted before the return is filed for the year in which the transaction is completed, including those involving:

(1) §§ 72 (other than the computation of the exclusion ratio), 219, 381(c)(11), 402, 403(b) (except with respect to whether the form of a plan satisfies the requirements of § 403(b) as provided in Rev. Proc. 2026-4), 404, 408, 408A, 412, 414(e) and (h), 511 through 514, 4971(b) and (g), 4972, 4973, 4974 (other than requests for a waiver under § 4974(d)), 4978, 4979, and 4980;

(2) Waiver of the minimum funding standard (*see* Rev. Proc. 2004-15, 2004-1 C.B. 490, section 3.04 of which is modified by Rev. Proc. 2026-4);

(3) Whether a plan amendment is reasonable and provides for only de minimis increases in plan liabilities in accordance with §§ 401(a)(33) and 412(c)(7)(B)(i) of the Code (*see* Rev. Proc. 79-62, 1979-2 C.B. 576);

(4) With respect to employee stock ownership plans and tax credit employee stock ownership plans, §§ 409, 1042, 4975(d)(3) and 4975(e)(7). Qualification issues arising under these sections (as well as under §§ 401-420 generally) are generally within the jurisdiction of Employee Plans Determinations. However, *see* Rev. Proc. 2026-3, this Bulletin, section 4.02(12);

(5) Abatement of first tier excise taxes under § 4962;

(6) Relief under § 301.9100-1 that is not related to Roth IRA recharacterizations; and

(7) Grants of extensions of time other than pursuant to § 301.9100-1.

A request to revoke an election

.16 If a taxpayer is required to file a letter ruling request to obtain consent to revoke an election made on a return, an Associate office will consider the request, even if an examination of the return has begun or the issues in the return are being considered by Appeals or a Federal court. The procedures in this revenue procedure applicable to a § 301.9100 request apply to a letter ruling request to revoke the election.

Under some circumstances before the issuance of a regulation or other published guidance

.17 In general, the Service will not issue a letter ruling or determination letter on an issue that it cannot readily resolve before the promulgation of a regulation or other published guidance. *See* section 6.09 of this revenue procedure.

However, an Associate office may issue letter rulings under the following conditions:

(1) **Answer is clear or is reasonably certain**. If the letter ruling request presents an issue for which the answer seems clear by applying the statute, regulations, and applicable case law to the facts or for which the answer seems reasonably certain but not entirely free from doubt.

(2) **Answer is not reasonably certain**. If the letter ruling request presents an issue for which the answer does not seem reasonably certain, the Associate office may issue the letter ruling, using its best efforts to arrive at a determination, if it is in the best interest of tax administration.

SECTION 6. UNDER WHAT CIRCUMSTANCES DOES THE SERVICE NOT ISSUE LETTER RULINGS OR DETERMINATION LETTERS?

Ordinarily not if the request involves an issue under examination or consideration or in litigation

.01 The Service ordinarily does not issue a letter ruling or a determination letter if, at the time of the request, the identical issue is involved in the taxpayer's return for an earlier period and that issue—

(1) is being examined by a field office;

(2) is being considered by Appeals;

(3) is pending in litigation in a case involving the taxpayer or a related party;

(4) has been examined by a field office or considered by Appeals and the statutory period of limitations on assessment or on filing a claim for refund or credit of tax has not expired; or

(5) has been examined by a field office or considered by Appeals and a closing agreement covering the issue or liability has not been entered into by a field office or by Appeals.

If a return dealing with an issue for a particular year is filed while a request for a letter ruling on that issue is pending, an Associate office will issue the letter ruling unless it is notified by the

taxpayer or otherwise learns that an examination of that issue or the identical issue on an earlier year's return has been started by a field office. *See* section 7.05 of this revenue procedure. In income and gift tax matters, as well as in qualified retirement plan, IRA, and exempt organizations matters, even if an examination has begun, an Associate office ordinarily will issue the letter ruling if the field office agrees by memorandum to the issuance of the letter ruling.

Ordinarily not in certain areas because of factual nature of the problem or for other reasons

.02 The Service ordinarily does not issue letter rulings or determination letters in certain areas because of the factual nature of the matter involved or for other reasons. Rev. Proc. 2026-3, this Bulletin and Rev. Proc. 2025-7, 2025-1 I.R.B. 301, provide a list of these areas. This list is not all-inclusive because the Service may decline to issue a letter ruling or a determination letter when appropriate in the interest of sound tax administration, including due to resource constraints, or on other grounds whenever warranted by the facts or circumstances of a particular case.

Instead of issuing a letter ruling or determination letter, the Service may, when it is considered appropriate and in the interest of sound tax administration, issue an information letter calling attention to well-established principles of tax law.

If the Service determines that it is not in the interest of sound tax administration to issue a letter ruling or determination letter due to resource constraints, it will adopt a consistent approach with respect to taxpayers that request a ruling on the same issue. The Service will also consider adding the issue to the no rule list at the first opportunity. *See* sections 2.01 and 3.02 of Rev. Proc. 2026-3.

Ordinarily not on part of an integrated transaction

.03 **General rule.** An Associate office ordinarily will not issue a letter ruling on only part of an integrated transaction. If a part of a transaction falls under a no-rule area, a letter ruling on other parts of the transaction may be issued. Before preparing the letter ruling request, a taxpayer should call a branch having jurisdiction for the matters on which the taxpayer is seeking a letter ruling to discuss whether the Associate office will issue a letter ruling on part of the transaction.

Ordinarily not on which of two entities is a common law employer

.04 The Service ordinarily does not issue a letter ruling or a determination letter on which of two entities, under common law rules applicable in determining the employer-employee relationship, is the employer, when one entity is treating the worker as an employee.

Ordinarily not to business associations or groups

.05 The Service ordinarily does not issue letter rulings or determination letters to business, trade, or industrial associations or to similar groups concerning the application of the tax laws to members of the group. Groups and associations, however, may submit suggestions of generic issues that could be appropriately addressed in revenue rulings. *See* Rev. Proc. 89-14, 1989-1 C.B. 814, which states the objectives of, and standards for, the publication of revenue rulings and revenue procedures in the Internal Revenue Bulletin. *See also* Rev. Proc. 2016-19, 2016-13 I.R.B. 497, which describes procedures for taxpayers and other entities to submit issues for consideration under the Service's Industry Issue Resolution (IIR) Program.

The Service may issue letter rulings or determination letters to groups or associations on their own tax status or liability if the request meets the requirements of this revenue procedure.

Ordinarily not where the request does not address the tax status, liability, or reporting obligations of the requester

.06 The Service ordinarily does not issue letter rulings or determination letters regarding the tax consequences of a transaction for taxpayers who are not directly involved in the request if the requested letter ruling or determination letter would not address the tax status, liability, or reporting obligations of the requester. For example, a taxpayer may not request a letter ruling relating to the tax consequences of a transaction to a customer or client, if the tax status, liability, or reporting obligations of the taxpayer would not be addressed in the ruling, because the customer or client is not directly involved in the letter ruling request. The tax liability of each shareholder is, however, directly involved in a letter ruling on the reorganization of a corporation. Accordingly,

a corporate taxpayer could request a letter ruling that solely addressed the tax consequences to its shareholders of a proposed reorganization.

Rev. Proc. 96-16, 1996-1 C.B. 630, sets forth rules for letter ruling requests involving tax-exempt state and local government obligations.

Ordinarily not to foreign governments

.07 The Service ordinarily does not issue letter rulings or determination letters to foreign governments or their political subdivisions about the U.S. tax effects of their laws. The Associate offices also do not issue letter rulings on the effect of a tax treaty on the tax laws of a treaty country for purposes of determining the tax of the treaty country. *See* section 13.02 of Rev. Proc. 2015-40, 2015-35 I.R.B. 236 (or its successor). Treaty partners can continue to address matters such as these under the provisions of the applicable tax treaty. In addition, the Associate offices may issue letter rulings to foreign governments or their political subdivisions on their own tax status or liability under U.S. law if the request meets the requirements of this revenue procedure.

Ordinarily not on Federal tax consequences of proposed legislation

.08 The Associate offices ordinarily do not issue letter rulings on a matter involving the Federal tax consequences of any proposed Federal, state, local, municipal, or foreign legislation. The Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) may issue letter rulings regarding the effect of proposed state, local, or municipal legislation upon an eligible deferred compensation plan under § 457(b) provided that the letter ruling request relating to the plan complies with the other requirements of this revenue procedure. The Associate offices also may provide general information in response to an inquiry.

Ordinarily not before issuance of a regulation or other published guidance

.09 Generally, the Service will not issue a letter ruling or a determination letter if the request presents an issue that cannot be readily resolved before a regulation or any other published guidance is issued. When the Service has closed a regulation project or any other published guidance project that might have answered the issue or decided not to open a regulation project or any other published guidance project, the Associate offices may consider all letter ruling requests unless the issue is covered by section 6 of this revenue procedure, Rev. Proc. 2026-3, this Bulletin, or Rev. Proc. 2025-7, 2025-1 I.R.B. 301.

Not on frivolous issues

.10 The Service will not issue a letter ruling or a determination letter on frivolous issues. A "frivolous issue" is one without basis in fact or law or one that asserts a position that courts have held frivolous or groundless. Examples of frivolous or groundless issues include, but are not limited to:

(1) frivolous "constitutional" claims, such as claims that the requirement to file tax returns and pay taxes constitutes an unreasonable search barred by the Fourth Amendment, violates Fifth and Fourteenth Amendment protections of due process, violates Thirteenth Amendment protections against involuntary servitude, or is unenforceable because the Sixteenth Amendment does not authorize nonapportioned direct taxes or was never ratified;

(2) claims that income taxes are voluntary, that the term “income” is not defined in the Internal Revenue Code, or that preparation and filing of Federal income tax returns violates the Paperwork Reduction Act;

(3) claims that tax may be imposed only on coins minted under a gold or silver standard or that receipt of Federal Reserve Notes does not cause an accretion to wealth;

(4) claims that a person's income is not taxable because he or she falls within a class entitled to "reparation claims" or an extra-statutory class of individuals exempt from tax, *e.g.*, "free-born" individuals;

(5) claims that a taxpayer can refuse to pay taxes on the basis of opposition to certain Governmental expenditures;

(6) claims that taxes apply only to Federal employees; only to residents of Puerto Rico, Guam, the U.S. Virgin Islands, the District of Columbia, or "Federal enclaves"; or that §§ 861 through 865 or any other provision of the Code imposes taxes on U.S. citizens and residents only on income derived from foreign based activities;

(7) claims that wages or personal service income are "not income," are "nontaxable receipts," or are a "nontaxable exchange for labor";

(8) claims that income tax withholding by an employer on wages is optional; or

(9) other claims that the courts have characterized as frivolous or groundless.

Additional examples of frivolous or groundless issues may be found in IRS publications and other guidance (including, but not limited to, Notice 2010-33, Frivolous Positions, and I.R.M. Exhibit 25.25.10-1, Frivolous Arguments).

No "comfort" letter rulings

.11 Except with respect to issues under §§ 332, 351, 355, 368, 1036, and related operative provisions, a letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by a statute, regulation, or decision of a court, revenue rulings, revenue procedures, notice, or other authority published in the Internal Revenue Bulletin (Comfort Ruling). However, an Associate Office may, in its discretion, issue a Comfort Ruling if the Associate office is otherwise issuing a letter ruling to the taxpayer on another issue arising in the same transaction.

Not on alternative plans or hypothetical situations

.12 The Service will not issue a letter ruling or a determination letter on alternative plans of proposed transactions or on hypothetical situations.

Not on property conversion after return filed

.13 An Associate office will not issue a letter ruling on the replacement of involuntarily converted property, whether or not the property has been replaced, if the taxpayer has already filed a Federal tax return for the first taxable year in which any of the gain was realized from the converted property. A Director may issue a determination letter in this case. *See* section 12.01 of this revenue procedure.

Circumstances under which determination letters are not issued by a Director

.14 A Director will not issue a determination letter if—

(1) the taxpayer has directed a similar inquiry to an Associate office;

(2) the same issue, involving the same taxpayer or a related party, is pending in a case in litigation or before Appeals;

(3) the request involves an industry-wide problem;

(4) the specific employment tax question at issue in the request has been, or is being, considered by the Central Office of the Social Security Administration or the Railroad Retirement Board for the same taxpayer or a related party; or

(5) the request is for a determination of constructive sales price under § 4216(b) or § 4218(c), which deal with special provisions applicable to the manufacturers excise tax. The Associate Chief Counsel (Energy, Credits, and Excise Tax) will, in certain circumstances, issue letter rulings in this area. *See* section 5.13 of this revenue procedure.

SECTION 7. WHAT ARE THE GENERAL INSTRUCTIONS FOR REQUESTING LETTER RULINGS AND DETERMINATION LETTERS?

This section provides the general instructions for requesting letter rulings and determination letters. *See* section 9 of this revenue procedure for the specific and additional procedures for requesting a change in method of accounting.

Requests for letter rulings, closing agreements, and determination letters require the payment of the applicable user fee listed in Appendix A of this revenue procedure. Certain changes in method of accounting under the automatic change request procedures (*see* section 9.01(1) of this revenue procedure) and certain changes in accounting periods made under automatic change request procedures do not require payment of a user fee (*see* Appendix F of this revenue procedure). For additional user fee requirements, *see* section 15 of this revenue procedure.

Specific and additional instructions also apply to requests for letter rulings and determination letters on certain matters. Those matters are listed in Appendix F of this revenue procedure with a reference (usually to another revenue procedure) where more information can be obtained.

Documents and information required in all requests

.01

Facts

(1) **Complete statement of facts and other information.** Each request for a letter ruling or a determination letter must contain a complete statement of all facts relating to the transaction. These facts include—

(a) names, taxpayer identification numbers, addresses, telephone numbers, and other contact information as appropriate (such as fax numbers or email addresses of any party requesting to communicate with the Service in such a form, *see* section 7.02(5) of this revenue procedure (requiring the fax number of the taxpayer or its representative to receive the PLR electronically) of all interested parties (the term "all interested parties" does not include all shareholders of a widely held corporation requesting a letter ruling relating to a reorganization or all employees where a large number may be involved);

(b) the annual accounting period, and the overall method of accounting (cash or accrual) for maintaining the accounting books and filing the Federal income tax return, of all interested parties;

(c) a description of the taxpayer's business operations;

(d) a complete statement of the business reasons for the transaction;

(e) a detailed description of the transaction; and

(f) all other facts relating to the transaction or to the taxpayer’s requested tax treatment thereof.

Documents and foreign laws

(2) **Copies of all contracts, wills, deeds, agreements, instruments, other documents pertinent to the transaction, and foreign laws.**

(a) **Documents**. True copies of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transactions must be submitted with the request. *But see* section 3.02 of Rev. Proc. 2017-52, 2017-41 I.R.B. 283, and sections 3.03 and 4.02 of Rev. Proc. 2025-30, 2025-42 I.R.B. 489, for requirements relating to ruling requests under § 355.

If the request concerns a corporate distribution, reorganization, or similar transaction, the corporate balance sheet and profit and loss statement also should be submitted. If the request relates to a prospective transaction, the most recent balance sheet and profit and loss statement should be submitted. *See* section 3.02 of Rev. Proc. 2017-52, and sections 3.03 and 4.02 of Rev. Proc. 2025-30, for requirements relating to ruling requests under § 355.

If any document, including any balance sheet and profit and loss statement, is in a language other than English, the taxpayer must also submit a certified English translation of the document, along with a true copy of the document. For guidelines on the acceptability of such documents, *see* paragraph (c) of this section 7.01(2).

Each document other than the request should be labeled and attached to the request in alphabetical sequence. **Original documents such as contracts, wills, etc., should not be submitted because they become part of the Service's file and will not be returned.**

(b) **Foreign laws.** The taxpayer must submit with the request a copy of the relevant parts of all foreign laws, including statutes, regulations, administrative pronouncements, and any other relevant legal authority. The documents submitted must be in the official language of the country involved and must be copied from an official publication of the foreign government or another widely available and generally accepted publication. If English is not the official language of the country involved, the taxpayer must also submit a copy of an English language version of the relevant parts of all foreign laws. This translation must be: (i) from an official publication of the foreign government or another widely available, generally accepted publication; or (ii) a certified English translation submitted in accordance with paragraph (c) of this section 7.01(2).

The taxpayer must identify the title and date of publication, including updates, of any widely available and generally accepted publication that the taxpayer (or the taxpayer's qualified translator) uses as a source for the relevant parts of the foreign law.

(c) **Standards for acceptability of submissions of documents in a language other than English and certified English translations of documents and laws in a language other than English.** The taxpayer must submit with the request an accurate and complete certified English translation of the relevant parts of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transaction that are in a language other than English. If the taxpayer chooses to submit certified English translations of foreign laws, those translations must be based on an official publication of the foreign government or another widely available and generally accepted publication. In either case, the translation must be that of a qualified translator and must be attested to by the translator. The attestation must contain: (i) a statement that the translation submitted is a true and accurate translation of the foreign language document or law; (ii) a statement as to the attestant's qualifications as a translator and as to that attestant's qualifications and knowledge regarding tax matters or foreign law if the law is not a tax law; and (iii) the attestant's name and address.

Analysis of material facts

(3) **Analysis of material facts.** The request must be accompanied by an analysis of facts and their bearing on the issue or issues. If documents attached to a request contain material facts, they must be included in the taxpayer's analysis of facts in the request rather than merely incorporated by reference.

Same issue in any return and whether return is under examination, before Appeals, before a Federal court, or being considered by the Pension Benefit Guaranty Corporation, by the Department of Labor, or by the Department of Health and Human Services

(4) **Statement regarding whether same issue is presented in any return and additional information required for § 301.9100 requests.** The request must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, the same issue is presented in any return of the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or of any predecessor.

The request must also state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, any return on which the same issue is presented-

(a) is currently under examination, before Appeals, or before a Federal court;

(b) was previously under examination, before Appeals, or before a Federal court;

(c) in qualified retirement plan matters, is being considered by the Pension Benefit Guaranty Corporation or the Department of Labor; or

(d) in health care matters, is being considered by the Department of Labor or the Department of Health and Human Services.

That the same issue is merely presented in a return does not preclude the Service from issuing a ruling, but the Service will not ordinarily issue a ruling if, at the time of the request, the identical issue is under examination or consideration or in litigation. *See* section 6.01 of this revenue procedure.

A limited exception to the above rule is made for a § 301.9100 request. *See* section 5.03 of this revenue procedure. If a § 301.9100 request involves a tax year that is currently under examination, before Appeals, or before a Federal court, the taxpayer must notify the Service, as outlined above. This notification must include the name and telephone number of the examining agent or Appeals officer.

Same or similar issue in a request previously submitted or currently pending

(5) **Statement regarding whether same or similar issue was previously ruled on or whether a request involving it was submitted or is currently pending.** The request must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives—

(a) the Service previously ruled on the same or similar issue for the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or for a predecessor;

(b) the taxpayer, a related party, a predecessor, or any of their representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but no letter ruling or determination letter was issued;

(c) the taxpayer, a related party, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or similar issue that is currently pending with the Service;

(d) at the same time as this request, the taxpayer or a related party is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue; or

(e) the taxpayer or a related party had, or has scheduled, a pre-submission conference involving the same or similar issue.

If the statement is affirmative for (a), (b), (c), (d), or (e) of this section 7.01(5), the statement must give the date the request was submitted, the date the request was withdrawn or ruled on, if applicable, and other details of the Service's consideration of the issue.

Interpretation of a substantive provision of an income or estate tax treaty

(6) **Statement regarding interpretation of a substantive provision of an income or estate tax treaty.** If the request involves the interpretation of a substantive provision of an income or estate tax treaty, the request must state whether—

(a) the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or for any predecessor;

(b) the same or similar issue for the taxpayer, a related party, or any predecessor is being examined or has been settled by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and

(c) the same or similar issue for the taxpayer, a related party, or any predecessor is being considered by the competent authority of the treaty jurisdiction.

Interpretation of a transaction involving a party in a foreign country

(7) **Statement regarding involvement of a transactional party located in a foreign country.** If the request involves a transaction between a taxpayer and a related party and either the taxpayer or the related party is located in a foreign country, the request must state whether the ruling potentially relates to any one of these categories—

(a) Preferential Regime, defined as one that meets the following three requirements: (1) the regime relates to business taxation of income from geographically mobile activities (such as financial and other service activities, including the provision of intangibles); (2) the regime offers a form of tax preference, such as a reduction in the rate of tax or tax base compared to general principles of U.S. taxation; and (3) the regime imposes no or low effective tax rates on income from geographically mobile, financial, and other service activities;

(b) Transfer Pricing, meaning the letter ruling covers transfer pricing or the application of transfer pricing principles under § 482 and the regulations thereunder;

(c) Downward Adjustment, meaning the letter ruling provides for a downward adjustment to the taxpayer's taxable profit that is not directly reflected in its financial accounts. Examples include excess profits rulings or informal capital rulings that provide an adjustment that reduces taxable profits;

(d) Treaty Permanent Establishment, meaning the letter ruling determines the existence or absence of a permanent establishment under an income tax treaty or provides how much profit will be attributed to a permanent establishment;

(e) Related Party Conduit, meaning the letter ruling covers the cross-border flow of funds or income through a U.S. entity that is a conduit under common law principles or Treas. Reg. § 1.881-3, whether those funds or income flow to another country directly or indirectly.

Letter from Bureau of Indian Affairs relating to certain letter ruling requests

(8) **Letter from Bureau of Indian Affairs relating to a letter ruling request for recognition of Indian tribal government status or status as a political subdivision of an Indian tribal government.** To facilitate prompt action on a letter ruling request for recognition of Indian tribal government status or status as a political subdivision of an Indian tribal government, the taxpayer must submit with the letter ruling request a letter from the Department of the Interior, Bureau of Indian Affairs (BIA), verifying that the tribe is recognized by BIA as an Indian tribe and that the tribal government exercises governmental functions or that the political subdivision of the Indian tribal government has been delegated substantial governmental functions. A letter ruling request that does not contain this letter from BIA cannot be resolved until the Service obtains a letter from BIA regarding the tribe's status.

The taxpayer should send a request to verify tribal status to the following address:

Branch of General Indian Legal Activity
Division of Indian Affairs
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Statement of authorities supporting taxpayer's views

(9) **Statement of supporting authorities.** If the taxpayer advocates a particular conclusion, the taxpayer must include an explanation of the grounds for that conclusion and the relevant authorities to support it. Even if the taxpayer is not advocating a particular tax treatment of a proposed transaction, the taxpayer must furnish views on the tax results of the proposed transaction and a statement of relevant authorities to support those views.

In all events, the request must include a statement of whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities.

Statement of authorities contrary to taxpayer's views

(10) **Statement of contrary authorities.** To avoid a delay in the ruling process, contrary authorities should be brought to the attention of the Service at the earliest possible opportunity. If there are significant contrary authorities, it is usually helpful to discuss them in a pre-submission conference prior to submitting the ruling request. *See* section 10.07 of this revenue procedure regarding pre-submission conferences. The taxpayer is strongly encouraged to inform the Service about, and discuss the implications of, any authority believed to be contrary to the position advanced, such as statutes, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included. If the taxpayer does not furnish either contrary authorities or a statement that none exist, the Service in complex cases or those presenting difficult or novel issues may request submission of contrary authorities or a statement that none exist. Failure to comply with this request may result in the Service's refusal to issue a letter ruling or determination letter.

The taxpayer's identification of and discussion of contrary authorities will generally enable Service personnel to more quickly understand the issue and relevant authorities. Having this information should make research more efficient and lead to earlier action by the Service. If the taxpayer does not disclose and distinguish significant contrary authorities, the Service may need to request additional information, which will delay action on the request.

Statement identifying pending legislation

(11) **Statement identifying pending legislation.** When filing the request, the taxpayer must identify any pending legislation that may affect the proposed transaction. In addition, the taxpayer must notify the Service if any such legislation is introduced after the request is filed but before a letter ruling or determination letter is issued.

Deletion statement required by § 6110

(12) **Statement identifying information to be deleted from the public inspection copy of letter ruling or determination letter.** The text of letter rulings and determination letters is open to public inspection under § 6110. The Service makes deletions from the text before it is made available for inspection. To help the Service make the deletions required by § 6110(c), a request for a letter ruling or determination letter must be accompanied by a statement indicating the deletions desired, except where a letter ruling or determination letter is open to public inspection under § 6104. If the deletion statement is not submitted with the request, the Service will notify the taxpayer that the request will be closed if the Service does not receive the deletion statement within 21 calendar days. *See* section 8.05 of this revenue procedure.

Section 6110(l)(1) provides that § 6110 disclosure provisions do not apply to any matter to which § 6104 applies. Therefore, letter rulings, determination letters, technical advice memoranda, and related background file documents dealing with the following matters (covered by § 6104) are not subject to § 6110 disclosure provisions—

(i) An approved application for exemption under § 501(a) as an organization described in § 501(c) or (d), or notice of status as a political organization under § 527, together with any papers submitted in support of such application or notice;

(ii) An application for exemption under § 501(a) with respect to the qualification of a pension, profit sharing or stock bonus plan, or an individual retirement account described in § 408 or § 408A, or any application for exemption under § 501(a) by an organization forming part of such a plan or account;

(iii) Any document issued by the Internal Revenue Service in which the qualification or exempt status of a plan or account is granted, denied, or revoked or the portion of any document in which technical advice with respect thereto is given;

(iv) Any application filed and any document issued by the Internal Revenue Service with respect to the qualification or status of master and prototype retirement plans; and

(v) The portion of any document issued by the Internal Revenue Service with respect to the qualification or exempt status of a retirement plan or account of a proposed transaction by such plan or account.

(a) **Format of deletion statement.** A taxpayer who wants only names, addresses, and identifying numbers to be deleted should state this in the deletion statement. If the taxpayer wants more information deleted, the deletion statement must be accompanied by a copy of the request and supporting documents on which the taxpayer should bracket the material to be deleted. The deletion statement must include the statutory basis under § 6110(c) for each proposed deletion.

If the taxpayer decides to ask for additional deletions before the letter ruling or determination letter is issued, the taxpayer may submit additional deletion statements.

(b) **Location of deletion statement.** The deletion statement must be made in a separate document from the request for a letter ruling or determination letter and must be included with the request.

(c) **Signature.** The deletion statement must be signed and dated by the taxpayer or the taxpayer's authorized representative. *See* section 7.01(13) of this revenue procedure for signature requirements.

(d) **Additional information.** The taxpayer should follow the same procedures of this section 7.01(12) to propose deletions from any additional information submitted after the initial request. An additional deletion statement is not required with each submission of additional information if the taxpayer's initial deletion statement requests that only names, addresses, and identifying numbers are to be deleted and the taxpayer wants only the same information deleted from the additional information.

(e) **Taxpayer may protest deletions not made.** After receiving from the Service the notice under § 6110(f)(1) of intention to disclose the letter ruling or determination letter (including a copy of the version proposed to be open to public inspection and notation of third-party communications under § 6110(d)), the taxpayer may protest the disclosure of certain information in the letter ruling or determination letter. The taxpayer must send a written statement to the Service office indicated on the notice of intention to disclose, within 20 calendar days of the date the notice of intention to disclose is mailed to the taxpayer. The statement must identify those deletions that the Service has not made and that the taxpayer believes should have been made. The taxpayer must also submit a copy of the version of the letter ruling or determination letter and bracket the proposed deletions that have not been made by the Service. Generally, the Service will not consider deleting any material that the taxpayer did not propose to be deleted before the letter ruling or determination letter was issued.

Within 20 calendar days after the Service receives the response to the notice under § 6110(f)(1), the Service will mail to the taxpayer its final administrative conclusion regarding the deletions to be made. The taxpayer does not have the right to a conference to resolve any disagreements concerning material to be deleted from the text of the letter ruling or determination letter. These matters may, however, be taken up at any conference that is otherwise scheduled regarding the request.

(f) **Taxpayer may request delay of public inspection.** After receiving the notice of intention to disclose under § 6110(f)(1), but no later than 60 calendar days after the date of the notice, the taxpayer may send a written request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the notice of intention to disclose. A request for delay under § 6110(g)(3) must contain the date on which it is expected that the underlying transaction will be completed. The request for delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine whether there are good reasons for the continued delay.

Signature on request

(13) **Signature by taxpayer or authorized representative.** The request for a letter ruling or determination letter must be signed and dated by the taxpayer or the taxpayer's authorized representative.

(a) **Paper submissions.** The original of a request for a letter ruling or determination letter submitted on paper should generally include a wet-ink signature. If it is not possible to physically

sign the request, the Service will accept an image of a signature or digital signature transmitted separately according to the electronic submission procedures for such a request.

(b) **Encrypted email attachment.** A request for a letter ruling or determination letter submitted by encrypted email attachment must include an image of a signature (scanned or photographed) or a digital signature that uses encryption techniques to provide proof of original and unmodified documentation. The Service will accept electronic signatures in one of the following formats: tiff, jpg, jpeg, pdf, Microsoft Office suite, or Zip.

(c) **Electronic facsimile**. A request for a letter ruling or determination letter submitted by electronic facsimile must be physically signed with a handwritten signature prior to faxing.

See section 7.04 of this revenue procedure for submission procedures.

Authorized representatives

(14) **Authorized representatives.**

(a) To sign the request or to appear before the Service in connection with the request, the taxpayer's authorized representative must be one of the following (for rules on who may practice before the Service, *see* Treasury Department Circular No. 230, 31 C.F.R. part 10):

(i) An attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an attorney and current authorization to represent the taxpayer;

(ii) A certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as a certified public accountant and current authorization to represent the taxpayer;

(iii) An enrolled agent (a person who is currently enrolled as an agent to practice before the Service) who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current enrollment and current authorization to represent the taxpayer. The enrollment number must be included in the declaration;

(iv) An enrolled actuary (an individual currently enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. § 1242) who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an enrolled actuary and current authorization to represent the taxpayer. Practice before the Service as an enrolled actuary is limited to representation with respect to issues involving §§ 401, 403(a), 404, 405, 412, 413, 414, 419, 419A, 420, 4971, 4972, 4976, 4980, 6057, 6058, 6059, 6652(d), 6652(e), 6692, and 7805(b); former § 405; and 29 U.S.C. § 1083;

(v) An enrolled retirement plan agent (an individual currently enrolled as a retirement plan agent) who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an enrolled retirement plan agent and current authorization to represent the taxpayer. Practice before

the Service as an enrolled retirement plan agent is limited to representation with respect to issues involving the following programs: Employee Plans Determination Letter program; Employee Plans Compliance Resolution System; and Employee Plans Pre-approved program. Enrolled retirement plan agents also are generally permitted to represent taxpayers with respect to IRS forms under the 5300 and 5500 series, which are filed by retirement plans and plans sponsors, but not with respect to actuarial forms and schedules; or

(vi) Any other person, including a foreign representative, who has received a "Letter of Authorization" from the Director of the Office of Professional Responsibility under section 10.7(d) of Treasury Department Circular No. 230. A person may make a written request for a "Letter of Authorization" to: Office of Professional Responsibility, SE:OPR, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224. Section 10.7(d) of Circular No. 230 authorizes the Commissioner to allow an individual who is not otherwise eligible to practice before the Service to represent another person in a particular matter.

(b) A regular full-time employee representing his or her employer; a general partner representing his or her partnership; a *bona fide* officer representing his or her corporation, association, or organized group; a trustee, receiver, guardian, personal representative, administrator, executor, or regular full-time employee representing a trust, receivership, guardianship, or estate; or an individual representing an immediate family member may sign the request or appear before the Service in connection with the request if the individual provides current authorization to represent the taxpayer. *See* section 7.01(15) of this revenue procedure.

A taxpayer may be required to file a Form 8821, *Tax Information Authorization*, for certain employees not authorized to represent the taxpayer to receive taxpayer information from the Service.

(c) Tax return preparers that are not described in subsections (a) and (b) of this section may not sign the request, appear before the Service, or represent a taxpayer in connection with a request for a letter ruling or a determination letter. *See* section 10.3(f)(3) of Treasury Department Circular No. 230.

(d) A foreign representative, other than a person referred to in subsections (a) and (b) of this section, is not authorized to practice before the Service within the United States and must withdraw from representing a taxpayer in a request for a letter ruling or a determination letter. In this situation, the nonresident alien or foreign entity must submit the request for a letter ruling or a determination letter on the individual's or the entity's own behalf or through a person referred to in subsections (a) and (b) of this section.

Power of Attorney and Declaration of Representative

(15) **Power of Attorney and Declaration of Representative.** Form 2848, *Power of Attorney and Declaration of Representative*, should be used to provide the representative's authority (Part I of Form 2848, *Power of Attorney*) and the representative's qualification (Part II of Form 2848, *Declaration of Representative*). The name of the person signing Part I of Form 2848 should be typed or printed on this form. A Form 2848 executed for the purpose of a request for a letter ruling or determination letter should reflect that it is for a “specific use” that is not recorded on the Centralized Authorization File (CAF) and should only be submitted in conjunction with such a request as provided in this revenue procedure (that is, it should not be submitted to the Service by any other method listed in the Instructions for Form 2848).

A Form 2848 must be signed by both the taxpayer (or the person signing on the taxpayer’s behalf) and the representative in a manner consistent with section 7.01(13) of this revenue procedure. If the Form 2848 is remotely signed by the taxpayer (or the person signing on the

taxpayer's behalf) using a permissible electronic or digital method, the representative should follow the necessary steps to verify the taxpayer's identity provided in the Electronic Signatures section of the Instructions for Form 2848, but is not required to provide a separate attestation unless requested by the Service. If the Form 2848 is signed by the taxpayer (or the person signing on the taxpayer's behalf) using a physical, wet-ink signature, a submission may include a copy or scanned version of the Form 2848 as long as its authenticity is not reasonably disputed.

For authorized representatives that reside in a foreign country, taxpayers must provide either a domestic point of contact or an e-mail address for such authorized representative with the submission.

For additional information regarding the power of attorney form, *see* section 7.02(2) of this revenue procedure.

The taxpayer's authorized representative, whether or not enrolled, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service. In situations where the Service believes that the taxpayer's representative is not in compliance with Circular 230, the Service will bring the matter to the attention of the Office of Professional Responsibility.

Penalties of perjury statement

(16) **Penalties of perjury statement.**

(a) **Format of penalties of perjury statement.** A request for a letter ruling or determination letter and any change in the request submitted at a later time must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined [Insert, as appropriate: this request or this modification to the request], including accompanying documents, and, to the best of my knowledge and belief, [Insert, as appropriate: the request or the modification] contains all the relevant facts relating to the request, and such facts are true, correct, and complete."**

See section 8.05(4) of this revenue procedure for the penalties of perjury statement applicable for submissions of additional information.

(b) **Signature by taxpayer.** The declaration must be signed and dated by the taxpayer, not the taxpayer's representative, in a manner consistent with section 7.01(13) of this revenue procedure.

The person who signs for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts and whose duties are not limited to obtaining a letter ruling or determination letter from the Service. If the corporate taxpayer is a member of an affiliated group filing consolidated returns, a penalties of perjury statement must also be signed and submitted by an officer of the common parent of the group.

The person signing for a trust, a state law partnership, or a limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

Sample format for a letter ruling request

(17) **Sample format for a letter ruling request.** To assist a taxpayer or the taxpayer's representative in preparing a letter ruling request, a sample format for a letter ruling request is provided in Appendix B of this revenue procedure. This format is not required to be used.

Checklist

(18) **Checklist for letter ruling requests.** An Associate office will be able to respond more quickly to a taxpayer's letter ruling request if the request is carefully prepared and complete. The checklist in Appendix C of this revenue procedure is designed to assist taxpayers in preparing a request by reminding them of the essential information and documents to be furnished with the request. The checklist in Appendix C must be completed to the extent required by the instructions in the checklist, signed and dated by the taxpayer or the taxpayer's representative, and included with the letter ruling request. If the checklist in Appendix C is not received, a branch representative will ask the taxpayer or the taxpayer's representative to submit the checklist; this may delay action on the letter ruling request.

For letter ruling requests on certain matters, specific checklists supplement the checklist in Appendix C. These checklists are in Appendix D, Appendix E, or are listed in section 1 of Appendix F of this revenue procedure and must also be completed and included with the letter ruling request along with the checklist in Appendix C.

Taxpayers can obtain copies of the checklists by accessing this revenue procedure in Internal Revenue Bulletin 2026-1, available at www.irs.gov/irb. A copy of this checklist may be used.

Additional procedural information required with request

.02

Multiple issues

(1) **To request separate letter rulings for multiple issues in a single situation.** If more than one issue is presented in a request for a letter ruling, the Associate office generally will issue a single letter ruling covering all the issues. If the taxpayer requests separate letter rulings on any of the issues (because, for example, one letter ruling is needed sooner than another), the Associate office usually will comply with the request unless doing so is not feasible or not in the best interest of the Service. A taxpayer who wants separate letter rulings on multiple issues should make this clear in the request and if submitting the request on paper, submit the original and at least two copies of the request, with one additional copy for each additional separate letter ruling requested. *See* section 15.06(3) of this revenue procedure regarding whether a single user fee will be charged.

In issuing each letter ruling, the Associate office will state that it has issued separate letter rulings or that requests for other letter rulings are pending.

Power of attorney used to indicate recipient of a copy or copies of a letter ruling or a determination letter

(2) **Power of attorney used to indicate recipient or recipients of a copy or copies of a letter ruling or a determination letter.** Once the Service signs the letter ruling or determination letter, the Service has the discretion to determine the form in which it will provide the letter ruling or determination letter to the taxpayer, but will generally comply with a taxpayer's request for a particular form. *See* section 7.02(5) of this revenue procedure. If providing the ruling on paper, the Service will send the original to the taxpayer, not the taxpayer's representative.

At the taxpayer's request, the Service will send one copy of the letter ruling or determination letter to up to two authorized representatives. At the discretion of the Service, the Service may provide a copy of the letter ruling or determination letter to up to two authorized representatives, even though the taxpayer did not request that the Service send a copy of notices and communications to the taxpayer's representatives. Taxpayers that use Form 2848, *Power of Attorney and Declaration of Representative*, to designate representatives, may request that copies of notices and communications be sent to the representatives listed at Line 2 by checking the corresponding box on Line 2. Taxpayers may use Line 5 of Form 2848 to advise the Service that a copy of the letter ruling or determination letter should not be sent to the taxpayer's representative(s). If no box is checked on Line 2 and the taxpayer does not indicate otherwise on Line 5, the Service may

in its discretion provide a copy of the letter ruling or determination letter to up to two authorized representatives.

"Two-part" letter ruling requests

(3) **To request a particular conclusion on a proposed transaction.** A taxpayer who requests a particular conclusion on a proposed transaction may make the request for a letter ruling in two parts. This type of request is referred to as a "two-part" letter ruling request. The first part must include the complete statement of facts and related documents described in section 7.01 of this revenue procedure. The second part must include a summary statement of the facts the taxpayer believes to be controlling in reaching the conclusion requested.

If the Associate office accepts the taxpayer's statement of controlling facts, it will base its letter ruling on these facts. Ordinarily, this statement will be incorporated into the letter ruling. The Associate office reserves the right to rule on the basis of a more complete statement of the facts and to seek more information in developing the facts and restating them.

A taxpayer who chooses this two-part procedure has all the rights and responsibilities provided in this revenue procedure.

Taxpayers may not use the two-part procedure if it is inconsistent with other procedures, such as those dealing with requests for permission to change accounting methods or periods, applications for recognition of exempt status under § 501(a) or § 521, or requests for rulings on employment tax status.

After the Associate office has resolved the issues presented by a letter ruling request, the Associate office representative may request that the taxpayer submit a proposed draft of the letter ruling to expedite the issuance of the ruling. *See* section 8.07 of this revenue procedure.

Expedited handling

(4) **To request expedited handling.** The Service ordinarily processes requests for letter rulings and determination letters in order of the date received. Expedited handling means that a request is processed ahead of requests received before it. Expedited handling is granted only in rare and unusual cases, both out of fairness to other taxpayers and because the Service seeks to process all requests as expeditiously as possible and to give appropriate deference to normal business exigencies in all cases not involving expedited handling. Expedited handling under this section 7.02(4) is not available as to a request for a letter ruling solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate) (other than a § 301.9100 request described in section 5.03 of this revenue procedure for an extension of time for making an election or other relief, or a request that includes a closing agreement with respect to an issue under the jurisdiction of the Associate Chief Counsel (Corporate) or another Associate office). For guidance on fast-track processing of such a letter ruling request, *see* Rev. Proc. 2023-26, 2023-33 I.R.B. 486.

A taxpayer with a compelling need to have a request processed ahead of requests received before it may request expedited handling. This request must explain in detail the need for expedited handling. The request for expedited handling must be made in writing, preferably in a separate letter included with the request for the letter ruling or determination letter or provided soon after its filing. If the request for expedited handling is contained in the letter requesting the letter ruling or determination letter, the letter should state at the top of the first page **"Expedited Handling Is Requested. *See* page ___ of this letter."**

A request for expedited handling will not be forwarded to a branch for action until the user fee has been paid.

Whether a request for expedited handling will be granted is within the Service's discretion. The Service may grant the request when a factor outside a taxpayer's control creates a real business need to obtain a letter ruling or determination letter before a certain date to avoid serious business consequences. Examples include situations in which a court or governmental agency has imposed a specific deadline for the completion of a transaction, or where a transaction must be completed expeditiously to avoid an imminent business emergency (such as the hostile takeover of a corporate taxpayer), provided that the taxpayer can demonstrate that the deadline or business emergency, and the need for expedited handling, resulted from circumstances that could not reasonably have been anticipated or controlled by the taxpayer. To qualify for expedited handling in such situations, the taxpayer must also demonstrate that the taxpayer submitted the request as promptly as possible after becoming aware of the deadline or emergency. The extent to which the letter ruling or determination letter request complies with all of the applicable requirements of this revenue procedure, and fully and clearly presents the issues, is a factor in determining whether expedited treatment will be granted. When the Service agrees to process a request out of order, it cannot give assurance that any letter ruling or determination letter will be processed by the date requested.

The scheduling of a closing date for a transaction or a meeting of the board of directors or shareholders of a corporation, without regard for the time it may take to obtain a letter ruling or determination letter, will not be considered a sufficient reason to process a request ahead of its regular order. Also, the possible effect of fluctuation in the market price of stocks on a transaction will not be considered a sufficient reason to process a request out of order.

Because most requests for letter rulings and determination letters cannot be processed out of order, the Service urges all taxpayers to submit their requests well in advance of the contemplated transaction. In addition, to facilitate prompt action on letter ruling requests, taxpayers are encouraged to ensure that their initial submissions comply with all of the requirements of this revenue procedure (including the requirements of other applicable guidelines set forth in Appendix F of this revenue procedure), to prepare "two-part" requests described in section 7.02(3) of this revenue procedure when possible, and to promptly provide any additional information requested by the Service.

Requesting form of any document related to letter ruling request provided to taxpayer or taxpayer's authorized representative

(5) **To request the receipt of any document related to letter ruling request by fax, electronic facsimile, or encrypted email attachment.** If the taxpayer so requests, the Associate office may provide by fax, electronic facsimile, or encrypted email attachment to the taxpayer or the taxpayer's authorized representative a copy of any document related to the letter ruling request (for example, the letter ruling itself or a request for additional information). The Service has the discretion to determine the form in which it will correspond with the taxpayer, but will generally comply with a taxpayer's request for a particular form.

The taxpayer must make such a request in writing, preferably as part of the original request for the letter ruling. The request may be submitted at a later date, but such a request will only be respected prospectively with respect to documents generated after it is received, and must be received prior to the signing of the letter ruling.

If the taxpayer requests documents by any method other than encrypted email, the request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the document is to be provided. A document other than the letter ruling will be faxed by a branch representative. A copy of the letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division of the Office of Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DS).

If the taxpayer requests documents by encrypted email attachment, the request must specify which email encryption method is to be used and, if the taxpayer has not already provided the appropriate memorandums of understanding (MOUs) to use encrypted email attachments, must include those MOUs. *See* section 7.04(3) of this revenue procedure for acceptable email encryption methods and procedures.

Requesting a conference

(6) **To request a conference.** A taxpayer who wants to have a conference on the issues involved in a request for a letter ruling should indicate this in writing when filing the request or soon thereafter. *See* sections 10.01, 10.02, and 11.11(2) of this revenue procedure.

Letter ruling requests involving welfare benefit funds (including voluntary employees' beneficiary associations (VEBAs))

.03 If a letter ruling is sought on the tax consequences to both the welfare benefit fund and an employer that contributed to the fund, each taxpayer (the fund and each contributing employer) must submit a separate letter ruling request and pay the applicable user fee listed in Appendix A of this revenue procedure.

Submitting request for letter ruling or determination letter

.04 Requests for letter rulings under the jurisdiction of an Associate Office may be submitted by mail, by electronic facsimile, or by encrypted email attachment.

Requests for determination letters under the jurisdiction of LB&I may be submitted only by electronic facsimile or by encrypted email attachment.

Requests for determination letters under the jurisdiction of SBSE and TS may be submitted only by electronic facsimile.

For requests for determination letters under the jurisdiction of TE/GE, *see* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

Submission by mail

(1) A taxpayer submitting a request on paper generally needs to submit the original and one copy of the request.

If the request is under the jurisdiction of a single Associate office but presents multiple issues likely to require review by multiple branches of that office, the taxpayer is not required to submit additional copies of the request.

Further, the taxpayer must submit the original and two copies of the request if the taxpayer is requesting separate letter rulings or determination letters on multiple issues as explained in section 7.02(1) of this revenue procedure; the taxpayer is requesting deletions other than names, addresses, and identifying numbers, as explained in section 7.01(12)(a) of this revenue procedure (one copy is the request for the letter ruling or determination letter and the second copy is the deleted version of such request); or the taxpayer is requesting a closing agreement (as defined in section 2.02 of this revenue procedure) on the issue presented.

To use the paper method, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

(a) **Addresses for request for letter ruling.** Envelopes or packages containing letter ruling requests should be marked RULING REQUEST SUBMISSION.

If a private delivery service is not used, requests for letter rulings should be sent to the following address:

Internal Revenue Service
Attn: CC:PA:LPD:TSS
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

If a private delivery service is used, the address is:

Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

Requests for letter rulings may also be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. to the courier's desk at 1111 Constitution Avenue, NW, Washington, DC. A receipt will be given at the courier's desk. The package should be addressed to:

Courier's Desk
Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

Submission by electronic facsimile

(2) Taxpayers and their representatives are encouraged to use a secure electronic facsimile service for transmitting requests for advice. To use the secure electronic facsimile method, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

When compiling the request package, provide clear titles for the documents and distinguish files containing administrative forms and receipts from files that contain the request itself and from supplemental materials. If the submission is over 10 MB or over 50 pages, break it into smaller components and number the components sequentially with the total number (such as "1 of 4", "2 of 4", "3 of 4", and "4 of 4").

Transmit the full package, along with a cover sheet, to the secure electronic facsimile lines below.

For requests under the jurisdiction of an Associate office:

(877) 773-4950

For determination letter requests under the jurisdiction of LB&I:

(844) 249-6231

For determination letter requests under the jurisdiction of SB/SE (with regards to income taxes):

(877) 477-9193

For determination letter requests under the jurisdiction of SB/SE Specialty Exam Policy (with regards to estate and gift taxes, employment taxes, or excise taxes):

(877) 931-2014.

For determination letter requests under the jurisdiction of TS:

(855) 836-8342

Submission by encrypted email attachment

(3) There are more risks associated with email than with electronic facsimile, such as the possibility that sensitive taxpayer information could be intercepted. Accordingly, the Service encourages taxpayers to use a secure electronic facsimile service for transmitting requests for advice. As an alternative, this section provides procedures for using encrypted email attachments for transmitting a request for advice under the jurisdiction of an Associate office or LB&I.

Taxpayers using encrypted email attachments may choose to use a compression utility compatible with SecureZIP (note that many open-source utilities are not compatible with SecureZIP), Adobe Acrobat Pro password encryption, or Microsoft Office 2016/365 Protect Document to encrypt and send password-protected files. Because these programs do not encrypt the subject line or body of an email or the file name of the attachment, all sensitive taxpayer information, including the name of the taxpayer, should be included only in the encrypted attachment.

These programs require that a sender create a password for the recipient to use to decrypt the attachments. The password should never be sent in the same email as the encrypted attachment. Instead, it should be provided to the Service in a separate email with a subject line that makes it easy to connect the password to the encrypted email.

To use encrypted email attachments, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

A request transmitted through email must be accompanied by two MOUs: the MOU in Appendix G of this revenue procedure, acknowledging the risks of using email to transmit sensitive taxpayer information, and the appropriate MOU in Appendix H, agreeing to the terms for using the chosen method of encryption to receive sensitive taxpayer information. These MOUs must be signed by the taxpayer, not the taxpayer's representative, in a manner consistent with section 7.01(13) of this revenue procedure. A Counsel representative will countersign and return the second MOU to the requester prior to transmitting any other information by encrypted email attachments.

When compiling the request package, provide clear titles for the documents and distinguish files containing administrative forms and receipts from files that contain the request itself and from supplemental materials. Encrypt the files or enable the encryption utility on the email system before generating the email. If the submission is over 5 MB or over 50 pages, break it into smaller components that do not exceed 5 MB each, and number the components sequentially with the total number (such as “1 of 4”, “2 of 4”, “3 of 4”, and “4 of 4”).

Transmit the full package to the email addresses below.

For requests under the jurisdiction of an Associate office:

Userfee@irscounsel.treas.gov

For determination letter requests under the jurisdiction of LB&I:

lbi.irt.info@irs.gov

Taxpayer representatives that have the technical ability to exchange email encrypted with Secure/Multipurpose Internet Mail Extensions (S/MIME) certificates may also elect to use LB&I's Secure Email Message System (SEMS). Representatives seeking to use SEMS should contact the LB&I Office of the Assistant Deputy Commissioner, Compliance Integration at the phone number listed at the end of this document.

Pending letter ruling requests

.05

Circumstances under which the taxpayer with a pending letter ruling request must notify the Associate office

(1) **Circumstances under which the taxpayer with a pending letter ruling request must notify the Associate office.** The taxpayer must notify the Associate office if, after the letter ruling request is filed but before a letter ruling is issued, the taxpayer knows that—

(a) a field office has started an examination of the issue or the identical issue on an earlier year's return;

(b) in the case of a § 301.9100 request, a field office has started an examination of the return for the taxable year in which an election should have been made or any taxable year that would have been affected by the election had it been timely made. *See* § 301.9100-3(e)(4)(i) and section 5.03(3) of this revenue procedure;

(c) legislation that may affect the transaction has been introduced. *See* section 7.01(11) of this revenue procedure;

(d) another letter ruling request (including an application for change in method of accounting), involving the same or similar issue as that pending with the Service, has been submitted by the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504;

(e) in qualified retirement plan matters, the issue is being considered by the Pension Benefit Guaranty Corporation or the Department of Labor; or

(f) in health care matters, the issue is being considered by the Department of Labor or the Department of Health and Human Services.

Taxpayer must notify the Associate office if a return is filed and must attach the request to the return

(2) **Taxpayer must notify the Associate office if a return is filed and must attach the request to the return.** If the taxpayer files a return before a letter ruling is received from the Associate office concerning an issue in the return, the taxpayer must notify the Associate office that the return has been filed. The taxpayer must also attach a copy of the letter ruling request (Form 3115,

if for a non-automatic change in method of accounting) to the return to alert the field office and avoid premature field action on the issue. Taxpayers filing their returns electronically may satisfy this requirement by attaching to their return a statement providing the date of the letter ruling request and the control number of the letter ruling.

If, under the limited circumstances permitted in section 5 of this revenue procedure, the taxpayer requests a letter ruling after the return is filed, but before the return is examined, the taxpayer must also notify the field office having jurisdiction over the return and attach a copy of the letter ruling request to the notification to alert the field office and avoid premature field action on the issue.

This section 7.05 also applies to pending requests for a closing agreement on a transaction for which a letter ruling is not requested or issued.

For purposes of this section 7.05, the term "return" includes an original return, amended return, or claim for refund.

When to attach letter ruling or determination letter to return

.06 A taxpayer who, before filing a return, receives a letter ruling or determination letter about any transaction that has been consummated and that is relevant to the return being filed must attach to the return a copy of the letter ruling or determination letter. Taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling or determination letter.

For purposes of this section 7.06, the term "return" includes an original return, amended return, or claim for refund.

How to check on status of request for letter ruling or determination letter

.07 The taxpayer or the taxpayer's authorized representative may obtain information regarding the status of a request for a letter ruling or determination letter by calling the person whose name and telephone number are shown on the acknowledgment of receipt of the request or, in the case of a request for a letter ruling, the appropriate branch representative who contacts the taxpayer as explained in section 8.02 of this revenue procedure.

Request for letter ruling or determination letter may be withdrawn or Associate office may decline to issue letter ruling

.08

In general

(1) **In general.** A taxpayer may withdraw a request for a letter ruling or determination letter at any time before the letter ruling or determination letter is signed by the Service. Correspondence and exhibits related to a request that is withdrawn or related to a letter ruling request for which an Associate office declines to issue a letter ruling will not be returned to the taxpayer. *See* section 7.01(2)(a) of this revenue procedure. In appropriate cases, an Associate office may publish its conclusions in a revenue ruling or revenue procedure.

Notification of appropriate Service official

(2) **Notification of appropriate Service official.**

(a) **Letter ruling requests.** If a taxpayer withdraws a letter ruling request or if the Associate office declines to issue a letter ruling, the Associate office generally will notify, by memorandum, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return. For taxpayers under the jurisdiction of the LB&I, the Associate office will also send a copy of the memorandum to the Assistant Deputy Commissioner, Compliance

Integration. In doing so, the Associate office may give its views on the issues in the request for consideration in any later examination of the return.

This section 7.08(2)(a) generally does not apply if the taxpayer withdraws the letter ruling request and (i) submits a written statement that the transaction has been, or is being, abandoned or (ii) if the Associate office has not already formed an adverse opinion.

(b) **Notification of Service official may constitute Chief Counsel Advice.** If the memorandum referred to in paragraph (a) of this section 7.08(2) provides more than the fact that the request was withdrawn and that the Associate office was tentatively adverse, or more than the fact that the Associate office declined to issue a letter ruling, the memorandum may constitute Chief Counsel Advice, as defined in § 6110(i)(1), and may be subject to disclosure under § 6110.

SECTION 8. HOW DO THE ASSOCIATE OFFICES HANDLE LETTER RULING REQUESTS?

The Associate offices will issue letter rulings on the matters and under the circumstances explained in sections 3 and 5 of this revenue procedure and in the manner explained in this section and section 11 of this revenue procedure. *See* section 9 of this revenue procedure for procedures for change in method of accounting requests.

Technical Services Support Branch receives, initially controls, and refers the request to the appropriate Associate office

.01 All requests for letter rulings will be received and initially controlled by the Technical Services Support Branch of the Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:TSS). That office will process the incoming documents and the user fee, and it will forward the file to the appropriate Associate office for assignment to a branch that has jurisdiction over the specific issue involved in the request.

Branch representative of the Associate office contacts taxpayer within 21 calendar days

.02

(1) Within 21 calendar days after a letter ruling request has been received in the branch of the Associate office that has jurisdiction over the issue, a representative of the branch will contact the taxpayer or, if the request includes a properly executed power of attorney, the authorized representative, unless the power of attorney provides otherwise. During such contact, the branch representative will discuss the procedural issues in the letter ruling request. If the case is complex or a number of issues are involved, it may not be possible for the branch representative to discuss the substantive issues during this initial contact. When possible, for each issue within the branch's jurisdiction, the branch representative will tell the taxpayer—

(a) whether the branch representative will recommend that the Associate office rule as the taxpayer requested, rule adversely on the matter, or not rule;

(b) whether the taxpayer should submit additional information to enable the Associate office to rule on the matter;

(c) whether the letter ruling complies with all of the provisions of this revenue procedure, and if not, which requirements have not been met; or

(d) whether, because of the nature of the transaction or the issue presented, a tentative conclusion on the issue cannot be reached.

(2) If the letter ruling request involves matters within the jurisdiction of more than one branch or Associate office, a representative of the branch that received the original request will tell the taxpayer within the initial 21 calendar days—

(a) that the matters within the jurisdiction of another branch or Associate office have been referred to that branch or Associate office for consideration, and the date the referral was made, and

(b) that a representative of that branch or Associate office will contact the taxpayer within 21 calendar days after receiving the referral to discuss informally the procedural and, to the extent possible, the substantive issues in the request.

This section 8.02 applies to all matters except for cases within the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) concerning insurance issues requiring actuarial computations. For special rules and procedures that apply to letter ruling requests under the jurisdiction of the Associate Chief Counsel (Corporate) for which fast-track processing is requested, *see* section 5.05(1) of Rev. Proc. 2023-26, 2023-33 I.R.B. 486.

Determines if transaction can be modified to obtain favorable letter ruling

.03 If less than a fully favorable letter ruling is anticipated, the branch representative will tell the taxpayer whether minor changes in the transaction or adherence to certain published positions would bring about a favorable ruling. The branch representative may also tell the taxpayer the facts that must be furnished in a document to comply with Service requirements. The branch representative will not suggest precise changes that would materially alter the form of the proposed transaction or materially alter a taxpayer's proposed accounting period.

If, at the end of this discussion, the branch representative determines that a meeting in the Associate office would be more helpful to develop or exchange information, a meeting will be offered and an early meeting date arranged. When offered, this meeting is in addition to the taxpayer's conference of right that is described in section 10.02 of this revenue procedure.

Not bound by informal opinion expressed

.04 The Service will not be bound by the informal opinion expressed by the branch representative or any other Service representative, and such an opinion cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

May request additional information

.05

Must be submitted within 21 calendar days

(1) **Additional information must be submitted within 21 calendar days.** If the request lacks essential information, which may include additional information needed to satisfy the procedural requirements of this revenue procedure as well as substantive changes to transactions or documents needed from the taxpayer, the branch representative will request such information during the initial or subsequent contacts with the taxpayer or its authorized representative. The branch representative will inform the taxpayer or its authorized representative that the request will be closed if the Associate office does not receive the requested information within 21 calendar days from the date of the request unless an extension of time is granted. To facilitate prompt action on letter ruling requests, taxpayers may request that the Associate office request additional information by fax, electronic facsimile, or encrypted email attachment. *See* section 7.02(5) of this revenue procedure. Special rules and procedures apply to letter ruling requests under the jurisdiction of the Associate Chief Counsel (Corporate) for which fast-track processing is requested. *See* section 5.07 of Rev. Proc. 2023-26, 2023-33 I.R.B. 486.

Material facts furnished to the Associate office by telephone or orally at a conference must be promptly confirmed in writing by mail, fax, or email to the Associate office. This confirmation, and any additional information requested by the Associate office that is not part of the information

requested during the initial contact, must be furnished within 21 calendar days from the date the Associate office makes the request.

Extension of reply period if justified and approved

(2) **Extension of reply period if justified and approved**. The Service will grant an extension of the 21-day period for providing additional information only if the extension is justified in writing by the taxpayer and approved by the branch reviewer. A request for an extension should be submitted before the end of the 21-day period. If unusual circumstances close to the end of the 21-day period make a written request impractical, the taxpayer should notify the Associate office within the 21-day period that there is a problem and that the written request for extension will be provided shortly. The taxpayer will be told promptly of the approval or denial of the requested extension. If the extension request is denied, there is no right of appeal.

Letter ruling request closed if the taxpayer does not submit additional information

(3) **Letter ruling request closed if the taxpayer does not submit additional information.** If the taxpayer does not submit the information requested during the initial or subsequent contacts within the time provided, the letter ruling request will be closed and the taxpayer will be notified in writing. If the information is received after the request is closed, the request will be reopened and treated as a new request as of the date the information is received. The taxpayer must pay another user fee before the case can be reopened.

Penalties of perjury statement for additional information

(4) **Penalties of perjury statement.** Additional information submitted to the Service must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete."** This declaration must be signed in accordance with the requirements in section 7.01(16)(b) of this revenue procedure.

Transmitting request and submitting additional information by fax, electronic facsimile, or encrypted email attachment

(5) **Transmitting request and submitting additional information by fax, electronic facsimile, or encrypted email attachment.** To facilitate prompt action on letter ruling requests, taxpayers may request that the Associate office request additional information by fax, electronic facsimile, or encrypted email attachment. *See* section 7.02(5) of this revenue procedure.

Taxpayers may also submit additional information by fax, electronic facsimile, or encrypted email attachment as soon as the information is available. The Associate office representative who requests additional information can provide a fax or electronic facsimile number or email address to which the information can be sent.

Submitting additional information by mail

(6) **Submitting additional information by mail**.

(a) If a private delivery service is not used, the additional information should be sent to:

Internal Revenue Service
ADDITIONAL INFORMATION
Attn: [Name, office symbols, and room number of the Associate office representative who requested the information]
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

For cases involving a request for change in method of accounting or period, *see* section 9.08 of this revenue procedure for the address to which to send additional information.

(b) If a private delivery service is used, the additional information for all cases should be sent to:

Internal Revenue Service
ADDITIONAL INFORMATION
Attn: [Name, office symbols, and room number of the Associate office representative who requested the information]
1111 Constitution Ave., NW
Washington, DC 20224

(c) A taxpayer submitting additional information by mail only needs to submit one copy of the additional information unless the Associate office requests additional copies.

Identifying information included in additional information

(7) **Identifying information**. For all cases, the additional information should include the taxpayer's name, the case control number and the name, office symbols, and room number of the Associate office representative who requested the information. The Associate office representative can provide the latter information to the taxpayer.

Near the completion of the ruling process, advises the taxpayer of conclusions and, if the Associate office will rule adversely, offers the taxpayer the opportunity to withdraw the letter ruling request

.06 Generally, after the conference of right is held but before the letter ruling is issued, the branch representative will orally notify the taxpayer or the taxpayer's representative of the Associate office's conclusions. *See* section 10 of this revenue procedure for a discussion of conferences of right. If the Associate office is going to rule adversely, the taxpayer will be offered the opportunity to withdraw the letter ruling request. If, within ten calendar days of the notification by the branch representative, the taxpayer or the taxpayer's representative does not notify the branch representative that the taxpayer wishes to withdraw the ruling request, the adverse letter ruling will be issued unless an extension is granted. *See* section 15.10 of this revenue procedure for information regarding refunds of user fees.

May request that taxpayer submit draft proposed letter ruling near the completion of the ruling process

.07 To accelerate the issuance of letter rulings, in appropriate cases near the completion of the ruling process, the Associate office representative may request that the taxpayer or the taxpayer's representative submit a proposed draft of the letter ruling. Such draft would be based on the discussions of the issues between the representative and the taxpayer or the taxpayer's representative.

The format of the submission should be discussed with the Associate office representative who requests the draft letter ruling. The representative usually can provide a sample format of a letter ruling and will discuss with the taxpayer or the taxpayer's representative the facts, analysis, and letter ruling language to be included.

The taxpayer should submit the draft in the same manner as any other additional information and should include in the transmittal the information that should be included with any other additional information (for example, a penalties of perjury statement is required). *See* section 8.05(5) and (6) of this revenue procedure.

The taxpayer is not required to prepare a draft letter ruling to receive a letter ruling. *But see* section 5.03(5) of Rev. Proc. 2023-26, 2023-33 I.R.B. 486, for requirement that the taxpayer or

the taxpayer's representative must submit a proposed draft of the letter ruling when requesting fast-track processing of certain requests for letter rulings solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate).

Issues separate letter rulings for substantially identical letter rulings, but generally issues a single letter ruling for related § 301.9100 letter rulings for related § 1362(f) letter rulings, and for related § 2642(g) letter rulings

.08

Substantially identical letter rulings

(1) **Substantially identical letter rulings.** For letter ruling requests qualifying for the user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure for substantially identical letter rulings, a separate letter ruling will generally be issued for each requester or entity as the Associate office deems necessary.

Related § 301.9100 letter rulings

(2) **Related § 301.9100 letter rulings.**

(a) For a § 301.9100 letter ruling request for an extension of time to file a Form 3115 qualifying under section 15.07(4) for the user fee provided in paragraph (A)(5)(d) of Appendix A of this revenue procedure for an identical change in method of accounting, the Associate office generally will issue a single letter on behalf of all applicants on Form 3115 that are the subject of the request.

(b) For a § 301.9100-3 letter ruling request for an extension of time to file an entity classification election for multiple entities qualifying under section 15.07(2) for the user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure, the Associate office generally will issue a single letter on behalf of all entities that are the subject of the request. The taxpayer may request that separate letters be issued to each entity that is the subject of the request. *See generally* section 5.03 of this revenue procedure.

Related § 1362(f) letter rulings

(3) **Related § 1362(f) letter rulings.** For a § 1362(f) letter ruling request from multiple S corporations qualifying under section 15.07(2) for the user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure, the Associate office generally will issue a single letter ruling on behalf of all the S corporations that are the subject of the request. The taxpayer may request that separate letter rulings be issued to each S corporation that is the subject of the request.

Related § 2642(g) letter rulings

(4) **Related § 2642(g) letter rulings.** For § 2642(g) letter ruling requests from married taxpayers qualifying under section 15.07(2) for the user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure, the Associate office generally will issue a separate letter ruling for each requester under section 15.06(7).

Sends a copy of the letter ruling to appropriate Service official

.09 The Associate office will send a copy of the letter ruling, whether favorable or adverse, to the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return.

SECTION 9. WHAT ARE THE SPECIFIC AND ADDITIONAL PROCEDURES FOR A REQUEST FOR A CHANGE IN METHOD OF ACCOUNTING FROM THE ASSOCIATE OFFICES?

This section provides the specific and additional procedures applicable to a request for a change in method of accounting under Rev. Proc. 2015-13, 2015-5 I.R.B. 419 (or any successor), as clarified and modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067, as modified by Section 17.02 (b) and (c) of Rev. Proc. 2016-1, 2016-1 I.R.B. 1, as modified by Rev. Proc. 2017-59, 2017-48 I.R.B. 543, as modified by Rev. Proc. 2021-26, 2021-22 I.R.B. 543, and as modified by Rev. Proc. 2021-34, 2021-35 I.R.B. 337, or other automatic change request procedures.

A request for a change in method of accounting under Rev. Proc. 2015-13 (or any successor) or other automatic change request procedures is a type of request for a letter ruling. *See* section 2.01 of this revenue procedure.

Automatic and non-automatic change in method of accounting requests

.01

Automatic change in method of accounting under Rev. Proc. 2015-13 (or any successor), or other automatic change request procedures

(1) **Automatic change in method of accounting.** Certain changes in methods of accounting must be made under automatic change request procedures. A change in method of accounting provided for in an automatic change request procedure must be made using that procedure if the taxpayer requesting the change is within the scope of the procedure, the change is an automatic change for the requested year of the change, and the taxpayer is eligible to make the change. The Commissioner's consent to an otherwise qualifying automatic change in method of accounting is granted only if the taxpayer timely complies with the applicable automatic change request procedures. *But see* section 9.19 of this revenue procedure concerning review by an Associate office and a field office. In general, a taxpayer requests an automatic change by filing a current Form 3115, *Application for Change in Accounting Method*.

An application filed under the automatic change procedures in Rev. Proc. 2015-13 (or any successor) or other automatic change request procedure, and this revenue procedure, is hereinafter referred to as an "automatic change request." *See* section 9.22 of this revenue procedure for a list of automatic change request procedures. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to an automatic change request. No user fee is required for a change made under an automatic change request procedure.

Non-automatic change in method of accounting

(2) **Non-automatic change in method of accounting.** If a change in method of accounting may not be made under an automatic change request procedure, the taxpayer may request a non-automatic letter ruling by filing a current Form 3115, *Application for Change in Accounting Method*, under the non-automatic change procedures in Rev. Proc. 2015-13 (or any successor), and this revenue procedure. A Form 3115 filed under Rev. Proc. 2015-13 (or any successor) and this revenue procedure for a non-automatic change request is hereinafter referred to as a "non-automatic Form 3115." A taxpayer filing a non-automatic Form 3115 must submit the required user fee with the completed Form 3115. *See* section 15 and Appendix A of this revenue procedure for information about user fees. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to a non-automatic Form 3115.

Ordinarily only one change in method of accounting on a Form 3115, *Application for Change in Accounting Method*, and a separate Form 3115 for each taxpayer and for each separate and distinct trade or business

.02 Ordinarily, a taxpayer may request only one change in method of accounting on a Form 3115, *Application for Change in Accounting Method*. If the taxpayer wants to request a change in method of accounting for more than one unrelated item or submethod of accounting, the taxpayer must submit a separate Form 3115 for each unrelated item or submethod, except in certain situations in which the Service specifically permits certain unrelated changes to be included on a single Form 3115. For an example of such a situation, *see* section 15.01(3) of Rev. Proc. 2024-23, 2024-23 I.R.B. 1334 (or its successor).

A separate Form 3115 (and, therefore, a separate user fee pursuant to section 15 and Appendix A of this revenue procedure) must be submitted for each taxpayer and each separate trade or business of a taxpayer, including a qualified subchapter S subsidiary (QSub) or a single-member limited liability company (single-member LLC), requesting a change in method of accounting, except as specifically permitted or required in guidance published by the Service. *See, e.g.*, section 15.07(4) of this revenue procedure.

Information required with a Form 3115

.03

Facts and other information

(1) **Facts and other information requested on Form 3115 and in applicable revenue procedures.** In general, a taxpayer requesting a change in method of accounting must file a current Form 3115, unless the procedures applicable to the specific type of change in method of accounting do not require a Form 3115 to be submitted.

To be eligible for approval of the requested change in method of accounting, the taxpayer must provide all information requested on the Form 3115 and in its instructions and in Rev. Proc. 2015-13 (or any successor), and, if applicable, the automatic change request procedure. In addition, the taxpayer must provide all information requested in the applicable sections of this revenue procedure, including a detailed and complete description of the item being changed and of the taxpayer's trade(s) or business(es), the taxpayer's present and proposed method for the item being changed, information regarding whether the taxpayer has claimed any federal tax credit relating to the cost being changed, information regarding whether the taxpayer is under examination, or before Appeals or a Federal court, and a summary of the computation of the net § 481(a) adjustment, along with an explanation of the methodology used to determine the adjustment, sufficient to demonstrate that the net § 481(a) adjustment is computed correctly.

For a non-automatic Form 3115 or an automatic change request specified in the instructions for line 16 of the Form 3115, the taxpayer must also include a full explanation of the legal basis and relevant authorities supporting the proposed method, and a detailed and complete description of the facts and explanation of how the law applies to the taxpayer's situation.

For a non-automatic Form 3115, the taxpayer must also include a statement of the applicant's reasons for the proposed change, copies of all documents related to the proposed change, and a discussion of whether the law related to the request is uncertain or inadequately addresses the issue.

The taxpayer must provide the requested information to be eligible for approval of the requested change in method of accounting. The taxpayer may be required to provide information specific to the requested change in method of accounting, such as an attached statement. The taxpayer must provide all information relevant to the requested change in method of accounting, even if not specifically requested, including an explanation of all material facts relevant to the requested change in method of accounting.

See also sections 7.01(1) and 7.01(9) of this revenue procedure.

Statement of authorities contrary to taxpayer's views

(2) **Statement of contrary authorities.** For a non-automatic Form 3115, the taxpayer is encouraged to inform the Associate office about, and discuss the implications of, any authority believed to be contrary to the proposed change in method of accounting, including statutes, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements.

If the taxpayer does not furnish either contrary authorities or a statement that none exist, the Associate office may request submission of contrary authorities or a statement that none exist. Failure to comply with this request may result in the Associate office's refusal to issue a change in method of accounting letter ruling.

Documents

(3) **Copies of all contracts, agreements, and other documents.** True copies of all contracts, agreements, and other documents relevant to the requested change in method of accounting must be submitted with a non-automatic Form 3115. **Original documents should not be submitted because they become part of the Associate office's file and will not be returned.**

Analysis of material facts

(4) **Analysis of material facts.** When submitting any document with a Form 3115 or in a supplemental letter, the taxpayer must explain and provide an analysis of all material facts in the document. The taxpayer may not merely incorporate the document by reference. The analysis of the facts must include their bearing on the requested change in method of accounting and must specify the provisions that apply.

Same issue in an earlier return under examination

(5) **Information regarding whether same issue is in an earlier return under examination.** A Form 3115 must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, any earlier return of the taxpayer (or any return of a current or former consolidated group in which the taxpayer is or was a member) in which the taxpayer used the method of accounting being changed is under examination, before Appeals, or before a Federal court. *See* Rev. Proc. 2015-13 (or any successor).

Issue previously submitted or currently pending

(6) **Statement regarding prior requests for a change in method of accounting and other pending requests.**

(a) **Other requests for a change in method of accounting within the past five years.** A Form 3115 must state, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, whether the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of a current or former affiliated group of which the taxpayer is or was a member within the meaning of § 1504, or a predecessor requested or made within the past five years (including the year of the requested change), or is currently filing, any request for a change in method of accounting.

If the statement is affirmative, for each separate and distinct trade or business, the Form 3115 must give a description of each request and the year of change and whether consent was obtained. If any application was withdrawn, not perfected, or denied, or if a Consent Agreement was sent to the taxpayer but was not signed and returned to the Associate office, or if the change was not made in the requested year of change, the Form 3115 must give an explanation.

(b) **Any other pending request(s).** A Form 3115 must state, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, whether the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of a current or former affiliated group of which the taxpayer is or was a member within the meaning of § 1504, or a predecessor currently have pending any request (including any concurrently filed request) for a letter ruling, a change in method of accounting, or technical advice.

If the statement is affirmative, the Form 3115 must give the name(s) of the taxpayer, identification number(s), the type of request (letter ruling, request for change in method of accounting, or request for technical advice), and the specific issues in each such request.

Statement identifying pending legislation

(7) **Statement identifying pending legislation.** At the time the taxpayer files a non-automatic Form 3115, the taxpayer must identify any pending legislation that may affect the proposed change in method of accounting. The taxpayer also must notify the Associate office if any such legislation is introduced after the request is filed but before a change in method of accounting letter ruling is issued.

Authorized representatives

(8) **Authorized representatives.** To appear before the Service in connection with a request for a change in method of accounting, the taxpayer's authorized representative must be an attorney, a certified public accountant, an enrolled agent, an enrolled actuary, a person with a "Letter of Authorization," an employee, general partner, *bona fide* officer, administrator, trustee, etc., as described in section 7.01(14) of this revenue procedure.

Power of Attorney and Declaration of Representative

(9) **Power of Attorney and Declaration of Representative.** Any authorized representative, whether or not enrolled to practice, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service, and the conference and practice requirements of the Statement of Procedural Rules, which provide the rules for representing a taxpayer before the Service. *See* section 7.01(15) of this revenue procedure. A taxpayer should use Form 2848, *Power of Attorney and Declaration of Representative*, to provide the representative's authority.

Tax Information Authorization

(10) **Tax Information Authorization.** A taxpayer may use Form 8821, *Tax Information Authorization*, to authorize an individual to receive a copy of the taxpayer's change in method of accounting letter ruling and other related correspondence. If the taxpayer wishes to authorize a corporation, firm, organization, or partnership to receive the correspondence, an individual, identified by either name or title, must be specified on the Form 8821. A Form 8821 does not authorize the taxpayer's appointee to advocate the taxpayer's position or to otherwise represent the taxpayer before the Service.

Penalties of perjury statement

(11) **Penalties of perjury statement.**

(a) **Format of penalties of perjury statement.** A Form 3115, and any change to a Form 3115 submitted at a later time, must be accompanied by the following declaration: "**Under penalties of perjury, I declare that I have examined this application, including accompanying schedules and statements, and to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and it is true, correct, and complete.**"

See section 9.08(3) of this revenue procedure for the penalties of perjury statement required for submissions of additional information.

(b) **Signature by taxpayer.** A Form 3115 must be signed in a manner consistent with section 7.01(13) of this revenue procedure by, or on behalf of, the taxpayer requesting the change by an individual who has personal knowledge of the facts of, and authority to bind the taxpayer in, such matters. For example, an officer must sign on behalf of a corporation, a general partner on behalf of a state law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or an individual taxpayer on behalf of a sole proprietorship. If the taxpayer is a member of a consolidated group, a Form 3115 should be submitted on behalf of the taxpayer by the common parent and must be signed by a duly authorized officer of the common parent. Refer to the signature requirements set forth in the instructions for the current Form 3115 regarding those who are to sign. *See also* section 6.02(8) of Rev. Proc. 2015-13 (or any successor).

(c) **Signature by preparer.** If a Form 3115 is prepared by an individual other than the taxpayer, the preparer must also sign the Form 3115 in a manner consistent with section 7.01(13) of this

revenue procedure. A declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

Additional procedural information required in certain circumstances

.04

Recipients of original and copy of correspondence

(1) **Recipients of original and copy of change in method of accounting correspondence.** The Service will send the signed original of the change in method of accounting letter ruling and other related correspondence to the taxpayer, and copies to the taxpayer's representative, if so instructed on Form 2848. *See* section 7.02(2) of this revenue procedure for how to designate alternative routing of the copies of the letter ruling and other correspondence.

Expedited handling

(2) **To request expedited handling.** The Associate offices ordinarily process non-automatic Forms 3115 in order of the date received. A taxpayer with a compelling need to have a non-automatic Form 3115 processed on an expedited basis may request expedited handling. *See* section 7.02(4) of this revenue procedure for procedures regarding expedited handling.

Requesting form of any document related to Form 3115 provided to taxpayer or taxpayer's authorized representative

(3) **To request the receipt of the change in method of accounting letter ruling or any other correspondence related to a Form 3115 by fax, electronic facsimile, or encrypted email attachment.** If the taxpayer wants a copy of the change in method of accounting letter ruling or any other correspondence related to a Form 3115, such as a request for additional information, to be provided to the taxpayer or the taxpayer's authorized representative by fax, electronic facsimile, or encrypted email attachment, the taxpayer must submit a written request, preferably as part of the Form 3115. The request may be submitted at a later date, but it must be received prior to the mailing of correspondence other than the letter ruling and prior to the signing of the change in method of accounting letter ruling. The Service has the discretion to determine the form in which it will correspond with the taxpayer, but will generally comply with a taxpayer's request for a particular form.

If the taxpayer requests to have correspondence relating to the Form 3115 provided by fax or electronic facsimile to the taxpayer or taxpayer's authorized representative, the request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the correspondence is to be provided.

A document other than the change in method of accounting letter ruling will be faxed by a branch representative. A change in method of accounting letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division of the Office of Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DS).

If the taxpayer requests documents by encrypted email attachment, the request must specify which email encryption method is to be used and, if the taxpayer has not already provided the appropriate memorandums of understanding (MOUs) to use encrypted email attachments, must include those MOUs. *See* section 9.05(3) of this revenue procedure for acceptable email encryption methods and procedures.

For purposes of § 301.6110-2(h), a change in method of accounting letter ruling is not issued until the change in method of accounting letter ruling is mailed.

Requesting a conference

(4) **To request a conference.** The taxpayer must complete the appropriate line on the Form 3115 to request a conference, or must request a conference in a later written communication, if

an adverse response is contemplated by the Associate office. *See* section 11.03(1) of Rev. Proc. 2015-13 (or any successor), and sections 10.01 and 10.02 of this revenue procedure.

Submitting non-automatic Forms 3115

.05 Non-automatic Forms 3115 may be submitted by mail, by electronic facsimile, or by encrypted email attachment.

(1) **Submission by mail.** A taxpayer submitting a non-automatic Form 3115 by mail should submit the original to the appropriate address below. To use the paper method, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

If a private delivery service is not used, a taxpayer, including an exempt organization, must send the original completed Form 3115 to:

Internal Revenue Service
Attn: CC:PA:LPD:TSS
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

If a private delivery service is used, a taxpayer, including an exempt organization, must send the original completed Form 3115 to:

Internal Revenue Service
Attn: CC:PA:LPD:TSS
Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

For taxpayers, including an exempt organization, the original completed Form 3115 may be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. to the courier's desk at 1111 Constitution Ave., NW, Washington, DC. A receipt will be given at the courier's desk. The package should be addressed to:

Courier's Desk
Internal Revenue Service
Attn: CC:PA:LPD:TSS,
Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

(2) **Submission by electronic facsimile.** Taxpayers and their representatives are encouraged to use a secure electronic facsimile service for transmitting requests for advice. To use the secure electronic facsimile method, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

Transmit the Form 3115, along with a cover sheet, to the secure electronic facsimile line:

(877) 773-4950

(3) **Submission by encrypted email attachment.** There are more risks associated with email than with electronic facsimile, such as the possibility that sensitive taxpayer information could be intercepted. Accordingly, the Service encourages taxpayers to use a secure electronic facsimile service for transmitting requests for advice. As an alternative, this section provides procedures for using encrypted email attachments for transmitting a non-automatic Form 3115.

Taxpayers using encrypted email attachments may choose to use a compression utility compatible with SecureZIP (note that many open-source utilities are not compatible with SecureZIP), Adobe Acrobat Pro password encryption, or Microsoft Office 365 Protect Document to encrypt and send password-protected files. Because these programs do not encrypt the subject line or body of an email or the file name of the attachment, all sensitive taxpayer information, including the name of the taxpayer, should be included only in the encrypted attachment.

These programs require that a sender create a password for the recipient to use to decrypt the attachments. The password should never be sent in the same email as the encrypted attachment. Instead, it should be provided to the Service in a separate email with a subject line that makes it easy to connect the password to the encrypted email.

To use encrypted email attachments, first submit the full user fee payment set forth in Appendix A of this revenue procedure through www.pay.gov, and include a copy of the receipt for this payment with the request. *See* section 15.08 of this revenue procedure.

A Form 3115 transmitted through email must be accompanied by two MOUs: the MOU in Appendix G of this revenue procedure, acknowledging the risks of using email to transmit sensitive taxpayer information, and the appropriate MOU in Appendix H, agreeing to the terms for using the chosen method of encryption to receive sensitive taxpayer information. These MOUs must be signed by the taxpayer, not the taxpayer's representative, in a manner consistent with section 7.01(13) of this revenue procedure. A Counsel representative will countersign and return the second MOU to the requester prior to transmitting any other information by encrypted email attachments.

Transmit the Form 3115 to the following email address:

Userfee@irscounsel.treas.gov

Submitting automatic Forms 3115

.06 **Automatic change request.** The duplicate copy of an automatic Form 3115 generally is submitted by mail. A taxpayer that is filing an automatic Form 3115 under the provisions of Rev. Proc. 2015-13 (or any successor) may alternatively submit the duplicate copy of the Form 3115 by fax.

(1) **Submission by mail.** If the automatic change request procedure requires a taxpayer to file a duplicate copy of the completed Form 3115 for an automatic change request, and if a private delivery service is not used, send the duplicate copy of the automatic change request Form 3115 to:

Internal Revenue Service
Ogden, UT 84201
M/S 6111

If a private delivery service is used, send the duplicate copy of the automatic change request Form 3115 to:

Internal Revenue Service
1973 N. Rulon White Blvd.
Ogden, UT 84201
Attn: M/S 6111

(2) **Submission by fax.** Taxpayers submitting the duplicate copy of an automatic Form 3115 by fax should do so to the following fax number:

(844) 249-8134

The submission should include a cover sheet with the following information:

(a) Subject: "Form 3115"

(b) Sender's name, title, phone number, and address

(c) Taxpayer's name

(d) Date

(e) Number of pages faxed (inclusive of cover sheet)

A taxpayer should not include sensitive information on the cover sheet, such as the taxpayer's Employer Identification Number or Social Security Number.

Technical Services Support Branch receives, initially controls, and refers the Form 3115 to the appropriate Associate office

.07 A non-automatic Form 3115 is received and controlled by the Technical Services Support Branch, Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:TSS) if the required user fee is submitted with the Form 3115. Once controlled, the Form 3115 is forwarded to the appropriate Associate office for assignment and processing.

Additional information

.08

Reply period

(1) **Reply period.**

(a) **Non-automatic Form 3115 – 21-day rule.** In general, for a non-automatic Form 3115, additional information requested by the Associate office and additional information furnished to the Associate office by telephone must be furnished in writing by mail, fax, or email within 21 calendar days from the date of the information request. The Associate office may impose a shorter reply period for a request for additional information made after an initial request. *See* section 10.06 of this revenue procedure for the 21-day rule for submitting information after any conference.

(b) **Automatic change request – 30-day rule.** In general, for an automatic change request, additional information requested by the Associate office, and additional information furnished to the Associate office by telephone must be furnished in writing by mail, fax, or email within 30 calendar days from the date of the information request. The Associate office may impose a shorter reply period for a request for additional information made after an initial request. *See* section 10.06 of this revenue procedure for the 21-day rule for submitting information after any conference with the Associate office.

Extension of reply period

(2) **Request for extension of reply period.**

(a) **Non-automatic Form 3115.** For a non-automatic Form 3115, an additional period, not to exceed 15 calendar days, to furnish information may be granted to a taxpayer. Any request for an extension of time must be made in writing and submitted before the end of the original 21-day period. If unusual circumstances close to the end of the 21-day period make a written request impractical, the taxpayer should notify the Associate office within the 21-day period that there is a problem and that the written request for extension will be provided shortly. An extension of the 21-day period will be granted only if approved by a branch reviewer. An extension of the 21-day period ordinarily will not be granted to furnish information requested on Form 3115. The taxpayer will be told promptly, and later in writing, of the approval or denial of the requested extension. If the extension request is denied, there is no right of appeal.

(b) **Automatic change request.** For an automatic change request, an additional period, not to exceed 30 calendar days, to furnish information may be granted to a taxpayer. Any request for an extension of time must be made in writing and submitted before the end of the original 30-day period. If unusual circumstances close to the end of the 30-day period make a written request impractical, the taxpayer should notify the Associate office within the 30-day period that there is a problem and that the written request for extension will be coming soon. An extension of the 30-day period will be granted only if approved by a branch reviewer. An extension of the 30-day period ordinarily will not be granted to furnish information requested on Form 3115. The taxpayer will be told promptly of the approval or denial of the requested extension. If the extension request is denied, there is no right of appeal.

Penalties of perjury statement for additional information

(3) **Penalties of perjury statement for additional information.** Additional information submitted to the Associate office must be accompanied by the following declaration: "**Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.**" This declaration must be signed in accordance with the requirements in section 9.03(11)(b) of this revenue procedure.

Identifying information included in additional information

(4) **Identifying information included in additional information.** The additional information should also include the taxpayer's name, the case control number, and the name, office symbols, and room number of the Associate office representative who requested the information. The Associate office representative can provide the latter information to the taxpayer.

Transmitting request and submitting additional information by fax, electronic facsimile, or encrypted email attachment

(5) **Transmitting request and submitting additional information by fax, electronic facsimile, or encrypted email attachment.** To facilitate prompt action on a change in method of accounting ruling request, taxpayers may request that the Associate office request additional information by fax, electronic facsimile, or encrypted email attachment. *See* section 9.04(3) of this revenue procedure.

Taxpayers may also submit additional information by fax, electronic facsimile, or encrypted email attachment as soon as the information is available. The Associate office representative who requests additional information can provide a fax or electronic facsimile number or email address to which the information can be sent.

Submitting additional information by mail

(6) **Submitting additional information by mail.**

(a) If a private delivery service is not used, the additional information should be sent to:

Internal Revenue Service
ADDITIONAL INFORMATION
Attn: [Name, office symbols, and room
number of the Associate office
representative who requested the information]
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

(b) If a private delivery service is used, the additional information should be sent to:

Internal Revenue Service
ADDITIONAL INFORMATION
Attn: [Name, office symbols, and room
number of the Associate office
representative who requested the information]
1111 Constitution Ave., NW
Washington, DC 20224

Failure to timely submit additional information to the Associate office

(7) **Failure to timely submit additional information to the Associate office.**

(a) **Non-automatic Form 3115.** In the case of a non-automatic Form 3115, if the required information is not furnished to the Associate office within the reply period, the Form 3115 will not be processed and the case will be closed. The taxpayer or authorized representative will be so notified in writing.

(b) **Automatic change request.** In the case of an automatic change request, if the required information is not furnished to the Associate office within the reply period, the request does not qualify for the automatic change request procedure. In such a case, the Associate office will notify the taxpayer that consent to make the change in method of accounting is not granted.

(c) **Submitting the additional information at a later date.** If the taxpayer wants to submit the additional information at a later date, the taxpayer must submit it with a new completed Form 3115 (and user fee, if applicable) for a year of change for which such new Form 3115 is timely filed under the applicable change in method of accounting procedure.

Circumstances in which the taxpayer must notify the Associate office

.09 For a non-automatic Form 3115, the taxpayer must promptly notify the Associate office if, after the Form 3115 is filed but before a change in method of accounting letter ruling is issued, the taxpayer knows that—

(1) a field office has started an examination of the present or proposed accounting;

(2) a field office has started an examination of the proposed year of change;

(3) legislation that may affect the change in method of accounting has been introduced, *see* section 9.03(7) of this revenue procedure; or

(4) another letter ruling request (including another Form 3115) has been submitted by the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is a member within the meaning of § 1504.

Determines if proposed method of accounting can be modified to obtain favorable letter ruling

.10 For a non-automatic Form 3115, if a less than fully favorable change in method of accounting letter ruling is indicated, the branch representative will tell the taxpayer whether minor changes in the proposed method of accounting would bring about a favorable ruling. The branch representative will not suggest precise changes that materially alter a taxpayer's proposed method of accounting.

Near the completion of processing the Form 3115, advises the taxpayer if the Associate office will rule adversely and offers the taxpayer the opportunity to withdraw Form 3115

.11 Generally, after a conference is held (or offered, in the event no conference is held) and before issuing any change in method of accounting letter ruling that is adverse to the requested change in method of accounting, the taxpayer will be offered the opportunity to withdraw the Form 3115. *See* sections 9.12 and 10 of this revenue procedure. If, within 10 calendar days of the notification by the branch representative, the taxpayer or the taxpayer's representative does not notify the branch representative of a decision to withdraw the Form 3115, the adverse change in method of accounting letter ruling will be issued unless an extension is granted. *See* section 15.10 for information regarding refunds of user fees.

Non-automatic Form 3115 may be withdrawn or Associate office may decline to issue a change in method of accounting letter ruling

.12

In general

(1) **In general.** A taxpayer may withdraw a non-automatic Form 3115 at any time before the change in method of accounting letter ruling is signed by the Associate office. The Form 3115, correspondence, and any documents relating to the Form 3115 that is withdrawn or for which the Associate office declines to issue a letter ruling will not be returned to the taxpayer. *See* section 9.03(3) of this revenue procedure. In appropriate cases, the Service may publish its conclusions in a revenue ruling or revenue procedure.

Notification of appropriate Service official

(2) **Notification of appropriate Service official.** If a taxpayer withdraws, or the Associate office declines to grant (for any reason), a request to change a method of accounting, the Associate office will notify, in writing, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return and the Manager of the Methods of Accounting and Timing Practice Network, and may give its views on the issues in the request to the Service official to consider in any later examination of the return.

If the written notification to the Service official provides more than the fact that the request was withdrawn and the Associate office was tentatively adverse, or that the Associate office declines to grant a change in method of accounting, the memorandum may constitute Chief Counsel Advice, as defined in § 6110(i)(1), and may be subject to disclosure under § 6110.

How to check status of a pending non-automatic Form 3115

.13 The taxpayer or the taxpayer's authorized representative may obtain information regarding the status of a non-automatic Form 3115 by calling the person whose name and telephone number are shown on the acknowledgement of receipt of the Form 3115.

Service is not bound by informal opinion

.14 The Service will not be bound by any informal opinion expressed by the branch representative or any other Service representative, and such an opinion cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

Single letter ruling issued to a taxpayer or consolidated group for qualifying identical change in method of accounting

.15 For a non-automatic Form 3115 qualifying under section 15.07(4) for the user fee provided in paragraph (A)(5)(b) of Appendix A of this revenue procedure for identical changes in method of accounting, the Associate office generally will issue a single letter ruling on behalf of all applicants on the Form 3115 that are the subject of the request.

Letter ruling ordinarily not issued for one of two or more interrelated items or submethods

.16 If two or more items or submethods of accounting are interrelated, the Associate office ordinarily will not issue a letter ruling on a change in method of accounting involving only one of the items or submethods.

Consent Agreement

.17 Ordinarily, for a non-automatic Form 3115, the Commissioner's permission to change a taxpayer's method of accounting is set forth in a letter ruling (original and a Consent Agreement copy). If transmitting electronically, the issuing office may sign the letter ruling and the Consent Agreement copy electronically. *See* section 9.04(3) of this revenue procedure. If the taxpayer agrees to the terms and conditions contained in the change in method of accounting letter ruling, the taxpayer must sign and date the Consent Agreement copy of the letter ruling in the appropriate space. The Consent Agreement copy must be signed in a manner consistent with section 7.01(13) of this revenue procedure by an individual with authority to bind the taxpayer in such matters. The Consent Agreement copy must not be signed by the taxpayer's representative. The signed copy of the letter ruling will constitute an agreement (Consent Agreement) within the meaning of Treas. Reg. § 1.481-4(b). The signed Consent Agreement copy of the letter ruling must be returned to the Associate office within 45 calendar days of the date of the letter ruling. The signed Consent Agreement copy may be submitted under the procedures set forth above for submission of additional information. *See* section 9.04(3) and 9.08(5) of this revenue procedure.

In addition, a copy of the signed Consent Agreement generally must be attached to the taxpayer's income tax return for the year of change. *See* section 11.03(2)(a) of Rev. Proc. 2015-13 (or any successor). A taxpayer filing its return electronically should attach the Consent Agreement as a PDF file named "Form3115Consent." If the taxpayer has filed its income tax return for the year of change before the letter ruling has been received and the Consent Agreement has been signed and returned, the copy of the signed Consent Agreement should be attached to the amended return for the year of change that the taxpayer files to implement the change in method of accounting.

A taxpayer must secure the consent of the Commissioner before changing a method of accounting for Federal income tax purposes. *See* Treas. Reg. § 1.446-1(e)(2)(i). For a change in method of accounting requested on a non-automatic Form 3115, a taxpayer has secured the consent of the Commissioner when the taxpayer timely signs and returns the Consent Agreement copy of the letter ruling from the Associate office granting permission to make the change in method of accounting and otherwise complies with Rev. Proc. 2015-13 (or any successor).

A taxpayer that timely files a non-automatic Form 3115 and takes the requested change in method of accounting into account in its federal income tax return for the year of change (and any subsequent taxable year) prior to receiving a letter ruling granting consent for that change has made a change in method of accounting without obtaining the consent of the Commissioner as required by § 446(e)

(an "unauthorized change"). As provided in section 12.02 of Rev. Proc. 2015-13 (or any successor), the Director may determine when a change is not made in compliance with all applicable provisions of Rev. Proc. 2015-13 (or any successor) and may deny the unauthorized change. However, the Commissioner's consent, issued subsequent to the requested year of change, applies back to the year of change (and any subsequent taxable year) as of the date of the letter ruling granting consent for that change if the taxpayer timely signs and returns the Consent Agreement copy and implements the change in accordance with all applicable provisions of Rev. Proc. 2015-13 (or any successor) and section 11 of this revenue procedure. If the Commissioner does not grant consent under Rev. Proc. 2015-13 (or any successor) for the change in method of accounting taken into account by the taxpayer, the taxpayer is subject to any interest, penalties, or other adjustments resulting from improper implementation of the change. *See* § 446(f). A taxpayer who timely files a non-automatic Form 3115 and takes the requested change into account in the taxpayer's Federal income tax return for the year of change (and any subsequent taxable year), prior to receiving the letter ruling granting permission for the requested change, may nevertheless rely on the letter ruling received from the Associate office after it is received, as provided in section 9.19 of this revenue procedure. If, however, the requested change is modified or is withdrawn, denied, or similarly closed without the Associate office having granted consent, taxpayers are not relieved of any interest, penalties, or other adjustments resulting from improper implementation of the change.

A copy of the change in method of accounting letter ruling is sent to appropriate Service officials

.18 The Associate office will send a copy of each change in method of accounting letter ruling, whether favorable or adverse, to the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return and the Manager of the Methods of Accounting and Timing Practice Network.

Consent to change a method of accounting may be relied on subject to limitations

.19 A taxpayer may rely on a change in method of accounting letter ruling received from the Associate office, subject to certain conditions and limitations. *See* sections 7, 8, 10, 11, and 12 of Rev. Proc. 2015-13 (or any successor).

A qualifying taxpayer complying timely with an automatic change request procedure may rely on the consent of the Commissioner as provided in the automatic change request procedure to change the taxpayer's method of accounting, subject to certain conditions and limitations. *See generally* sections 7, 8, 10, 11, and 12 of Rev. Proc. 2015-13 (or any successor). An Associate office may review a Form 3115 filed under an automatic change request procedure and will notify the taxpayer if additional information is needed or if consent is not granted to the taxpayer for the requested change. *See* section 11 of Rev. Proc. 2015-13 (or any successor). Further, the field office that has jurisdiction over the taxpayer's return may review the Form 3115. *See* section 12 of Rev. Proc. 2015-13 (or any successor).

Change in method of accounting letter ruling does not apply to another taxpayer

.20 A taxpayer may not rely on a change in method of accounting letter ruling issued to another taxpayer. *See* § 6110(k)(3).

Associate office discretion to permit requested change in method of accounting

.21 The Associate office reserves the right to decline to process any non-automatic Form 3115 in situations in which it would not be in the best interest of sound tax administration to permit the requested change or it would not clearly reflect income. In this regard, the Associate office will consider whether the change in method of accounting would clearly and directly frustrate compliance efforts of the Service in administering the income tax laws. *See* section 11.02 of Rev. Proc. 2015-13 (or any successor).

List of automatic change in method of accounting request procedures

.22 For procedures regarding requests for an automatic change in method of accounting, refer to the following published automatic change request procedures. The Commissioner's consent to an otherwise qualifying automatic change in method of accounting is granted only if the taxpayer complies timely with the applicable automatic change request procedure.

The automatic change request procedures for obtaining a change in method of accounting include:

(1) Rev. Proc. 2015-13 (or any successor). Rev. Proc. 2015-13 applies to the changes in method of accounting described in Rev. Proc. 2024-23, 2024-23 I.R.B. 1334 (or its successor).

(2) The following automatic change request procedures, which require a completed Form 3115, provide both the procedures under which a change may be made automatically and the procedures under which such change must be made:

Treas. Reg. § 1.166-2(d)(3) (bank conformity for bad debts);

Treas. Reg. § 1.458-1 and -2 (exclusion for certain returned magazines, paperbacks, or records);

Rev. Proc. 97-43, 1997-2 C.B. 494 (§ 475 - electing out of certain exemptions from securities dealer status); and

Rev. Proc. 91-51, 1991-2 C.B. 779 (§ 1286 - certain taxpayers under examination that sell mortgages and retain rights to service the mortgages).

(3) The following automatic change request procedures, which do not require a completed Form 3115, provide the type of change in method of accounting that may be made automatically and also provide the procedures under which such change must be made:

Notice 96-30, 1996-1 C.B. 378 (§ 446 - change to comply with Statement of Financial Accounting Standards No. 116);

Rev. Proc. 92-29, 1992-1 C.B. 748 (§ 461 - change in real estate developer's method for including costs of common improvements in the basis of property sold);

Rev. Proc. 98-58, 1998-2 C.B. 712 (certain taxpayers seeking to change to the installment method of accounting under § 453 for alternative minimum tax purposes for certain deferred payment sales contracts relating to property used or produced in the trade or business of farming);

Treas. Reg. § 1.472-2 (taxpayers changing to the last-in, first-out (LIFO) inventory method);

Section 585(c) and Treas. Reg. §§ 1.585-6 and 1.585-7 (large bank changing from the reserve method of § 585); and

Rev. Proc. 92-67, 1992-2 C.B. 429 (election under § 1278(b) to include market discount in income currently or election under § 1276(b) to use constant interest rate to determine accrued market discount).

(4) *See* Appendix F for the list of revenue procedures for automatic changes in accounting period.

Other sections of this revenue procedure that are applicable to Form 3115

.23 In addition to this section 9, the following sections of this revenue procedure apply to automatic change requests and non-automatic change requests:

1 (purpose of this revenue procedure);

2.01 (definition of "letter ruling");

2.02 (definition of "closing agreement");

2.05 (oral guidance);

3.01 (issues under the jurisdiction of the Associate Chief Counsel (Corporate));

3.02 (issues under the jurisdiction of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes));

3.03 (issues under the jurisdiction of the Associate Chief Counsel (Energy, Credits, and Excise Tax));

3.04 (issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products));

3.05 (issues under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting));

3.06 (issues under the jurisdiction of the Associate Chief Counsel (International));

3.07 (issues under the jurisdiction of the Associate Chief Counsel (Passthroughs, Trusts, and Estates));

5.03(2) (period of limitation when filing a request for extensions of time for making an election or for other relief under § 301.9100);

6.02 (letter rulings ordinarily not issued in certain areas because of the factual nature of the problem);

6.05 (letter rulings ordinarily not issued to business associations or groups);

6.06 (letter rulings ordinarily not issued where the request does not address the tax status, liability, or reporting obligations of the requester);

6.08 (letter rulings ordinarily not issued on Federal tax consequences of proposed legislation);

6.10 (letter rulings not issued on frivolous issues);

6.12 (letter rulings not issued on alternative plans or hypothetical situations);

7.01(1) (statement of facts and other information);

7.01(10) (statement of supporting authorities);

7.01(14) (authorized representatives);

7.01(15) (Power of Attorney and Declaration of Representative);

7.02(2) (power of attorney used to indicate recipient of a copy or copies of a letter ruling or a determination letter);

7.02(4) (expedited handling);

7.05(2) (notify Associate office if a return, amended return, or claim for refund is filed while request is pending and attach request to the return);

8.01 (receipt and control of the request, and referral to the appropriate Associate office);

8.02 (contact taxpayer within 21 calendar days);

8.04 (not bound by informal opinion expressed);

10 (scheduling conferences);

15 (user fees);

16 (significant changes to prior revenue procedure);

17 (effect of this revenue procedure on other documents);

18 (effective date of this revenue procedure);

Appendix A (schedule of user fees); and

Appendix F (revenue procedures and notices regarding letter ruling requests relating to specific Code sections and subject matters).

SECTION 10. HOW ARE CONFERENCES FOR LETTER RULINGS SCHEDULED?

Schedules a conference if requested by taxpayer

.01 A taxpayer may request a conference regarding a letter ruling request. Normally, a conference is scheduled only when the Associate office considers it to be helpful in deciding the case or when an adverse decision is indicated. If conferences are being arranged for more than

one request for a letter ruling involving the same taxpayer, they will be scheduled so as to cause the least inconvenience to the taxpayer. As stated in sections 7.02(6) and 9.04(4) of this revenue procedure, a taxpayer who wants to have a conference on the issue or issues involved should indicate this in writing when, or soon after, filing the request.

If a conference has been requested, the taxpayer or the taxpayer's representative will be notified by telephone, if possible, of the time and place of the conference, which must then be held within 21 calendar days after this contact. Instructions for requesting an extension of the 21-day period and notifying the taxpayer or the taxpayer's representative of the Associate office's approval or denial of the request for extension are the same as those explained in section 8.05(2) (or section 9.08(2)(a) for a change in method of accounting request) of this revenue procedure regarding providing additional information.

Permits taxpayer one conference of right

.02 A taxpayer is entitled, as a matter of right, to only one conference in the Associate office, except as explained under section 10.05 of this revenue procedure. This conference is normally held at the branch level and is attended by a person who has the authority to sign the letter ruling in his or her own name or for the branch chief.

When more than one branch has taken an adverse position on an issue in a letter ruling request or when the position ultimately adopted by one branch will affect that adopted by another, a representative from each branch with the authority to sign in his or her own name or for the branch chief will attend the conference. If more than one subject is to be discussed at the conference, the discussion will constitute a conference on each subject.

To have a thorough and informed discussion of the issues, the conference usually will be held after the branch has had an opportunity to study the case. At the request of the taxpayer, the conference of right may be held earlier.

No taxpayer has a right to appeal the action of a branch to an Associate Chief Counsel or to any other official of the Service. *But see* section 10.05 of this revenue procedure for situations in which the Associate office may offer additional conferences.

In employment tax matters, if the service recipient (the firm) requests the letter ruling, the firm is entitled to a conference. If the worker requests the letter ruling, both the worker and the firm are entitled to a conference. *See* section 5.10 of this revenue procedure.

Disallows verbatim recording of conferences

.03 Because conference procedures are informal, no tape, stenographic, or other verbatim recording of a conference may be made by any party.

Makes tentative recommendations on substantive issues

.04 The senior Associate office representative present at the conference ensures that the taxpayer has the opportunity to present views on all the issues in question. An Associate office representative explains the Associate office's tentative decision on the substantive issues and the reasons for that decision. If the taxpayer asks the Associate office to limit the retroactive effect of any letter ruling or limit the revocation or modification of a prior letter ruling, an Associate office representative will discuss the recommendation concerning this issue and the reasons for the recommendation. The Associate office representatives will not make a commitment regarding the conclusion that the Associate office will finally adopt.

May offer additional conferences

.05 The Associate office will offer the taxpayer an additional conference if, after the conference of right, an adverse holding is proposed on a new issue or on the same issue but on different grounds from those discussed at the first conference. There is no right to another conference when

a proposed holding is reversed at a higher level with a result less favorable to the taxpayer, if the grounds or arguments on which the reversal is based were discussed at the conference of right.

The limit on the number of conferences to which a taxpayer is entitled does not prevent the Associate office from offering additional conferences, including conferences with an official higher than the branch level, if the Associate office decides they are needed. These conferences are not offered as a matter of course simply because the branch has reached an adverse decision. In general, conferences with higher level officials are offered only if the Associate office determines that the case presents significant issues of tax policy or tax administration and that the consideration of these issues would be enhanced by additional conferences with the taxpayer.

Requires written confirmation of information presented at conference

.06 The taxpayer should furnish to the Associate office any additional data, reasoning, precedents, etc., that were proposed by the taxpayer and discussed at the conference but not previously or adequately presented in writing. The taxpayer must furnish the additional information within 21 calendar days from the date of the conference. If the additional information is not received within that time, a letter ruling will be issued on the basis of the information on hand or, if appropriate, no ruling will be issued. *See* section 8.05 of this revenue procedure for instructions on submission of additional information for a letter ruling request other than a change in method of accounting request. *See* section 9.08 of this revenue procedure for instructions on submitting additional information for a change in method of accounting request.

May schedule a pre-submission conference

.07 Sometimes it will be advantageous to both the Associate office and the taxpayer to hold a conference before the taxpayer submits the letter ruling request to discuss substantive or procedural issues relating to a proposed transaction. These conferences are held only if the identity of the taxpayer is provided to the Associate office, only if the taxpayer actually intends to make a request, only if the request involves a matter on which a letter ruling is ordinarily issued, and only at the discretion of the Associate office and as time permits. For example, a pre-submission conference will not be held on an income tax issue if, at the time the pre-submission conference is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue is being examined by a field office. *See* section 6.01(1) of this revenue procedure. A letter ruling request submitted following a pre-submission conference will not necessarily be assigned to the branch that held the pre-submission conference. Also, when a letter ruling request is not submitted following a pre-submission conference, the Associate office may notify, by memorandum, the appropriate Service officials in the operating division that has examination jurisdiction of the taxpayer's tax return and may give its views on the issues raised during the pre-submission conference. For LB&I taxpayers, a copy of the memorandum will be sent to the Assistant Deputy Commissioner, Compliance Integration. This memorandum may constitute Chief Counsel Advice, as defined in § 6110(i), and may be subject to disclosure under § 6110.

(1) **Taxpayer may request a pre-submission conference in writing or by telephone.** A taxpayer or the taxpayer’s representative may request a pre-submission conference in writing or by telephone. If the taxpayer’s representative is requesting the pre-submission conference, a power of attorney is required. A taxpayer should use Form 2848, *Power of Attorney and Declaration of Representative*, to provide the representative’s authority. If multiple taxpayers and/or their authorized representatives will attend or participate in the pre-submission conference, cross powers of attorney (or, as appropriate, tax information authorizations) are required. If the taxpayer’s representative is requesting the pre-submission conference by telephone, the Associate office’s representative (*see* list of phone numbers below) will provide the fax number to send the power of attorney (or, as appropriate, tax information authorization) and any other necessary information prior to scheduling the pre-submission conference.

The request must identify the taxpayer and briefly explain the primary issue so it can be assigned to the appropriate branch. If submitted in writing, the request should also identify the Associate office expected to have jurisdiction over the request for a letter ruling. A written request for a

pre-submission conference should be sent to the appropriate address listed in section 7.04 of this revenue procedure.

To request a pre-submission conference by telephone, call:

(a) (202) 317-3181 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Corporate);

(b) (202) 317-6000 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes);

(c) (202) 317-5200 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax);

(d) (202) 317-3900 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Financial Institutions and Products);

(e) (202) 317-7002 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Income Tax and Accounting);

(f) (202) 317-3800 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (International);

(g) (202) 317-6575 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates); or

(h) (202) 317-3400 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Procedure and Administration).

(2) **Pre-submission conferences held in person or by telephone.** Depending on the circumstances, pre-submission conferences may be held in person at the Associate office or may be conducted by telephone.

(3) **Certain information required to be submitted to the Associate office prior to the pre-submission conference.** Generally, the taxpayer will be asked to provide a statement of whether the issue is an issue on which a letter ruling is ordinarily issued and a draft of the letter ruling request or other detailed written statement explaining the proposed transaction, issue, and legal analysis, before scheduling the pre-submission conference. The Associate office will allow taxpayers to submit a statement after the conference is scheduled at its discretion. If the taxpayer's authorized representative will attend or participate in the pre-submission conference, a power of attorney is required.

(4) **Discussion of substantive issues is not binding on the Service.** Any discussion of substantive issues at a pre-submission conference is advisory only, is not binding on the Service in general or on the Office of Chief Counsel in particular, and cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

May schedule a conference to be held by telephone

.08 Depending on the circumstances, conferences, including conferences of right and pre-submission conferences, may be held by telephone. This may occur, for example, when a taxpayer wants a conference of right but believes that the issue involved does not warrant incurring the expense of traveling to Washington, DC, or if it is believed that scheduling an in-person conference of right will substantially delay the ruling process. If a taxpayer makes such a request, the branch reviewer will decide if it is appropriate in the particular case to hold a conference by telephone. If the request is approved, the taxpayer will be advised when to call the Associate office representatives (not a toll-free call).

Pre-submission conferences under Rev. Proc. 2023-26

.09 Special rules and procedures apply to letter ruling requests solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate) for which fast-track processing has been requested. For more information, *see* section 5.02 of Rev. Proc. 2023-26, 2023-33 I.R.B. 486.

SECTION 11. WHAT EFFECT WILL A LETTER RULING HAVE?

May be relied on subject to limitations

.01 A taxpayer ordinarily may rely on a letter ruling received from the Associate office subject to the conditions and limitations described in this section.

Will not apply to another taxpayer

.02 A taxpayer may not rely on a letter ruling issued to another taxpayer. *See* § 6110(k)(3). However, shareholders and security holders of a corporation may rely on a letter ruling issued to the corporation for the limited purpose of determining the proper treatment of directly related tax items. For example, a letter ruling issued to a corporation with respect to the reorganization of that corporation may be relied upon by the corporation's shareholders in determining their basis in the stock of the corporation following the reorganization. *See also* section 11.06(3) of this revenue procedure.

Will be used by a field office in examining the taxpayer's return

.03 When determining a taxpayer's liability, the field office must ascertain whether—

(1) the conclusions stated in the letter ruling are properly reflected in the return;

(2) the representations upon which the letter ruling was based reflect an accurate statement of the controlling facts;

(3) the transaction was carried out substantially as proposed; and

(4) there has been any change in the law that applies to the period during which the transaction or continuing series of transactions were consummated.

If, when determining the liability, the field office finds that a letter ruling should be revoked or modified, the findings and recommendations of the field office will be forwarded through the appropriate Director to the Associate office for consideration before further action is taken by the field office. Such a referral to the Associate office will be treated as a request for technical advice and the provisions of Rev. Proc. 2026-2, this Bulletin, relating to requests for technical advice will be followed. *See* section 13.02 of Rev. Proc. 2026-2. Otherwise, the field office should apply the letter ruling in determining the taxpayer's liability. If a field office having jurisdiction over a return or other matter proposes to reach a conclusion contrary to a letter ruling previously issued to the taxpayer, it should coordinate the matter with the Associate office.

May be revoked or modified if found to be in error or there has been a change in law

.04 Unless it was part of a closing agreement as described in section 2.02 of this revenue procedure, a letter ruling found to be in error or not in accord with the current views of the Service may be revoked or modified. If a letter ruling is revoked or modified, the revocation or modification applies to all years open under the period of limitation unless the Service uses its discretionary authority under § 7805(b) to limit the retroactive effect of the revocation or modification.

A letter ruling may be revoked or modified by—

(1) a letter giving notice of revocation or modification to the taxpayer to whom the letter ruling was issued;

(2) the enactment of legislation or ratification of a tax treaty;

(3) a decision of the United States Supreme Court;

(4) the issuance of temporary or final regulations; or

(5) the issuance of a revenue ruling, revenue procedure, notice, or other statement published in the Internal Revenue Bulletin.

Consistent with these provisions, if a letter ruling relates to a continuing action or a series of actions, it ordinarily will be applied until any one of the events described above occurs.

Publication of a notice of proposed rulemaking will not affect the application of any letter ruling issued under this revenue procedure.

Where a letter ruling is revoked or modified by a letter to the taxpayer, the letter will state whether the revocation or modification is retroactive. Where a letter ruling is revoked or modified by the issuance of final or temporary regulations or by the publication of a revenue ruling, revenue procedure, notice, or other statement in the Internal Revenue Bulletin, the document may contain a statement as to its retroactive effect on letter rulings.

A letter ruling may be revoked even if the subject of the letter ruling is a matter that the Service currently does not issue rulings on.

Letter ruling revoked or modified based on material change in facts applied retroactively

.05 An Associate office will revoke or modify a letter ruling and apply the revocation retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling if—

(1) there has been a misstatement or omission of controlling facts;

(2) the facts at the time of the transaction are materially different from the controlling facts on which the letter ruling was based; or

(3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction.

Not otherwise generally revoked or modified retroactively

.06 Where the revocation or modification of a letter ruling is for reasons other than a change in facts as described in section 11.05 of this revenue procedure, it will generally not be applied retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling provided that—

(1) there has been no change in the applicable law;

(2) the letter ruling was originally issued for a proposed transaction; and

(3) the taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking or modifying the letter ruling retroactively would be to the taxpayer's detriment. For example, the tax liability of each shareholder is directly involved in a letter ruling on the reorganization of a corporation. Depending on all facts and circumstances, the shareholders' reliance on the letter ruling may be in good faith. The tax liability of a member of an industry, however, is not directly involved in a letter ruling issued to another member of the same industry. Therefore, a nonretroactive revocation or modification of a letter ruling to one member of an industry will not extend to other members of the industry who have not received letter rulings. By the same reasoning, a tax practitioner may not extend to one client the non-retroactive application of a revocation or modification of a letter ruling previously issued to another client.

If a letter ruling is revoked or modified by a letter to the taxpayer with retroactive effect, the letter to the taxpayer will, except in fraud cases, state the grounds on which the letter ruling is being revoked or modified and explain the reasons why it is being revoked or modified retroactively.

Retroactive effect of revocation or modification applied to a particular transaction

.07 A letter ruling issued on a particular transaction represents a holding of the Service on that transaction only. It will not apply to a similar transaction in the same year or any other year. Except in unusual circumstances, the application of that letter ruling to the transaction will not be affected by the later issuance of regulations (either temporary or final) if conditions (1) through (3) in section 11.06 of this revenue procedure are met.

Retroactive effect of revocation or modification applied to a continuing action or series of actions

.08 If a letter ruling is issued covering a continuing action or series of actions and the letter ruling is later found to be in error or no longer in accord with the position of the Service, the appropriate Associate Chief Counsel ordinarily will limit the retroactive effect of the revocation or modification to a date that is not earlier than that on which the letter ruling is revoked or modified. For example, the retroactive effect of the revocation or modification of a letter ruling covering a continuing action or series of actions ordinarily would be limited in the following situations when the letter ruling is in error or no longer in accord with the position of the Service:

(1) A taxpayer received a letter ruling that certain payments are excludable from gross income for Federal income tax purposes. The taxpayer ordinarily would be protected only for the payment received after the letter ruling was issued and before the revocation or modification of the letter ruling.

(2) A taxpayer rendered a service or provided a facility that is subject to the excise tax on services or facilities and, in relying on a letter ruling received, it did not pass the tax on to the user of the service or the facility.

(3) An employer incurred liability under the Federal Insurance Contributions Act but, in relying on a letter ruling received, neither collected the employee tax nor paid the employee and employer taxes under the Federal Insurance Contributions Act. The retroactive effect would be limited

for both the employer and employee tax. The limitation would be conditioned on the employer furnishing wage data, as may be required by § 31.6011(a)-1 of the Treasury Regulations.

Generally not retroactively revoked or modified if related to sale or lease subject to excise tax

.09 A letter ruling holding that the sale or lease of a particular article is subject to the manufacturer's excise tax or the retailer's excise tax may not retroactively revoke or modify an earlier letter ruling holding that the sale or lease of such an article was not taxable if the taxpayer to whom the letter ruling was issued, in relying on the earlier letter ruling, gave up possession or ownership of the article without passing the tax on to the customer. *See* § 1108(b), Revenue Act of 1926.

May be retroactively revoked or modified when transaction is entered into before the issuance of the letter ruling

.10 A taxpayer is not protected against retroactive revocation or modification of a letter ruling involving a transaction completed before the issuance of the letter ruling or involving a continuing action or series of actions occurring before the issuance of the letter ruling, because the taxpayer did not enter into the transaction relying on a letter ruling.

Taxpayer may request that retroactive effect of revocation or modification be limited

.11 Under § 7805(b), the Service may prescribe any extent to which a revocation or modification of a letter ruling will be applied without retroactive effect.

A taxpayer to whom a letter ruling has been issued may request that the appropriate Deputy Associate Chief Counsel limit the retroactive effect of any revocation or modification of the letter ruling.

For letter rulings governed by Rev. Proc. 2026-4, this Bulletin, a taxpayer to whom a letter ruling has been issued by the Commissioner, Tax Exempt and Government Entities, may request limiting the retroactive effect of any revocation or modification of the letter ruling pursuant to the procedures set forth in section 29 of Rev. Proc. 2026-4.

Format of request

(1) **Request for relief under § 7805(b) must be made in required format.** A request to limit the retroactive effect of the revocation or modification of a letter ruling must be in the general form of, and meet the general requirements for, a letter ruling request, as set forth in section 7 of this revenue procedure. Specifically, the request must also

(a) state that it is being made under § 7805(b);

(b) state the relief sought;

(c) explain the reasons and arguments in support of the relief requested (including a discussion of section 11.05 of this revenue procedure, the three items listed in section 11.06 of this revenue procedure, and any other factors as they relate to the taxpayer's particular situation); and

(d) include any documents bearing on the request.

A request that the Service limit the retroactive effect of a revocation or modification of a letter ruling may be made in the form of a separate request for a letter ruling when, for example, a revenue ruling has the effect of modifying or revoking a letter ruling previously issued to the taxpayer or when the Service notifies the taxpayer of a change in position that will have the effect of revoking or modifying the letter ruling.

When notice is given by the field office, during an examination of the taxpayer's return, or by Appeals, during consideration of the taxpayer's return before Appeals, a request to limit retroactive effect must be made in the form of a request for technical advice as explained in section 14.02 of Rev. Proc. 2026-2, this Bulletin.

When germane to a pending letter ruling request, a request to limit the retroactive effect of a revocation or modification of a letter ruling may be made as part of the request for the letter ruling, either initially or at any time before the letter ruling is issued. When a letter ruling that concerns a continuing transaction is revoked or modified by, for example, a subsequent revenue ruling, a request to limit retroactive effect must be made before the examination of the return that contains the transaction that is the subject of the letter ruling request.

Request for conference

(2) **Taxpayer may request a conference on application of § 7805(b).** A taxpayer who requests the application of § 7805(b) in a separate letter ruling request has the right to a conference in the Associate office as explained in sections 10.02, 10.04, and 10.05 of this revenue procedure. If the request is made initially as part of a pending letter ruling request or is made before the conference of right is held on the substantive issues, the § 7805(b) issue will be discussed at the taxpayer's one conference of right as explained in section 10.02 of this revenue procedure. If the request for the application of § 7805(b) relief is made as part of a pending letter ruling request after a conference has been held on the substantive issue and the Associate office determines that there is justification for having delayed the request, the taxpayer is entitled to one conference of right concerning the application of § 7805(b), with the conference limited to discussion of this issue only.

SECTION 12. UNDER WHAT CIRCUMSTANCES DO DIRECTORS ISSUE DETERMINATION LETTERS?

Directors issue determination letters only if the question presented is specifically answered by a statute, tax treaty, regulation, a conclusion stated in a revenue ruling, or an opinion or court decision that represents the position of the Service.

Under no circumstances will a Director issue a determination letter unless it is clearly shown that the request concerns a return that has been filed or is required to be filed and over which the Director has, or will have, examination jurisdiction. *See* generally section 6 of this revenue procedure.

A determination letter does not include assistance provided by the U.S. competent authority pursuant to the mutual agreement procedure in tax treaties as set forth in Rev. Proc. 2015-40, 2015-35 I.R.B. 236 (or its successor).

In income and gift tax matters

.01 In income and gift tax matters, Directors issue determination letters in response to taxpayers' written requests on completed transactions that affect returns over which they have examination jurisdiction. A determination letter usually is not issued for a question concerning a return to be filed by the taxpayer if the same question is involved in a return already filed.

Normally, Directors do not issue determination letters on the tax consequences of proposed transactions. A Director may issue a determination letter on the replacement of involuntarily converted property under § 1033, even if the replacement has not yet been made, if the taxpayer has filed an income tax return for the first taxable year in which any of the gain was realized from the converted property.

In estate tax matters

.02 In estate tax matters, Directors issue determination letters in response to written requests affecting the estate tax returns over which they have examination jurisdiction. They do not issue determination letters on matters concerning the application of the estate tax to the prospective estate of a living person.

In generation-skipping transfer tax matters

.03 In generation-skipping transfer tax matters, Directors issue determination letters in response to written requests affecting the generation-skipping transfer tax returns over which they have examination jurisdiction. They do not issue determination letters on matters concerning the application of the generation-skipping transfer tax before the distribution or termination takes place.

In employment and excise tax matters

.04 In employment and excise tax matters, Directors issue determination letters in response to taxpayers' written requests on completed transactions over which they have examination jurisdiction.

All determination letter requests regarding employment status (employer/employee relationship) made by taxpayers that are not Federal agencies and instrumentalities or their workers, must be submitted to the Internal Revenue Service as set forth in the current instructions for Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.

If the service recipient (the firm) requests the determination regarding employment status, the firm will receive any determination letter issued. A copy will also be sent to any workers identified in the request. If the worker makes the request and the firm has been contacted for information, both the worker and the firm will receive any issued determination letter. The determination letter will apply to any individuals engaged by the firm under substantially similar circumstances. *See* section 5.10 of this revenue procedure for requests regarding employment status made by Federal agencies and instrumentalities or their workers.

In tax-exempt matters

.05 In tax-exempt matters, Directors issue determination letters in response to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE as set forth in Rev. Proc. 2026-5.

Requests concerning income, estate, or gift tax returns

.06 A request received by a Director on a question concerning an income, estate, or gift tax return already filed generally will be considered in connection with the examination of the return. If a response is made to the request before the return is examined, it will be considered a tentative finding in any later examination of that return.

Review of determination letters

.07 Determination letters issued under sections 12.01 through 12.04 of this revenue procedure are not reviewed by the Associate offices before they are issued. If a taxpayer believes that a determination letter of this type is in error, the taxpayer may ask the Director to reconsider the matter or to request technical advice from an Associate office as explained in Rev. Proc. 2026-2, this Bulletin.

The preceding sentence does not apply to SS-8 requests under section 12.04. If a taxpayer disagrees with a determination of employment status made in response to an SS-8 request, the taxpayer may request that the SS-8 Program reconsider the determination letter if the taxpayer has additional information concerning the relationship that was not part of the original submission or the taxpayer can identify facts that were part of the original submission that the taxpayer thinks were not fully considered.

SECTION 13. WHAT EFFECT WILL A DETERMINATION LETTER HAVE?

Has same effect as a letter ruling

.01 A determination letter issued by a Director has the same effect as a letter ruling issued to a taxpayer under section 11 of this revenue procedure.

If a field office proposes to reach a conclusion contrary to that expressed in a determination letter, that office need not refer the matter to the Associate office as is required for a letter ruling found to be in error. The field office must, however, refer the matter to the Associate office through the appropriate Director if it desires to have the revocation or modification of the determination letter limited under § 7805(b), except if the determination letter has been issued by the Commissioner, Tax Exempt and Government Entities. *See* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

Taxpayer may request that retroactive effect of revocation or modification be limited

.02 Under § 7805(b), the Service may prescribe the extent to which a revocation or modification of a determination letter will be applied without retroactive effect. For determination letters that are not issued by the Commissioner, Tax Exempt and Government Entities, a Director does not have authority under § 7805(b) to limit the revocation or modification of the determination letter. Therefore, if the field office proposes to revoke or modify a determination letter, the taxpayer may request limitation of the retroactive effect of the revocation or modification by asking the Director that issued the determination letter to seek technical advice from the Associate office. *See* section 14.02 of Rev. Proc. 2026-2, this Bulletin.

A taxpayer to whom a determination letter has been issued by the Commissioner, Tax Exempt and Government Entities, may request limiting the retroactive effect of any revocation or modification of the determination letter pursuant to the procedures set forth in section 23 of Rev. Proc. 2026-4, or section 12.04 of Rev. Proc. 2026-5, this Bulletin.

Format of request

(1) **Request for relief under § 7805(b) must be made in required format.** A taxpayer's request to limit the retroactive effect of the revocation or modification of the determination letter must be in the form of, and meet the general requirements for, a technical advice request. *See* section 14.02 of Rev. Proc. 2026-2, this Bulletin. The request must also—

(a) state that it is being made under § 7805(b);

(b) state the relief sought;

(c) explain the reasons and arguments in support of the relief sought (including a discussion of section 11.05 of this revenue procedure, the three items listed in section 11.06 of this revenue procedure, and any other factors as they relate to the taxpayer's particular situation); and

(d) include any documents bearing on the request.

Request for conference

(2) **Taxpayer may request a conference on application of § 7805(b).** When technical advice is requested regarding the application of § 7805(b), the taxpayer has the right to a conference with the Associate office to the same extent as does any taxpayer who is the subject of a technical advice request. *See* section 14.04 of Rev. Proc. 2026-2, this Bulletin.

SECTION 14. UNDER WHAT CIRCUMSTANCES ARE MATTERS REFERRED BETWEEN A DIRECTOR AND AN ASSOCIATE OFFICE?

Requests for determination letters

.01 If a Director receives a request for a determination letter but may not issue one under the provisions of this revenue procedure, the Director will forward the request to the appropriate Associate office for reply. The field office will notify the taxpayer that the matter has been referred.

Directors will also refer to the appropriate Associate office any request for a determination letter that in their judgment should have the attention of the Associate office. The field office will notify the taxpayer that the matter has been referred.

No-rule areas

.02 If the request involves an issue on which the Service will not issue a letter ruling or determination letter, the request will not be forwarded to an Associate office. The Director will notify the taxpayer that the Service will not issue a letter ruling or a determination letter on the issue. *See* section 6 of this revenue procedure for a description of no-rule areas.

Requests for letter rulings

.03 If an Associate office receives a request for a letter ruling that it may not act upon under section 6 of this revenue procedure, the Associate office may, in its discretion, forward the request to the field office that has examination jurisdiction over the taxpayer's return. The taxpayer will be notified of this action. If the request is on an issue or in an area of the type discussed in section 6 of this revenue procedure and the Service decides not to issue a letter ruling or a determination letter, the Associate office will notify the taxpayer and will then forward the request to the appropriate field office for association with the related return.

Letter ruling request mistakenly sent to a Director

.04 If a request for a letter ruling is mistakenly sent to a Director, the Director will return it to the taxpayer so that the taxpayer can send it to an Associate office.

SECTION 15. WHAT ARE THE USER FEE REQUIREMENTS FOR REQUESTS FOR LETTER RULINGS AND DETERMINATION LETTERS?

Legislation authorizing user fees

.01 Section 7528 was added to the Internal Revenue Code by section 202 of the Extension of the Temporary Assistance for Needy Families Block Grant Program, Pub. L. No. 108-89, amended by section 891(a) of the American Jobs Creation Act of 2004, Pub. L. 108-357, and was made permanent by section 8244 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28.

Section 7528 provides that the Secretary of the Treasury or delegate (the "Secretary") shall establish a program requiring the payment of user fees for requests to the Service for letter rulings, opinion letters, determination letters, and other similar requests. The fees charged under the program are to: (1) vary according to categories or subcategories established by the Secretary; (2) be determined after taking into account the average time for, and difficulty of, complying with requests in each category or subcategory; and (3) be payable in advance. The Secretary is to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category or subcategory must not be less than the amount specified in § 7528(b)(3).

Requests to which a user fee applies

.02 In general, user fees apply to all requests for—

(1) letter rulings (including non-automatic Forms 3115, *Application for Change in Accounting Method*), determination letters, and advance pricing agreements;

(2) closing agreements described in paragraph (A)(3)(d) of Appendix A of this revenue procedure and pre-filing agreements described in Rev. Proc. 2016-30, 2016-21 I.R.B. 981 (or its successor);

(3) renewal of advance pricing agreements;

(4) reconsideration of letter rulings or determination letters; and

(5) supplemental letter rulings, determination letters, etc., to correct mistakes in original letter rulings, determination letters, etc.

Requests to which a user fee applies must be accompanied by the appropriate fee as determined from the fee schedule provided in Appendix A of this revenue procedure. The fee may be refunded as provided in section 15.10 of this revenue procedure.

Requests to which a user fee does not apply

.03 User fees do not apply to—

(1) elections made pursuant to § 301.9100-2, pertaining to automatic extensions of time (*see* section 5.03 of this revenue procedure);

(2) late classification elections made pursuant to Rev. Proc. 2009-41, 2009-2 C.B. 439 (*see* section 5.03(6) of this revenue procedure);

(3) late S corporation and related elections made pursuant to Rev. Proc. 2013-30, 2013-36 I.R.B. 173 (*see* section 5.02 of this revenue procedure);

(4) requests for a change in accounting period or method of accounting permitted to be made by a published automatic change request revenue procedure (*see* section 9.01(1) of this revenue procedure);

(5) requests for harassment campaign letter rulings under § 6104(d)(4);

(6) request for Neighborhood Land Use Rule letter rulings under § 514(b)(3);

(7) information letters; or

(8) late elections under § 338 that qualify under the automatic provisions in sections 3, 4, and 5 of Rev. Proc. 2003-33, 2003-1 C.B. 803.

Exemptions from the user fee requirements

.04 The user fee requirements do not apply to—

(1) departments, agencies, or instrumentalities of the United States if they certify that they are seeking a letter ruling or determination letter on behalf of a program or activity funded by Federal appropriations. The fact that a user fee is not charged does not have any bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any provision of the Code; or

(2) requests as to whether a worker is an employee for Federal employment taxes and income tax withholding purposes (Subtitle C of the Code) submitted on Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding,* or its equivalent.

Fee schedule

.05 The schedule of user fees is provided in Appendix A of this revenue procedure. For the user fee requirements applicable to—

(1) requests for advance pricing agreements or renewals of advance pricing agreements, *see* section 3.05 of Rev. Proc. 2015-41, 2015-35 I.R.B. 263 (or its successor); or

(2) requests for letter rulings, determination letters, etc., under the jurisdiction of the Commissioner, TE/GE (which no longer include changes in method of accounting), *see* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

Applicable user fee for a request involving multiple offices, fee categories, issues, transactions, or entities

.06

(1) **Requests involving several offices.** If a request dealing with only one transaction involves more than one office within the Service (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Passthroughs, Trusts, and Estates) and another issue is under the jurisdiction of the Commissioner, TE/GE), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. *See* Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin, for the user fees applicable to issues under the jurisdiction of the Commissioner, TE/GE. However, if an additional request is submitted after the original ruling is issued, regardless of whether it relates to the same transaction or facts at issue in the earlier request, a new user fee applies.

(2) **Requests involving several fee categories.** If a request dealing with only one transaction involves more than one fee category, only one fee applies: the highest fee that otherwise would apply to each of the categories involved.

(3) **Requests involving several issues.** If a request dealing with only one transaction involves several issues, a request for a change in method of accounting dealing with only one item or submethod of accounting involves several issues, or a request for a change in accounting period dealing with only one item involves several issues, the request is treated as one request. Therefore, only one fee applies, i.e., the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction, item, or submethod will not result in an additional fee unless the issue places the transaction, item, or submethod in a higher fee category. So long as the issues all relate to a single transaction, a request that the Service address one or more of the issues in a separate ruling will not result in an additional fee.

(4) **Requests involving several unrelated transactions.** If a request involves several unrelated transactions, a request for a change in method of accounting involves several unrelated items or submethods of accounting, or a request for a change in accounting period involves several unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction, item, or submethod. An additional fee will apply if the request is changed by the addition of an unrelated transaction, item, or submethod not contained in the initial request. An example of a request involving unrelated transactions is a request involving relief under § 301.9100-3 and the underlying issue.

(5) **Requests involving several entities.** Each entity involved in a transaction (for example, a reorganization) that desires a separate letter ruling in its own name must pay a separate fee regardless of whether the transaction or transactions may be viewed as related. *But see* section 15.07 of this revenue procedure (providing a reduced user fee for substantially identical letter rulings or substantially identical changes in method of accounting).

(6) **Requests made by married taxpayers who file jointly.** A married couple filing a joint return may jointly request a single letter ruling and pay a single user fee if the issues arise from a joint activity or if the spouses would otherwise qualify for substantially identical letter rulings. *See* section 15.07 of this revenue procedure. If a spouse desires a ruling to be individually issued to him or her, a separate fee must be paid for each individual request.

(7) **Requests made by married taxpayers who file gift tax returns.** Married taxpayers filing individual gift tax returns that elect to split gifts must each make a separate request for a letter ruling and must each pay a separate user fee. *See* section 15.07 of this revenue procedure (providing a reduced user fee for substantially identical letter rulings).

Applicable user fee for requests for substantially identical letter rulings or closing agreements, or identical changes in method of accounting

.07

(1) **In general.** The user fees provided in paragraph (A)(5) of Appendix A of this revenue procedure apply to the situations described in sections 15.07(2) and 15.07(4) of this revenue procedure. To assist in the processing of these user fee requests, all letter ruling requests submitted under this section 15.07 should—

(a) except for non-automatic Forms 3115, include the following typed or printed language at the top of the letter ruling request: "REQUEST FOR USER FEE UNDER SECTION 15.07 OF REV. PROC. 2026-1";

(b) list on the first page of the submission all taxpayers and entities, and separate and distinct trades or businesses, including QSubs or single-member LLCs, requesting a letter ruling (including the taxpayer identification number and the amount of user fee submitted for each taxpayer, entity, or separate and distinct trade or business); and

(c) make one payment to cover all user fees.

If the Service determines that the letter ruling requests do not qualify for the user fee provided in paragraph (A)(5) of Appendix A of this revenue procedure, the Service will request the proper fee. *See* section 15.09 of this revenue procedure.

(2) **Substantially identical letter rulings and closing agreements.** The user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure applies ***to a taxpayer*** or taxpayers requesting substantially identical letter rulings (including accounting period, method of accounting, and earnings and profits requests other than those submitted on Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, Form 2553, *Election by a Small Business Corporation*, Form 3115, *Application for Change in Accounting Method*, and Form 5452, *Corporate Report of Nondividend Distributions*) in the following situations:

(a) The taxpayers to whom the letter rulings will be issued are multiple entities with a common member, sponsor, or parent, or multiple members of a common entity or consolidated group. Multiple entities with a common sponsor only qualify for this reduced user fee if the entities are regulated investment companies as defined in section 851 (RICs) and if an individual with the

authority to bind the common sponsor in federal tax matters also has the authority to bind each of the RICs in federal tax matters; or

(b) The taxpayers to whom the letter rulings will be issued are parties engaged together in the same transaction affecting all requesting taxpayers.

To qualify for this reduced user fee, all information and underlying documents must be substantially identical and all letter ruling requests must be submitted at the same time in a single submission. In addition, the taxpayer(s) must state that the letter ruling requests and all information and underlying documents are substantially identical, and must specifically identify the extent to which the letter ruling requests, information, and underlying documents are not identical.

If a taxpayer or taxpayers requesting reduced user fees pursuant to this section 15.07(2) also request a pre-submission conference pursuant to section 10.07, the taxpayer(s) should notify the Associate office at or before the pre-submission conference that the taxpayer(s) intend to request reduced user fees pursuant to this paragraph. At the pre-submission conference, the taxpayer(s) should discuss with the Associate office how the letter ruling requests will satisfy the requirements of this paragraph.

The reduced fee for substantially identical letter rulings is applicable to taxpayers requesting closing agreements as described in section 2.02 of this revenue procedure, assuming they meet the requirements described above for letter rulings.

(3) **Substantially identical plans under § 25(c)(2)(B).** The user fee provided in paragraph (A)(5)(c) of Appendix A of this revenue procedure shall apply to a taxpayer who submits substantially identical plans for administering the 95-percent requirement of § 143(d)(1) following the submission and approval of an initial plan for administering the requirement. The request for subsequent approvals of substantially identical plans must (1) state that a prior plan was submitted and approved and include a copy of the prior plan and approval; (2) state that the subsequent plan is substantially identical to the approved plan; and (3) describe any differences between the approved plan and the subsequent plan.

(4) **Identical changes in method of accounting and related § 301.9100 letter rulings.** A common sponsor of multiple entities, common parent of a consolidated group, or other taxpayer is eligible for the user fees provided in paragraphs (A)(5)(b) and (d) of Appendix A of this revenue procedure when requesting an identical change in method of accounting on a single Form 3115, *Application for Change in Accounting Method*, or an extension of time to file Form 3115 under § 301.9100-3 for the identical change in method of accounting, for two or more of the following in any combination—

(a) entities with a common sponsor, if those entities are RICs and if an individual with the authority to bind the common sponsor in federal tax matters also has the authority to bind each of the RICs in federal tax matters;

(b) members of that consolidated group;

(c) separate and distinct trades or businesses (for purposes of § 1.446-1(d)) of that taxpayer or member(s) of that consolidated group. Separate and distinct trades or businesses include QSubs and single-member LLCs;

(d) partnerships that are wholly-owned within that consolidated group; or

(e) controlled foreign corporations (CFCs) and noncontrolled 10-percent owned foreign corporations that do not engage in a trade or business within the United States where (i) all controlling U.S. shareholders of the CFCs and all majority domestic corporate shareholders of the noncontrolled 10-percent owned foreign corporations, as applicable, are members of that consolidated group; or (ii) the taxpayer is the sole controlling U.S. shareholder of the CFCs or the sole domestic corporate shareholder of the noncontrolled 10-percent owned foreign corporations.

To qualify as an identical change in method of accounting, the multiple entities with a common sponsor, the multiple entities wholly owned or controlled by a consolidated group or other taxpayer, or separate and distinct trades or businesses (that is, the applicants) must request to change from an identical present method of accounting to an identical proposed method of accounting. All aspects of the requested change in method of accounting must be identical, including the year of change, the present and proposed methods, the underlying facts, and the authority for the request, except for the § 481(a) adjustments. If the Associate office determines that the requested changes in method of accounting are not identical, additional user fees will be required before any letter ruling is issued.

The taxpayer, common sponsor, or common parent must, for each applicant for which the change in method of accounting is being requested, attach to the Form 3115 a schedule providing the name, employer identification number (where applicable), and § 481(a) adjustment. If the request is on behalf of eligible CFCs or noncontrolled 10-percent owned foreign corporations, the taxpayer or common parent must attach a statement that "[a]ll controlling U.S. shareholders (as defined in § 1.964-1(c)(5)(i)) of all the CFCs to which the request relates are members of the common parent's consolidated group," that "[a]ll majority domestic corporate shareholders (as defined in § 1.964-1(c)(5)(ii)) of all the noncontrolled 10-percent owned foreign corporations to which the request relates are members of the common parent's consolidated group," that "[t]he taxpayer filing the request is the sole controlling U.S. shareholder (as defined in § 1.964-1(c)(5)) of the CFCs to which the request relates," or that "[t]he taxpayer filing the request is the sole domestic corporate shareholder (as defined in § 1.964-1(c)(5)) of the noncontrolled 10-percent owned foreign corporations to which the request relates," as applicable. If the request is on behalf of eligible partnerships, the common parent must attach a statement that "[a]ll partnerships to which the request relates are wholly-owned by members of the common parent's consolidated group."

In the case of a § 301.9100 request for an extension of time to file a Form 3115 requesting an identical change in method of accounting for multiple entities with a common sponsor, multiple members of a consolidated group and/or multiple separate and distinct trades or businesses of a taxpayer or member(s) of the consolidated group, or multiple eligible CFCs or noncontrolled 10-percent owned foreign corporations (applicants), the taxpayer, common sponsor, or common parent must submit the information required in the preceding paragraph in addition to the information required by section 5.03 of this revenue procedure.

Method of payment

.08 Each request to the Service that is subject to a user fee under this revenue procedure must be accompanied by full payment. The user fees for all requests must be paid through www.pay.gov. Foreign entities that wish to submit payment from a foreign bank may submit their payment by check.

(1) User fees for letter ruling requests. To locate the appropriate form for payment of the user fee for a letter ruling on www.pay.gov, search for "Counsel Rulings User Fees" or navigate directly to https://www.pay.gov/public/form/start/106105509 (as of January 3, 2022).

(2) User fees for determination letter requests from SB/SE and TS. To locate the appropriate form for payment of the user fee for a determination letter from SB/SE or TS on www.pay.gov, search for "SBSE Determination Letter Fee" or navigate directly to https://www.pay.gov/public/form/start/1361096622 (as of August 21, 2024),

Effect of nonpayment or payment of incorrect amount

.09 If a request is not matched with full payment, the office within the Service that is responsible for issuing the letter ruling, determination letter, advance pricing agreement, closing agreement, or reconsideration of a letter ruling or determination letter generally will exercise discretion in deciding whether to immediately return the request. If a request is not immediately returned, the taxpayer will be contacted and given a reasonable amount of time to submit the proper fee. If the proper fee is not received within a reasonable amount of time, the request will then be returned. The Service will usually defer substantive consideration of a request until proper payment has been received. The return of a request to the taxpayer may adversely affect substantive rights if the request is not perfected and resubmitted to the Service within 30 calendar days of the date of the cover letter returning the request.

If a payment is made for more than the correct amount, the request will be accepted and the amount of the excess payment will be refunded to the taxpayer.

If a ruling is issued and because of the ruling the taxpayer's gross income is reduced such that the taxpayer would have qualified for a reduced user fee in Appendix A, paragraph (A)(4), the amount of user fee paid in excess of the reduced fee will be refunded to the taxpayer.

Refunds of user fee

.10 In general, user fees will not be refunded. User fees, however, will be refunded in the following situations.

(1) A user fee paid with a request to correct a mistake or omission in a prior issued letter ruling, determination letter, etc., will be refunded if the Service determines that the Service was responsible for the mistake or omission.

(2) A user fee paid with a request for relief under § 7805(b) in connection with the revocation in whole or in part, of a previously issued letter ruling, determination letter, etc., will be refunded if the relief is granted. (The user fee paid for the letter ruling, determination letter, etc., that was revoked is never refunded.)

(3) A user fee paid with a request for reconsideration of the Service's decision not to rule on an issue will be refunded if the Service agrees to rule on the issue and the user fee paid with the initial request was not refunded.

(4) If the requested ruling, determination letter, etc., is not issued for any reason, and the Service determines that a refund is appropriate after taking into account all the facts and circumstances, including the amount of the Service's time and resources spent on the request, the user fee will be refunded.

Request for reconsideration of user fee

.11 A taxpayer who believes the user fee charged by the Service for its request for a letter ruling, determination letter, advance pricing agreement, or closing agreement is either inapplicable or incorrect and wishes to receive a refund of all or part of the amount paid (*see* section 15.10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Service at the appropriate address given in section 7.04 in this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration

should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of:

If the matter involves primarily:	*Mark for the attention of:*
Associate Chief Counsel (Corporate) letter ruling requests	Associate Chief Counsel (Corporate)
Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) letter ruling requests	Deputy Associate Chief Counsel ( ) (Complete parenthetical by using the applicable designation “Employee Benefits” or “Exempt Organizations and Employment Taxes”)
Associate Chief Counsel (Energy, Credits, and Excise Tax) letter ruling requests	Associate Chief Counsel (Energy, Credits, and Excise Tax)
Associate Chief Counsel (Financial Institutions and Products) letter ruling requests	Associate Chief Counsel (Financial Institutions and Products)
Associate Chief Counsel (Income Tax and Accounting) letter ruling requests	Associate Chief Counsel (Income Tax and Accounting)
Associate Chief Counsel (International) letter ruling requests	Associate Chief Counsel (International)
Associate Chief Counsel (Passthroughs, Trusts, and Estates) letter ruling requests	Associate Chief Counsel (Passthroughs, Trusts, and Estates)
Associate Chief Counsel (Procedure and Administration) letter ruling requests	Associate Chief Counsel (Procedure and Administration)
Determination letter requests submitted pursuant to this revenue procedure by taxpayers under the jurisdiction of LB&I	Assistant Deputy Commissioner, Compliance Integration

Determination letter requests submitted pursuant to this revenue procedure by taxpayers under the jurisdiction of SB/SE (with regards to estate and gift taxes, employment taxes, and excise taxes)	Director, SB/SE Exam, Specialty Policy
Determination letter requests submitted pursuant to this revenue procedure by taxpayers under the jurisdiction of SB/SE (with respect to income taxes)	SB/SE Examination – Field Exam Area Director
Determination letter requests submitted pursuant to this revenue procedure by taxpayers under the jurisdiction of TS	Director, Return Integrity and Compliance Services, TS
Determination letter requests submitted pursuant to this revenue procedure by taxpayers under the jurisdiction of TE/GE	Director, Employee Plans Examinations Director, Exempt Organizations Examinations Director, Government Entities (Add name of field office handling the request)

SECTION 16. WHAT SIGNIFICANT CHANGES HAVE BEEN MADE TO REV. PROC. 2025-1?

Sections 3.04 and 5.12 have been amended to clarify the issues that fall under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products). Specifically, status rulings for entities engaged in issuing tax-advantaged bonds are issued by this Associate office.

Sections 8.08 and 15.06 have been amended to clarify that § 2642(g) letter ruling requests from married taxpayers qualifying under section 15.07(2) of this Revenue Procedure, the Associate office generally will issue a separate letter ruling for each requester. Appendix A has been amended to reflect the user fee for these § 2642(g) letter ruling requests.

SECTION 17. WHAT IS THE EFFECT OF THIS REVENUE PROCEDURE ON OTHER DOCUMENTS?

Rev. Proc. 2025-1, 2025-1 I.R.B. 1, is superseded.

SECTION 18. WHAT IS THE EFFECTIVE DATE OF THIS REVENUE PROCEDURE?

This revenue procedure is effective for all requests received on or after December 29, 2025. Rev. Proc. 2025-1 governs requests received prior to December 29, 2025 and after December 30, 2024.

SECTION 19. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1522.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this revenue procedure are in sections 5.06, 6.03, 7.01, 7.02, 7.03, 7.04, 7.05, 7.07, 7.08, 8.02. 8.05, 8.07, 10.01, 10.06, 10.07, 11.11, 13.02, 15.02, 15.07, 15.08, 15.09, 15.11, paragraph (B)(1) of Appendix A, Appendix C, Appendix D, Appendix E, and Appendix F (subject matter—rate orders; regulatory agency; normalization). This information is required to evaluate and process the request for a letter ruling or determination letter. In addition, this information will be used to help the Service delete certain information from the text of the letter ruling or determination letter before it is made available for public inspection as required by § 6110. The collections of information are required to obtain a letter ruling or determination letter. The likely respondents are businesses or other for-profit institutions and tax-exempt organizations.

The estimated total annual reporting and/or recordkeeping burden is 316,020 hours.

The estimated annual burden per respondent/recordkeeper varies from 1 to 200 hours, depending on individual circumstances, with an estimated average burden of 80 hours. The estimated number of respondents and/or recordkeepers is 3,956.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Sonia Gomez of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue procedure for matters under the jurisdiction of—

(1) the Associate Chief Counsel (Corporate), contact Jonathan Blake at (202) 317-3181 (not a toll-free call),

(2) the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), contact Randall Thomas at (202) 317-6000 (not a toll-free call),

(3) the Associate Chief Counsel (Energy, Credits, and Excise Tax), contact Danielle Grimm at (202) 317-5117 (not a toll-free call),

(4) the Associate Chief Counsel (Financial Institutions and Products), contact K. Scott Brown at (202) 317-6945 (not a toll-free call),

(5) the Associate Chief Counsel (Income Tax and Accounting), contact R. Matthew Kelley at (202) 317-7002 (not a toll-free call),

(6) the Associate Chief Counsel (International), contact Jan Geht at (651) 361-1823 (not a toll-free call),

(7) the Associate Chief Counsel (Passthroughs, Trusts, and Estates), contact the division inquiry line at (202) 317-6575 (not a toll-free call), or

(8) the Associate Chief Counsel (Procedure and Administration), contact Jonathan Hauck at (202) 317-3400 (not a toll-free call).

For further information regarding user fees, contact the Technical Services Support Branch at (202) 317-6828 (not a toll-free call).

For further information regarding determination letters:

LB&I taxpayers should contact the LB&I Program Analyst by e-mail at lbi.irt.info@irs.gov, or by e-fax at (844) 249-6231;

SB/SE taxpayers, for questions regarding determination letters involving estate and gift taxes, employment taxes, or excise taxes, should contact SB/SE Specialty Exam Policy by electronic facsimile at (877) 931-2014;

SB/SE taxpayers, for questions regarding determination letters involving income taxes, should submit either their question or a request to speak to someone in SB/SE Examination – Field Exam Area Director by electronic facsimile to (877) 477-9193. If the request involves a pending request for a determination letter, please provide the taxpayer's taxpayer identification number, phone number, and address as reflected in the request for a determination letter;

TS taxpayers should submit either their question or a request to speak to someone in Return Integrity and Compliance Services, TS, by electronic facsimile to (855) 863-8342. If the request involves a pending request for a determination letter, please provide the taxpayer's taxpayer identification number, phone number, and address as reflected in the request for a determination letter; and

TE/GE taxpayers should also refer to Revenue Procedures 2026-4 and 2026-5, this Bulletin.

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APPENDIX A
SCHEDULE OF USER FEES

NOTE: Payment must be in U.S. dollars and made through www.pay.gov for all requests. *See* sections 15.08 and 15.09 of this revenue procedure.

(A) *FEE SCHEDULE*

CATEGORY	*USER FEE FOR REQUESTS RECEIVED PRIOR TO JANUARY 29, 2026*	*USER FEE FOR REQUESTS RECEIVED AFTER JANUARY 29, 2026*
(1) **User fee for a request for a determination letter from a Director.** The user fee for each determination letter request governed by Rev. Proc. 2026-1, this revenue procedure.	$275	$275
(2) **User fee for an advance pricing agreement (APA) request.**		
(a) Type of APA		
(i) Original APA	$121,600	$121,600
(ii) Renewal APA	$65,900	$65,900
(iii) Small Case APA	$57,500	$57,500
(iv) APA Amendment	$24,600	$24,600
(3) **User fee for a request for a letter ruling or closing agreement.** Except for the user fees for advance pricing agreements and renewals, the reduced fees provided in paragraph (A)(4) of this appendix, the user fees provided in paragraph (A)(5) of this appendix, and the exemptions provided in section 15.04 of this revenue procedure, the user fee for each request for a letter ruling or closing agreement under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), or the Associate Chief Counsel (Procedure and Administration) is as follows:		
(a) Accounting periods		
(i) Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, (except as provided in paragraph (A)(4)(a) of this appendix)	$5,750	$5,750
(ii) Requests made on Part II of Form 2553, *Election by a Small Business Corporation*, to use a fiscal year based on a business purpose (except as provided in paragraph (A)(4)(a) of this appendix)	$5,750	$5,750
(iii) Letter ruling requests for extensions of time to file Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, Form 8716, *Election To Have a Tax Year Other Than a Required Tax Year*, or Part II of Form 2553 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) of this appendix)	$6,100	$6,100
(b) Changes in Methods of Accounting		
(i) Non-automatic Form 3115, *Application for Change in Accounting Method* (except as provided in paragraph (A)(4)(a) or (b), or (5)(b) of this appendix)	$13,225	$13,225
(ii) Letter ruling requests for extensions of time to file Form 3115, *Application for Change in Accounting Method*, under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b), or (5)(d) of this appendix)	$13,900	$13,900

No user fee is required if the change in accounting period or method of accounting is permitted to be made pursuant to a published automatic change request procedure. *See* section 9.22 and Appendix F of this revenue procedure, for the list of automatic change request procedures published and/or in effect as of December 31, 2024.

(c) (i) Letter ruling requests for relief under § 301.9100-3, § 1362(b)(5), or § 2642(g) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix)	$14,500	$14,500
(ii) All other letter ruling requests (including requests to revoke an election and accounting period and method of accounting requests other than those properly submitted on Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, Part II of Form 2553, *Election by a Small Business Corporation*, or Form 3115, *Application for Change in Accounting Method*) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix)	$43,700	$43,700
(d) Requests for closing agreements on a proposed transaction or on a completed transaction before a return for the transaction has been filed in which a letter ruling on that transaction is not requested or issued (except as provided in paragraph (A)(4)(a) or (b), and in paragraph (A)(5), of this appendix)	$43,700	$43,700
(e) A request for a Foreign Insurance Excise Tax Waiver Agreement	$12,000	$12,000

NOTE: A taxpayer who receives relief under § 301.9100-3 (for example, an extension of time to file Form 3115, *Application for Change in Accounting Method*) will be charged a separate user fee for the letter ruling request on the underlying issue (for example, the accounting period or method of accounting application).

(4) **Reduced user fee for a request for a letter ruling, method or period change, or closing agreement**. A reduced user fee for a request involving a personal, exempt organization, governmental entity, or business tax issue is provided in the following situations if the person provides the certification described in paragraph (B)(1) of this appendix:

(a) Request involves a tax issue from a person with gross income (as determined under paragraphs (B)(2), (3), (4), and (5) of this appendix) of less than $400,000	$3,450	$3,450
(b) Request involves a tax issue from a person with gross income (as determined under paragraphs (B)(2), (3), (4), and (5) of this appendix) of less than $10 million and $400,000 or more	$9,775	$9,775

NOTE: In the situations described in paragraph (b)(5), a person's gross income must be combined with the gross incomes of certain individuals or entities related to the person for purposes of applying these tests.

(5) **User fee for substantially identical letter ruling requests or closing agreements, identical changes in method of accounting, or plans from issuing authorities under § 25(c)(2)(B).** If the requirements of section 15.07 of this revenue procedure are satisfied, the user fee for the following situations is as follows:

(a) Substantially identical letter rulings and closing agreements requested (other than changes in methods of accounting requested on Form 3115) Requests for substantially identical letter rulings or closing agreements for multiple entities with a common member, sponsor, or parent, or for multiple members of a common entity or consolidated group, or for parties engaged together in the same transaction affecting all requesting taxpayers, for each additional letter ruling request after the $43,700 fee or reduced fee, as applicable, has been paid for the first letter ruling request. These requests may include, but are not limited to, requests for substantially identical letter rulings for two or more identical trusts, multiple beneficiaries of a trust, a trust divided into identical subtrusts, spouses making split gifts, or series funds within a single trust or series organization.	$4,370	$4,370

NOTE: Each entity or member that is entitled to the user fee under paragraph (A)(5)(a) of this appendix that receives relief under § 301.9100-3 (for example, an extension of time to file an election) will be charged a separate user fee for the letter ruling request on the underlying issue.

NOTE: The fee charged for the first letter ruling is the highest fee applicable to any of the entities.

NOTE: Where the requests for the letter rulings are submitted by a private foundation described in § 509 and one or more disqualified persons described in § 4946, the fee charged for the first letter ruling to a disqualified person is the highest fee applicable to any of the taxpayers.

(b) Identical change in method of accounting requested on a single Form 3115, *Application for Change in Accounting Method*, as provided in section 15.07(3) (fee for each additional applicant seeking the identical change in method of accounting on the same Form 3115 after the $13,225 or reduced fee, as applicable, has been paid for the first applicant)	$280	$280
(c) Substantially identical plans under § 25(c)(2)(B) (situations where an issuing authority under § 25 submits substantially identical plans for administering the 95-percent requirement of § 143(d)(1) following the submission of an initial plan that was approved)	$1,725	$1,725

NOTE: The fee charged for the first letter ruling is the highest fee applicable to any of the entities.

(d) Extension of time requested to file Form 3115, *Application for Change in Accounting Method*, for an identical change in method of accounting as provided in section 15.07(3) (fee for each additional applicant seeking the identical extension of time under § 301.9100-3 to file a single Form 3115 for the identical change in method of accounting after the $13,900 fee or reduced fee, as applicable, has been paid for the first applicant)	$280	$280

NOTE: When an extension of time to file Form 3115, *Application for Change in Accounting Method*, is granted under § 301.9100-3 for multiple applicants, a separate user fee will be charged for the change in method of accounting application, Form 3115.

(6) **User fee for information letter requests.**	$0	$0
(7) **User fee for pre-filing agreements.**	$181,500	$181,500
(8) **Tax treaty limitation of benefits.** *See* Rev. Proc. 2015-40, 2015-35 I.R.B. 236 (or its successor) for procedures for requesting competent authority assistance under tax treaties.	$66,800	$66,800
(9) **Statement of Value.** *See* Rev. Proc. 96-15 for procedures for requesting a statement of value.		
(A) User fee for a case with 1-3 items	$8,400	$8,400
(B) Cost per each additional item beyond 3	$800	$800

(B) *PROCEDURAL MATTERS*

(1) **Required certification.** A person seeking a reduced user fee under paragraph (A)(4) of this Appendix must provide the following certification in order to obtain the reduced user fee:

(a) If a person is seeking a reduced user fee under paragraph (A)(4)(a) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2), (3), (4), and (5) of this appendix, as applicable, is less than $400,000 as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed.

(b) If a person is seeking a reduced user fee under paragraph (A)(4)(b) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2), (3), (4), and (5) of this appendix, as applicable, is less than $10 million and more than $400,000 as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed.

The certification must be attached as part of the ruling request.

NOTE: In the situations described in paragraph (b)(5), a person's gross income must be combined with the gross incomes of certain individuals or entities related to the person for purposes of applying these tests.

(2) **Gross income for a request involving a personal tax issue.** For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix for—

(a) **U.S. citizens and resident alien individuals, domestic trusts, and domestic estates**, "gross income" is equal to "total income" as reported on their last Federal income tax return (as amended) filed for a full (12-month) taxable year ending before the date the request is filed, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. "Total income" is a line item on Federal tax returns. For example, if the 2023 Form 1040, *U.S. Individual Income Tax Return*, is the most recent 12-month taxable year return filed by a U.S. citizen, "total income" on the Form 1040 is the amount entered on line 9.

In the case of a request for a letter ruling or closing agreement from a domestic estate or trust that, at the time the request is filed, has not filed a Federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) of this Appendix will apply if the decedent's or (in the case of an individual grantor) the grantor's total income as reported on the last Federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income described in paragraph (B)(2)(a), is less than $400,000 (or less than $10,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(b) **Nonresident alien individuals, foreign trusts, and foreign estates,** "gross income" is equal to "total effectively connected income" as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any income for the period from United States or foreign sources that is not taxable by the United States, whether by reason of § 103, an income tax treaty, § 871(h) (regarding portfolio interest), or otherwise, plus the total amount of any fixed or determinable annual or periodical income from United States sources, the United States tax liability for which is satisfied by withholding at the source. "Total effectively connected income" is a line item on Federal tax returns. For example, if the 2023 Form 1040-NR, *U.S. Nonresident Alien Income Tax Return*, is the most recent 12-month taxable year return filed by a nonresident alien individual, "total effectively connected income" on the Form 1040-NR is the amount entered on line 9.

In the case of a request for a letter ruling or closing agreement from a foreign estate or trust that, at the time the request is filed, has not filed a Federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) of this Appendix will apply if the decedent's or (in the case of an individual grantor) the grantor's total income or total effectively connected income, as relevant, as reported on the last Federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income or total effectively connected income described respectively in paragraph (B)(2)(a) of this Appendix or in this paragraph (B)(2)(b), is less than $400,000 (or less than $10,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this Appendix.

(3) **Gross income for a request involving a business-related tax issue**. For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix of—

(a) **U.S. citizens and resident alien individuals, domestic trusts, and domestic estates**, "gross income" is equal to gross income as defined under paragraph (B)(2)(a) of this Appendix, plus "cost of goods sold" as reported on the same Federal income tax return.

(b) **Nonresident alien individuals, foreign trusts, and foreign estates,** "gross income" is equal to gross income as defined under paragraph (B)(2)(b) of this Appendix, plus "cost of goods sold" as reported on the same Federal income tax return.

(c) **Partnerships with a Form 1065 filing requirement and corporations (foreign and domestic),** "gross income" is equal to "total income" as reported on their last Federal tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus "cost of goods sold" as reported on the same Federal tax return, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. Partnerships with a Form 1065 filing requirement should also include "gross rents" reported on Form 8825 at line 2, as well as the income amounts reported on Schedule K Form 1065 at lines 3a, 5, 6a, 7, 8, 9a, 10, and 11 from the same Federal tax return described in the preceding sentence to calculate "gross income" for the purpose

of applying the reduced user fee in paragraph (A)(4) of this Appendix. S corporations with a Form 1120S filing requirement should also include "gross rents" reported on Form 8825 at line 2, as well as the income amounts reported on Schedule K Form 1120S at lines 3a, 4, 5a, 6, 7, 8a, 9, and 10 from the same Federal tax return described in the first sentence of this paragraph to calculate "gross income" for the purpose of applying the reduced user fee in paragraph (A)(4) of this Appendix. If a partnership or S corporation is not required to file or a C corporation is not subject to tax, "total income" and "cost of goods sold" are the amounts that the partnership or corporation would have reported on the Federal tax return if the partnership or S corporation had been required to file or the C corporation had been subject to tax.

"Cost of goods sold" and "total income" are line items on Federal tax returns. For example, if the 2020 Form 1065, *U.S. Return of Partnership Income*, is the most recent 12-month taxable year return filed by a partnership, "cost of goods sold" and "total income" on the Form 1065 are the amounts entered on lines 2 and 8, respectively; if the 2020 Form 1120, *U.S. Corporation Income Tax Return*, is the most recent 12-month taxable year return filed by a domestic corporation, "cost of goods sold" and "total income" on the Form 1120 are the amounts entered on lines 2 and 11, respectively; and if the 2020 Form 1120S, *U.S. Income Tax Return for an S Corporation*, is the most recent 12-month taxable year return filed by an S corporation, "cost of goods sold" and "total income" on the Form 1120S are the amounts entered on lines 2 and 6, respectively.

If, at the time the request is filed, a partnership or S corporation required to file or a C corporation subject to tax has not filed a Federal tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) or (b) of this Appendix will apply if, in the aggregate, the partners' or the shareholders' gross income (as defined in paragraph (B)(3)(a), (b), or (c) of this Appendix, as applicable) is less than $400,000 for purposes of paragraph (A)(4)(a) or $10 million for purposes of paragraph (A)(4)(b) for the last full (12 months) taxable year ending before the date the request is filed. In this case, the partners or the shareholders must provide the certification required under paragraph (B)(1) of this Appendix.

(4) **Gross income for a request involving an exempt organization or governmental entity**. For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix of—

(a) **Organizations exempt from income tax under "Subchapter F-Exempt Organizations" of the Code,** "gross income" is equal to the amount of gross receipts for the last full (12 months) taxable year ending before the date the request for a letter ruling or closing agreement is filed.

(b) **State, local, and Indian tribal government entities,** "gross income" is equal to the annual operating revenue of the government requesting the ruling for its last fiscal year ending before the date of the ruling request. The annual operating revenue is to be determined at the government level and not at the level of the government entity or agency making the request.

(5) **Special rules for determining gross income.** For purposes of paragraphs (B)(2), (3) and (4) of this Appendix, the following rules apply for determining gross income.

(a) **Gross income of individuals, trusts, and estates.**

(1) In the case of a request from a married individual, the gross incomes (as defined in paragraph (B)(2) or (3) of this Appendix, as applicable) of the applicant and the applicant's spouse must be combined. This rule does not apply to an individual: (i) who is legally separated from his or her spouse and (ii) who did not file a joint income tax return; and

(2) If there are two or more applicants filing the request, the gross incomes (as defined in paragraph (B)(2) or (3) of this Appendix, as applicable) of the applicants must be combined.

(b) **Gross income of domestic partnerships and corporations.**

(1) In the case of a request from a domestic C corporation, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) all members of the applicant's controlled group (as defined in § 1563(a)), and (ii) any taxpayer who is involved in the transaction on which the letter ruling or closing agreement is requested, must be combined.

(2) In the case of a request from a domestic partnership, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) the partnership, and (ii) any partner who owns, directly or indirectly, 50 percent or more of the capital interest or profits interest in the partnership, must be combined.

(3) In the case of a request from an S corporation, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) the S corporation, and (ii) any shareholder who owns 50 percent or more of the S corporation, must be combined.

(c) **Gross income of exempt organizations.** If there are two or more organizations exempt from income tax under Subchapter F filing the request, the gross receipts (as defined in paragraph (B)(4)(a) of this Appendix) of the applicants must be combined.

(6) **When gross income depends on a favorable ruling.** If a taxpayer's qualification for a reduced user fee under paragraphs (A)(4)(a) and (b) of this Appendix depends on the receipt of a favorable ruling, the taxpayer must pay the higher fee with the request and cannot assume that the Service will rule favorably. If a favorable ruling is issued, and as a result of the ruling the taxpayer's gross income is reduced such that the taxpayer would qualify for a reduced user fee, the amount that the taxpayer paid in excess of the reduced user fee will be returned to the taxpayer. *See* section 15.09.

APPENDIX B
SAMPLE FORMAT FOR A LETTER RULING REQUEST

INSTRUCTIONS

To assist you in preparing a letter ruling request, the Service is providing this sample format. You are not required to use this sample format. If your request is not identical or similar to the sample format, the different format will not affect consideration of your request.

(*Insert the date of request*)

Internal Revenue Service
Insert either: Associate Chief Counsel (insert one of the following: Corporate; Energy, Credits, and Excise Tax; Financial Institutions and Products; Income Tax and Accounting; International; Passthroughs, Trusts, and Estates; or Procedure and Administration) or Deputy Associate Chief Counsel (insert either Employee Benefits or Exempt Organizations and Employment Taxes)
Attn: CC:PA:LPD:TSS
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

Dear Sir or Madam:

(*Insert the name of the taxpayer*) requests a ruling on the proper treatment of (*insert the subject matter of the letter ruling request*) under section (*insert the number*) of the Internal Revenue Code.

[If the taxpayer is requesting expedited handling, a statement to that effect must be attached to, or contained in, the letter ruling request. The statement must explain the need for expedited handling. *See* section 7.02(4) of Rev. Proc. 2026-1, this revenue procedure. Hereafter, all references are to this revenue procedure unless otherwise noted.]

A. STATEMENT OF FACTS

1. Taxpayer Information
   [Provide the statements required by sections 7.01(1)(a) and (b).]
2. Description of Taxpayer's Business Operations
   [Provide the statement required by section 7.01(1)(c).]
3. Facts Relating to Transaction
   [The ruling request must contain a complete statement of the facts relating to the transaction that is the subject of the letter ruling request. This statement must include a detailed description of the transaction, including material facts in any accompanying documents, and the business reasons for the transaction. *See* sections 7.01(1)(d), 7.01(1)(e), and 7.01(2).]

B. RULING REQUESTED

[The ruling request should contain a concise statement of the ruling requested by the taxpayer. The Service prefers that the language of the requested ruling be exactly the same as the language the taxpayer wishes to receive.]

C. STATEMENT OF LAW

[The ruling request must contain a statement of the law in support of the taxpayer's views or conclusion and identify any pending legislation that may affect the proposed transaction. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(6), 7.01(10), 7.01(10), and 7.01(11).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(3), 7.01(6), 7.01(9), 7.01(10), and 7.01(11).]

E. CONCLUSION

[The ruling request should contain a statement of the taxpayer's conclusion on the ruling requested.]

1. Revenue Procedure 2026-1 Statements
   a. [Provide the statement required by section 7.01(4) regarding whether any return of the taxpayer, a related party within the meaning of § 267(b) or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or any predecessor would be affected by the requested letter ruling or determination letter, and whether any such return is currently under examination, before Appeals, or before a Federal court, or was previously under examination, before Appeals, or before a Federal court.]
   b. [Provide the statement required by section 7.01(5)(a) regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related party, or a predecessor. Please further note that if a reduced user fee is being submitted, a certification of eligibility for the reduced fee must be included with the ruling request.]
   c. [Provide the statement required by section 7.01(5)(b) regarding whether the taxpayer, a related party, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before a letter ruling or determination letter was issued.]
   d. [Provide the statement required by section 7.01(5)(c) regarding whether the taxpayer, a related party, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or similar issue that is currently pending with the Service.]
   e. [Provide the statement required by section 7.01(5)(d) regarding whether, at the same time as this request, the taxpayer or a related party is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service.]
   f. [Provide the statement required by section 7.01(5)(e) regarding whether the taxpayer or a related party had, or has scheduled, a pre-submission conference involving the same or similar issue.]
   g. [If the letter ruling request involves the interpretation of a substantive provision of an income or estate tax treaty, provide the statement required by section 7.01(6) regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related party, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction.]
   h. [If the letter ruling request involves a transaction between a taxpayer and a related party and either the taxpayer or the related party is located in a foreign country, provide the statement required by section 7.01(7) regarding whether this letter ruling potentially relates to any one of these categories (include all that apply): Preferential Regime; Transfer Pricing; Downward Adjustment; Treaty Permanent Establishment; Related Party Conduit.]
   i. [Provide the statement required by section 7.01(9) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
   j. [If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included. *See* section 7.01(10).]
   k. [If the taxpayer wants to have a conference on the issues involved in the letter ruling request, the ruling request should contain a statement to that effect. *See* section 7.02(6).]
   l. [If the taxpayer is requesting a copy of any document related to the letter ruling request to be sent by fax, electronic facsimile, or encrypted email attachment, the ruling request should contain a statement to that effect. *See* section 7.02(5).]
   m. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. *See* section 7.02(1).]
   n. [If the taxpayer is seeking to obtain the user fee provided in paragraph (A)(5)(a) of Appendix A for substantially identical letter rulings, the letter ruling request must contain the statements required by section 15.07.]
2. Administrative
   a. [The ruling request should state: "The deletion statement and checklist required by Rev. Proc. 2026-1 are enclosed." *See* sections 7.01(12) and 7.01(18).]
   b. [The ruling request should state: "The required user fee of $ (*Insert the amount of the fee*) has been paid through www.pay.gov" *See* section 15.09 and Appendix A.]
   c. [If the taxpayer's authorized representative is to sign the letter ruling request or is to appear before the Service in connection with the request, the ruling request should state: "A Power of Attorney is enclosed." *See* sections 7.01(14), 7.01(15), and 7.02(2).]

Sincerely yours,

(*Insert the name of the taxpayer or the taxpayer's authorized representative*)

By:

Signature Date

Typed or printed name of
person signing request

DECLARATION: [*See* section 7.01(16).]

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete.

(*Insert the name of the taxpayer*)

By:

_____

Signature Title Date

(*must be signed by taxpayer, not by taxpayer's representative, see section 7.01(16)(b) of this revenue procedure*)

Typed or printed name of
person signing declaration

[If the taxpayer is a corporation that is a member of an affiliated group filing consolidated returns, the above declaration must also be signed and dated by an officer of the common parent of the group. *See* section 7.01(16).]

APPENDIX C
CHECKLIST
IS YOUR LETTER RULING REQUEST COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your letter ruling request if it is carefully prepared and complete. Use this checklist to ensure that your request is in order. Complete the four items of information requested before the checklist. Answer each question by circling "Yes," "No," or "N/A." When a question contains a place for a page number, insert the page number (or numbers) of the request that gives the information called for by a "Yes" answer to a question. **Sign and date the checklist (as taxpayer or authorized representative) and** include **it with your request.**

If you are an authorized representative submitting a request for a taxpayer, you must include a completed checklist with the request or the request will either be returned to you or substantive consideration of it will be deferred until a completed checklist is submitted. **If you are a taxpayer preparing your own request without professional assistance, an incomplete checklist will not cause the return of your request or defer substantive consideration of your request.** You should still complete as much of the checklist as possible and submit it with your request.

TAXPAYER'S NAME

TAXPAYER'S I.D. NO.

ATTORNEY/P.O.A.

PRIMARY CODE SECTION

CIRCLE ONE	ITEM
Yes No	1. Does your request involve an issue under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), or the Associate Chief Counsel (Procedure and Administration)? *See* section 3 of Rev. Proc. 2026-1, this revenue procedure. For issues under the jurisdiction of other offices, *see* section 4 of this revenue procedure. (Hereafter, all references are to this revenue procedure unless otherwise noted.)
Yes No	2. Have you read Rev. Proc. 2026-1, Rev. Proc. 2026-3, this Bulletin, and Rev. Proc. 2025-7, 2025-1 I.R.B. 301, to see if part or all of the request involves a matter on which letter rulings are not issued or are ordinarily not issued?
Yes No N/A	3. If your request involves a matter on which letter rulings are not ordinarily issued, have you given compelling reasons to justify the issuance of a letter ruling? Before preparing your request, you may want to call the branch in the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates), or the Office of Associate Chief Counsel (Procedure and Administration) responsible for substantive interpretations of the principal Internal Revenue Code section on which you are seeking a letter ruling to discuss the likelihood of an exception. For matters under the jurisdiction of— (a) the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates), or the Office of the Associate Chief Counsel (Procedure and Administration), the appropriate branch to call may be obtained by calling (202) 317-5221 (not a toll-free call); (b) the Office of the Associate Chief Counsel (International), the appropriate branch to call may be obtained by calling (202) 317-3800 (not a toll-free call).

Yes No N/A Page __ 4. If the request involves a retirement plan qualification matter relating to § 401(a), § 409, or § 4975(e)(7), have you demonstrated that the request satisfies section 4.02(12) of Rev. Proc. 2026-3, this Bulletin, for a ruling?

Yes No N/A Page __ 5. If the request deals with a completed transaction, have you filed a return containing a tax position on the completed transaction? *See* section 5.01.

Yes No 6. Are you requesting the letter ruling on a hypothetical situation or question? *See* section 6.12.

Yes No 7. Are you requesting the letter ruling on alternative plans of a proposed transaction? *See* section 6.12.

Yes No 8. Are you requesting the letter ruling for only part of an integrated transaction?

Yes No 9. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? *See* section 6.05.

Yes No 10. Are you requesting the letter ruling for a foreign government or its political subdivision? *See* section 6.07.

Yes No Page __ 11. Have you included a complete statement of all the facts relevant to the transaction? *See* section 7.01(1).

Yes No N/A 12. Have you submitted with the request true copies of all wills, deeds, and other documents relevant to the transaction, and labeled and attached them in alphabetical sequence? *See* section 7.01(2).

Yes No N/A 13. Have you submitted with the request a copy of all applicable foreign laws, and certified English translations of documents that are in a language other than English or of foreign laws in cases where English is not the official language of the foreign country involved? *See* section 7.01(2).

Yes No 14. Have you included an analysis of facts and their bearing on the issues? Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? *See* section 7.01(3).

Yes No Page __ 15. Have you included the required statement regarding whether any return of the taxpayer (or any related party within the meaning of § 267(b) or § 707(b)(1), or any member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or any predecessor) would be affected by the requested letter ruling or determination letter and whether any such return is currently or was previously under examination, before Appeals, or before a Federal court? *See* section 7.01(4).

Yes No Page __ 16. Have you included the required statement regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related party, or a predecessor? *See* section 7.01(5)(a).

Yes No Page __ 17. Have you included the required statement regarding whether the taxpayer, a related party, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before the letter ruling or determination letter was issued? *See* section 7.01(5)(b).

Yes No Page __ 18. Have you included the required statement regarding whether the taxpayer, a related party, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or similar issue that is currently pending with the Service? *See* section 7.01(5)(c).

Yes No Page __ 19. Have you included the required statement regarding whether, at the same time as this request, the taxpayer or a related party is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service? *See* section 7.01(5)(d).

Yes No Page __ 20. Have you included the required statement regarding whether the taxpayer or a related party had, or has scheduled, a pre-submission conference involving the same or similar issue? *See* section 7.01(5)(e).

Yes No N/A Page __ 21. If your request involves the interpretationof a substantive provision of an income or estate tax treaty, have you included the required statement regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related party, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction? *See* section 7.01(6).

Yes No N/A Page __ 22. If your request involves a transaction between a taxpayer and a related party and either the taxpayer or the related party is located in a foreign country, have you included the required statement regarding whether the letter ruling relates to any one of these categories (include all that apply: Preferential Regime; Transfer Pricing; Downward Adjustment; Treaty Permanent Establishment; Related Party Conduit? *See* section 7.01(7).

Yes No N/A Page __ 23. If your request is for recognition of Indiantribal government status or status as a political subdivision of an Indian tribal government, does your request contain a letter from the Bureau of Indian Affairs regarding the tribe's status? *See* section 7.01(8), which states that taxpayers are encouraged to submit this letter with the request and provides the address for the Bureau of Indian Affairs.

Yes No Page __ 24. Have you included the required statement of relevant authorities in support of your views? *See* section 7.01(9).

Yes No Page __ 25. Have you included the required statement regarding whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities? *See* section 7.01(9).

Yes No Page __ 26. Does your request discuss the implications of any legislation, tax treaties, court decisions, regulations, notices, revenue rulings, or revenue procedures that you determined to be contrary to the position advanced? *See* section 7.01(10), which states that taxpayers are encouraged to inform the Service of such authorities.

Yes No N/A Page __ 27. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? *See* section 7.01(10).

Yes No N/A Page __ 28. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? *See* section 7.01(11).

Yes No 29. Have you included the deletion statement required by § 6110 in accordance with section 7.01(12)(b)?

Yes No Page __ 30. Have you (or your authorized representative) signed and dated the request or separately transmitted a signature in an acceptable electronic form? *See* section 7.01(13).

Yes No N/A 31. If the request is signed by your representative or if your representative will appear before the Service in connection with the request, is the request accompanied by a properly prepared and signed power of attorney with the signatory's name typed or printed? *See* section 7.01(15).

Yes No Page __ 32. Have you signed, dated, and included the penaltiesof perjury statement in the format required by section 7.01(16)?

Yes No N/A Page __ 33. If you are requesting separate letter rulings on different issues involving one factual situation, have you included a statement to that effect in each request? *See* section 7.02(1).

Yes No N/A 34. If you want copies of the letter ruling sent to a representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).

Yes No N/A 35. If you do not want a copy of the letter ruling to be sent to any representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).

Yes No N/A — 36. If you are making a two-part letter ruling request, have you included a summary statement of the facts you believe to be controlling? *See* section 7.02(3).

Yes No N/A Page __ — 37. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the manner required by section 7.02(4) and stated a compelling need for such action in the request? *See* section 7.02(4).

Yes No N/A Page __ — 38. If you are requesting a copy of any document related to the letter ruling request to be sent by fax or electronic facsimile, have you included a statement to that effect? *See* section 7.02(5).

Yes No N/A — 39. If you are requesting a copy of any document related to the letter ruling request to be sent by encrypted email attachment, have you specified an acceptable encryption method to be used and included the appropriate MOUs from Appendices G and H, signed and dated by the taxpayer? *See* section 7.02(5) and 7.04(3).

Yes No N/A Page __ — 40. If you want to have a conference on the issues involved in the request, have you included a request for conference in the letter ruling request? *See* section 7.02(6).

Yes No N/A — 41. If you are submitting your request on paper, are you submitting additional copies if necessary? *See* section 7.04(1).

Yes No N/A — 42. If you are submitting your request by electronic facsimile or encrypted email attachment, have you provided clear titles for documents and files, and broken up the request into smaller components for transmission if necessary? *See* section 7.04(2) and (3).

Yes No N/A — 43. If you are submitting your request by encrypted email attachment, have you used an acceptable file format and included the appropriate MOUs from Appendices G and H, signed and dated by the taxpayer? *See* section 7.04(3).

Yes No — 44. Have you paid the correct user fee through www.pay.gov? *See* section 15 and Appendix A to determine the correct amount.

Yes No N/A Page __ — 45. If you qualify for a reduced user fee because your gross income is less than $400,000, have you included the required certification? *See* paragraphs (A)(4)(a) and (B)(1) of Appendix A.

Yes No N/A Page __ — 46. If you qualify for a reduced user fee because your gross income is less than $10 million, have you included the required certification? *See* paragraphs (A)(4)(b) and (B)(1) of Appendix A.

Yes No N/A Page __ — 47. If you qualify for the user fee for substantially identical letter rulings, have you included the required information? *See* section 15.07(2) and paragraph (A)(5)(a) of Appendix A.

Yes No N/A Page __ — 48. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical change in method of accounting on a single Form 3115, *Application for Change in Accounting Method*, have you included the required information? *See* section 15.07(4) and paragraph (A)(5)(d) of Appendix A.

Yes No N/A Rev. Proc. _____ _____ _____ — 49. If your request is covered by any of the checklists, guideline revenue procedures, notices, safe harbor revenue procedures, or other special requirements listed in Appendix F, have you complied with all of the requirements of the applicable revenue procedure or notice?
List other applicable revenue procedures or notices, including checklists, used or relied upon in the preparation of this letter ruling request (Cumulative Bulletin or Internal Revenue Bulletin citation not required).

Yes No N/A Page __ — 50. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 11.11?

Yes No N/A Page __ — 51. If you are requesting relief under § 301.9100 for a late entity classification election, have you included a statement that complies with section 4.04 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439? *See* section 5.03(5) of this revenue procedure.

Yes No N/A Page __ 52. If you are requesting relief under § 301.9100, and your request involves a year that is currently under examination or with Appeals, have you included the required notification, which also provides the name and telephone number of the examining agent or Appeals officer? *See* section 7.01(4).

Yes No 53. If you are requesting relief under § 301.9100, have you included the affidavit(s) and declaration(s) required by § 301.9100-3(e)? *See* section 5.03(1).

Yes No N/A 54. If you are requesting relief under § 301.9100–3, and the period of limitations on assessment under § 6501(a) will expire for any year affected by the requested relief before the anticipated receipt of a letter ruling, have you secured consent under § 6501(c)(4) to extend the period of limitations on assessment for the year(s) at issue? *See* section 5.03(2).

Yes No 55. Have you addressed your request to the attention of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), the Associate Chief Counsel (Procedure and Administration), the Deputy Associate Chief Counsel (Employee Benefits), or the Deputy Associate Chief Counsel (Exempt Organizations and Employment Taxes), as appropriate? The mailing address for packages submitted on paper is:

Internal Revenue Service
Attn: CC:PA:LPD:TSS
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

If a private delivery service is used, the address is:

Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

Packages submitted on paper should be marked RULING REQUEST SUBMISSION. Improperly addressed requests may be delayed (sometimes for over a week) in reaching CC:PA:LPD:TSS for initial processing.

_____

Signature Title or Authority Date

Typed or printed name of person signing checklist

APPENDIX D
ADDITIONAL CHECKLIST FOR GOVERNMENT PICK-UP PLAN RULING REQUESTS

In order to assist Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) in processing a ruling request involving government pick-up plans, in addition to the items in Appendix C, please check the following list.

Yes No N/A Page ___ 1. Is the plan qualified under § 401(a) of the Code? (Evidence of qualification or representation that the plan is qualified.)

Yes No N/A Page ___ 2. Is the organization that established the plan a State or political subdivision thereof, or any agency or instrumentality of the foregoing? An example of this would be a representation that the organization that has established the plan is a political subdivision or municipality of the State.

Yes No N/A Page ___ 3. Is there specific information regarding who are the eligible participants?

Yes No N/A Page ___ 4. Are the contributions that are the subject of the ruling request mandatory employee contributions? These contributions must be for a specified dollar amount or a specific percentage of the participant's compensation and the dollar amount or percentage of compensation cannot be subject to change.

Yes No N/A Page ___ 5. Does the plan provide that the participants do not have the election to opt in and/or out of the plan?

Yes No N/A Page ___ 6. Are copies of the enacting legislation providing that the contributions although designated as employee contributions are being paid by the employer in lieu of contributions by the employee included?

Yes No N/A Page ___ 7. Are copies of the specific enabling authorization that provides the employee must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the plan included? For example, a resolution, ordinance, plan provision, or collective bargaining agreement could specify this information.

APPENDIX E
ADDITIONAL CHECKLIST FOR CHURCH PLAN RULING REQUESTS

In order to assist Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) in processing a church plan ruling request, in addition to the items in Appendix C, please check the following list.

Yes No N/A Page ___ 1. Is there specific information showing that the submission is on behalf of a plan established by a named church or convention or association of churches? The information must show how the sponsoring organization, if not a church or convention or association of churches, is controlled by, or associated with, the named church or convention or association of churches. For example, the board of directors of the sponsoring organization may be made up of members of the named church, or the sponsoring organization might be listed in the church's official directory of related organizations whose mission is to further the objectives of the church. In order to be considered associated with a church or convention or association of churches, the organization must share common religious bonds and convictions with that church or convention or association of churches.

Yes No N/A Page ___ 2. Is there specific information showing that the organization that has established the plan is a tax-exempt organization as described in § 501 of the Code?

Yes No N/A Page ___ 3. Is there a representation that the plan for which the ruling is being requested is qualified under § 401(a) of the Code or meets the requirements of § 403(b) of the Code?

Yes No N/A Page ___ 4. Does the ruling request clearly state who are the eligible participants and the name of the employer of these eligible participants?

Yes No N/A Page ___ 5. Is there a representation that none of the eligible participants are or can be considered employed in connection with one or more unrelated trades or businesses within the meaning of § 513 of the Code?

Yes No N/A Page ___ 6. Is there a representation that all of the eligible participants are or will be employed by the named church or convention or association of churches, and will not include employees of for-profit entities? An example of an eligible employee includes a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry.

Yes No N/A Page ___ 7. Is there specific information showing an existing plan committee whose principal purpose or function is the administration or funding of the plan? This committee must be controlled by or associated with the named church or convention or association of churches.

Yes No N/A Page ___ 8. Is the composition of the committee stated?

Yes No N/A Page ___ 9. Did the plan sponsor provide a written notice to interested persons that a letter ruling under § 414(e) of the Code on behalf of a church plan will be submitted to the IRS? (*See* Rev. Proc. 2011-44.)

Yes No N/A Page ___ 10. Does the ruling request include a copy of the notice?

Yes No N/A Page ___ 11. Is there a representation as to whether an election has ever been made under § 1.410(d)-1 of the Federal Income Tax Regulations to apply certain provisions of the Code and ERISA to the plan?

APPENDIX F
CHECKLISTS, GUIDELINE REVENUE PROCEDURES, NOTICES, SAFE HARBOR REVENUE PROCEDURES, AND AUTOMATIC CHANGE REVENUE PROCEDURES

Specific revenue procedures and notices supplement the general instructions for requests explained in section 7 of this revenue procedure and apply to requests for letter rulings or determination letters regarding the Code sections and matters listed in this section.

Checklists, guideline revenue procedures, and notices

.01 For requests relating to the following Code sections and subject matters, refer to the following checklists, guideline revenue procedures, and notices.

CODE OR REGULATION SECTION	*REVENUE PROCEDURE AND NOTICE*
103, 141 - 150, 1394, 1400L(d), 1400N(a), 1400U-1, 1400U-3, 7478, and 7871 Issuance of state or local obligations	Rev. Proc. 96-16, 1996-1 C.B. 630 (for a reviewable ruling under § 7478 and a nonreviewable ruling); Rev. Proc. 88-31, 1988-1 C.B. 832 (for approval of areas of chronic economic distress); and Rev. Proc. 82-26, 1982-1 C.B. 476 (for "on behalf of" and similar issuers). For approval of areas of chronic economic distress, Rev. Proc. 88-31 explains how this request for approval must be submitted to the Assistant Secretary for Housing/Federal Housing Commissioner of the Department of Housing and Urban Development.
1.166-2(d)(3) Uniform express determination letter for making election	Rev. Proc. 92-84, 1992-2 C.B. 489.
Subchapter C-Corporate Distributions, Adjustments, Transfers, and Reorganizations	Rev. Proc. 77-37, 1977-2 C.B. 568, as amplified by Rev. Proc. 77-41, 1977-2 C.B. 574, and Rev. Proc. 83-81, 1983-2 C.B. 598, and as modified by Rev. Proc. 89-30, 1989-1 C.B. 895 (*see also* Rev. Proc. 2026-3, this Bulletin), Rev. Proc. 84-42, 1984-1 C.B. 521 (superseded, in part, as to no-rule areas by Rev. Proc. 2018-3), Rev. Proc. 86-42, 1986-2 C.B. 722, Rev. Proc. 89-50, 1989-2 C.B. 631, Rev. Proc. 2017-52, 2017-41 I.R.B. 283, and Rev. Proc. 2025-30, 2025-42 I.R.B. 489.
301 Nonapplicability on sales of stock of employer to defined contribution plan	Rev. Proc. 87-22, 1987-1 C.B. 718.
302, 311 Checklist questionnaire	Rev. Proc. 86-18, 1986-1 C.B. 551.
302(b)(4) Checklist questionnaire	Rev. Proc. 81-42, 1981-2 C.B. 611.
331, 337 Checklist questionnaire	Rev. Proc. 86-16, 1986-1 C.B. 546.
332 Checklist questionnaire	Rev. Proc. 90-52, 1990-2 C.B. 626.
338 Extension of time to make elections	Rev. Proc. 2003-33, 2003-1 C.B. 803, provides guidance as to how an automatic extension of time under § 301.9100-3 of the Treasury Regulations may be obtained to file elections under § 338. Rev. Proc. 2003-33 also informs taxpayers who do not qualify for the automatic extension of the information necessary to obtain a letter ruling.
351 Checklist questionnaire	Rev. Proc. 83-59, 1983-2 C.B. 575.
355 Checklist questionnaire	Rev. Proc. 2017-52, 2017-41 I.R.B. 283, and Rev. Proc. 2025-30, 2025-42 I.R.B. 489.
368(a)(1)(E) Checklist questionnaire	Rev. Proc. 81-60, 1981-2 C.B. 680.

412, 4971(b) Additional tax (on failure to meet minimum funding standards)	Rev. Proc. 81-44, 1981-2 C.B. 618, provides guidance for requesting a waiver of the 100 percent tax imposed under § 4971(b) on a pension plan that fails to meet the minimum funding standards of § 412.
412(c) Minimum funding standards	Rev. Proc. 2004-15, 2004-1 C.B. 490, provides guidance for requesting a waiver of the minimum funding standards.
412(c)(7)(B) Minimum funding standards - restrictions on plan amendments	Rev. Proc. 79-62, 1979-2 C.B. 576, provides guidance for requesting a determination that a plan amendment is reasonable and provides for only de minimis increases in plan liabilities in accordance with former § 412(f)(2)(A) (now § 412(c)(7)(B)(i)).
412(d)(2) Minimum funding standards - certain retroactive plan amendments	Rev. Proc. 94-42, 1994-1 C.B. 717, as modified by Rev. Proc. 2026-4, this Bulletin, sets forth procedures under which a plan sponsor may file notice with and obtain approval for a retroactive amendment described in § 412(d)(2) (formerly § 412(c)(8)) and § 302(d)(2) of the Employee Retirement Income Security Act of 1974 (ERISA) that reduces prior accrued benefits.
414(e) Church plans	Rev. Proc. 2011-44, 2011-39 I.R.B. 445, provides supplemental procedures for requesting a ruling relating to church plans under section 414(e). Rev. Proc. 2011-44 provides that plan participants and other interested persons must receive a notice when a letter ruling is requested and a copy of the notice must be submitted as part of the ruling request. Rev. Proc. 2011-44 also provides procedures for the Service to receive and consider comments about the ruling request from interested persons. *See* Appendix E of this revenue procedure.
414(r) Qualified separate lines of business – administrative scrutiny	Rev. Proc. 93-41, 1993-2 C.B. 536, sets forth procedures relating to the issuance of an administrative scrutiny determination, which is a determination by the Service as to whether a separate line of business satisfies the requirement of administrative scrutiny, within the meaning of § 1.414(r)-6, for the testing year.
461(h) Alternative method for the inclusion of common improvement costs in basis	Rev. Proc. 92-29, 1992-1 C.B. 748.
482 Advance pricing agreements	Rev. Proc. 2015-40, 2015-35 I.R.B. 236 (or its successor); and Rev. Proc. 2015-41, 2015-35 I.R.B. 263 (or its successor).
521 Appeal procedure with regard to adverse determination letters and revocation or modification of exemption letter rulings and determination letters	Rev. Proc. 2026-5, this Bulletin.
817(h) Closing agreement for inadvertent failures of variable contracts	Rev. Proc. 2008-41, 2008-2 C.B. 155.
831(b) Automatic Consent for Revocation of 831(b) Election	Rev. Proc. 2025-13, 2025-8 I.R.B 816.
860 Self Determination of Deficiency Dividend	Rev. Proc. 2009-28, 2009-20 I.R.B. 1011.

877, 2107, and 2501(a)(3) Individuals who lose U.S. citizenship or cease to be taxed as long-term U.S. residents with a principal purpose to avoid U.S. taxes	Notice 97-19, 1997-1 C.B. 394, as modified by Notice 98-34, 1998-2 C.B. 29, and as obsoleted in part by Notice 2005-36, 2005-1 C.B. 1007.
1059(c)(4) Fair market value of stock for purposes of election	Rev. Proc. 86-33, 1987-29 C.B. 402, provides guidance to corporate taxpayers on how to make the election under section 1059(c)(4) and establish the fair market value of stock for purposes of that election. It provides an automatic procedure to value publicly traded stock and valuation procedures for other stock.
1362(b)(5) and 1362(f) Relief for late S corporation and related elections under certain circumstances	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
1362(b)(5) and 301.7701-3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
1.1502-13(e)(3) Consent to treat intercompany transactions on a separate entity basis and revocation of this consent	Rev. Proc. 2009-31, 2009-27 I.R.B. 107.
1.1502-75(b) Consent to Be Included in a Consolidated Income Tax Return	Rev. Proc. 2014-24, 2014-13 I.R.B. 879, provides a determination that certain subsidiary corporations are treated as if they had filed a Form 1122, *Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return*, even though they failed to do so. Rev. Proc. 2014-24 also informs taxpayers who do not qualify for the automatic determination of the procedure for requesting such determination.
1.1502-76(a)(1) Consent to file a consolidated return where member(s) of the affiliated group use a 52-53 week taxable year	Rev. Proc. 89-56, 1989-2 C.B. 643, as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
1504(a)(3)(A) and (B) Waiver of application of § 1504(a)(3)(A) for certain corporations	Rev. Proc. 2002-32, 2002-1 C.B. 959, as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
1552 Consent to elect or change method of allocating affiliated group's consolidated Federal income tax liability	Rev. Proc. 90-39, 1990-2 C.B. 365, as clarified by Rev. Proc. 90-39A, 1990-2 C.B. 367, and as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
2642 Allocations of generation-skipping transfer tax exemption	Rev. Proc. 2004-46, 2004-2 C.B. 142, provides an alternative method for requesting relief to make a late allocation of the generation-skipping transfer tax exemption. Rev. Proc. 2004-46 also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary for obtaining a letter ruling.

2652(a)(3) Reverse qualified terminable interest property elections	Rev. Proc. 2004-47, 2004-2, C.B. 169, provides an alternative method for certain taxpayers to obtain an extension of time to make a late reverse qualified terminable interest property election under § 2652(a)(3). Rev. Proc. 2004-47 also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary to obtain a letter ruling.
4980B Failure to satisfy continuation coverage requirements of group health plans	Rev. Proc. 87-28, 1987-1 C.B. 770 (treating references to former § 162(k) as if they were references to § 4980B).
7701 Relief for a late classification election for a newly formed entity	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.
7701(a)(40) and 7871(d) Indian tribal governments and subdivision of Indian tribal governments	Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, and this revenue procedure, provides guidelines for obtaining letter rulings recognizing Indian tribal government or tribal government subdivision status; also provides for inclusion in list of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, or in list of recognized subdivisions of Indian tribal governments in revised versions of Rev. Proc. 84-36, 1984-1 C.B. 510, as modified and made permanent by Rev. Proc. 86-17.
301.7701-2(a) Classification of undivided fractional interests in rental real estate	Rev. Proc. 2002-22, 2002-1 C.B. 733, specifies the conditions under which the Service will consider a letter ruling request that an undivided fractional interest in rental real property (other than a mineral property as defined in § 614) is not an interest in a business entity.
301.7701-3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
301.9100-3 Extension of time to make entity classification election	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.
7702 Closing agreement for failure to account for charges for qualified additional benefits	Rev. Proc. 2008-38, 2008-2 C.B. 139.
7702 Closing agreement for failed life insurance contracts	Rev. Proc. 2008-40, 2008-2 C.B. 151.
7702A Closing agreement for inadvertent non-egregious failure to comply with modified endowment contract rules	Rev. Proc. 2008-39, 2008-2 C.B. 143.
7704(g) Revocation of election	Notice 98-3, 1998-1 C.B. 333.

SUBJECT MATTERS	*REVENUE PROCEDURE*
Accounting periods; changes in period	Rev. Proc. 2002-39, 2002-1 C.B. 1046, as clarified and modified by Notice 2002-72, 2002-2 C.B. 843, as modified by Rev. Proc. 2003-34, 2003-1 C.B. 856, and modified by Rev. Proc. 2003-79, 2003-2 C.B. 1036; and this revenue procedure, for which sections 1, 2.01, 2.02, 2.05, 3.04, 5.02, 6.03, 6.05, 6.07, 6.11, 7.01(1), 7.01(2), 7.01(3), 7.01(4), 7.01(5), 7.01(6), 7.01(9), 7.01(10), 7.01(11), 7.01(14), 7.01(15), 7.01(16), 7.02(2), 7.02(4), 7.02(5), 7.02(6), 7.04, 7.05, 7.06, 7.08, 8.01, 8.03, 8.04, 8.05, 8.06, 10, 11, 15, 17, 18, Appendix A, and Appendix F are applicable.
Classification of liquidating trusts	Rev. Proc. 82-58, 1982-2 C.B. 847, as modified and amplified by Rev. Proc. 94-45, 1994-2 C.B. 684, and as amplified by Rev. Proc. 91-15, 1991-1 C.B. 484 (checklist questionnaire), as modified and amplified by Rev. Proc. 94-45.
Earnings and profits determinations	Rev. Proc. 75-17, 1975-1 C.B. 677; this revenue procedure, sections 2.05, 3.04, 7, 8, and 10.05; and Rev. Proc. 2026-3, this Bulletin, section 3.01.
Estate, gift, and generation-skipping transfer tax issues	Rev. Proc. 91-14, 1991-1 C.B. 482 (checklist questionnaire).
Fast-track processing of letter ruling requests solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate)	Rev. Proc. 2023-26, 2023-33 I.R.B. 486.
Intercompany transactions; election not to defer gain or loss	Rev. Proc. 2009-31, 2009-27 I.R.B. 107.
Leveraged leasing	Rev. Proc. 2001-28, 2001-1 C.B. 1156; and Rev. Proc. 2001-29, 2001-1 C.B. 1160.
Rate orders; regulatory agency; normalization	A letter ruling request that involves a question of whether a rate order that is proposed or issued by a regulatory agency will meet the normalization requirements of § 168(f)(2) (pre-Tax Reform Act of 1986, § 168(e)(3)) and former §§ 46(f) and 167(l) ordinarily will not be considered unless the taxpayer states in the letter ruling request whether— (1) the regulatory authority responsible for establishing or approving the taxpayer's rates has reviewed the request and believes that the request is adequate and complete; and (2) the taxpayer will permit the regulatory authority to participate in any Associate office conference concerning the request. If the taxpayer or the regulatory authority informs a consumer advocate of the request for a letter ruling and the advocate wishes to communicate with the Service regarding the request, any such communication should be sent to: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:TSS, P.O. Box 7604, Benjamin Franklin Station, Washington, DC 20044 (or, if a private delivery service is used: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:TSS, Room 5336, 1111 Constitution Ave., NW, Washington, DC 20224). These communications will be treated as third party contacts for purposes of § 6110.
Unfunded deferred compensation	Rev. Proc. 71-19, 1971-1 C.B. 698, as amplified by Rev. Proc. 92-65, 1992-2 C.B. 428. *See* Rev. Proc. 92-64, 1992-2 C.B. 422, as modified by Notice 2000-56, 2000-2 C.B. 393, for the model trust for use in Rabbi Trust Arrangements.

Safe harbor revenue procedures

.02 For requests relating to the following Code sections and subject matters, refer to the following safe harbor revenue procedures.

CODE OR REGULATION SECTION	*REVENUE PROCEDURE*
23 and 36C Adoption credit for foreign adoptions	Rev. Proc. 2010-31, 2010-40 I.R.B. 413.

103 and 141-150 Issuance of state or local obligations	Rev. Proc. 2017-13, 2017-6 I.R.B. 787 (management contracts); and Rev. Proc. 2007-47, 2007-2 C.B. 108 (research agreements).
61 Utility Cost Recovery Securitization Transactions	Rev. Proc. 2005-62, 2005-2 C.B. 507.
137 Exclusion for Employer Reimbursements	Rev. Proc. 2010-31, 2010-40 I.R.B. 413.
162 Restaurant Small Wares Costs	Rev. Proc. 2002-12, 2002-1 C.B. 374.
165 Losses from corrosive drywall	Rev. Proc. 2010-36, 2010-42 I.R.B. 439.
165 Theft losses from fraudulent investment arrangements	Rev. Proc. 2009-20, 2009-14 I.R.B. 749, as modified by Rev. Proc. 2011-58, 2011-50 I.R.B. 849.
167 and 168 Primary use of certain cable network assets described in asset class 48.42 of Rev. Proc. 87-56, 1987-2 C.B. 674	Section 9 of Rev. Proc. 2015-12, 2015-2 I.R.B. 266.
168 Depreciation of original and replacement tires for certain vehicles	Rev. Proc. 2002-27, 2002-1 C.B. 802.
168 Depreciation of fiber optic node and trunk line of a cable system operator	Section 8 of Rev. Proc. 2015-12, 2015-2 I.R.B. 266.
168 Recovery periods of certain tangible assets used by wireless telecommunication carriers	Rev. Proc. 2011-22, 2011-18 I.R.B. 737.
263, 471 Treatment of rotable spare parts as inventory or depreciable property	Rev. Proc. 2007-48, 2007-2 C.B. 110.
263 Safe harbor methods for track structure expenditures	Rev. Proc. 2002-65, 2002-2 C.B. 700; Rev. Proc. 2001-46, 2001-2 C.B. 263.
263 Determination whether expenditures to maintain, replace or improve wireline network assets must be capitalized	Rev. Proc. 2011-27, 2011-18 I.R.B. 740.

263 Determination whether expenditures to maintain, replace or improve wireless network assets must be capitalized	Rev. Proc. 2011-28, 2011-18 I.R.B. 743.
263 Allocating success-based fees paid in business acquisitions or reorganizations	Rev. Proc. 2011-29, 2011-18 I.R.B. 746.
263 Electric trade and distribution property assets	Rev. Proc. 2011-43, 2011-37 I.R.B. 326.
263A Safe harbor methods for certain motor vehicle dealerships	Rev. Proc. 2010-44, 2010-49 I.R.B. 811.
280A Safe harbor method to determine the amount of deductible expenses attributable to certain business use of a residence	Rev. Proc. 2013-13, 2013-6 I.R.B. 478.
280B Certain structural modifications to a building not treated as a demolition	Rev. Proc. 95-27, 1995-1 C.B. 704.
446 Film producer's treatment of certain creative property costs	Rev. Proc. 2004-36, 2004-1 C.B. 1063.
446 Bank's treatment of uncollected interest	Rev. Proc. 2007-33, 2007-1 C.B. 1289.
448 Nonaccrual-experience method - book safe harbor method	Rev. Proc. 2011-46, 2011-42 I.R.B. 518.
451 Safe harbor for capital cost reduction payments	Rev. Proc. 2002-36, 2002-1 C.B. 993.
451 Treatment of gift cards issued to customers in exchange for returned merchandise	Rev. Proc. 2011-17, 2011-5 I.R.B. 441.
451 Safe harbor for certain minors' trusts established under the Indian Gaming Regulatory Act (U.S.C. §§ 2701-2721)	Rev. Proc. 2011-56, 2011-49 I.R.B. 834.

461 Safe harbor method for payroll tax liabilities for compensation	Rev. Proc. 2008-25, 2008-1 C.B. 686.
471 Estimating inventory shrinkage	Rev. Proc. 98-29, 1998-1 C.B. 857.
471 Valuation of automobile dealer vehicle parts inventory	Rev. Proc. 2002-17, 2002-1 C.B. 676.
471 Valuation of remanufactured cores	Rev. Proc. 2003-20, 2003-1 C.B. 445.
471 Valuation of heavy equipment dealer parts inventory	Rev. Proc. 2006-14, 2006-1 C.B. 350.
471 Rolling-average method of accounting for inventories	Rev. Proc. 2008-43, 2008-2 C.B. 186.
475 Eligible positions	Rev. Proc. 2007-41, 2007-1 C.B. 1492.
584(a) Qualification of a proposed common trust fund plan	Rev. Proc. 92-51, 1992-1 C.B. 988.
642(c)(5) Qualification of trusts as pooled income funds	Rev. Proc. 88-53, 1988-2 C.B. 712.
664 Charitable remainder trusts	Rev. Proc. 2005-24, 2005-1 C.B. 909, as modified by Notice 2006-15, 2006-1 C.B. 501.
664(d)(1) Qualification of trusts as charitable remainder annuity trusts	Rev. Proc. 2003-53, 2003-2 C.B. 230; Rev. Proc. 2003-54, 2003-2 C.B. 236; Rev. Proc. 2003-55, 2003-2 C.B. 242; Rev. Proc. 2003-56, 2003-2 C.B. 249; Rev. Proc. 2003-57, 2003-2 C.B. 257; Rev. Proc. 2003-58, 2003-2 C.B. 262; Rev. Proc. 2003-59, 2003-2 C.B. 268; Rev. Proc. 2003-60, 2003-2 C.B. 274.
664(d)(2) and (3) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 2005-52, 2005-2 C.B. 326; Rev. Proc. 2005-53, 2005-2 C.B. 339; Rev. Proc. 2005-54, 2005-2 C.B. 353; Rev. Proc. 2005-55, 2005-2 C.B. 367; Rev. Proc. 2005-56, 2005-2 C.B. 383; Rev. Proc. 2005-57, 2005-2 C.B. 392; Rev. Proc. 2005-58, 2005-2 C.B. 402; Rev. Proc. 2005-59, 2005-2 C.B. 412.
832 Insurance company premium acquisition expenses	Rev. Proc. 2002-46, 2002-2 C.B. 105.
856(c) Certain loans treated as real estate assets	Rev. Proc. 2003-65, 2003-2 C.B. 336.
1031(a) Qualification as a qualified exchange accommodation arrangement	Rev. Proc. 2000-37, 2000-2 C.B. 308, as modified by Rev. Proc. 2004-51, 2004-2 C.B. 294.

1031 Safe harbor with respect to exchanges of residential real property	Rev. Proc. 2008-16, 2008-1 C.B. 547.
1031 Safe harbor for reporting gain or loss on failed exchanges	Rev. Proc. 2010-14, 2010-12 I.R.B. 456.
1272(a)(6) Proportional method of accounting for original issue discount on pools of credit card receivables	Rev. Proc. 2013-26, 2013-22 I.R.B. 1160.
1286 Determination of reasonable compensation under mortgage servicing contracts	Rev. Proc. 91-50, 1991-2 C.B. 778.
1362(f) Automatic inadvertent termination relief to certain corporations	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
2056A Qualified Domestic Trust	Rev. Proc. 96-54, 1996-2 C.B. 386.
2702(a)(3)(A) and 25.2702-5(c) Qualified Personal Residence Trust	Rev. Proc. 2003-42, 2003-1 C.B. 993.
4051(a)(2) Imposition of tax on heavy trucks and trailers sold at retail	Rev. Proc. 2005-19, 2005-1 C.B. 832.
1.7704-2(d) New business activity of existing partnership is closely related to pre-existing business	Rev. Proc. 92-101, 1992-2 C.B. 579.
SUBJECT MATTERS	*REVENUE PROCEDURE*
Certain rent-to-own contracts treated as leases	Rev. Proc. 95-38, 1995-2 C.B. 397.

Automatic change in accounting period revenue procedures

.03 For requests for an automatic change in accounting period, refer to the following automatic change revenue procedures.

Rev. Proc. 2006-45, 2006-2 C.B. 851, as clarified and modified by Rev. Proc. 2007-64, 2007-2 C.B. 818 (certain corporations); Rev. Proc. 2006-46, 2006-2 C.B. 859 (certain partnerships, subchapter S corporations, personal service corporations, and trusts); and Rev. Proc. 2003-62, 2003-2 C.B. 299 (individuals seeking a calendar year).

The Commissioner's consent to an otherwise qualifying automatic change in accounting period is granted only if the taxpayer timely complies with the applicable automatic change revenue procedure.

APPENDIX G
MEMORANDUM OF UNDERSTANDING ACKNOWLEDGING RISK WITH EMAIL

I acknowledge that there are risks associated with email, such as the possibility that sensitive taxpayer information could be intercepted and viewed by unauthorized persons. I understand the importance of securing email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. I understand that encryption programs only encrypt the email attachment and not the subject line or the body of the email itself, and that confidential information should not be included in the subject line, the body of the email itself, or the file name of the attachment. By signing this agreement, I understand that sensitive or confidential information should be sent only by encrypted email attachments in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. I acknowledge that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

(Name of Taxpayer)
(Name and Title of Individual Signing Agreement)

SIGNATURE: _____

DATE: _____

APPENDIX H
MEMORANDUMS OF UNDERSTANDING AGREEING TO USE ENCRYPTED EMAIL ATTACHMENTS

Agreement to use encrypted email attachments (compressed Zip format)

.01 For requesters choosing to use encrypted email attachments in compressed Zip format, submit the following MOU:

Agreement to Use Encrypted Email Attachments (Compressed Zip format)

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses SecureZIP®, a commercial program, to compress and encrypt email attachments that contain sensitive information. The recipient of encrypted email attachments created using this utility may decrypt and view them by entering a password. The recipient must first install a compatible "zip" software utility. In addition to SecureZIP®, compatible utilities include PKZIP®, and ZIP Reader® by PKWARE®, which is a free Windows utility that enables users to process compressed and/or AES passphrase-encrypted files created by SecureZIP®, PKZIP® and other products that support these capabilities. SecureZIP and compatible utilities only encrypt the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS. Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to, such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the

addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice. In the event of a security incident, Chief Counsel may immediately terminate the agreement.

6. Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)
(Name and Title of Individual Signing Agreement)

SIGNATURE: _____

DATE: _____

Office of Chief Counsel, Internal Revenue Service, United States of America
(Name of Counsel Employee)
(Title of Counsel Employee Signing Agreement)

SIGNATURE: _____

DATE: _____

Addendum: Individuals and Email Addresses Authorized
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number

Agreement to use encrypted email attachments (Adobe Acrobat Pro password encryption)

.02 For requesters choosing to use encrypted email attachments with Adobe Acrobat Pro password encryption, submit the following MOU:

Agreement to Use Encrypted Email Attachments (Adobe Acrobat Pro Password Encryption)

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses Adobe Acrobat Pro®, a commercial program, to compress and encrypt email attachments in Adobe Portable Document Format (.pdf) that contain sensitive information. The recipient of encrypted email attachments created using this utility may decrypt and view them by entering a password. The recipient must first install a compatible .pdf software reader with password decryption capability. In addition to Adobe Acrobat Pro®, the Adobe Acrobat DC Reader® is a free Windows utility that enables users to decrypt and open AES passphrase-encrypted files created by Adobe Acrobat Pro. Other compatible .pdf decryption utilities may exist.

Acrobat Pro® only encrypts the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

Further information about how to encrypt email attachments with Adobe Acrobat products may be found on Adobe's web site.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to, such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice.

In the event of a security incident, Chief Counsel may immediately terminate the agreement.

6. Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)
(Title of Individual Signing Agreement)

SIGNATURE: _____

DATE: _____

Office of Chief Counsel, Internal Revenue Service, United States of America
(Name of Counsel Employee)
(Title of Counsel Employee Signing Agreement)

SIGNATURE: _____

DATE: _____

Addendum: Individuals and Email Addresses Authorized
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number

Agreement to use encrypted email attachments (Microsoft Office 2016/365 password encryption)

.03 For requesters choosing to use encrypted email attachments with Microsoft Office 2016/365 password encryption, submit the following MOU:

Agreement to Use Encrypted Email Attachments (Microsoft Office 2016/365 Password Encryption)

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses Microsoft Office 365®, a commercial program, to compress and encrypt email attachments in Microsoft Office formats, including Word, Excel or PowerPoint, that contain sensitive information. The recipient of encrypted email attachments created using this program may decrypt and view them by entering a password. The recipient should use Microsoft 2016® or Microsoft Office 365® to decrypt and open encrypted Office files sent by Chief Counsel as email attachments. Older versions of Microsoft Office may not successfully decrypt these attachments.

Microsoft Office 365 only encrypts the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

Further information about how to encrypt email attachments with Microsoft Office products may be found on Microsoft's web site.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to, such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice.

In the event of a security incident, Chief Counsel may immediately terminate the agreement.

6. Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)
(Title of Individual Signing Agreement)

SIGNATURE: _____

DATE: _____

Office of Chief Counsel, Internal Revenue Service, United States of America
(Name of Counsel Employee)
(Title of Counsel Employee Signing Agreement)

SIGNATURE: _____

DATE: _____

Addendum: Individuals and Email Addresses Authorized
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number

Rev. Proc. 2026-2

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SECTION 1. PURPOSE AND AUTHORITY

Description of purpose

.01 Technical advice. This revenue procedure explains when and how an Associate office provides technical advice, conveyed in a technical advice memorandum (TAM). It also explains the rights that a taxpayer has when a field office requests a TAM regarding a tax matter. Rev. Proc. 2025-2 is superseded.

Updated annually

.02 This revenue procedure is updated annually as the second revenue procedure of the year, but it may be modified, amplified, or clarified during the year.

SECTION 2. DEFINITIONS

Operating division

.01 The term "operating division" means (1) the Large Business & International Division (LB&I); (2) the Small Business/Self-Employed Division (SB/SE); (3) Taxpayer Services (TS); and (4) the Tax Exempt and Government Entities Division (TE/GE).

Director

.02 The term "Director" means (1) the Practice Area Director or the Director, Field Operations (LB&I) for the taxpayer's practice area; (2) an Area Director, SB/SE; (3) the Director, Return Integrity & Compliance Services (TS); (4) the Director, International Compliance, Strategy and Policy; (5) the Director, Employee Plans Examinations; (6) the Director, Employee Plans Rulings & Agreements; (7) the Director, Exempt Organizations Examinations; (8) the Director, Exempt Organizations Rulings & Agreements; (9) the Director, Government Entities; (10) the Appeals Area Director; (11) the Appeals Director, Technical Guidance; (12) the Appeals Director, International Operations; or (13) any official to whom the authority normally exercised by a Director has properly been delegated.

Appeals

.03 The terms "Appeals" and "Appeals office" refer to the Internal Revenue Service Independent Office of Appeals.

Appeals officer

.04 The term “Appeals officer” means the Appeals officer assigned to the taxpayer’s case and can include an Appeals Team Case Leader or settlement officer.

Taxpayer

.05 The term "taxpayer" means any person subject to any provision of the Internal Revenue Code, including an issuer of obligations the interest on which is excluded from gross income under § 103, and issuers of other bonds that provide a tax benefit.

Associate office

.06 The term "Associate office" means (1) the Office of Associate Chief Counsel (Corporate); (2) the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax); (3) the Office of Associate Chief Counsel (Financial Institutions and Products); (4) the Office of Associate Chief Counsel (Income Tax and Accounting); (5) the Office of Associate Chief Counsel (International); (6) the Office of Associate Chief Counsel (Passthroughs, Trusts and Estates); (7) the Office of Associate Chief Counsel (Procedure and Administration); or (8) the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes).

Field office

.07 The term "field office" means personnel in any examination or Appeals office. For qualified retirement plan and exempt organizations matters, the term “field office” also means personnel in any Rulings & Agreements office.

Field counsel

.08 The term "field counsel" means any attorney assigned to the Division Counsel for an operating division who is not a member of Division Counsel Headquarters.

SECTION 3. THE NATURE OF TECHNICAL ADVICE

When advice furnished

.01 Technical advice is advice furnished by an Associate office in a memorandum that responds to any request, submitted under this revenue procedure, for assistance on any technical or procedural question that develops during any proceeding before the Internal Revenue Service (Service). The field office may request a TAM when the application of the law to the facts involved is unclear. The question must be on the interpretation and proper application of any legal authority, including legislation, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements to a specific set of facts that concerns the treatment of an item in a tax period under examination or in Appeals. A TAM may not be requested for prospective or hypothetical transactions (except for certain TAMs in connection with a taxpayer’s request for a determination letter on a matter within the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, pursuant to Rev. Proc. 2026-4 or 2026-5). Proceedings before the Service include: (1) the examination of a taxpayer's return; (2) the consideration of a taxpayer's claim for credit or refund; (3) any matter under examination or in Appeals pertaining to tax-exempt bonds, other tax-advantaged bonds, or mortgage credit certificates; and (4) any other matter involving a specific taxpayer under the jurisdiction of a Director. Technical advice does not include any oral legal advice or any written legal advice furnished to the field office that is not submitted and processed under this revenue procedure.

TAM may be requested even if previous TAM on same matter was issued

.02 The field office may request a TAM on an issue in any tax period, even if a TAM was requested and furnished for the same or similar issue for another tax period. The field office may also request a TAM on an issue even if Appeals disposed of the same or similar issue for another tax period of the same taxpayer.

Taxpayer participation

.03 Taxpayers will be afforded an opportunity to participate in the technical advice process. Taxpayer participation is preferred but not required to process a TAM. A taxpayer’s failure to

participate in stages identified as "material," however, will constitute waiver of the taxpayer's right to the taxpayer conference described in section 9.

Under no circumstances will a taxpayer be treated as having waived its right to see the issued TAM or having waived its rights regarding disclosure and deletions described in section 10.

Areas of mandatory technical advice on employee plans matters

.04 Regarding qualified retirement plan matters, a request for a TAM is required in cases concerning plans for which the Service is proposing to issue a revocation letter because of certain fiduciary actions that violate the exclusive benefit rule of § 401(a) of the Code and are subject to Part 4 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 1974-3 C.B. 1, 43 as amended (ERISA).

Basis for requests by Exempt Organizations Rulings & Agreements

.05 The circumstances in which Exempt Organizations Determinations should seek technical advice in the course of processing applications for tax exemption are described in section 3.03 of Rev. Proc. 2026-5, this Bulletin. Technical advice may also be requested by Exempt Organizations Determinations in connection with requests for determination letters where no pending application for tax exemption is involved. A request for a TAM is not required if the Director, Exempt Organizations Examinations proposes to revoke or modify a letter recognizing tax-exempt status issued by the Service.

SECTION 4. TYPES OF ISSUES NOT SUBJECT TO THIS PROCEDURE

Alcohol, tobacco, and firearms taxes

.01 The procedures for obtaining technical advice that apply to Federal alcohol, tobacco, and firearms taxes under subtitle E of the Code are under the jurisdiction of the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury.

Employment status determinations

.02 Employment status determination letters issued pursuant to section 12.04 of Rev. Proc. 2026-1, of this Bulletin, are not subject to technical advice procedures.

Issues under § 301.9100

.03 A request for an extension of time for making an election or other application for relief under § 301.9100-3 of the Procedure and Administration Regulations is not submitted as a request for technical advice. Instead, the request must be submitted as a request for a letter ruling, even if submitted after the examination of the taxpayer's return has begun or after the issues in the return are being considered in Appeals or a federal court. Therefore, a request under § 301.9100 should be submitted under Rev. Proc. 2026-1, of this Bulletin, and the payment of the applicable user fee is determined under Appendix A of Rev. Proc. 2026-1. However, a request under § 301.9100 related to recharacterization of a Roth IRA should be submitted under Rev. Proc. 2026-4 of this Bulletin. Requests for relief pertaining to exemption application matters involving §§ 505(c) and 508 are considered in the determination letter process under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division. *See* Revenue Procedure 2026-5, this Bulletin.

Frivolous issues

.04 Associate offices will not issue a TAM on frivolous issues. The field office will deny a taxpayer's request for technical advice if the taxpayer's request involves frivolous issues. For purposes of this revenue procedure, a "frivolous issue" is one without basis in fact or law or one that asserts a position that courts have held frivolous or groundless. Examples of frivolous or groundless issues may be found in Service publications and other guidance (including, but not limited to, section 6.10 of Rev. Proc. 2026-1, Notice 2010-33, and Exhibit 25.25.10-1, Frivolous Arguments).

Issues in a docketed case

.05 Associate offices will not issue technical advice on an issue if the same issue of the same taxpayer (or of a related taxpayer within the meaning of § 267 or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504) is in a docketed case for any taxable year. If a case is docketed for an estate tax issue of a taxpayer while a request for technical advice on the same issue of the same taxpayer is pending, the Associate office may issue the TAM only if the appropriate Appeals officer and field counsel agree, by memorandum, to the issuance of the TAM.

Collection issues

.06 The Associate Chief Counsel (Procedure and Administration) will not issue technical advice on matters arising under the Internal Revenue Code and related statutes and regulations that involve the collection of taxes (including interest and penalties). With respect to such matters, the Associate Chief Counsel (Procedure and Administration) may issue alternative forms of advice.

Request for relief under § 7805(b) relating to matters handled by TE/GE

.07 Requests for relief under § 7805(b) relating to the revocation or modification of determination letters or letter rulings issued by TE/GE are handled in accordance with the procedures in sections 23 and 29 of Rev. Proc. 2026-4, and section 12 of Rev. Proc. 2026-5, this Bulletin.

SECTION 5. INITIATING A REQUEST FOR TECHNICAL ADVICE

Initiating a request for technical advice

.01 Because technical advice is issued to assist field offices, it is the field office that determines whether to request it. In determining whether to request technical advice, the field office should consider whether other forms of guidance, e.g., published guidance, generic advice, or some other form of advice, would be more appropriate. Additionally, before requesting technical advice, the field office must request assistance and a recommendation from field counsel. If the field office disagrees with field counsel's recommendation, the field office must seek reconciliation with field counsel through their respective supervisors. A field office's request for technical advice must be approved in writing by a Director. If technical advice is requested from the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) for a case with either an unagreed prohibited transaction, as defined in § 4975(c)(1) and ERISA § 406(a), or a violation of the exclusive benefit rule of § 401(a)(2) or ERISA § 404(a)(1)(A), a Form 6212-B must be submitted to the Department of Labor prior to submitting the request for technical advice.

Taxpayer may request referral for technical advice

.02 While a case is under the jurisdiction of a Director, a taxpayer may request that the field office refer an issue to the Associate office for technical advice. The taxpayer's request may be oral or written and should be directed to the field office. If the field office decides that a taxpayer's request for referral of an issue to the Associate office for a TAM is unwarranted, the field office will notify the taxpayer. A taxpayer's request for referral of an issue for technical advice will not be denied merely because the Associate office has already provided legal advice other than a TAM to the field office on the matter.

Appeal of field office denial of TAM referral request

.03 The taxpayer may appeal the field office's denial of the taxpayer's request for referral by submitting to the field office, within 30 calendar days after notification that the request was denied, a written statement of the reasons why the matter should be referred to the Associate office. The statement should include a description of all pertinent facts (including any facts in dispute); a statement of the issue that the taxpayer would like to have addressed; a discussion of any relevant legal authority, including legislation, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements; and an explanation of the taxpayer's position and the need for technical advice. Any extensions of the 30-day period must be requested in writing and must be approved by the Director or the Tax Exempt Bonds Program Manager. Decisions on any extensions by the Director, the LB&I Territory Manager, or in the case of Tax Exempt Bonds, the Program Manager, are final and may not be appealed.

Upon receipt, the field office will refer the taxpayer's written statement, along with the field office's statement of why the issue should not be referred to the Associate office for technical advice, to the Director or in the case of Tax Exempt Bonds, the Program Manager, for decision. The Director or in the case of Tax Exempt Bonds, the Program Manager, will determine whether the issue should be referred for technical advice on the basis of the statements of the field office and the taxpayer. No conference will be held with the taxpayer or the taxpayer's representative. If the Director, or in the case of Tax Exempt Bonds, the Program Manager, determines that a TAM is not warranted, the taxpayer will be informed in writing of the proposed denial of the request and the reasons for the denial (unless doing so would prejudice the Government's interests).

The decision of the Director or the Tax Exempt Bonds Program Manager may be reviewed but not appealed

.04 The taxpayer may not appeal the decision of the Director or the Program Manager (in the case of Tax Exempt Bonds) to not request a TAM. If the taxpayer does not agree with the proposed denial, all data on the issue for which a TAM has been sought, including the taxpayer's written request and statements, will be submitted for review to the Director, LB&I; the Director, Examination, SB/SE; the Director, Return Integrity & Compliance Services, TS; the Director, Government Entities; the Appeals Director, Policy Planning Quality & Analysis; or the Commissioner, Tax Exempt and Government Entities Division (who will review the proposed denial through the Director, Employee Plans; the Director, Exempt Organizations; or, if appropriate, the Appeals Director, Policy Planning Quality & Analysis). Review of the proposed denial will be based solely on the written record. No conference will be held with the taxpayer or the taxpayer's representative. The person responsible for review may consult with the Associate office, if appropriate, and will notify the field office whether the proposed denial of the taxpayer's request is approved or denied within 45 days of receiving all information. The field office will then notify the taxpayer. While the matter is under review, the field office will suspend any final decision on the issue (except when the delay would prejudice the Government's interests). If the request for technical advice has been denied because the issue is frivolous as described in section 4.04 of this revenue procedure, this review process is not available.

SECTION 6. PRE-SUBMISSION CONFERENCES

Purpose

.01 A pre-submission conference helps the field office, field counsel, the taxpayer, and the Associate office agree on the appropriate scope of the request for technical advice and the factual information and documents that must be included in the request. A pre-submission conference is not an alternative procedure for addressing the merits of the substantive positions advanced by the field office or by the taxpayer. During the pre-submission conference, the parties should discuss the framing of the issues and the background information and documents that should be included in the formal submission of the request for technical advice.

Pre-submission conferences are mandatory

.02 Pre-submission conferences are mandatory because they promote expeditious processing of requests for technical advice. If a request for technical advice is submitted without first holding a pre-submission conference, the Associate office will return the request for advice. Pre-submission conferences include the taxpayer and representatives from the field office, field counsel, and the Associate office. Requests for technical advice can proceed, however, even if a taxpayer declines to participate in a pre-submission conference.

Actions before a pre-submission conference

.03 Before requesting a pre-submission conference, the field office and the taxpayer must exchange proposed statements of the pertinent facts and issues. The proposed statements should include any facts in dispute, the issues that the parties intend to discuss, any legal analysis and supporting authorities, and any other background information that the parties believe would facilitate the Associate office's understanding of the issues to be discussed during the conference. Prior to the scheduled pre-submission conference, the field office and the taxpayer must submit to the Associate office their respective statements of pertinent facts and issues. The legal analysis

provided in the parties' statements should be sufficient to enable the Associate office to be reasonably informed about the subject matter. Failure of the taxpayer to provide a statement of pertinent issues and facts shall not be allowed to unduly delay the scheduling of the pre-submission conference. If it is not provided within a reasonable period of time, the conference may be scheduled without the taxpayer's statements.

The field office or the taxpayer must ensure that the Associate office receives a copy of any required power of attorney. Form 2848, *Power of Attorney and Declaration of Representative*, should be used.

For authorized representatives that reside in a foreign country, taxpayers must provide either a domestic contact or an e-mail address for such foreign representative along with the submission.

Pre-submission materials include the field office and taxpayer's statements (discussed above) and any required power of attorney for the taxpayer. The assigned Associate office must receive the pre-submission materials at least 10 business days before the conference is to be held.

Initiating a pre-submission conference

.04 A request for a pre-submission conference must be submitted in writing by the field office, with the assistance of field counsel. The request should identify the Associate office expected to have jurisdiction over the request for a TAM and should include a brief explanation of the primary issue so that an assignment within the appropriate Associate office can be made. If the request is submitted by Appeals, field counsel assignments will be subject to the *ex parte* rules set forth in section 1001(a)(4) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, and Rev. Proc. 2012-18, 2012-10 I.R.B. 455. If the request involves an issue under the office of the Director of the Office of Promoter Investigations, the field office and field counsel should coordinate with L&A Division Counsel headquarters. If the request involves an issue under the Office of Tax Shelter Analysis (OTSA), LB&I, then the field office and field counsel should coordinate with L&A Division Counsel headquarters. If the request is from Appeals and involves a coordinated issue or emerging issue under Appeals Technical Guidance or International Operations or Appeals Coordinated Issue (ACI) Program, the Appeals officer must coordinate with the Appeals Technical Guidance or International Operations Technical Specialist.

Manner of transmitting pre-submission materials

.05 The request for a pre-submission conference and pre-submission materials should be electronically transmitted by field counsel to the Technical Services Support Branch (TSS4510). TSS4510 will ensure delivery of the pre-submission materials to the appropriate Associate office. The TSS4510 email box cannot accept encrypted mail.

If documents are not electronically available, or if documents cannot reasonably be transmitted electronically, the request for a pre-submission conference and pre-submission materials may be sent by fax to TSS4510 at 855-592-8976 or by express mail or private delivery service to the following address to avoid any delays in regular mail:

Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Avenue, NW
Washington, DC 20224

Scheduling the pre-submission conference

.06 After the pre-submission materials have been received, the Associate office responsible for conducting the pre-submission conference will contact the taxpayer, the field office, and field counsel to arrange a mutually convenient time for the parties to participate in the conference. The conference generally should be held within 15, but not more than 30, calendar days after the field office is contacted.

Pre-submission conferences may be conducted in person

.07 Although pre-submission conferences are generally conducted by telephone, the parties may choose to conduct the conference in person.

Pre-submission conference may not be taped

.08 No tape, stenographic, or other verbatim recording of a conference may be made by any party.

Discussion of substantive issues is not binding on the Service

.09 Any discussion of substantive issues at a pre-submission conference is advisory only. It is not binding on the Service in general or on the Office of Chief Counsel in particular. It cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

New issues may be raised at pre-submission conference

.10 During the pre-submission conference, the Associate office may raise new issues in addition to those submitted by the field office and the taxpayer.

Power of attorney

.11 Form 2848, *Power of Attorney and Declaration of Representative*, should be used to provide the representative's authority (Part I of Form 2848, *Power of Attorney*) and the representative's qualification (Part II of Form 2848, *Declaration of Representative*). The name of the person signing Part I of Form 2848 should be typed or printed on this form. A Form 2848 executed for the purpose of a pre-submission conference should reflect that it is for a "specific use" that is not recorded on the Centralized Authorization File (CAF) and should only be submitted as provided in this revenue procedure (that is, it should not be submitted to the Service by any other method listed in the Instructions for Form 2848).

A Form 2848 must be signed by both the taxpayer (or the person signing on the taxpayer's behalf) and the representative in a manner consistent with section 7.01(13) of Rev. Proc. 2026-1.

If the Form 2848 is remotely signed by the taxpayer (or the person signing on the taxpayer's behalf) using a permissible electronic or digital method, the representative should follow the necessary steps to verify the taxpayer's identity provided in the Electronic Signatures section of the Instructions for Form 2848. The representative is not required to provide a separate attestation unless requested by the Service. If the Form 2848 is signed by the taxpayer (or the person signing on the taxpayer's behalf) using a physical, wet-ink signature, a submission may include a copy or scanned version of the Form 2848 as long as its authenticity is not reasonably disputed.

The taxpayer's authorized representative, as described in section 7.01(14) of Rev. Proc. 2026-1, whether or not enrolled, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service. In situations where the Service believes that the taxpayer's representative is not in compliance with Circular 230, the Service will bring the matter to the attention of the Office of Professional Responsibility.

SECTION 7. SUBMITTING THE REQUEST FOR TECHNICAL ADVICE

Memorandum of issues, facts, law, and arguments

.01 The field office submits the request for technical advice. Every request for technical advice must include a memorandum that describes the facts, issues, applicable law, and arguments supporting the taxpayer's position on the issues and the field office's position on the issues. The field office will prepare this statement with the assistance of field counsel. The memorandum must include a statement of all the facts and the issues. If the taxpayer and the field office disagree about ultimate findings of fact or about the relevance of facts, all the facts should be included with an explanation that highlights the areas of disagreement. The memorandum must include

an explanation of the taxpayer's position, discussing any relevant legal authority, including legislation, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements supporting the taxpayer's position. The memorandum must also include a similar explanation of the field office's position. Both the field office and the taxpayer should comment on any relevant legal authority contrary to their respective positions. If either party determines that there are no authorities contrary to its position, that statement should be noted in the memorandum.

When the field office initiates a request for technical advice, the field office should notify the taxpayer that it is requesting technical advice and provide the taxpayer with a copy of the arguments supporting the field office's position. The taxpayer has 10 calendar days to state, in writing, any factual disagreement. The field office will make every effort to reach agreement on the facts and specific points at issue. The taxpayer is encouraged to submit a written statement with an explanation of the taxpayer's position, including a discussion of any relevant legal authority.

Transaction involving multiple taxpayers

.02 If the subject matter of the request involves a transaction among multiple taxpayers, the field office may submit a request for a single TAM, but only if each taxpayer agrees to participate in the process, including the furnishing of Forms 8821, *Tax Information Authorization*, or other written disclosure consent, as appropriate.

Foreign laws and documents: submission of relevant foreign laws and documents in the official language and in English

.03 If applicable, the request for technical advice must include a copy of the relevant parts of all foreign laws, including statutes, regulations, administrative pronouncements, and any other relevant legal authority. The documents submitted must be in the official language of the country involved and must be copied from an official publication of the foreign government or another widely available and generally accepted publication. If English is not the official language of the country involved, the submission must also include a copy of an English language version of the relevant parts of all foreign laws. This translation must be: (i) from an official publication of the foreign government or another widely available, generally accepted publication; or (ii) a certified English translation submitted in accordance with paragraph (2) of this section 7.03. The taxpayer or the field office must identify the title and date of publication, including updates, of any widely available and generally accepted publication used as a source for the relevant parts of the foreign law. The taxpayer and the field office must inform the Associate office of the implications of any authority believed to interpret the foreign law, such as pending legislation, treaties, court decisions, notices, and administrative decisions.

(1) If the interpretation of a foreign law or foreign document is a material component of the request for technical advice, the Associate office, at its discretion, may refuse to provide a TAM. The interpretation of a foreign law or foreign document means making a judgment about the import or effect of the foreign law or document that goes beyond its plain meaning. This section applies whether or not the field office and the taxpayer dispute the interpretation of a foreign law or foreign document.

(2) If applicable, a request for technical advice must include an accurate and complete certified English translation of the relevant parts of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the request that are in a language other than English. If the taxpayer or the field office chooses to submit certified English translations of foreign laws, those translations must be based on an official publication of the foreign government or another widely available and generally accepted publication. In either case, the translation must be that of a qualified translator and must be attested to by the translator. The attestation must contain: (i) a statement that the translation submitted is a true and accurate translation of the foreign language document or law; (ii) a statement as to the attestant's qualifications as a translator and as to that attestant's qualifications and knowledge regarding tax matters or foreign law if the law is not a tax law; and (iii) the attestant's name and address.

Statement regarding interpretation of relevant income tax or estate tax treaty

.04 A request for technical advice involving the interpretation of a substantive provision of a relevant income tax or estate tax treaty must include a written statement addressing whether: (1) the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related taxpayer (within the meaning of § 267 or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504 (related taxpayer)), or any predecessor; (2) the same or similar issue for the taxpayer, a related taxpayer, or any predecessor, is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and (3) the same or similar issue for the taxpayer, a related taxpayer, or any predecessor, is being considered by the competent authority of the treaty jurisdiction.

Statement recommending information to be deleted from public inspection

.05 Except as provided below, every request for technical advice must separately include a statement of proposed deletions from public inspection (deletion statement). The text of TAMs and background file documents are open to public inspection under § 6110(a). The Service deletes certain information from the text before it is made available to the public to protect the privacy of taxpayers. To help the Service make the necessary deletions, the taxpayer must provide a deletion statement indicating the deletions desired. A taxpayer who wants only names, addresses, and identifying numbers deleted should state this in the deletion statement. A taxpayer who wants more information deleted must provide a copy of the TAM request and supporting documents on which the taxpayer has placed brackets around the material to be deleted plus a deletion statement indicating the statutory basis under § 6110(c) for each proposed deletion. The deletion statement is not to be included in the memorandum described in section 7.01 of this revenue procedure. Instead, the deletion statement is to be made in a separate document that is signed and dated by the taxpayer, or the taxpayer's authorized representative in accordance with the requirements in section 7.01(13) of Rev. Proc. 2026-1. If the deletion statement is not submitted, the taxpayer will be notified and advised by the field office that the deletion statement is required and that failure to provide a deletion statement will be interpreted by the field office, field counsel, and Associate office to mean that the taxpayer only wants names, addresses, and identifying numbers deleted. If the deletion statement is not received within 10 calendar days after the notification, the field office will notify the Associate office that the taxpayer has not provided a deletion statement and will advise the Associate office of any information, in addition to names, addresses, and identifying numbers, that should be deleted pursuant to § 6110(c). The taxpayer should follow this same process to propose deletions from any additional information submitted after the initial request for a TAM. An additional deletion statement is not required with each submission of additional information if the taxpayer's initial deletion statement requests that only names, addresses, and identifying numbers are to be deleted and the taxpayer wants only the same information deleted from the additional information. The above deletion statement requirements do not apply to the extent that the TAM is open to public inspection under § 6104. Section 6104(a)(1)(A) generally provides that if an organization described in § 501(c) or § 501(d) is exempt from taxation under § 501(a) or a political organization is exempt from taxation under § 527, the application for exemption under § 501(a) that the organization filed or the notice of status filed by a political organization pursuant to § 527(i) is open for public inspection as prescribed by regulations. Generally, § 6104(a)(1)(B) provides that: (1) an application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under § 401(a) or § 403(a) or an individual retirement arrangement under § 408(a) or § 408(b) will be open to public inspection pursuant to regulations, as will (2) any application filed for an exemption from tax under § 501(a) of an organization forming part of a plan or account described above, (3) any papers submitted in support of an application referred to in (1) or (2) above, and (4) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in (1) or the exemption from tax referred to in (2).

Preparation of the memorandum; resolution of disagreements

.06 The field office prepares the memorandum described in section 7.01 of this revenue procedure with the assistance of field counsel and sends it to the taxpayer by mail, fax transmission, or electronic facsimile. The taxpayer then will have 10 calendar days from the date of mailing or fax to respond by providing a written statement specifying any disagreement on the facts and issues. This written statement may be submitted by mail, fax, electronic facsimile, or encrypted email attachment by following the procedures described in section 7.04(3) of Rev. Proc. 2026-1.

There are more risks associated with email than with electronic facsimile, such as the possibility that sensitive taxpayer information could be intercepted. Accordingly, the Service encourages taxpayers to use a secure electronic facsimile service instead of email for electronically transmitting a written statement. The field office representative can provide a fax number to which the statement can be sent.

A taxpayer who needs more than 10 calendar days must submit a written request for an extension of time, subject to the approval of the field office. The field office will make a determination on the request for extension as soon as reasonably possible. The request for extension will be considered denied unless the field office informs the taxpayer otherwise. The decision of the field office on whether to approve an extension, and the length of any extension granted, is final and may not be appealed.

After the taxpayer's response is received by the field office, the parties will have 10 calendar days to resolve remaining disagreements. If all disagreements about the statement of facts and issues are resolved, then the field office will prepare a single statement of those agreed facts and issues.

If disagreements continue, both the taxpayer's set of facts and issues and the field's set of facts and issues will be forwarded to the Associate office. The field office, with the assistance of field counsel, will prepare a memorandum for the Associate office highlighting the material factual differences, and provide a copy to the taxpayer for review. The taxpayer may respond in writing to the memorandum highlighting material factual differences. The field office may revise the memorandum described in section 7.01 of this revenue procedure in response to the taxpayer's comments. This memorandum highlighting material factual differences will be forwarded with the initial request for technical advice.

The taxpayer's statement of facts and issues must be accompanied by the following declaration: "Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for technical advice, and such facts are true, correct, and complete." This declaration must be signed in accordance with the requirements in section 7.01(16)(b) of Rev. Proc. 2026-1. The field office must submit this declaration with the initial request for technical advice. If no agreement regarding the facts is reached, the Associate office may rely on the facts presented by the field office.

The field office will offer the taxpayer an opportunity to participate in the development of the request for technical advice. If the taxpayer participates in the process, the field office will continue to offer the taxpayer the opportunity to participate. If the taxpayer does not participate in a material stage of the process after being offered an opportunity, the Associate office will nonetheless process the request, and the taxpayer will have waived the right to participate in the development and issuance of the TAM, including the right to the taxpayer conference described in section 9. A taxpayer's failure to participate in the development of the memorandum described in section 7.01 of this revenue procedure will be considered a failure to participate in a material stage of the TAM process.

Under no circumstances will a taxpayer be treated as having waived its right to see the issued TAM or having waived its rights regarding disclosure and deletions described in section 10.

Transmittal Form 4463, Request for Technical Advice

.07 The field counsel with whom the TAM request was coordinated must use Form 4463, *Request for Technical Advice Memorandum*, for submitting a request for a TAM through TSS4510 to the Associate office. While the field office is responsible for preparing Form 4463, field counsel

must submit the Form 4463 for a TAM request to the TSS Assignments email address. To the extent feasible, the accompanying documents should also be submitted to the TSS Assignments email address, followed by hard copies upon the request of the assigned Associate office.

All supporting and additional documents

.08 Field counsel should send additional or supporting documents that are not available in electronic form by fax to Technical Services Support Branch at 855-592-8976 or by express mail or private delivery service to the following address to avoid any delays in regular mail:

Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Avenue, NW
Washington, DC 20224

Whenever possible, all documents should contain the case number and name of the Associate office attorney assigned to the pre-submission conference for the TAM request.

The field office must indicate on the Form 4463 the proper mailing address of the Director to whom the Associate office should mail a copy of its reply to the TAM request under section 10.05 of this revenue procedure.

Number of copies of request to be submitted

.09 The field office must submit one paper copy of the request for a TAM to the address in section 7.08 of this revenue procedure. If the TAM relates to a TS or TE/GE taxpayer, the field office must send one paper copy to the Division Counsel of the operating division that has jurisdiction over the taxpayer's tax return. If the TAM relates to a SB/SE or LB&I taxpayer, the field office must send an electronic copy of the request to the L&A Division Counsel office using the "*CC L&A HQ" email address." If the request is from an Appeals office, the field office must advise Appeals Policy Planning Quality & Analysis that a request has been submitted. The field office will send a copy of the TAM request to *AP TAM Coordinator by encrypted e-mail.

SECTION 8. INITIAL PROCESSING OF THE REQUEST FOR TECHNICAL ADVICE BY THE ASSOCIATE OFFICE

Assignment and initial review by Associate office attorney

.01 After a request for technical advice has been received by the appropriate Associate office, it will be assigned to an Associate office attorney and reviewer. The Associate office attorney determines whether the request meets all procedural requirements of sections 4, 5, 6, and 7 of this revenue procedure and whether it raises issues that may be appropriately addressed in a TAM. Unless otherwise indicated, all references in this section to the Associate office or Associate office attorney are to the Associate office and attorney with primary responsibility for the TAM request.

Other forms of guidance

.02 If the assigned reviewer in the Associate office determines that guidance other than a TAM should be provided, the reviewer will immediately notify the Associate Chief Counsel. This other form of guidance may be published guidance, generic advice, or case-specific advice. Although the reviewer should make this determination as soon as possible, it may be made at any time during the processing of the request for technical advice. To make this determination, the reviewer should consider whether the issue has a broad application to similarly situated taxpayers or a practice area and whether resolution of the issue is important to a clear understanding of the tax laws. The Associate Chief Counsel, after consultation with Division Counsel Headquarters and the Operating Division, will decide whether to provide the TAM or issue guidance in another

form. The Associate Chief Counsel may decide to provide the TAM as well as another type of guidance, if doing so would promote sound tax administration.

Initial acknowledgment and processing

.03 Upon receipt of a request for technical advice, the Associate office attorney who is assigned as the primary attorney on the request should immediately contact the field office. The purpose of this contact is only to acknowledge receipt of the request.

Deficiencies in request leading to return

.04 Within 7 calendar days after assignment, the Associate office attorney will contact the field office and field counsel to discuss any deficiencies in the request and will work with the field office and field counsel to correct them.

If only minor procedural deficiencies exist, the Associate office attorney will request the additional information without returning the case. If the deficiencies cannot be corrected over the next 7 calendar days, the request will be closed and returned to the field office. The request may be resubmitted when the deficiencies are corrected. If substantial additional information is required to resolve an issue or if major procedural problems cannot be resolved, the Associate office attorney will inform the field office and field counsel that the request for technical advice will be returned. If a request is returned, the field office should promptly notify the taxpayer of that decision and the reasons for the decision.

Initial discussion

.05 Within 21 calendar days of receipt, the Associate office attorney should contact the field office to discuss any procedural and substantive issues in the request. The Associate office attorney should also inform the field office about any matters referred to another Associate office for assistance and provide points of contact.

If additional information requested

.06 If additional information is needed, the Associate office attorney will obtain that information from the taxpayer, the field office, or the Director in the most expeditious manner possible. Any additional information requested from the taxpayer by the Associate office must be submitted within 10 calendar days after the request for information is received and must be accompanied by a penalties of perjury statement that conforms with the penalties of perjury statement set forth in section 7.06 of this revenue procedure. The additional information may be submitted by mail, fax, electronic facsimile, or encrypted email attachment by following the procedures described in section 7.04(3) of Rev. Proc. 2026-1. A taxpayer's failure to submit the additional information requested is considered a failure to participate in a material stage of the TAM process and results in a waiver of the right to the taxpayer conference discussed in section 9.

To facilitate prompt action, the Associate office and taxpayers are encouraged to exchange information by fax, electronic facsimile, or express mail service whenever feasible. There are more risks associated with email than with electronic facsimile, such as the possibility that sensitive taxpayer information could be intercepted. Accordingly, the Service encourages taxpayers to use a secure electronic facsimile service for transmitting additional information. The Associate office representative who requests additional information can provide a fax number to which the information can be sent. The Associate office attorney will take certain precautions to protect confidential information. For example, the Associate office attorney will use a cover sheet that identifies the intended recipient of the fax and the number of pages transmitted, that does not identify the taxpayer by name or tax identifying number and that contains a statement prohibiting unauthorized disclosure of the document if a recipient of the faxed document is not the intended recipient of the fax. The cover sheet will be faxed in an order in which it is the first page covering the faxed document.

Taxpayer request for extension of time to submit additional information

.07 A taxpayer's request for an extension of time to submit additional information must be made in writing and received by the Associate office within the 10-day period. It must provide

compelling facts and circumstances to justify an extension. Only an Associate Chief Counsel may determine whether to grant or deny the request for an extension. Except in rare and unusual circumstances, the Associate office will not agree to an extension of more than 10 calendar days beyond the end of the 10-day period. There is no right to appeal the denial of a request for an extension.

Where to send additional information

.08 Any additional information submitted by the taxpayer should be sent to the attention of the assigned Associate office attorney. Generally, only the original of the additional information is necessary. In appropriate cases, however, the Associate office may request additional copies of the information. In all cases, the taxpayer must also send a copy of the additional information to the field office and field counsel for comment.

Any comments by the field office or field counsel must be furnished within an agreed time period to the Associate office with primary responsibility for the TAM request. If there are no comments, the Associate office attorney should be notified promptly.

Tentative conclusions

.09 The Associate office attorney will inform the field office and field counsel when all necessary substantive and procedural information has been received. If possible, the Associate office attorney will provide a tentative conclusion. If no tentative conclusion can be reached, the Associate office attorney is encouraged to discuss the underlying complexities with the field office and field counsel. Because the Associate office attorney's tentative conclusion may change during the preparation and review of the TAM, the tentative conclusion is not considered final. If the tentative conclusion is changed, the Associate office attorney will inform the field office and field counsel. Neither the Associate office, nor the field office or the field counsel, should discuss the tentative conclusion and its underlying rationale with the taxpayer or the taxpayer's representative until the Associate office is ready to provide a TAM that agrees with the taxpayer’s position or is ready to hold an adverse conference. To afford taxpayers an appropriate opportunity to prepare and present their position at a taxpayer conference, however, the taxpayer or the taxpayer's representative is to be told (by the Associate office attorney) the tentative conclusion when scheduling the taxpayer conference. Field counsel should be notified of, and given the opportunity to participate in, the notification to the taxpayer of the tentative conclusions and scheduling of the taxpayer conference.

SECTION 9. TAXPAYER CONFERENCES

Notification of conference

.01 If the Associate office proposes to provide a TAM that will be adverse to the taxpayer, and if the taxpayer has not waived its right to a taxpayer conference, the taxpayer will be informed of the time and place of the conference.

Scheduling conference

.02 The taxpayer conference for a TAM must occur within 10 calendar days after the taxpayer is informed that an adverse TAM is proposed. The Associate office will notify the field office and field counsel of the scheduled taxpayer conference and will offer the field office and field counsel the opportunity to participate in the conference.

Taxpayer may request extensions

.03 Only an Associate Chief Counsel may approve an extension of the 10-day period for holding a conference. Although extensions are granted in appropriate circumstances at the discretion of the Associate Chief Counsel, taxpayers should not expect extensions to be routinely granted. The taxpayer must submit a request for an extension in writing to the Associate office, and must immediately notify the field office and field counsel of the request. The request must contain a detailed justification for the extension and must be submitted sufficiently before the end of the 10-day period to allow the Associate Chief Counsel to consider, and either approve or deny, the request before the end of the 10-day period. If unusual circumstances near the end of the 10-day period make a timely written request impracticable, the taxpayer may orally inform the assigned

Associate office attorney or reviewer before the end of the 10-day period about the need for an extension and then promptly submit the written request. The Associate office attorney will inform the taxpayer by telephone of the approval or denial of a requested extension. There is no right to appeal the denial of a request for extension.

One conference of right

.04 In general, a taxpayer who has not waived the right to a taxpayer conference is entitled by right to only one conference with the Associate office. The conference is normally held at the branch level. A person who has authority to sign the transmittal memorandum in his or her own name, or on behalf of the branch chief, will participate. When more than one branch of an Associate office has taken an adverse position on issues in the request or when the position ultimately adopted by one branch will affect another branch's determination, a representative from each branch with authority to sign in his or her own name, or for the branch chief, will participate in the conference. The conference is the taxpayer conference for each subject discussed.

Additional conferences may be offered

.05 After the taxpayer conference, the Service will offer the taxpayer an additional conference only if an adverse holding is proposed on a new issue or on the same issue but on grounds different from those discussed at the first conference. If a tentative position is changed at a higher level with a result less favorable to the taxpayer, the taxpayer has no right to another conference if the grounds or arguments on which the change is based were discussed at the taxpayer conference. The limitation on the number of conferences to which a taxpayer is entitled does not prevent the Associate office from inviting a taxpayer to participate in additional conferences if that office determines that additional conferences would be useful. These additional conferences are not to be offered routinely following an adverse decision.

Additional information submitted after the conference

.06 In order to ensure that the taxpayer conference is productive, the taxpayer should make a reasonable effort to supply all information, documents, and arguments in writing well before the conference.

Sometimes, however, it becomes apparent that new information may be helpful in resolving issues discussed at the conference. If the Associate office and the taxpayer agree that such information would be helpful, all such materials must be submitted and received within 10 calendar days after the conference. Any extension of the 10-day period must be requested by the taxpayer in writing and must be approved by the branch chief of the Associate office attorney. Extensions will not be routinely granted. Taxpayers have no right to submit additional materials after the conference, and they are discouraged from providing additional copies or versions of materials already submitted. If the additional information is not received from the taxpayer within 10 calendar days plus any extensions granted by the branch chief, the TAM will be issued on the basis of the existing record.

The taxpayer must also send a copy of the additional information to the field office and field counsel for comment. If the additional information has a significant impact on the facts in the request, the Associate office will ask the field office and field counsel for comments, both of which will respond within the agreed upon period of time. If there are no comments, the Associate office attorney will be promptly notified.

Normally conducted in person

.07 Conferences under this section are generally conducted in person but may be conducted by telephone.

Service makes only tentative recommendations

.08 At the end of the taxpayer conference, no commitment will be made about the conclusion that the Service will finally adopt for any issue, including the outcome of a request for relief under § 7805(b).

Conference may not be taped

.09 No tape, stenographic, or other verbatim recording of a taxpayer conference may be made by any party.

SECTION 10. PREPARATION OF THE TECHNICAL ADVICE

Reply consists of two parts

.01 The Associate office attorney prepares replies to requests for technical advice in two parts. Each part identifies the taxpayer by name, address, identification number, and tax period(s) involved. The first part of the reply is a transmittal memorandum (Form M-6000). The second part is the TAM, which contains:(1) a statement of the issues; (2) the conclusions of the Associate office; (3) a statement of the facts pertinent to the issues; (4) a statement of the relevant legal authority, including legislation, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements; and (5) a discussion of the rationale supporting the conclusions reached by the Associate office. The conclusions give direct answers, whenever possible, to the specific issues raised by the field office. The Associate office is not bound by the issues as submitted by the taxpayer or by the field office and may reframe the issues to be answered in a TAM after consultation with the field office and field counsel. The discussion of the issues in a TAM will be in sufficient detail so that the field or Appeals officials will understand the reasoning underlying the conclusion.

Status of a request

.02 The taxpayer or the taxpayer's authorized representative may obtain information on the status of the request by contacting the field office that requested the advice. The Associate office attorney or reviewer assigned to the TAM request will give frequent status updates to the field office and field counsel.

Opportunity for field counsel review

.03 The Associate office attorney will inform field counsel regarding the Associate office's final conclusions before a draft of the TAM is sent to the field office. Field counsel will be offered a reasonable opportunity to review and informally discuss these conclusions with the Associate office before the final TAM is sent to the field office.

Copy of preliminary TAM to field office and field counsel

.04 After field counsel is given a reasonable opportunity to review the Associate office’s final conclusions, the Associate office attorney will provide a draft of the proposed final version of the TAM to the field office and field counsel. If the field office or field counsel disagrees with the proposed final conclusions, normal reconciliation and reconsideration procedures will be followed to resolve the disagreement.

Routing of reply

.05 A TAM is generally addressed to the field office that requested it. In the case of issues arising within the jurisdiction of the Director, Government Entities; the Director, Employee Plans or Exempt Organizations Examinations; or the Director, Employee Plans or Exempt Organizations Rulings & Agreements, the TAM is addressed to the appropriate Director with a copy sent to the field office and the field counsel attorney. A copy of a TAM requested by LB&I should be mailed simultaneously to the appropriate Practice Area Director. A copy of a TAM requested by Appeals should be addressed to the appropriate field office, and an electronic copy sent by encrypted e-mail to *AP TAM Coordinator.

Copy of final TAM to field counsel and Division Counsel

.06 The Associate office will provide a copy of the final TAM to the individual field counsel attorney who assisted the field office in submitting the request and to that attorney’s Associate Area Counsel or other manager, as appropriate. The Associate office also will provide a copy of the final TAM to the Division Counsel for the operating division from which the request originated or that has jurisdiction over the particular matter in the TAM. The TAM may be transmitted electronically if it is in .pdf format, or may be sent by mail or fax transmission.

Reconsideration

.07 Requests for reconsideration may be submitted by the field office, or in the case of bonds under the jurisdiction of the Director, Government Entities, by that Director after the Associate office has provided a final copy of the TAM to field counsel and Division Counsel. Requests for reconsideration should be submitted before the field provides a copy of the TAM to the taxpayer and must describe with specificity the errors in the analysis and conclusions. Requests should focus on points that the TAM overlooked or misconstrued rather than simply re-argue points raised in the initial request. The Associate office will give priority consideration to the request and should act on the request as expeditiously as possible. The Associate office may request further submissions from the field office and field counsel or the taxpayer, but the parties should otherwise make no additional submissions. If a request for reconsideration fails to follow the procedures set forth in this section of this revenue procedure, or the request fails to raise issues or arguments different from those asserted in the initial request for technical advice, the Associate office may return the request for reconsideration without ruling on the request for reconsideration.

Discussing contents with the taxpayer

.08 The Associate office will not discuss the specific contents of the TAM with the taxpayer until after the field office has provided a copy of the TAM to the taxpayer.

Section 6110

.09 Before the TAM is issued, the Associate office will inform the taxpayer in writing of the material likely to appear in the TAM that the taxpayer proposed for deletion but that the Associate office has determined should not be deleted. If so informed, the taxpayer may submit within 10 calendar days any further information or arguments supporting the taxpayer's proposed deletions. The Associate office will attempt to resolve all disagreements about proposed deletions before the TAM is issued. The taxpayer does not have the right to a conference to resolve any disagreements about material to be deleted from the text of the TAM. For TAMs subject to § 6110, accompanying the TAM is a notice under § 6110(f)(1) of intention to disclose a TAM, including a copy of the version proposed to be open to public inspection and notations of third-party communications under § 6110(d). If the transmittal memorandum associated with the TAM provides information not in the TAM, or if the case is returned for further development without issuance of the TAM, the transmittal memorandum may be Chief Counsel Advice, as defined in § 6110(i)(1), subject to public inspection under § 6110. These procedures do not apply to TAMs to the extent that § 6104 applies. *See* section 7.05 of this revenue procedure and § 6110(l)(1).

TAM takes effect when taxpayer receives a copy

.10 After a TAM is sent to the field office (or, for Tax Exempt Bonds, Employee Plans, and Exempt Organizations, to the Program Manager or Director, as applicable), the field office or Director adopts and issues the TAM within the meaning of Treas. Reg. § 301.6110-2(h). Then the field office or Director provides the taxpayer a copy of the TAM, the notice of intention to disclose under § 6110(f)(1), as applicable, and a copy of the version proposed to be open to public inspection, which includes notations of third party communications under § 6110(d), as applicable. If a request for technical advice pertains to more than one taxpayer, and the requirements of section 7.02 of this revenue procedure have been met, the field office or Director will provide each taxpayer with a copy of the TAM and will notify the Associate office when this occurs. The requirement to provide a taxpayer a copy of the TAM does not apply to a TAM involving civil fraud or a criminal investigation, or to a TAM involving a jeopardy or termination assessment. *See* section 10.12 of this revenue procedure.

Taxpayer may protest deletions not made

.11 Generally, the Associate office considers only the deletion of material that the taxpayer has proposed for deletion or other deletions as required under § 6110(c) before the TAM is sent to the field office or Director. After receiving the notice of intention to disclose under § 6110(f)(1), the taxpayer may protest the disclosure of certain information in it by submitting a written statement in accordance with the notice of intention to disclose under § 6110(f)(1) (Notice 438, *Notice of Intention to Disclose*).

Public inspection in civil fraud or criminal investigation cases

.12 The provisions of this revenue procedure about referring issues upon the taxpayer's request, telling the taxpayer about the referral of issues, giving the taxpayer a copy of the arguments

submitted, submitting proposed deletions, granting conferences in the Associate office, or providing a copy of the TAM to the taxpayer do not apply to a TAM described in § 6110(g)(5)(A), which involves any matter that is the subject of a civil fraud or criminal investigation, or that involves a jeopardy or termination assessment. In these cases, after all proceedings in the investigations or assessments are complete, the taxpayer receives a copy of the TAM with the notice of intention to disclose under § 6110(f)(1). The taxpayer may protest the disclosure of certain information in the TAM by submitting a written statement in accordance with the Notice of Intention to Disclose (Notice 438).

SECTION 11. WITHDRAWAL OF REQUESTS FOR TECHNICAL ADVICE

Taxpayer notified

.01 Once a request for a TAM has been sent to the Associate office, only a Director may withdraw the request, and this must be done before the responding transmittal memorandum for the TAM is signed. To withdraw the request, the Director must first notify the taxpayer of the intent to withdraw unless: (1) the period of limitation on assessment is about to expire and the taxpayer has declined to give written consent to extend the period; or (2) the notification would be prejudicial to the best interests of the Government. If the taxpayer does not agree that the request should be withdrawn and wishes to request review of the decision, the procedures for review in section 5.04 of this revenue procedure must be followed.

Acknowledgment of withdrawal

.02 Acknowledgment of the withdrawal of a request submitted by a Director should be sent to the appropriate Director, with a copy to the TAM coordinator. For a withdrawal of a request submitted by Appeals, send an electronic copy by encrypted e-mail to *AP TAM Coordinator.

Associate office may decide not to provide a TAM

.03 If the Associate office determines that a TAM will not be provided, it may return the request for technical advice unanswered. This determination must be made on the basis of sound tax administration and must be approved by the Associate Chief Counsel. The decision not to provide a TAM should be an infrequent occurrence and be made only after consultation with field counsel and the requesting field office. If field counsel disagrees with this determination, they may request reconsideration through existing reconciliation procedures.

Associate office may provide views

.04 If a request for technical advice is withdrawn or an Associate office decides not to provide a TAM, the Associate office may address the substantive issues through other published guidance. The Associate office may also address the substantive issues through legal advice, either generic or case-specific. The decision to address the issues through these other forms of guidance will be based on the general standards for issuing those types of guidance.

SECTION 12. USE OF THE TECHNICAL ADVICE

Service generally applies advice in processing the taxpayer's case

.01 After a TAM is issued, the field office must process the taxpayer's case based on the conclusions in the TAM. In the case of a TAM unfavorable to the taxpayer, the Appeals Area Director may decide to settle the issue under existing settlement authority. Appeals, however, will not settle an issue contrary to a TAM if it concerns: (i) an organization's exempt status or private foundation classification, (ii) an employee plan's status or qualification, or (iii) a determination involving an obligation and the issuer of an obligation under IRC § 103. These exceptions to Appeals' authority are applicable only if the TAM is issued by an Office of Associate Chief Counsel before an appeal is requested. Appeals may submit a proposed disposition contrary to a TAM as a request for a new TAM. If a TAM provides conclusions involving a § 103 obligation and the issuer of this obligation, the field office must apply the conclusions to the issuer and any

holder of the obligation, unless a field office separately initiates a request for a TAM on behalf of the holder for the same issue addressed in the TAM involving the issuer, and the Associate office issues a TAM involving that issue and that holder.

SECTION 13. RETROACTIVITY AND RELIANCE

Usually applies retroactively

.01 The holdings in a TAM are applied retroactively, whether they are initial holdings or they are later holdings that modify or revoke holdings in a prior TAM. The Associate Chief Counsel with jurisdiction over the TAM, however, may exercise the discretionary authority under § 7805(b) to limit the retroactive effect of any holding. This authority is exercised in rare and unusual circumstances.

Revocation or modification of an earlier letter ruling or TAM

.02 A TAM may be used to seek revocation or modification of an earlier TAM or revocation or modification of a private letter ruling (PLR). *See* Rev. Proc. 2026-1, section 11.04 et seq. with respect to revocation or modification of PLRs. Generally, a TAM that revokes or modifies a letter ruling or an earlier TAM will not be applied retroactively if: (1) the applicable law has not changed; (2) the taxpayer directly involved in the letter ruling or earlier TAM relied in good faith on it; and (3) revocation or modification would be detrimental to the taxpayer. The new TAM will be applied retroactively to the taxpayer whose tax liability was directly involved in the letter ruling or TAM if: (1) controlling facts have been misstated or omitted; or (2) the facts at the time of the transaction are materially different from the controlling facts on which the letter ruling or earlier TAM was based. If a letter ruling or a TAM is modified or revoked with retroactive effect, the notice to the taxpayer, except in fraud cases, should set forth the grounds on which the modification or revocation is being made and the reason why the modification or revocation is being applied retroactively.

Continuing action or series of actions

.03 If an issue addressed in the TAM relates to a continuing action or a series of actions, it is generally applied until it is withdrawn or until the conclusion is modified or revoked by a final decision in favor of the taxpayer with respect to that issue, the enactment of legislation, the ratification of a tax treaty, a decision of the United States Supreme Court, or the issuance of temporary regulations, final regulations, a revenue ruling, or other statement published in the Internal Revenue Bulletin. Publication of a notice of proposed rulemaking does not affect the application of a TAM. If a new holding in a TAM is less favorable to the taxpayer than the holding in an earlier TAM, the new holding is generally not applied to the tax period when the taxpayer relied on the earlier holding. It will be applied to that tax period, however, if material facts on which the earlier TAM was based have changed.

Other taxpayers

.04 Under § 6110(k)(3), a taxpayer may not rely on a TAM issued by the Service for another taxpayer. In addition, retroactive or non-retroactive treatment to one member of a practice area directly involved in a letter ruling or TAM does not extend to another member of that same practice area, and retroactive or non-retroactive treatment to one client of a tax practitioner does not extend to another client of that same practitioner. The tax liability of each employee covered by a letter ruling or TAM relating to a pension plan of an employer is directly involved in the letter ruling or TAM.

SECTION 14. HOW MAY RETROACTIVE EFFECT BE LIMITED?

Request for relief under § 7805(b)

.01 A taxpayer with respect to whom a TAM is issued, or for whom a TAM request is pending, may request that the appropriate Associate Chief Counsel limit the retroactive effect of any holding

in the TAM or of any subsequent modification or revocation of the TAM. For a pending request for technical advice, the taxpayer should make the request for relief under § 7805(b) as part of the initial request for advice. The Associate office will consider a request for relief under § 7805(b) made at a later time if the Director determines that there is justification for the delay in the making of the request. The Director's determination that the delayed request for § 7805 is not justified cannot be appealed. Requests for relief under § 7805(b) relating to the revocation or modification of determination letters and letter rulings issued by TE/GE are handled under the procedures in sections 23 and 29 of Rev. Proc. 2026-4, and section 12 of Rev. Proc. 2026-5, this Bulletin.

Form of request for relief – in general

.02 During the course of an examination of a taxpayer's return by the field office or during consideration of the taxpayer's return by the Appeals Area Director, a taxpayer's request to limit retroactivity must be made in the form of a request for a TAM. This includes recommendations by a Director that an earlier letter ruling or TAM be modified or revoked. The request must meet the general requirements of a request for technical advice. It must also: (1) state that it is being made under § 7805(b); (2) state the relief sought; (3) explain the reasons and arguments in support of the relief sought; and (4) include any documents bearing on the request. The taxpayer's request must be submitted to the Director, who should then forward the request to the Associate office for consideration. If a taxpayer submits a request for relief after the initial TAM request, the taxpayer must provide justification for having delayed the request. Requests for relief under § 7805(b) relating to the revocation or modification of determination letters and letter rulings issued by TE/GE are handled under the procedures in sections 23 and 29 of Rev. Proc. 2026-4, and section 12 of Rev. Proc. 2026-5, this Bulletin.

Form of request for relief – continuing transaction before examination of return

.03 A request for relief under § 7805(b) must be made in the form of a request for a letter ruling if: (1) a TAM addressing a continuing transaction is modified or revoked by later published guidance; and (2) the request for relief is submitted before an examination has begun covering the tax period(s) for which relief is sought. The requirements for a letter ruling request are given in Rev. Proc. 2026-1, this Bulletin.

Taxpayer's right to a conference

.04 When a request for a TAM concerns only the application of § 7805(b), the taxpayer has the right to a conference with the Associate office in accordance with the provisions of section 9 of this revenue procedure. If the request for application of § 7805(b) is included in the request for a TAM on the substantive issues or is made before the taxpayer conference on the substantive issues, the § 7805(b) issues will be discussed at the taxpayer's one conference of right. If the request for the application of § 7805(b) is made as part of a pending TAM request after a taxpayer conference has been held on the substantive issues and the Director determines that there is justification for having delayed the request, then the taxpayer will have the right to a taxpayer conference concerning the application of § 7805(b), with the conference limited to discussion of this issue only.

Reconsideration of request for relief under § 7805(b)

.05 When a TAM grants a taxpayer relief under § 7805(b), the Director may not request reconsideration of the § 7805(b) issue unless the Director determines there has been a misstatement or omission of controlling facts by the taxpayer in its request for § 7805(b) relief.

SECTION 15. SIGNIFICANT CHANGES MADE TO REV. PROC. 2025-2

SECTION 16. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2025-2 is superseded.

SECTION 17. EFFECTIVE DATE

This revenue procedure is effective MONTH XX, 202X.

DRAFTING INFORMATION

The principal author of this revenue procedure is Bethanie Ramsey of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue procedure for matters under the jurisdiction of:

(1) the Associate Chief Counsel (Corporate), contact Jonathan Blake at (202) 317-3181 (not a toll-free call);

(2) the Associate Chief Counsel (Energy, Credits, and Excise Tax), contact Danielle Grimm at (202) 317-5117 (not a toll-free call);

(3) the Associate Chief Counsel (Financial Institutions and Products), contact K. Scott Brown at (202) 317-4423 (not a toll-free call);

(4) the Associate Chief Counsel (Income Tax and Accounting), contact R. Matthew Kelley at (202) 317-7002 (not a toll-free call);

(5) the Associate Chief Counsel (Passthroughs, Trusts, and Estates), contact Bradford Poston at (202) 317-4137 (not a toll-free call);

(6) the Associate Chief Counsel (Procedure and Administration), contact Stephanie Chernoff at (202) 317-3400 (not a toll-free call);

(7) the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), contact Randall Thomas at (202) 317-6000 (not a toll-free call);

(8) the Associate Chief Counsel (International), contact Shane McCarrick at (202) 317-3800 (not a toll-free call);

(9) the Commissioner (Large Business & International Division), contact Shirley S. Lee at (202) 317-3152 (not a toll-free call);

(10) the Commissioner (Small Business/Self-Employed Division), contact Charles Hall at (240) 613-6353 (not a toll-free call);

(11) the Commissioner (Wage and Investment Division), contact Andrea Cannon at (470) 639-3299 (not a toll-free call); or

(12) the Office of Appeals, contact Mark K. Wesner at (602) 636-9571 (not a toll-free call).

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SECTION 1. PURPOSE AND NATURE OF CHANGES

.01 Purpose.

The purpose of this revenue procedure is to update Rev. Proc. 2025-3, 2025-1 I.R.B. 142, by providing a revised list of those areas of the Internal Revenue Code (the "Code") under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (Passthroughs, Trusts, and Estates), the Associate Chief Counsel (Energy, Credits, and Excise Tax), the Associate Chief Counsel (Procedure and Administration), and the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) ("EEE") relating to issues on which the Internal Revenue Service (the "Service") will not issue letter rulings or determination letters. For a list of areas under the jurisdiction of the Associate Chief Counsel (International) relating to international issues on which the Service will not issue letter rulings or determination letters, see Rev. Proc. 2025-7, 2025-1 I.R.B. 301. For a list of areas under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division relating to issues, exempt organizations, plans, or plan amendments on which the Service will and will not issue letter rulings or determination letters, see Rev. Proc. 2026-4 and Rev. Proc. 2026-5, this Bulletin.

.02 Changes.

1) Section 3.01(1), regarding rulings under § 30C, has been added.
2) Section 3.01(9), regarding rulings under § 45V, has been added.
3) Section 3.01(10), regarding rulings under § 45Y, has been added.
4) Section 3.01(13), regarding rulings under § 48D, has been added.
5) Section 3.01(14), regarding rulings under § 48E, has been added.
6) Section 3.01(74), regarding rulings under § 420, has been added.
7) Section 3.01(120), regarding rulings under §§ 3102, 3121, 3306, 3401, and 3402, has been added.
8) Section 3.01(124), regarding rulings under §§ 3121 and 3401, has been modified.
9) Section 4.01(37), regarding rulings under §§ 661 and 662, has been added.
10) Section 4.01(42), regarding rulings under § 671, has been added.
11) Section 4.01(55), regarding rulings under § 2501, has been added.
12) Section 4.01(61), regarding rulings under §§ 2601 and 2663, has been added.
13) Section 4.02(12), regarding rulings for tax-qualified plan requirements under §§ 401 through 420 and § 4975(e)(7), has been modified.
14) Old sections 5.01(5), (14), and (17) have been removed.
15) Section 5.02 has been modified.

SECTION 2. BACKGROUND, SCOPE OF APPLICATION, AND NO-RULE ISSUES PART OF INTEGRATED TRANSACTION

.01 Background.

Whenever appropriate in the interest of sound tax administration, it is the policy of the Service to answer inquiries of individuals and organizations regarding their status for tax purposes and the tax effects of their acts or transactions, prior to the filing of returns or reports that are required by the revenue laws. In employee plans matters described in section 5.15 of Rev.

Proc. 2026-1, this Bulletin, the Associate Chief Counsel (EEE) may issue letter rulings after the filing of returns or reports that are required by the revenue laws.

There are, however, certain areas in which the Service will not issue rulings or determination letters. These areas are set forth in sections 3, 4, 5, and 6 of this revenue procedure.

Section 3 sets forth those areas in which rulings or determination letters will not be issued. Section 4 sets forth those areas in which rulings or determination letters will not ordinarily be issued. Whenever used in this revenue procedure, "not ordinarily" means that unique and compelling reasons must be demonstrated to justify the issuance of a ruling or determination letter. Taxpayers contemplating a request for a ruling in any of the areas set forth in section 4 are encouraged to request a pre-submission conference to consider whether unique and compelling reasons exist. See section 10.07 of Rev. Proc. 2026-1, this Bulletin. Section 5 sets forth those areas in which the Service is temporarily not issuing rulings or determination letters because those matters are under study. Section 6 sets forth areas in which the Service has provided automatic approval procedures in lieu of issuing rulings or determination letters. The Service will not ordinarily issue rulings for these matters when a taxpayer does not qualify for automatic approval.

See Rev. Proc. 2026-1, this Bulletin, particularly section 6, for general instructions and other situations in which the Service will not or ordinarily will not issue letter rulings or determination letters.

With respect to the items listed, revenue rulings or revenue procedures may be published in the Internal Revenue Bulletin from time to time to provide general guidelines regarding the position of the Service.

Additions or deletions to this revenue procedure as well as restatements of items listed will be made by modification of this revenue procedure. Changes will be published as they occur throughout the year and will be incorporated annually in a new revenue procedure published as the third revenue procedure of the year. These lists should not be considered all-inclusive because the Service may decline to issue a letter ruling or a determination letter when appropriate in the interest of sound tax administration (including due to resource constraints) or on other grounds whenever warranted by the facts or circumstances of a particular case. Decisions not to rule on individual cases (as contrasted with those that present significant pattern issues) are not reported in this revenue procedure and will not be added to subsequent revisions.

If the Service determines that it is not in the interest of sound tax administration to issue a letter ruling or determination letter due to resource constraints, it will adopt a consistent approach with respect to taxpayers that request a ruling on the same issue. The Service also will consider adding the issue to the no-rule list at the first opportunity. See section 6.02 of Rev. Proc. 2026-1, this Bulletin.

.02 Scope of Application.

This revenue procedure does not preclude the submission of requests for technical advice to the National Office from other offices of the Service.

.03 No-Rule Issues Part of Integrated Transaction.

If it is impossible for the Service to determine the tax consequences of an integrated transaction without knowing the resolution of an issue on which the Service will not issue rulings or determination letters under this revenue procedure involving a part of the transaction or a related transaction, the taxpayer must state in the request to the best of the taxpayer's knowledge and belief the tax consequences of the no-rule issue. The Service's ruling or determination letter will state that the Service did not consider, and no opinion is expressed upon, that issue. In appropriate cases, the Service may decline to issue rulings or determination letters on such integrated transactions due to the relevance of the no-rule issue, despite the taxpayer's representation. See also section 4.02(2) of this revenue procedure.

SECTION 3. AREAS IN WHICH RULINGS OR DETERMINATION LETTERS WILL NOT BE ISSUED

.01 Specific Questions and Problems.

(1) Section 30C.—Alternative Fuel Vehicle Refueling Property Credit.—The application of the beginning of construction requirement under § 30C.

(2) Sections 40, 40A, 40B, 4041, 4081, 4083(a), and 6426.—Alcohol, Etc., Used as Fuel; Biodiesel and Renewable Diesel Used as Fuel; Sustainable Aviation Fuel Credit; Imposition of Tax (§§ 4041 and 4081); Taxable Fuel; Credit for Alcohol Fuel, Biodiesel, and Alternative Fuel Mixtures.—Whether a particular fuel or fuel mixture is subject to excise tax or whether a particular fuel or fuel mixture qualifies for an excise tax credit or payment, or a related income tax credit, under the Code.

(3) Section 42.—Low-Income Housing Credit.—Whether under § 42(j)(4)(E) a casualty loss has been restored by reconstruction or replacement within a reasonable period of time. The Service may issue a determination letter in this case. See section 12 of Rev. Proc. 2026-1, this Bulletin.

(4) Section 45.—Electricity Produced from Certain Renewable Resources, Etc.—The allocation by a partnership of the § 45 credit, the validity of the partnership, or whether any taxpayer is a valid partner in the partnership.

(5) Section 45.—Electricity Produced from Certain Renewable Resources, Etc.—Whether the taxpayer meets the requirements of § 45 or Notice 2010-54, 2010-40 I.R.B. 403, for refined coal.

(6) Section 45.—Electricity Produced from Certain Renewable Resources, Etc.—The application of the beginning of construction requirement under § 45.

(7) Section 45Q.—Credit for Carbon Oxide Sequestration.—The application of the beginning of construction requirement under § 45Q.

(8) Section 45Q.—Credit for Carbon Oxide Sequestration.—The allocation by a partnership of the § 45Q credit, the validity of the partnership, or whether any partner is a valid partner in the partnership.

(9) Section 45V.—Credit for Production of Clean Hydrogen.—The application of the beginning of construction requirement under § 45V.

(10) Section 45Y.—Clean Electricity Production Credit.—The application of the beginning of construction requirement under § 45Y.

(11) Section 47.—Rehabilitation Credit.—The allocation by a partnership of the § 47 rehabilitation credit, the validity of the partnership, or whether any taxpayer is a valid partner in the partnership.

(12) Section 48.—Energy Credit.—The application of the beginning of con-

struction requirement under § 48, including to a qualified investment credit facility for which a taxpayer makes an election under § 48(a)(5) to claim a credit under § 48 in lieu of a credit under § 45.

(13) Section 48D.—Advanced Manufacturing Investment Credit.—The application of the beginning of construction requirement under § 48D.

(14) Section 48E.—Clean Electricity Investment Credit.—The application of the beginning of construction requirement under § 48E.

(15) Section 61.—Gross Income Defined.—Whether an amount is not included in a taxpayer's gross income under § 61 because the taxpayer receives the amount subject to an unconditional obligation to repay the amount.

(16) Section 61.—Gross Income Defined.—Whether amounts voluntarily deferred by a taxpayer under a deferred compensation plan maintained by an organization described in § 501 (other than an eligible plan maintained by an eligible employer pursuant to the provisions of § 457(b)) are currently includible in the taxpayer's gross income.

(17) Section 61.—Gross Income Defined.—Whether a split-dollar life insurance arrangement is "materially modified" within the meaning of § 1.61-22(j)(2) of the Income Tax Regulations. (Also §§ 83, 301, 1401, 2501, 3121, 3231, 3306, 3401, and 7872.)

(18) Sections 61, 111, and 1001.—Gross Income Defined; Recovery of Tax Benefit Items; Determination of Amount of and Recognition of Gain or Loss.—Whether, in connection with a transaction involving the establishment or amendment of a welfare benefit fund (including Voluntary Employees' Beneficiary Associations ("VEBAs")), a transfer of assets between welfare benefit funds (including VEBAs), or a new or different use of assets of a welfare benefit fund (including a VEBA), (i) the employer, plan sponsor, welfare benefit fund (including a VEBA), or covered individuals must include any amount in gross income under § 61 or the tax benefit rule, or (ii) the employer or welfare benefit fund (including a VEBA) have engaged in a sale or exchange of assets under § 1001.

(19) Sections 61, 451, and 1001.—Gross Income Defined; General Rule for Taxable Year of Inclusion; Determination of Amount of and Recognition of Gain or Loss.—Whether, under authorization by an appropriate state agency to recover certain specified costs pursuant to certain state legislation, any public utility realizes income upon: (i) the creation of an intangible property right; (ii) the transfer of that intangible property right; or (iii) the securitization of the intangible property right.

(20) Section 79.—Group-Term Life Insurance Purchased for Employees.—Whether a group insurance plan for 10 or more employees qualifies as group-term insurance, if the amount of insurance is not computed under a formula that would meet the requirements of § 1.79-1(c)(2)(ii) of the Income Tax Regulations had the group consisted of fewer than 10 employees.

(21) Section 83.—Property Transferred in Connection with Performance of Services.—Whether a restriction constitutes a substantial risk of forfeiture if the employee is a controlling shareholder. Also, whether a transfer has occurred, if the amount paid for the property involves a nonrecourse obligation.

(22) Section 83.—Property Transferred in Connection with Performance of Services.—Which corporation is entitled to the deduction under § 83(h) in cases in which a corporation undergoes a corporate division, if the facts are not similar to those described in Rev. Rul. 2002-1, 2002-1 C.B. 268.

(23) Section 101.—Certain Death Benefits.—Whether there has been a transfer for value for purposes of § 101(a) in situations involving a grantor and a trust when (i) substantially all of the trust corpus consists or will consist of insurance policies on the life of the grantor or the grantor's spouse, (ii) the trustee or any other person has a power to apply the trust's income or corpus to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse, (iii) the trustee or any other person has a power to use the trust's assets to make loans to the grantor's estate or to purchase assets from the grantor's estate, and (iv) there is a right or power in any person that would cause the grantor to be treated as the owner of all or a portion of the trust under §§ 673 to 677.

(24) Sections 101, 761, and 7701.—Certain Death Benefits; Terms Defined; Definitions.—Whether, in connection with the transfer of a life insurance policy to an unincorporated organization, (i) the organization will be treated as a partnership under §§ 761 and 7701, or (ii) the transfer of the life insurance policy to the organization will be exempt from the transfer for value rules of § 101, when substantially all of the organization's assets consist or will consist of life insurance policies on the lives of the members.

(25) Section 102.—Gifts and Inheritances.—Whether a transfer is a gift within the meaning of § 102(a).

(26) Section 105(h).—Amount Paid to Highly Compensated Individuals Under a Discriminatory Self-Insured Medical Expense Reimbursement Plan.—Whether a self-insured medical reimbursement plan satisfies the requirements of § 105(h) for a plan year.

(27) Section 107.—Rental Value of Parsonages.—Whether amounts distributed to a retired minister from a pension or annuity plan should be excludible from the minister's gross income as a parsonage allowance under § 107.

(28) Section 107.—Rental Value of Parsonages.—Whether an individual is a "minister of the gospel" for Federal tax purposes. (Also §§ 1402(a)(8), (c)(4), and (e), 3121(b)(8)(A), and 3401(a)(9).)

(29) Section 111.—See section 3.01(18), above.

(30) Section 115.—Income of States, Municipalities, Etc.—Whether the income of membership organizations established by states exclusively to reimburse members for losses arising from workmen's compensation claims is excluded from gross income under § 115.

(31) Section 115.—Income of States, Municipalities, Etc.—Whether some, but not all, income of an entity is from the exercise of an essential government function in order to be excluded from gross income under § 115.

(32) Section 115.—Income of States, Municipalities, Etc.—Whether income accruing to a trust, or other entity, relating to or associated with a qualified retirement plan described in § 401(a) is excluded from gross income under § 115.

(33) Section 117.—Qualified Scholarships.—Whether amounts paid to research fellows and research associates are scholarships or fellowships excluded from wages for FICA tax purposes.

(34) Section 117.—Qualified Scholarships.—Whether an employer-related scholarship or fellowship grant is excludible from the employee's gross income, if there is no intermediary private foundation distributing the grants, as described in Rev. Proc. 76-47, 1976-2 C.B. 670.

(35) Section 118.—Contributions to the Capital of a Corporation.—Whether a transfer of an intertie as defined in section III. B. 2. of Notice 2016-36, 2016-25 I.R.B. 1029, meets all of the requirements under the safe harbor provided by Notice 2016-36.

(36) Section 119.—Meals or Lodging Furnished for the Convenience of the Employer.—Whether the value of meals or lodging is excludible from gross income by an employee who is a controlling shareholder of the employer.

(37) Section 121.—Exclusion of Gain from Sale of Principal Residence.—Whether property qualifies as the taxpayer's principal residence.

(38) Section 125.—Cafeteria Plans.—Whether amounts used to provide group-term life insurance under § 79, accident and health benefits under §§ 105 and 106, and dependent care assistance programs under § 129 are includible in the gross income of participants and considered "wages" for purposes of §§ 3401, 3121, and 3306 when the benefits are offered through a cafeteria plan.

(39) Section 162.—Trade or Business Expenses.—Whether compensation is reasonable in amount.

(40) Section 162.—Trade or Business Expenses.—Whether a taxpayer is engaged in a trade or business. This area does not include a request for a ruling that relies on a representation from a taxpayer that the taxpayer is or is not engaged in a trade or business, or a request for a ruling that relies on factual information provided by the taxpayer evidencing the active conduct of a trade or business (for example, a request that relies on the taxpayer's active conduct of a trade or business as evidenced by financial statements provided by the taxpayer).

(41) Section 163.—Interest.—The income tax consequences of transactions involving "shared appreciation mortgage" ("SAM") loans in which a taxpayer, borrowing money to purchase real property, pays a fixed rate of interest on the mortgage loan below the prevailing market rate and will also pay the lender a percentage of the appreciation in value of the real property upon termination of the mortgage. This applies to all SAM arrangements in which the loan proceeds are used for commercial or business activities, or to finance a personal residence, if the facts are not similar to those described in Rev. Rul. 83-51, 1983-1 C.B. 48. (Also §§ 61, 451, 461, 856, 1001, and 7701.)

(42) Sections 165, 381, and 1502.—Losses; Carryovers in Certain Corporate Acquisitions; Regulations.—In determining whether a loss for worthless securities is subject to § 165(g)(3), (i) whether the source of any gross receipts may be determined by reference to the source of gross receipts of a counterparty to an intercompany transaction, as defined in § 1.1502-13(b)(1) (for example, an intercompany distribution to which § 1.1502-13(f)(2) applies), other than an intercompany transaction to which § 381(a) applies, and (ii) in an intercompany transaction to which § 381(a) applies, whether the acquiring corporation takes into account historic gross receipts of the distributor or transferor corporation, if the intercompany transaction is part of a plan to claim a deduction for worthless securities under § 165(g)(3).

(43) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether a charitable contribution deduction under § 170 is allowed for a transfer of an interest in a limited partnership or a limited liability company taxed as a partnership to an organization described in § 170(c).

(44) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether a taxpayer who advances funds to a charitable organization and receives therefor a promissory note may deduct as contributions, in one taxable year or in each of several years, amounts forgiven by the taxpayer in each of several years by endorsement on the note.

(45) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether an organization is or continues to be described in § 170(b)(1)(A) (other than clause (v)) or § 170(c)(2) - (5), including, for example, whether changes in an organization's activities or operations will affect or jeopardize the organization's status as an organization described in those sections. The Associate Chief Counsel (EEE) will rule, however, on specific legal questions related to §§ 170(b)(1)(A) or 170(c) that are not otherwise described in this revenue procedure. See Rev. Proc. 2026-5, this Bulletin, for the procedures for obtaining determination letters on public charity status under § 170.

(46) Section 181.—Treatment of Certain Qualified Film and Television and Live Theatrical Productions.—The determination under § 1.181-1(a)(1) and (2) as to who is the owner of a qualified film or television production.

(47) Section 199.—Income Attributable to Domestic Production Activities.—The determination under § 1.199-3(f)(1) as to who is the taxpayer that has the benefits and burdens of ownership under Federal income tax principles of any qualifying production property (as defined in § 1.199-3(j)(1)), qualified film (as defined in § 1.199-3(k)), or utilities (as defined in § 1.199-3(l)) during the period in which a qualifying activity under § 199 occurs.

(48) Section 213.—Medical, Dental, Etc., Expenses.—Whether a capital expenditure for an item that is ordinarily used for personal, living, or family purposes, such as a swimming pool, has as its primary purpose the medical care of the taxpayer or the taxpayer's spouse or dependent, or is related directly to such medical care.

(49) Section 216.—Deduction of Taxes, Interest, and Business Depreciation by Cooperative Housing Corporation Tenant-Stockholder.—Whether a unit constitutes an "apartment in a building" under § 216(b)(1)(B).

(50) Section 264.—Certain Amounts Paid in Connection with Insurance Contracts.—Whether § 264(d)(1) applies.

(51) Section 264(c)(1).—Contracts Treated as Single Premium Contracts.—Whether "substantially all" the premiums of a contract of insurance are paid within a period of 4 years from the date on which the contract is purchased. Also, whether an amount deposited is in payment of a "substantial number" of future premiums on such a contract.

(52) Sections 267, 304, 331, 332, 351, and 1502.—Losses, Expenses, and Interest with Respect to Transactions Between Related Taxpayers; Redemption Through Use of Related Corporations; Gain or

Loss to Shareholder in Corporate Liquidations; Complete Liquidations of Subsidiaries; Transfer to Corporation Controlled by Transferor; Regulations.—The treatment of transactions in which stock of a corporation is transferred with a plan or intention that the corporation be liquidated in a transaction intended to qualify under § 331.

(53) Section 269.—Acquisitions Made to Evade or Avoid Income Tax.—Whether an acquisition is within the meaning of § 269.

(54) Section 274.—Disallowance of Certain Entertainment, Etc., Expenses.—Whether a taxpayer who is traveling away from home on business may, in lieu of substantiating the actual cost of meals, deduct a fixed per-day amount for meal expenses that differs from the amount authorized by the revenue procedure providing optional rules for substantiating the amount of travel expenses for the period in which the expense was paid or incurred.

(55) Section 302.—Distributions in Redemption of Stock.—Whether § 302(b) applies when the consideration given in redemption by a corporation consists entirely or partly of its notes payable, and the shareholder's stock is held in escrow or as security for payment of the notes with the possibility that the stock may or will be returned to the shareholder in the future, upon the happening of specific defaults by the corporation.

(56) Section 302.—Distributions in Redemption of Stock.—Whether § 302(b) applies when the consideration given in redemption by a corporation in exchange for a shareholder's stock consists entirely or partly of the corporation's promise to pay an amount based on, or contingent on, future earnings of the corporation, when the promise to pay is contingent on working capital being maintained at a certain level, or any other similar contingency.

(57) Section 302.—Distributions in Redemption of Stock.—Whether § 302(b) applies to a redemption of stock, if, after the redemption, the distributing corporation uses property that is owned by the shareholder from whom the stock is redeemed and the payments by the corporation for the use of the property are dependent upon the corporation's future earnings or are subordinate to the claims of the corporation's general creditors. Payments for the use of property will not be considered to be dependent upon future earnings merely because they are based on a fixed percentage of receipts or sales.

(58) Section 302.—Distributions in Redemption of Stock.—Whether the acquisition or disposition of stock described in § 302(c)(2)(B) has, or does not have, as one of its principal purposes the avoidance of Federal income taxes within the meaning of that section, unless the facts and circumstances are materially identical to those set forth in Rev. Rul. 85-19, 1985-1 C.B. 94; Rev. Rul. 79-67, 1979-1 C.B. 128; Rev. Rul. 77-293, 1977-2 C.B. 91; Rev. Rul. 57-387, 1957-2 C.B. 225; Rev. Rul. 56-584, 1956-2 C.B. 179; or Rev. Rul. 56-556, 1956-2 C.B. 177.

(59) Section 302(b)(4) and (e).—Redemption from Noncorporate Shareholder in Partial Liquidation; Partial Liquidation Defined.—The amount of working capital attributable to a business or portion of a business terminated that may be distributed in partial liquidation.

(60) Section 304.—See section 3.01(52), above.

(61) Section 312.—Effect on Earnings and Profits.—The determination of the amount of earnings and profits of a corporation.

(62) Sections 331, 453, and 1239.—Gain or Loss to Shareholder in Corporate Liquidations; Installment Method; Gain from Sale of Depreciable Property Between Certain Related Taxpayers.—The tax effects of a transaction in which there is a transfer of property by a corporation to a partnership or other noncorporate entity (or the transfer of stock to such entity followed by a liquidation of the corporation) when more than a nominal amount of the stock of such corporation and the capital or beneficial interests in the purchasing entity (that is, more than 20 percent in value) is owned by the same persons, and the consideration to be received by the selling corporation or the selling shareholders includes an installment obligation of the purchasing entity.

(63) Section 331.—See section 3.01(52), above.

(64) Section 332.—See section 3.01(52), above.

(65) Section 351.—See section 3.01(52), above.

(66) Section 355.—Distribution of Stock and Securities of a Controlled Corporation.—Whether the distribution of stock of a controlled corporation will be carried out for one or more corporate business purposes. Notwithstanding the preceding sentence, the Service will rule with respect to an issue pertaining to the corporate business requirement under § 1.355-2(b) provided the issue is a legal issue and is not inherently factual in nature.

(67) Section 358.—Basis to Distributees.—The acceptability of an estimation procedure or the acceptability of a specific sampling procedure to determine the basis of stock acquired by an acquiring corporation in a reorganization described in § 368(a)(1)(B).

(68) Section 381.—See section 3.01(42), above.

(69) Section 403(b).—Taxability of Beneficiary Under Annuity Purchased by Section 501(c)(3) Organization or Public School.—Whether the form of a plan satisfies the requirements of § 403(b) as provided in Rev. Proc. 2026-4, this Bulletin.

(70) Section 409A.—Inclusion in Gross Income of Deferred Compensation Under Nonqualified Deferred Compensation Plans.—The income tax consequences of establishing, operating, or participating in a nonqualified deferred compensation plan within the meaning of § 1.409A-1(a); whether a plan is described in § 1.409A-1(a)(3)(iv) or (v); whether a plan is a *bona fide* vacation leave, sick leave, or compensatory time plan described in § 1.409A-1(a)(5); and whether a plan provides for the deferral of compensation under § 1.409A-1(b).

(71) Section 411(d)(3).—Termination or Partial Termination; Discontinuance of Contributions.—Whether there has been a partial termination of an employee plan. The Service may issue a determination letter involving the partial termination of an employee plan. See Rev. Proc. 2026-4, this Bulletin.

(72) Section 414(d).—Governmental Plan.—Whether a plan is a governmental plan under § 414(d).

(73) Section 419(e).—Welfare Benefit Fund.—Whether a captive insurance arrangement through which an employer provides health insurance to current or retired employees is a welfare benefit fund.

(74) Section 420.—Transfers of Excess Pension Assets to Retiree Health Accounts.—The tax consequences to a qualified retirement plan of a transfer under § 420 of excess pension assets to one or more retiree health accounts established and maintained under § 401(h), including the use of assets in a § 401(h) account if such assets include funds from a § 420 transfer.

(75) Section 424.—Definitions and Special Rules.—Whether the substitution of a new Incentive Stock Option ("ISO") for an old ISO, or the assumption of an old ISO, by an employer by reason of a corporate transaction constitutes a modification which results in the issuance of a new option by reason of failing to satisfy the spread test requirement of § 424(a)(1) or the ratio test requirement of § 1.425-1(a)(4). The Service will continue to rule on the issue of whether the new ISO or the assumption of the old ISO gives the employee additional benefits not present under the old option within the meaning of § 424(a)(2).

(76) Section 451.—General Rule for Taxable Year of Inclusion.—The tax consequences of a nonqualified unfunded deferred compensation arrangement with respect to a controlling shareholder-employee eligible to participate in the arrangement.

(77) Section 451.—General Rule for Taxable Year of Inclusion.—The tax consequences of nonqualified unfunded deferred compensation arrangements in which the arrangements fail to meet the requirements of Rev. Proc. 92-65, 1992-2 C.B. 428, and Rev. Proc. 71-19, 1971-1 C.B. 698.

(78) Sections 451 and 457.—General Rule for Taxable Year of Inclusion; Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations.—The tax consequences to unidentified independent contractors in nonqualified unfunded deferred compensation plans. This applies to plans established under § 451 by employers in the private sector and to plans of state and local governments and tax-exempt organizations under § 457. However, a ruling with respect to a specific independent contractor's participation in such a plan may be issued.

(79) Section 451.—See section 3.01(19), above.

(80) Section 453.—See section 3.01(62), above.

(81) Section 457.—See section 3.01(78), above.

(82) Section 457A.—Nonqualified Deferred Compensation from Certain Tax Indifferent Parties.—The income tax consequences of establishing, operating, or participating in a nonqualified deferred compensation plan within the meaning of § 457A(d)(3).

(83) Section 501.—Exemption from Tax on Corporations, Certain Trusts, Etc.—Whether an organization is or continues to be exempt from taxation under § 501(a) as an organization described in § 501(c) or (d), including, for example, whether changes in an organization's activities or operations will affect or jeopardize the organization's exempt status. The Associate Chief Counsel (EEE) will rule, however, on specific legal questions related to § 501(c) or (d) that are not otherwise described in this revenue procedure. For example, although the Associate Chief Counsel (EEE) would not rule on whether a change in a § 501(c)(3) organization's activities would jeopardize the organization's exempt status, the Associate Chief Counsel (EEE) would (subject to the limitations described in this revenue procedure) rule on whether such new activities would further an exempt purpose described in § 501(c)(3). See Rev. Proc. 2026-5, this Bulletin, for the procedures for issuing determination letters on tax-exempt status under § 501.

(84) Sections 501, 511, 512, 513, and 514.—Exemption from Tax on Corporations, Certain Trusts, Etc.; Imposition of Tax on Unrelated Business Income of Charitable, Etc., Organizations; Unrelated Business Taxable Income; Unrelated Trade or Business; Unrelated Debt-Financed Income.—Whether a joint venture between a tax-exempt organization and a for-profit organization affects an organization's exempt status, furthers an exempt purpose, or results in unrelated business income.

(85) Sections 507, 664, 4941, and 4945.—Termination of Private Foundation Status; Charitable Remainder Trusts; Taxes on Self-Dealing; Taxes on Taxable Expenditures.—Issues pertaining to the tax consequences of the termination of a charitable remainder trust (as defined in § 664) before the end of the trust term as defined in the trust's governing instrument in a transaction in which the trust beneficiaries receive their actuarial shares of the value of the trust assets.

(86) Section 509.—Private Foundation Defined.—Whether an organization is or continues to be described in § 509(a) including, for example, whether changes in an organization's activities or operations will affect or jeopardize the organization's status as a public charity described in § 509(a)(1) - (4). The Associate Chief Counsel (EEE) will rule, however, on specific legal questions related to § 509(a) that are not otherwise described in this revenue procedure. See Rev. Proc. 2026-5, this Bulletin, for the procedures for obtaining determination letters on public charity status under § 509.

(87) Sections 511, 512, 513, and 514.—Imposition of Tax on Unrelated Business Income of Charitable, Etc., Organizations; Unrelated Business Taxable Income; Unrelated Trade or Business; Unrelated Debt-Financed Income.—Whether unrelated business income tax issues arise when charitable lead trust assets are invested with charitable organizations.

(88) Sections 511, 512, 513, and 514.—See section 3.01(84), above.

(89) Section 529.—Qualified Tuition Programs.—Whether a state-run tuition program qualifies under § 529.

(90) Sections 542, 543, and 544.—Definition of Personal Holding Company; Personal Holding Company Income; Rules for Determining Stock Ownership.—Whether the application of § 544(a) causes a corporation to meet the stock ownership requirements under § 542(a)(2), § 543(a)(4), § 543(a)(6), or § 543(a)(7).

(91) Section 641.—Imposition of Tax.—Whether the period of administration or settlement of an estate or a trust (other than a trust described in § 664) is reasonable or unduly prolonged.

(92) Section 642(c).—Deduction for Amounts Paid or Permanently Set Aside for a Charitable Purpose.—Allowance of an unlimited deduction for amounts set aside by a trust or estate for charitable purposes when there is a possibility that the corpus of the trust or estate may be invaded.

(93) Section 643(f).—Treatment of Multiple Trusts.—Whether two or more

trusts shall be treated as one trust for purposes of subchapter J of chapter 1.

(94) Section 664.—Charitable Remainder Trusts.—Whether the settlement of a charitable remainder trust upon the termination of the noncharitable interest is made within a reasonable period of time.

(95) Section 664.—See section 3.01(85), above.

(96) Section 671.—Trust Income, Deductions, and Credits Attributable to Grantors and Others as Substantial Owners.—Whether the grantor will be considered the owner of any portion of a trust when (i) substantially all of the trust corpus consists or will consist of insurance policies on the life of the grantor or the grantor's spouse, (ii) the trustee or any other person has a power to apply the trust's income or corpus to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse, (iii) the trustee or any other person has a power to use the trust's assets to make loans to the grantor's estate or to purchase assets from the grantor's estate, and (iv) there is a right or power in any person that would cause the grantor to be treated as the owner of all or a portion of the trust under §§ 673 to 677.

(97) Section 704(b).—Determination of Distributive Share.—Whether the allocation to a partner under the partnership agreement of income, gain, loss, deduction, or credit (or an item thereof) has substantial economic effect or is in accordance with the partner's interest in the partnership.

(98) Section 761.—Terms Defined.—Matters relating to the validity of a partnership or whether a person is a partner in a partnership.

(99) Section 761.—See section 3.01(24), above.

(100) Section 856.—Definition of Real Estate Investment Trust.—Whether a corporation whose stock is "paired" with or "stapled" to stock of another corporation will qualify as a real estate investment trust under § 856, if the activities of the corporations are integrated.

(101) Section 1001.—Determination of Amount of and Recognition of Gain or Loss.—Whether the termination of a charitable remainder trust before the end of the trust term as defined in the trust's governing instrument, in a transaction in which the trust beneficiaries receive their actuarial shares of the value of the trust assets, is treated as a sale or other disposition by the beneficiaries of their interests in the trust.

(102) Sections 1001 and 1058.—Determination of Amount of and Recognition of Gain or Loss; Transfers of Securities Under Certain Agreements.—Whether a taxpayer recognizes gain or loss on the transfer of digital assets in exchange for a contractual obligation that requires the return of identical digital assets to the taxpayer or on the transfer of identical digital assets to the taxpayer in satisfaction of the contractual obligation.

(103) Section 1001.—See section 3.01(18) and (19), above.

(104) Section 1033.—Involuntary Conversions.—Whether the replacement or proposed replacement of compulsorily or involuntarily converted property does or does not qualify under § 1033(a), if the taxpayer has already filed a Federal tax return for the first taxable year in which any of the gain was realized from the converted property. The Service may issue a determination letter in this case. See section 12.01 of Rev. Proc. 2026-1, this Bulletin.

(105) Section 1058.—See section 3.01(102), above.

(106) Section 1221.—Capital Asset Defined.—Whether specialty stock allocated to an investment account by a registered specialist on a national securities exchange is a capital asset.

(107) Section 1221.—Capital Asset Defined.—Whether the termination of a charitable remainder trust before the end of the trust term as defined in the trust's governing instrument, in a transaction in which the trust beneficiaries receive their actuarial shares of the value of the trust assets, is treated as a sale or exchange of a capital asset by the beneficiaries.

(108) Section 1239.—See section 3.01(62), above.

(109) Section 1361.—S Corporation Defined.—Whether a state law limited partnership electing under § 301.7701-3 to be classified as an association taxable as a corporation has more than one class of stock for purposes of § 1361(b)(1)(D). The Service will treat any request for a ruling on whether a state law limited partnership is eligible to elect S corporation status as a request for a ruling on whether the partnership complies with § 1361(b)(1)(D).

(110) Section 1362(f).—Inadvertent Invalid Elections or Terminations.—Principal purpose determinations regarding the one class of stock requirement.—Addressing the validity or continuation of an S corporation election in situations regarding the one class of stock requirement that require a determination of the existence of a principal purpose because such a determination is inherently factual in nature. See section 6.02 of Rev. Proc. 2026-1, this Bulletin. Accordingly, the IRS will not issue a letter ruling under § 1362(f) addressing: (i) for purposes of determining whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds under § 1.1361-1(l)(2), whether a principal purpose of a commercial contractual agreement, a buy-sell agreement, an agreement restricting the transferability of stock, or a redemption agreement is to circumvent the one class of stock requirement of § 1361(b)(1)(D) and § 1.1361-1(l) (see § 1.1361-1(l)(2)(i) and (iii)(A)(1)); or (ii) for purposes of determining whether an instrument, obligation, or arrangement is treated as a second class of stock, whether: (a) a principal purpose of issuing or entering into an instrument, obligation, or arrangement is to circumvent the rights to distribution or liquidation proceeds conferred by the outstanding shares of stock or to circumvent the limitation on eligible shareholders contained in § 1.1361-1(b)(1) (see § 1.1361-1(l)(4)(ii)(A)(*2*)); or (b) a principal purpose of an unwritten advance or proportionately held obligation is to circumvent the rights of the outstanding shares of stock or the limitation on eligible shareholders under § 1.1361-1(l)(4)(ii)(A)(*2*) (see § 1.1361-1(l)(4)(ii)(B)).

(111) Section 1362(f).—Inadvertent Invalid Elections or Terminations.—Certain inadvertent errors, omissions, or missing signatures.—Addressing the validity or continuation of an S corporation election or a qualified subchapter S subsidiary election: (i) determinations of the validity or continuation of an S corporation election with regard to one or more disproportionate distributions (as defined in section 2.03(2) of Rev. Proc. 2022-19, 2022-41 I.R.B. 282) if the governing provisions

confer identical rights to distribution and liquidation proceeds. See § 1.1361-1(l)(1) and (2); (ii) whether a missing administrative letter from the IRS accepting an election for a corporation to be an S corporation or accepting an election for a corporation to be a qualified subchapter S subsidiary affects the validity or continuation of the election; or (iii) whether the filing of a Federal income tax return that is inconsistent with a corporation's status as an S corporation or a qualified subchapter S subsidiary affects the validity or continuation of the S corporation election or qualified subchapter S subsidiary election (as appropriate).

(112) Section 1502.—Regulations.—If a member of an affiliated group fails to file Form 1122 or fails to join in the making of a consolidated return due to a mistake of law or fact, or inadvertence, whether such member will be treated as if it had filed a Form 1122. The Service may issue a determination letter in this case. See section 12.01 of Rev. Proc. 2026-1, this Bulletin. But see also section 6.07 of this revenue procedure.

(113) Section 1502.—See sections 3.01(42) and (52), above.

(114) Section 1551.—Disallowance of the Benefits of the Graduated Corporate Rates and Accumulated Earnings Credit.—Whether a transfer is within § 1551.

(115) Section 2031.—Definition of Gross Estate.—Actuarial factors for valuing interests in the prospective gross estate of a living person.

(116) Section 2055.—Transfers for Public, Charitable, and Religious Uses.—Whether a charitable contribution deduction under § 2055 is allowed for the transfer of an interest in a limited partnership or a limited liability company taxed as a partnership to an organization described in § 2055(a).

(117) Section 2512.—Valuation of Gifts.—Actuarial factors for valuing prospective or hypothetical gifts of a donor.

(118) Section 2522.—Charitable and Similar Gifts.—Whether a charitable contribution deduction under § 2522 is allowable for a transfer of an interest in a limited partnership or a limited liability company taxed as a partnership to an organization described in § 2522(a).

(119) Section 2601.—Tax Imposed.—Whether a trust exempt from generation-skipping transfer ("GST") tax under § 26.2601-1(b)(1), (2), or (3) of the Generation-Skipping Transfer Tax Regulations will retain its GST exempt status when there is a modification of a trust, change in the administration of a trust, or a distribution from a trust in a factual scenario that is similar to a factual scenario set forth in one or more of the examples contained in § 26.2601-1(b)(4)(i)(E).

(120) Sections 3102, 3121, 3306, 3401, and 3402.—Deduction of Tax from Wages; Definitions; Income Tax Collected at Source.—Determinations on the tax treatment of arrangements where employees have access to earned but unpaid wages before their regularly scheduled pay dates.

(121) Sections 3121, 3306, and 3401.—Definitions.—For purposes of determining prospective employment status, whether an individual will be an employee or an independent contractor. A ruling with regard to prior employment status may be issued.

(122) Sections 3121, 3306, and 3401.—Definitions.—Who is the employer of an "employee-owner" as defined in § 269A(b)(2).

(123) Sections 3121, 3306, and 3401.—Definitions.—For purposes of determining worker classification pursuant to the filing of Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, whether a worker is a *bona fide* partner and, therefore, not an employee of the business.

(124) Sections 3121 and 3401.—Definitions.—For purposes of determining worker classification pursuant to the filing of Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, whether a state or local government worker who may be performing services under an agreement entered into pursuant to § 218 of the Social Security Act is an employee or independent contractor for Federal employment tax purposes, unless the worker or firm provides a written determination issued by the Social Security Administration on whether the position is covered by a § 218 agreement.

(125) Section 4041.—See section 3.01(2), above.

(126) Section 4052(f)(1).—In General.—Whether a chassis repaired or modified using a "glider kit" is treated as manufactured or produced if the cost of the repairs or modifications does not exceed 75 percent of the retail price of a comparable new chassis.

(127) Section 4081.—See section 3.01(2), above.

(128) Section 4083.—See section 3.01(2), above.

(129) Section 4216(b).—Constructive Sale Price.—Whether a particular methodology for determining the tax base is allowable under the constructive sale price rules.

(130) Section 4671.—Imposition of Tax.—Whether the amount of tax or tax rate for a particular substance is correct.

(131) Sections 4940 and 4942.—Excise Tax Based on Investment Income; Taxes on Failure to Distribute Income.—Whether an organization is or continues to be an "operating foundation" described in § 4942(j)(3) or an "exempt operating foundation" described in § 4940(d)(2), including, for example, whether changes in an organization's activities or operations will affect or jeopardize the organization's status as an operating foundation or exempt operating foundation. The Associate Chief Counsel (EEE) will rule, however, on specific legal questions related to §§ 4940(d)(2) or 4942(j)(3) that are not otherwise described in this revenue procedure. See Rev. Proc. 2026-5, this Bulletin, for the procedures for obtaining determination letters on foundation status under §§ 4940 and 4942.

(132) Section 4941.—Taxes on Self-Dealing.—Whether transactions during the administration of an estate or trust meet the requirements of the exception to § 4941 set forth in § 53.4941(d)-1(b)(3) of the Private Foundation Excise Tax Regulations, in cases in which a disqualified person issues a promissory note in exchange for property of an estate or trust.

(133) Section 4941.—Taxes on Self-Dealing.—Whether an act of self-dealing occurs when a private foundation (or other entity subject to § 4941) owns or receives an interest in a limited liability company or other entity that owns a promissory note issued by a disqualified person.

(134) Section 4941.—See section 3.01(85), above.

(135) Section 4942.—See section 3.01(131), above.

(136) Section 4945.—See section 3.01(85), above.

(137) Section 4958.—Taxes on Excess Benefit Transactions.—Whether a compensation or property transaction satisfies the rebuttable presumption that the transaction is not an excess benefit transaction as described in § 53.4958-6 of the Excess Benefit Transactions Excise Tax Regulations.

(138) Section 4975(d).—Exemptions.—Whether the renewal, extension, or refinancing of an exempt loan satisfies the requirements of § 4975(d)(3). Also, whether the pre-payment of employee stock ownership plan ("ESOP") loans satisfies the requirements of § 4975(d)(3) other than with respect to plan termination.

(139) Section 4976(b)(1)(C).—In General.—Whether a transfer of assets between welfare benefit funds (including VEBAs), or a new or different use of assets of a welfare benefit fund (including a VEBA), results in a reversion to the employer.

(140) Section 4980.—Tax on Reversion of Qualified Plan Assets to Employer.—Whether an employer reversion from a qualified plan occurs for purposes of § 4980(c)(2) in connection with a transaction in which (i) less than 100 percent of the assets of a defined benefit plan are spun off to another defined benefit plan sponsored or maintained by the same employer (or any entity that would be considered to be in a group of employers treated as a single employer with the employer under § 414(b), (c), (m), or (o)); (ii) the defined benefit plan receiving the assets that have been spun off is terminated within a short period of time after receiving those assets; and (iii) assets remain in the trust of the terminated defined benefit plan after all benefits are distributed to or on behalf of all participants and their beneficiaries.

(141) Section 4980B.—Failure to Satisfy Continuation Coverage Requirements of Group Health Plans.—Whether an action is "gross misconduct" within the meaning of § 4980B(f)(3)(B). (See section 3.05 of Rev. Proc. 87-28, 1987-1 C.B. 770, 771.)

(142) Section 4980H.—Shared Responsibility for Employers Regarding Health Coverage.—Whether an employer is required to make an assessable payment under § 4980H(a) or (b).

(143) Section 6050P.—Returns Relating to the Cancellation of Indebtedness by Certain Entities.—Requests for a ruling that the creditor is not required to report a discharge that include as grounds for the request a dispute regarding the underlying liability.

(144) Section 6050P.—Returns Relating to the Cancellation of Indebtedness by Certain Entities.—Whether amounts reduced pursuant to the terms of a debt instrument are reportable under § 6050P and the regulations.

(145) Section 6050P.—Returns Relating to the Cancellation of Indebtedness by Certain Entities.—Whether amounts discharged in a nonlending transaction are reportable under § 6050P and the regulations.

(146) Section 6166.—Extension of Time for Payment of Estate Tax Where Estate Consists Largely of Interest in Closely Held Business.—Requests involving § 6166 if there is no decedent.

(147) Section 6426.—See section 3.01(2), above.

(148) Section 6901.—Transferred Assets.—Whether a taxpayer is liable for tax as a transferee.

(149) Section 7216.—Disclosure or Use of Information by Preparers of Returns.—Whether a criminal penalty is applicable for any disclosure or use of information by preparers of returns.

(150) Section 7701.—Definitions.—The classification of an instrument that has certain voting and liquidation rights in an issuing corporation but whose dividend rights are determined by reference to the earnings of a segregated portion of the issuing corporation's assets, including assets held by a subsidiary.

(151) Section 7701.—Definitions.—The classification for Federal tax purposes of a *fideicomiso* or other land trust created under local law, applying the principles of Rev. Rul. 2013-14, 2013-26 I.R.B. 1267, or Rev. Rul. 92-105, 1992-2 C.B. 204.

(152) Section 7701.—See section 3.01(24), above.

(153) Section 7704.—Certain Publicly Traded Partnerships Treated as Corporations.—Whether interests in a partnership that are not traded on an established securities market (within the meaning of § 7704(b) and § 1.7704-1(b)) are readily tradable on a secondary market or the substantial equivalent thereof under § 1.7704-1(c)(1). This specifically includes, but is not limited to, whether an investment fund or portfolio supporting variable contract arrangements of life insurance companies is a publicly traded partnership.

(154) Section 9815.—Additional Market Reforms.—Whether an insured group health plan satisfies the requirements of § 2716 of the Public Health Service Act, Prohibition on Discrimination in Favor of Highly Compensated Individuals, as incorporated into the Code by § 9815.

.02 General Areas.

(1) Whether the economic substance doctrine is relevant to any transaction or whether any transaction complies with the requirements of § 7701(o).

(2) The results of transactions that lack a *bona fide* business purpose or have as their principal purpose the reduction of Federal taxes.

(3) A matter upon which a court decision adverse to the Government has been handed down and the question of following the decision or litigating further has not yet been resolved.

(4) A matter involving alternate plans of proposed transactions or involving hypothetical situations.

(5) Whether under subtitle F (Procedure and Administration) reasonable cause, due diligence, good faith, clear and convincing evidence, or other similar terms that require a factual determination exist.

(6) A matter involving the regulations governing practice before the Service under 31 CFR Part 10 (reprinted as Treasury Department Circular No. 230).

(7) Whether a proposed transaction would subject the taxpayer to a criminal penalty.

(8) Whether a completed transaction can be rescinded for Federal income tax purposes.

(9) The income tax (including unrelated business income tax) or excise tax consequences of the contribution of stock options to, or their subsequent exercise from, plans described in part 1 of subchapter D of chapter 1 of subtitle A of the Code.

(10) Questions that the Service determines, in its discretion, should not be answered in the general interests of sound tax administration, including due to resource constraints.

(11) Any frivolous issue, as that term is defined in section 6.10 of Rev. Proc. 2026-1, this Bulletin.

(12) A request that does not comply with the provisions of Rev. Proc. 2026-1, this Bulletin.

SECTION 4. AREAS IN WHICH RULINGS OR DETERMINATION LETTERS WILL NOT ORDINARILY BE ISSUED

.01 Specific Questions and Problems.

(1) Sections 38, 39, 46, and 48.—General Business Credit; Carryback and Carryforward of Unused Credits; Amount of Credit; Energy Credit.—Application of these sections if the formal ownership of property is in a party other than the taxpayer, except when title is held merely as security.

(2) Section 61.—Gross Income Defined.—Determination as to who is the true owner of property in cases involving the sale of securities, or participation interests therein, if the purchaser has the contractual right to cause the securities, or participation interests therein, to be purchased by either the seller or a third party.

(3) Sections 61 and 163.—Gross Income Defined; Interest.—Determinations as to who is the true owner of property or the true borrower of money in cases in which the formal ownership of the property, or the liability for the indebtedness, is in another party.

(4) Section 62(c).—Certain Arrangements Not Treated as Reimbursement Arrangements.—Whether amounts related to a salary reduction and paid under a purported reimbursement or other expense allowance arrangement will be treated as paid under an "accountable plan" in accordance with § 1.62-2(c)(2).

(5) Sections 83 and 451.—Property Transferred in Connection with Performance of Services; General Rule for Taxable Year of Inclusion.—When compensation is realized by a person who, in connection with the performance of services, is granted a nonstatutory option without a readily ascertainable fair market value to purchase stock at a price that is less than the fair market value of the stock on the date the option is granted.

(6) Sections 101 and 7702.—Certain Death Benefits; Life Insurance Contract Defined.—Whether amounts received under an arrangement with an entity that is not regulated as an insurance company may be treated as received under a "life insurance contract" within the meaning of §§ 101(a) and 7702.

(7) Section 103.—Interest on State and Local Bonds.—Whether the interest on state or local bonds will be excludible from gross income under § 103(a), if the proceeds of issues of bonds (other than advance refunding issues) are placed in escrow or otherwise not expended for a governmental purpose for an extended period of time even though the proceeds are invested at a yield that will not exceed the yield on the state or local bonds prior to their expenditure.

(8) Section 141.—Private Activity Bond; Qualified Bond.—Whether state or local bonds will meet the "private business use test" and the "private security or payment test" under § 141(b)(1) and (2) in situations in which the proceeds are used to finance certain output facilities and, pursuant to a contract to take, or take or pay for, a nongovernmental person purchases 30 percent or more of the actual output of the facility but 10 percent or less of the available output of the facility as defined in § 1.141-7(b)(1). In similar situations, the Service will not ordinarily issue rulings concerning questions arising under paragraphs (3), (4), and (5) of § 141(b).

(9) Sections 142 and 144(a).—Exempt Facility Bond; Qualified Small Issue Bond.—Whether an issue of private activity bonds meets the requirements of § 142 or § 144(a), if the sum of (i) the portion of the proceeds used to finance a facility in which an owner (or related person) or a lessee (or a related person) is a user of the facility both after the bonds are issued and at any time before the bonds were issued, and (ii) the portion used to pay issuance costs and nonqualified costs equals more than 5 percent of the net proceeds, as defined in § 150(a)(3).

(10) Sections 162 and 262.—Trade or Business Expenses; Personal, Living, and Family Expenses.—Whether expenses are nondeductible commuting expenses, except for situations governed by Rev. Rul. 99-7, 1999-1 C.B. 361.

(11) Section 162(m).—Certain Excessive Employee Remuneration.—Whether the deduction limit under § 162(m) applies to compensation attributable to services performed for a related partnership.

(12) Section 163.—See section 4.01(3), above.

(13) Section 165.—Losses.—Whether stock in a corporation has been abandoned.

(14) Section 167.—Depreciation.

(i) Useful lives of assets.

(ii) Depreciation rates.

(iii) Salvage value of assets.

(15) Sections 167 and 168.—Depreciation; Accelerated Cost Recovery System.—Application of those sections in which the formal ownership of property is in a party other than the taxpayer except when title is held merely as security.

(16) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether a transfer to a pooled income fund described in § 642(c)(5) qualifies for a charitable contribution deduction under § 170(f)(2)(A).

(17) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether a transfer to a charitable remainder trust described in § 664 that provides for annuity or unitrust payments for one or two measuring lives qualifies for a charitable deduction under § 170(f)(2)(A).

(18) Section 170.—Charitable, Etc., Contributions and Gifts.—Whether a taxpayer who transfers property to a charitable organization and thereafter leases back all or a portion of the transferred property may deduct the fair market value of the property transferred and leased back as a charitable contribution.

(19) Section 199A.—Qualified Business Income.—Whether a taxpayer or relevant passthrough entity is engaged in a specified service trade or business.

(20) Section 216.—Deduction of Taxes, Interest, and Business Depreciation by Cooperative Housing Corporation Tenant-Stockholder.—If a cooperative housing corporation ("CHC"), as defined in § 216(b)(1), transfers an interest in real property to a corporation (not a CHC) in exchange for stock or securities of the transferee corporation, which engages in commercial activity with respect to the

real property interest transferred, whether (i) the income of the transferee corporation derived from the commercial activity and (ii) any cash or property (attributable to the real property interest transferred) distributed by the transferee corporation to the CHC will be considered as gross income of the CHC for the purpose of determining whether 80 percent or more of the gross income of the CHC is derived from tenant-stockholders within the meaning of § 216(b)(1)(D).

(21) Section 262.—See section 4.01(10), above.

(22) Section 265(a)(2).—Interest.—Whether indebtedness is incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by subtitle A.

(23) Section 302.—Distributions in Redemption of Stock.—The tax effect of the redemption of stock for notes, when the payments on the notes are to be made over a period in excess of 15 years from the date of issuance of such notes.

(24) Section 302(b)(4) and (e).—Redemption from Noncorporate Shareholder in Partial Liquidation; Partial Liquidation Defined.—Whether a distribution will qualify as a distribution in partial liquidation under § 302(b)(4) and (e)(1)(A), unless it results in a 20 percent or greater reduction in (i) gross revenue, (ii) net fair market value of assets, and (iii) employees. (Partial liquidations that qualify as § 302(e)(2) business terminations are not subject to this provision.)

(25) Section 306.—Dispositions of Certain Stock.—Whether the distribution, disposition, or redemption of "section 306 stock" in a closely held corporation is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes within the meaning of § 306(b)(4).

(26) Sections 331 and 346(a).—Gain or Loss to Shareholder in Corporate Liquidations; Complete Liquidation.—The tax effect of the liquidation of a corporation by a series of distributions when the distributions in liquidation are to be made over a period in excess of 3 years from the adoption of the plan of liquidation.

(27) Section 351.—Transfer to Corporation Controlled by Transferor.—Whether § 351 applies to the transfer of an interest in real property by a cooperative housing corporation (as described in § 216(b)(1)) to a corporation in exchange for stock or securities of the transferee corporation, if the transferee engages in commercial activity with respect to the real property interest transferred.

(28) Section 355.—Distribution of Stock and Securities of a Controlled Corporation.—Whether the active business requirement of § 355(b) is met when, within the 5-year period described in § 355(b)(2)(B), a distributing corporation acquired control of a controlled corporation as a result of the distributing corporation transferring cash or other liquid or inactive assets to the controlled corporation in a transaction in which gain or loss was not recognized as a result of the transfer meeting the requirements of § 351(a) or § 368(a)(1)(D).

(29) Section 355.—Distribution of Stock and Securities of a Controlled Corporation.—Any issue relating to the qualification, under § 355 and related provisions, of a distribution, or another distribution which is part of the same plan or series of related transactions, if, immediately after any such distribution, the fair market value of the gross assets of the trade(s) or business(es) on which the distributing corporation or the controlled corporation relies to satisfy the active trade or business requirement of § 355(b) is less than five percent of the fair market value of the total gross assets of such corporation.

For purposes of determining the fair market value of the total gross assets of such corporation and of the gross assets of such trade(s) or business(es), (i) all members of a separate affiliated group, within the meaning of § 355(b)(3)(B), are treated as one corporation; and (ii) if the distributing corporation or the controlled corporation relies on an active trade or business of a partnership for purposes of § 355(b), such corporation is treated as owning its ratable share of the gross assets of the partnership.

This section 4.01(29) does not apply if (i) all the stock of the controlled corporation that is distributed in the distribution is distributed to one or more members of the affiliated group, as defined in § 243(b)(2)(A), of which the distributing corporation is a member; and (ii) such distribution is not part of a plan or series of related transactions pursuant to which stock of any corporation will be distributed outside such affiliated group in a distribution described in this section 4.01(29) of this revenue procedure.

(30) Section 441(i).—Taxable Year of Personal Service Corporations.—Whether the principal activity of the taxpayer during the testing period for the taxable year is the performance of personal services within the meaning of § 1.441-3(c)(1)(iii).

(31) Section 448(d)(2)(A).—Qualified Personal Service Corporation.—Whether 95 percent or more of the time spent by employees of the corporation, serving in their capacity as such, is devoted to the performance of services within the meaning of § 1.448-1T(e)(4)(i).

(32) Section 451.—General Rule for Taxable Year of Inclusion.—The tax consequences of a nonqualified deferred compensation arrangement using a grantor trust if the trust fails to meet the requirements of Rev. Proc. 92-64, 1992-2 C.B. 422.

(33) Section 451.—General Rule for Taxable Year of Inclusion.—The income tax consequences as a result of being a beneficiary of a trust that an Indian tribe (as defined in 25 U.S.C. § 2703(5)) establishes to receive and invest *per capita* payments for its members under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701 through 2721).

(34) Section 451.—See section 4.01(5), above.

(35) Section 584.—Common Trust Funds.—Whether a common trust fund plan meets the requirements of § 584. (For § 584 plan drafting guidance, see Rev. Proc. 92-51, 1992-1 C.B. 988.)

(36) Section 642.—Special Rules for Credits and Deductions.—Whether a pooled income fund satisfies the requirements described in § 642(c)(5).

(37) Sections 661 and 662.—Deduction for Estates and Trusts Accumulating Income or Distributing Corpus; Inclusion of Amounts in Gross Income of Beneficiaries of Estates and Trusts Accumulating Income or Distributing Corpus.—Whether the distribution of property by a trustee from an irrevocable trust to another irrevocable trust (sometimes referred to as a "decanting") or the modification of the terms of an irrevocable trust resulting in

a change in beneficial interests is a distribution for which a deduction is allowable under § 661 or which requires an amount to be included in the gross income of any person under § 662.

(38) Section 664.—Charitable Remainder Trusts.—Whether a charitable remainder trust that provides for annuity or unitrust payments for one or two measuring lives or for annuity or unitrust payments for a term of years satisfies the requirements described in § 664.

(39) Section 664.—Charitable Remainder Trusts.—Whether a trust that will calculate the unitrust amount under § 664(d)(3) qualifies as a § 664 charitable remainder trust when a grantor, a trustee, a beneficiary, or a person related or subordinate to a grantor, a trustee, or a beneficiary can control the timing of the trust's receipt of trust income from a partnership or a deferred annuity contract to take advantage of the difference between trust income under § 643(b) and income for Federal income tax purposes for the benefit of the unitrust recipient.

(40) Sections 671 to 679.—Grantors and Others Treated as Substantial Owners.—In a nonqualified, unfunded deferred compensation arrangement described in Rev. Proc. 92-64, 1992-2 C.B. 422, the tax consequences of the use of a trust, other than the model trust described in that revenue procedure.

(41) Sections 671 to 679.—Grantors and Others Treated as Substantial Owners.—Whether an Indian tribe (as defined in 25 U.S.C. § 2703(5)) that establishes a trust to receive and invest *per capita* payments for its members under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701-2721) is the grantor and owner of the trust.

(42) Section 671.—Trust Income, Deductions, and Credits Attributable to Grantors and Others as Substantial Owners.—Whether an arrangement formed as a trust under applicable state law qualifies for Federal income tax purposes as a trust classified as an investment trust under § 301.7701-4(c) and as a grantor trust under § 671 when the trust has authorized the staking of its digital assets.

(43) Section 678.—Person Other than Grantor Treated as Substantial Owner.—Whether a person will be treated as the owner of any portion of a trust over which that person has a power to withdraw the trust property (or had such power prior to a release or modification, but retains other powers which would cause that person to be the owner of the trust under § 671 if the person were the grantor), other than a power which would constitute a general power of appointment within the meaning of § 2041, if the trust purchases the property from that person with a note and the value of the assets with which the trust was funded by the grantor is nominal compared to the value of the property purchased.

(44) Section 679.—See sections 4.01(40) and (41), above.

(45) Section 851.—Definition of Regulated Investment Company.—Any issue relating to the treatment of a corporation as a regulated investment company under § 851 and related provisions that requires a determination whether a financial instrument or position is a security as defined in the Investment Company Act of 1940.

(46) Section 856.—Definition of Real Estate Investment Trust.—Whether an outdoor advertising display constitutes real property for purposes of § 856. However, if the real estate investment trust has made an election under § 1.1033(g)-1(b), the Service may rule on whether an asset that is not within the scope of the election, but is related to the outdoor advertising display, constitutes real property for purposes of § 856.

(47) Section 1031(f).—Special Rules for Exchanges Between Related Persons.—Except in the case of (i) a transaction involving an exchange of undivided interests in different properties that results in each taxpayer holding either the entire interest in a single property or a larger undivided interest in any of the properties or (ii) a disposition of property in a nonrecognition transaction in which the taxpayer or the related party receives no cash or other property that results in gain recognition, whether an exchange described in § 1031(f) involving related parties, or a subsequent disposition of property involved in the exchange, has as one of its principal purposes the avoidance of Federal income tax, or is part of a transaction (or series of transactions) structured to avoid the purposes of § 1031(f).

(48) Section 1362.—Election; Revocation; Termination.—All situations in which the Service has provided an automatic approval procedure or administrative procedure for an S corporation or its shareholders to obtain the following: (i) relief for late S corporation elections, qualified subchapter S subsidiary elections, qualified subchapter S trust elections, or electing small business trust elections, see Rev. Proc. 2013-30, 2013-36 I.R.B. 173 (for instructions on how to seek this relief, see Rev. Proc. 2013-30); or (ii) retroactive corrective relief regarding non-identical governing provisions for S corporations meeting the eligibility requirements of section 3.06(2)(b) of Rev. Proc. 2022-19, 2022-41 I.R.B. 282 (for instructions on how to seek this relief, see Rev. Proc. 2022-19, section 3.06).

(49) Section 1362(f).—Inadvertent Invalid Elections or Terminations.—Certain inadvertent errors, omissions, or missing signatures.—Except with regard to an inadvertent error relating to a "permitted year" (as defined in § 1378(b) and § 1.1378-1), the absence of a required shareholder consent, or an officer signature for which there is no other relief as provided in section 3.03 of Rev. Proc. 2022-19, 2022-41 I.R.B. 282, the IRS will not issue a letter ruling under § 1362(f) addressing whether an inadvertent error or omission, or a missing required consent or signature (see § 1362(a)(2), § 1.1361-3(a)(2), and § 1.1362-6(a)(1)), on Form 2553 or Form 8869 affects the validity of the S corporation election or qualified subchapter S subsidiary election.

(50) Section 1502.—Regulations.—Whether a parent cooperative housing corporation (as defined in § 216(b)(1)) will be permitted to file a consolidated income tax return with its transferee subsidiary, if the transferee engages in commercial activity with respect to the real property interest transferred to it by the parent.

(51) Sections 2035, 2036, 2037, 2038, and 2042.—Adjustments for Certain Gifts Made Within Three Years of Decedent's Death; Transfers with Retained Life Estate; Transfers Taking Effect at Death; Revocable Transfers; Proceeds of Life Insurance.—Whether trust assets are includible in a trust beneficiary's gross estate under § 2035, 2036, 2037, 2038, or 2042 if the beneficiary sells property (including insurance policies) to the trust or dies within 3 years of selling such prop-

erty to the trust, and (i) the beneficiary has a power to withdraw the trust property (or had such power prior to a release or modification, but retains other powers which would cause that person to be the owner if the person were the grantor), other than a power which would constitute a general power of appointment within the meaning of § 2041, (ii) the trust purchases the property with a note, and (iii) the value of the assets with which the trust was funded by the grantor is nominal compared to the value of the property purchased.

(52) Section 2055.—Transfers for Public, Charitable, and Religious Uses.—Whether a transfer to a pooled income fund described in § 642(c)(5) qualifies for a charitable deduction under § 2055(e)(2)(A).

(53) Section 2055.—Transfers for Public, Charitable, and Religious Uses.—Whether a transfer to a charitable remainder trust described in § 664 that provides for annuity or unitrust payments for one or two measuring lives or a term of years qualifies for a charitable deduction under § 2055(e)(2)(A).

(54) Section 2501.—Imposition of Tax.—Whether the sale of property (including insurance policies) to a trust by a trust beneficiary will be treated as a gift for purposes of § 2501 if (i) the beneficiary has a power to withdraw the trust property (or had such power prior to a release or modification, but retains other powers which would cause that person to be the owner if the person were the grantor), other than a power which would constitute a general power of appointment within the meaning of § 2041, (ii) the trust purchases the property with a note, and (iii) the value of the assets with which the trust was funded by the grantor is nominal compared to the value of the property purchased.

(55) Section 2501.—Imposition of Tax.—Whether the distribution of property by a trustee from an irrevocable trust to another irrevocable trust (sometimes referred to as a "decanting") or the modification of the terms of an irrevocable trust resulting in a change in beneficial interests is a gift under § 2501.

(56) Section 2503.—Taxable Gifts.—Whether the transfer of property to a trust will be a gift of a present interest in property when (i) the trust corpus consists or will consist substantially of insurance policies on the life of the grantor or the grantor's spouse, (ii) the trustee or any other person has a power to apply the trust's income or corpus to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse, (iii) the trustee or any other person has a power to use the trust's assets to make loans to the grantor's estate or to purchase assets from the grantor's estate, (iv) the trust beneficiaries have the power to withdraw, on demand, any additional transfers made to the trust, and (v) there is a right or power in any person that would cause the grantor to be treated as the owner of all or a portion of the trust under §§ 673 to 677.

(57) Section 2514.—Powers of Appointment.—If the beneficiaries of a trust permit a power of withdrawal to lapse, whether § 2514(e) will be applicable to each beneficiary in regard to the power when (i) the trust corpus consists or will consist substantially of insurance policies on the life of the grantor or the grantor's spouse, (ii) the trustee or any other person has a power to apply the trust's income or corpus to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse, (iii) the trustee or any other person has a power to use the trust's assets to make loans to the grantor's estate or to purchase assets from the grantor's estate, (iv) the trust beneficiaries have the power to withdraw, on demand, any additional transfers made to the trust, and (v) there is a right or power in any person that would cause the grantor to be treated as the owner of all or a portion of the trust under §§ 673 to 677.

(58) Section 2522.—Charitable and Similar Gifts.—Whether a transfer to a pooled income fund described in § 642(c)(5) qualifies for a charitable deduction under § 2522(c)(2)(A).

(59) Section 2522.—Charitable and Similar Gifts.—Whether a transfer to a charitable remainder trust described in § 664 that provides for annuity or unitrust payments for one or two measuring lives or a term of years qualifies for a charitable deduction under § 2522(c)(2)(A).

(60) Section 2601.—Tax Imposed.—Whether a trust that is exempt from the application of the generation-skipping transfer tax because it was irrevocable on September 25, 1985, will lose its exempt status if the situs of the trust is changed from the United States to a situs outside of the United States.

(61) Sections 2601 and 2663.—Tax Imposed; Regulations.—Whether the distribution of property by a trustee from an irrevocable GST exempt trust to another irrevocable trust (sometimes referred to as a "decanting") or the modification of the terms of a GST exempt trust resulting in a change in beneficial interests causes the loss of GST exempt status or constitutes a taxable termination or taxable distribution under § 2612.

(62) Section 2702.—Special Valuation Rules in Case of Transfers of Interests in Trusts.—Whether annuity interests are qualified annuity interests under § 2702 if the amount of the annuity payable annually is more than 50 percent of the initial net fair market value of the property transferred to the trust, or if the value of the remainder interest is less than 10 percent of the initial net fair market value of the property transferred to the trust. For purposes of the 10 percent test, the value of the remainder interest is the present value determined under § 7520 of the right to receive the trust corpus at the expiration of the term of the trust. The possibility that the grantor may die prior to the expiration of the specified term is not taken into account, nor is the value of any reversion retained by the grantor or the grantor's estate.

(63) Section 2702.—Special Valuation Rules in Case of Transfers of Interests in Trusts.—Whether a trust with one term holder satisfies the requirements of § 2702(a)(3)(A) and § 25.2702-5(c) to be a qualified personal residence trust.

(64) Section 2702.—Special Valuation Rules in Case of Transfers of Interests in Trusts.—Whether the sale of property (including insurance policies) to a trust by a trust beneficiary is subject to § 2702 if (i) the beneficiary has a power to withdraw the trust property (or had such power prior to a release or modification, but retains other powers which would cause that person to be the owner if the person were the grantor), other than a power which would constitute a general power of appointment within the meaning of § 2041, (ii) the trust purchases the property with a note, and (iii) the value of the assets with which the trust was funded by the grantor is nomi-

nal compared to the value of the property purchased.

(65) Section 3121.—Definitions.—Determinations as to which of two entities, under common law rules applicable in determining the employer-employee relationship, is the employer, when one entity is treating the worker as an employee.

(66) Section 4947(a)(2).—Split-Interest Trusts.—Whether a split-interest trust is described in § 4947(a)(2) because it has no amounts in trust for which a deduction was allowed under § 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

(67) Section 6109.—Identifying Numbers.—The proper assignment or retention of an employer identification number ("EIN") in the case of a reorganization within the meaning of § 368(a)(1)(F) if the transferor corporation becomes disregarded as an entity separate from its owner under § 301.7701-3.

(68) Section 7702.—See section 4.01(6), above.

.02 General Areas.

(1) Any matter in which the determination requested is primarily one of fact (for example, market value of property, or whether an interest in a corporation is to be treated as stock or indebtedness). Although it is generally inappropriate for the Service to issue a letter ruling on whether an interest in a corporation is stock or indebtedness, there may be instances in which the Service may issue a letter ruling. For example, the Service may issue a letter ruling with respect to an instrument issued by a domestic corporation if (i) the taxpayer believes that the facts strongly support the classification of the instrument as stock, and (ii) the taxpayer can demonstrate that there are unique and compelling reasons to justify the issuance of a letter ruling. Before preparing the letter ruling request, the taxpayer should call the Office of Associate Chief Counsel having jurisdiction for the matters on which the taxpayer is seeking a letter ruling to discuss whether the Service will consider issuing a letter ruling for a particular factual situation. To determine which Associate office has jurisdiction over a particular issue, see section 3 of Rev. Proc. 2026-1, this Bulletin. For a list of telephone numbers for the different Associate offices, see section 10.07 of Rev. Proc. 2026-1, this Bulletin.

(2) Situations in which the requested ruling deals with only part of an integrated transaction. Generally, a letter ruling will not be issued on only part of an integrated transaction. If, however, a part of a transaction falls under a no-rule area, a letter ruling on other parts of the transaction may be issued. Before preparing the letter ruling request, the taxpayer should call the Office of Associate Chief Counsel having jurisdiction for the matters on which the taxpayer is seeking a letter ruling to discuss whether a letter ruling will be issued on part of the transaction. To determine which Associate office has jurisdiction over a particular issue, see section 3 of Rev. Proc. 2026-1, this Bulletin. For a list of telephone numbers for the different Associate offices, see section 10.07 of Rev. Proc. 2026-1, this Bulletin.

(3) Situations in which two or more items or sub-methods of accounting are interrelated. If two or more items or sub-methods of accounting are interrelated, ordinarily a letter ruling will not be issued on a change in accounting method involving only one of the items or sub-methods.

(4) The tax effect of any transaction to be consummated at some indefinite future time.

(5) Any matter dealing with the question of whether property is held primarily for sale to customers in the ordinary course of a trade or business.

(6) The tax effect of a transaction if any part of the transaction is involved in litigation among the parties affected by the transaction, except for transactions involving bankruptcy reorganizations.

(7) (a) Situations in which the taxpayer or a related party is domiciled or organized in a foreign jurisdiction with which the United States does not have an effective mechanism for obtaining tax information with respect to civil tax examinations and criminal tax investigations, which would preclude the Service from obtaining information located in such jurisdiction that is relevant to the analysis or examination of the tax issues involved in the ruling request.

(b) The provisions of subsection (a) above do not apply if the taxpayer or affected related party (i) consents to the disclosure of all relevant information requested by the Service in processing the ruling request or in the course of an examination in order to verify the accuracy of the representations made and to otherwise analyze or examine the tax issues involved in the ruling request, and (ii) waives all claims to protection of bank or commercial secrecy laws in the foreign jurisdiction with respect to the information requested by the Service. In the event the taxpayer's or related party's consent to disclose relevant information or to waive protection of bank or commercial secrecy is determined by the Service to be ineffective or of no force and effect, then the Service may retroactively rescind any ruling rendered in reliance on such consent.

(8) A matter involving the Federal tax consequences of any proposed Federal, state, local, municipal, or foreign legislation. The Service may provide general information in response to an inquiry. However, the Office of Associate Chief Counsel (EEE) may issue letter rulings regarding the effect of proposed state, local, or municipal legislation upon an eligible deferred compensation plan under § 457(b) provided that the letter ruling request relating to the plan complies with the other requirements of Rev. Proc. 2026-1, this Bulletin.

(9) Except with respect to issues under §§ 332, 351, 355, 368, 1036, and related operative provisions, a letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decision of a court, revenue rulings, revenue procedures, notices, or other authority published in the Internal Revenue Bulletin (Comfort Ruling). However, an Associate office may in its discretion issue a Comfort Ruling if the Associate office is otherwise ruling on another issue arising in the same transaction.

(10) Whether an amount received (in periodic payments or as a lump sum) in connection with a legal action or a settlement of a legal action is properly allocated (including an allocation of all payments to one category) to recovery of capital, compensatory damages, punitive damages, dividends, interest, back pay, etc., for Federal tax purposes.

(11) The treatment or effects of hook equity, including as a result of its issuance, ownership, or redemption. This section 4.02(11) ordinarily will not apply

if (i) an interest's status as hook equity is only transitory, such as in a triangular reorganization, or (ii) the treatment of the hook equity is not relevant to the treatment of the overall transaction and issue presented. For this purpose, "hook equity" means an ownership interest in a business entity (such as stock in a corporation) that is held by another business entity in which at least 50 percent of the interests (by vote or value) in such latter entity are held directly or indirectly by the former entity. However, if an entity directly or indirectly owns all of the equity interests in another entity, the equity interests in the latter entity are not hook equity.

(12) Whether a tax-qualified plan satisfies the requirements for qualification under §§ 401 through 420 and § 4975(e)(7). These matters are generally handled through the Employee Plans Determinations program as provided in Rev. Proc. 2026-4, this Bulletin, Rev. Proc. 2022-40, 2022-47 I.R.B. 487, and Rev. Proc. 2023-37, 2023-51 I.R.B. 1491. Notwithstanding the preceding sentence, the Office of Associate Chief Counsel (EEE) may issue a ruling if (i) the taxpayer has demonstrated to the satisfaction of the Office of Associate Chief Counsel (EEE) that the qualification issue involved is unique and requires immediate guidance, (ii) as a practical matter, it is not likely that such issue will be addressed through the determination letter process, and (iii) the Office determines that it is in the interest of good tax administration to provide guidance to the taxpayer with respect to such qualification issue.

(13) Any issue that is being considered by the Pension Benefit Guaranty Corporation ("PBGC") or the Department of Labor ("DOL"), and involves the same taxpayer, will be issued at the discretion of the Office of Associate Chief Counsel (EEE).

SECTION 5. AREAS UNDER STUDY IN WHICH RULINGS OR DETERMINATION LETTERS WILL NOT BE ISSUED UNTIL THE SERVICE RESOLVES THE ISSUE THROUGH PUBLICATION OF A REVENUE RULING, A REVENUE PROCEDURE, REGULATIONS, OR OTHERWISE

.01 Specific Questions and Problems.

(1) Sections 302 and 304.—Distributions in Redemption of Stock; Redemption Through Use of Related Corporations.—Treatment of basis in a § 302 or § 304 redemption. See Withdrawal of Notice of Proposed Rulemaking published in the Federal Register (84 FR 11686) on March 28, 2019.

(2) Sections 351, 358, and 362.—Transfer to Corporation Controlled by Transferor; Basis to Distributees; Basis to Corporations.—The issues described as being under study in Rev. Rul. 2006-2, 2006-1 C.B. 261.

(3) Section 401.—Qualified Pension, Profit-Sharing, and Stock Bonus Plans.—Whether a program providing a limited period during which certain retirees who are currently receiving lifetime annuity payments from a qualified pension plan may elect to convert their annuities into lump sums that are payable immediately (sometimes referred to as a "retiree lump-sum window") complies with the qualification requirements under § 401. See Notice 2019-18, 2019-13 I.R.B. 915, Part III, which provides that the IRS will not issue private letter rulings with regard to retiree lump-sum windows. However, if a taxpayer is eligible to apply for and receive a determination letter, the IRS will no longer include a caveat expressing no opinion regarding the tax consequences of such a window in the letter. See Rev. Proc. 2026-4, this Bulletin, for the procedures that apply to requests for determination letters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, Employee Plans Rulings and Agreements.

(4) Section 613A.—Limitations on Percentage Depletion in Case of Oil and Gas Wells.—Whether the sale of oil or gas, or any product derived from oil or gas, is a bulk sale for purposes of § 613A(d)(2).

(5) Section 671.—Trust Income, Deductions, and Credits Attributable to Grantors and Others as Substantial Owners.—Whether the grantor will be considered the owner of any portion of a transfer in trust under §§ 673 to 677 that is purported to be an incomplete gift under § 2511, specifically including, but not limited to, a transfer to a trust providing for distributions at the direction of a committee to the donor and the committee members either by unanimous consent of the committee members or a majority of the committee members with the consent of the donor.

(6) Section 678.—Person Other than Grantor Treated as Substantial Owner.—Whether the beneficiaries of a trust will be considered the owners of any portion of such trust when two or more of such beneficiaries have the power to distribute income or principal to themselves by unanimous consent.

(7) Section 1014.—Basis of Property Acquired from a Decedent.—Whether the assets in a grantor trust receive a § 1014 basis adjustment at the death of the deemed owner of the trust for income tax purposes when those assets are not includible in the gross estate of that owner under chapter 11 of subtitle B of the Code.

(8) Section 1202.—Partial Exclusion for Gain from Certain Small Business Stock.—Whether a corporation meets the active business requirement under § 1202(e).

(9) Section 2036.—Transfers with Retained Life Estate.—Whether the corpus of a trust will be included in a grantor's estate when the trustee of the trust is a private trust company owned partially or entirely by members of the grantor's family.

(10) Section 2038.—Revocable Transfers.—Whether the corpus of a trust will be included in a grantor's estate when the trustee of the trust is a private trust company owned partially or entirely by members of the grantor's family.

(11) Section 2041.—Powers of Appointment.—Whether the corpus of a trust will be included in an individual's estate when the trustee of the trust is a private trust company owned partially or entirely by members of the individual's family.

(12) Sections 2041 and 2514.—Powers of Appointment.—Whether the beneficiaries of a trust hold general powers of appointment over any portion of a transfer to a trust when (i) two or more of such beneficiaries have the power to distribute income or principal to themselves by unanimous consent and without the consent of the donor, and either (ii) such beneficiaries must be replaced upon the lapse of their powers as the result of death or otherwise or (iii) all of such beneficiaries' powers described by (i) lapse upon the death of any one of the beneficiaries.

(13) Section 2511.—Transfers in General.—Whether a transfer in trust that is purported not to be considered owned by the grantor under § 671 is an incomplete gift, specifically including, but not limited to, a transfer to a trust providing for distributions at the direction of a committee to the donor and the committee members either by unanimous consent of the committee members or a majority of the committee members with the consent of the donor.

(14) Section 2514.—See section 5.01(12), above.

(15) Sections 4966 and 4967.—Taxes on Taxable Distributions; Taxes on Prohibited Benefits.—Issues involving interpretation of §§ 4966 and 4967 regarding distributions from donor advised funds.

.02 General Areas.

None at this time.

SECTION 6. AREAS COVERED BY AUTOMATIC APPROVAL PROCEDURES IN WHICH RULINGS WILL NOT ORDINARILY BE ISSUED

.01 Section 338.—Certain Stock Purchases Treated as Asset Acquisitions.—All requests for an extension of time under § 301.9100-3 within which to make an election under § 338(g) or (h)(10) where the Service has provided an administrative procedure to seek such an extension. See Rev. Proc. 2003-33, 2003-1 C.B. 803 (extension automatically granted to certain persons required to file Form 8023 to make a valid § 338 election that have not filed Form 8023 by its due date).

.02 Section 442.—Change of Annual Accounting Period.—All requests for a change in annual accounting period where the Service has provided an automatic change procedure for obtaining such a change in annual accounting period. See Rev. Proc. 2002-39, 2002-1 C.B. 1046 (general procedures for prior approval), as clarified and modified by Notice 2002-72, 2002-2 C.B. 843, and modified by Rev. Proc. 2003-34, 2003-1 C.B. 856, and Rev. Proc. 2018-17, 2018-9 I.R.B. 384; Rev. Proc. 2006-45, 2006-2 C.B. 851 (certain corporations), as clarified and modified by Rev. Proc. 2007-64, 2007-2 C.B. 818, and modified by Rev. Proc. 2018-17, 2018-9 I.R.B. 384; Rev. Proc. 2006-46, 2006-2 C.B. 859 (partnership, S corporation, personal service corporation, or trust); and Rev. Proc. 2003-62, 2003-2 C.B. 299 (individual seeking a calendar year).

.03 Section 446.—General Rule for Methods of Accounting.—Except as otherwise specifically provided in applicable procedures published in the Internal Revenue Bulletin, all requests for a change in method of accounting where the Service has provided an automatic change request procedure for obtaining such a change in method of accounting. See the automatic change request procedures listed in section 9.22 of Rev. Proc. 2026-1, this Bulletin.

.04 Section 461.—General Rule for Taxable Year of Deduction.—All requests for making or revoking an election under § 461 where the Service has provided an administrative procedure for making or revoking such an election under § 461. See Rev. Proc. 92-29, 1992-1 C.B. 748 (dealing with the use of an alternative method for including in basis the estimated cost of certain common improvements in a real estate development).

.05 Section 704(c).—Contributed Property.—Requests from Qualified Master Feeder Structures, as described in section 4.02 of Rev. Proc. 2001-36, 2001-1 C.B. 1326, for permission to aggregate built-in gains and losses from contributed qualified financial assets for purposes of making § 704(c) and reverse § 704(c) allocations.

.06 Section 1362.—Election; Revocation; Termination.—All situations in which an S corporation qualifies for automatic late S corporation relief under Rev. Proc. 2013-30, 2013-36 I.R.B. 173.

.07 Sections 1502, 1504, and 1552.—Regulations; Definitions; Earnings and Profits.—All requests for waivers or consents on consolidated return issues where the Service has provided an administrative procedure for obtaining such waivers or consents on consolidated return issues. See Rev. Proc. 2014-24, 2014-13 I.R.B. 879 (certain subsidiary members treated as if they filed a Form 1122 even though they failed to do so); Rev. Proc. 2002-32, 2002-1 C.B. 959, as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050 (certain corporations seeking reconsolidation within the 5-year period specified in § 1504(a)(3)(A)); Rev. Proc. 90-39, 1990-2 C.B. 365, as modified by Rev. Proc. 2006-21, and as clarified by Rev. Proc. 90-39A, 1990-2 C.B. 367 (certain affiliated groups of corporations seeking, for earnings and profits determinations, to make an election or a change in their method of allocating the group's consolidated Federal income tax liability); and Rev. Proc. 89-56, 1989-2 C.B. 643, as modified by Rev. Proc. 2006-21 (certain affiliated groups of corporations seeking to file a consolidated return in which member(s) of the group use a 52-53 week taxable year).

.08 Section 2010(c)(5)(A).—Election Required.—All requests filed before the fifth anniversary of the decedent's date of death for an extension of time under § 301.9100-3 to make an election under § 2010(c)(5)(A), where the Service has provided an administrative procedure to seek such an extension. See Rev. Proc. 2022-32, 2022-30 I.R.B. 101 (procedure providing for an extension of time to certain taxpayers to make a "portability" election under § 2010(c)(5)(A)).

.09 Section 7701.—Definitions.—All requests for an extension of time under § 301.9100-3 within which to make an entity classification election under § 301.7701-3 where the Service has provided an administrative procedure to seek such an extension. See Rev. Proc. 2009-41, 2009-39 I.R.B. 439 (extension automatically granted to certain persons required to file Form 8832 to make a valid entity classification election that have not filed Form 8832 by its due date).

SECTION 7. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 2025-3, 2025-1 I.R.B. 142, is superseded.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective December 29, 2025.

SECTION 9. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) ("PRA") gener-

ally requires that a Federal agency obtain the approval of the Office of Management and Budget ("OMB") before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

This revenue procedure mentions an information collection in section 2.03. The procedures for this information collection are contained in Rev. Proc. 2026-1, this Bulletin, and the associated burden is approved under OMB control number 1545-1522.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Jonathan Blake of the Office of Associate Chief Counsel (Corporate). For further information about this revenue procedure, please contact Jonathan Blake at (202) 317-3181 (not a toll-free call) or call the Associate office contacts listed in section 10.07 of Rev. Proc. 2026-1, this Bulletin. See section 3 of Rev. Proc. 2026-1, this Bulletin to determine which Associate office has jurisdiction over a particular issue.

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SECTION 1. WHAT IS THE PURPOSE OF THIS REVENUE PROCEDURE?

Purpose of revenue procedure

.01 This revenue procedure explains how the Internal Revenue Service (Service) provides advice to taxpayers on issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, Employee Plans Rulings and Agreements Office (Employee Plans Rulings and Agreements). It also details the types of advice available to taxpayers, and the procedures for requesting and receiving such advice.

Organization of revenue procedure

.02

(1) Part I of this revenue procedure sets forth general information about the types of advice provided by Employee Plans Rulings and Agreements and the procedures that apply to both requests for determination letters and requests for private letter rulings. Part II contains procedures for determination letters for various types of plans and transactions. Part III contains procedures for private letter rulings within the jurisdiction of Employee Plans Rulings and Agreements. Part IV sets forth the rules for user fees that are required to be paid when requesting various types of advice.

(2) Employee Plans Rulings and Agreements issues letter rulings only on certain matters specified in section 24.01 of this revenue procedure. Rev. Proc. 2026-1, this Bulletin, sets forth procedures for obtaining letter rulings from the Office of Associate Chief Counsel, including letter rulings relating to qualified retirement plans, § 403(b) plans, and individual retirement arrangements (IRAs). Rev. Proc. 2026-2, this Bulletin, sets forth procedures for requesting technical advice from the Office of Associate Chief Counsel.

Other guidance affecting this revenue procedure

.03

(1) Guidance applicable to the individually designed determination letter program

(a) Rev. Proc. 2022-40, 2022-47 IRB 487, provides the circumstances under which a plan sponsor may submit an individually designed plan determination letter application to Employee Plans Rulings and Agreements. Under Rev. Proc. 2022-40, an employer sponsoring an individually designed plan, including a § 403(b) individually designed plan, generally may file a determination letter application only for initial plan determination, for plan termination, and in certain other circumstances identified by the Service in guidance published in the Internal Revenue Bulletin. Plan sponsors may also submit a determination letter application in other specified circumstances, including a submission for a qualified individually designed Merged Plan, as defined in Rev. Proc. 2022-40.

(b) Each year a Required Amendments List is issued, which establishes the end of the remedial amendment period and the plan amendment deadline for an individually designed plan with respect to changes in qualification and § 403(b) requirements that appear on the list. The Required Amendments List also provides the deadline to adopt interim amendments for adopters of a pre-approved plan with respect to changes in qualification and § 403(b) requirements that appear on the list. The 2025 Required Amendments List for Qualified Retirement Plans and § 403(b) Retirement Plans is set forth in Notice 2025-60, 2025-52 IRB____. See https://www.irs.gov/retirement-plans/required-amendments-list for all Required Amendments Lists.

(c) Notice 2017-1, 2017-2 IRB 367, provides an exemption from the requirement to pay a user fee for certain requests to the Service for determination letters with respect to the qualified status of pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans (ESOPs) maintained by small employers.

(2) Guidance applicable to pre-approved plans – fourth remedial amendment cycle (Cycle 4) or a later remedial amendment cycle for defined contribution qualified pre-approved plans[1]; Cycle 4 or a later remedial amendment cycle for defined benefit qualified pre-approved plans[2]; and third remedial amendment cycle (Cycle 3) or a later remedial amendment cycle for § 403(b) pre-approved plans.

(a) Rev. Proc. 2023-37, 2023-51 IRB 1491, sets forth the rules regarding qualified pre-approved plans and § 403(b) pre-approved plans, and combines, conforms, clarifies, and updates rules for qualified pre-approved plans and § 403(b) pre-approved plans previously set forth in prior revenue procedures. In general, Rev. Proc. 2023-37 is effective on November 21, 2023. Sections 9 through 24 of Rev. Proc. 2023-37 (regarding procedures for applications for opinion letters) are effective with respect to:

[1] Cycle 4 for defined contribution qualified pre-approved plans began on February 1, 2023.
[2] Cycle 4 for defined benefit qualified pre-approved plans began April 1, 2025.

(i) a Cycle 4 (or later) defined contribution qualified pre-approved plan;

(ii) a Cycle 4 (or later) defined benefit qualified pre-approved plan; and

(iii) a Cycle 3 (or later) § 403(b) pre-approved plan.

Section 25 of Rev. Proc. 2023-37 (regarding procedures for applications for a determination letter) is effective with respect to:

(i) an application for a determination letter submitted by an adopting employer with respect to a Cycle 4 (or later) defined contribution qualified pre-approved plan;

(ii) an application for a determination letter submitted by an adopting employer with respect to a Cycle 4 (or later) defined benefit qualified pre-approved plan; and

(iii) an application for a determination letter submitted by an adopting employer with respect to the second remedial amendment cycle (Cycle 2) or a later remedial amendment cycle for a § 403(b) pre-approved plan.

(b) Notice 2024-3, 2024-2 IRB 338, sets forth the 2023 Cumulative List, which is used by the Service in its review of opinion letter applications for defined contribution qualified pre-approved plans during Cycle 4.

(c) Announcement 2024-38, 2024-50 IRB 1230, in relevant part, announces that the Department of the Treasury (Treasury Department) and the Service intend to clarify in future guidance that the restatement rule in Rev. Proc. 2019-39, 2019-42 IRB 945, and Rev. Proc. 2016-37, 2016-29 IRB 136, continues to apply to all pre-approved plans, including Cycle 2 (and future) § 403(b) pre-approved plans and Cycle 3 (and future) qualified pre-approved plans. See section 12.08 of this revenue procedure.

(3) Guidance applicable to defined benefit qualified pre-approved plans – Cycle 3[3]

(a) Rev. Proc. 2016-37[4] sets forth a system of remedial amendment cycles that applies to qualified pre-approved plans and the deadlines to submit applications for opinion letters. In addition, section 15.07 of Rev. Proc. 2016-37 provides a procedural rule regarding restatements. See section 12.08 of this revenue procedure.

(b) Rev. Proc. 2017-41 modifies the pre-approved program for qualified plans by eliminating the distinction between master and prototype (M&P) and volume submitter (VS) plans, liberalizing the types of plans eligible for pre-approved status, and affording greater flexibility in plan design. In addition, Rev. Proc. 2017-41 sets forth the procedures for obtaining an opinion letter for qualified pre-approved plans submitted with respect to Cycle 3.

[3] Cycle 3 for defined benefit qualified pre-approved plans ended March 31, 2025.

[4] For purposes of this revenue procedure, references to Rev. Proc. 2016-37 are to Rev. Proc. 2016-37, as modified by Rev. Proc. 2017-41, 2017-29 IRB 92, Rev. Proc. 2020-40, 2020-38 IRB 575, and Rev. Proc. 2021-38, 2021-38 IRB 425, but not as modified by Rev. Proc. 2022-40 or Rev. Proc. 2023-37.

(c) Rev. Proc. 2020-10, 2020-21 IRB 295, provides that Cycle 3 for defined benefit qualified pre-approved plans began on May 1, 2020, and the on-cycle submission period for providers to submit opinion letter applications began on August 1, 2020.

(d) Notice 2020-14, 2020-13 IRB 555, sets forth the 2020 Cumulative List, which is used by the Service in its review of opinion letter applications for defined benefit qualified pre-approved plans during Cycle 3.

(e) Rev. Proc. 2020-40 modifies Rev. Proc. 2016-37 to provide that the general deadline for adopting a discretionary amendment made to a qualified pre-approved plan (generally the end of the plan year for which the plan amendment is put into effect) applies unless a statutory provision, regulations, or other guidance published in the Internal Revenue Bulletin sets forth a different deadline.

(f) Rev. Proc. 2021-38 modifies the interim amendment deadline set forth in section 15.04(1) of Rev. Proc. 2016-37 to provide that an interim amendment made to a pre-approved plan qualified under § 401(a) is adopted timely if the amendment is adopted by the end of the second calendar year after the calendar year in which the change in qualification requirements is effective with respect to the plan. Rev. Proc. 2021-38 applies to disqualifying provisions that are effective with respect to a plan after December 31, 2020.

(g) Announcement 2023-6, 2023-9 IRB 501, provides that the Service intends to issue opinion letters with respect to Cycle 3 for defined benefit qualified pre-approved plans by February 28, 2023, or soon thereafter. Announcement 2023-6 also provides that an employer adopting a newly approved defined benefit plan will be required to adopt the plan document by March 31, 2025, and that, from April 1, 2023, to March 31, 2025, the Service will accept applications for determination letters from employers who adopt such plans under Cycle 3 and are otherwise eligible to submit a determination letter request.

(4) Guidance applicable to § 403(b) pre-approved plans – first remedial amendment cycle (Cycle 1) and Cycle 2

(a) Rev. Proc. 2017-18, as modified by Notice 2020-35, 2020-25 IRB 948, provides that the last day of the initial remedial amendment cycle for § 403(b) pre-approved plans was generally June 30, 2020. Consequently, Cycle 2 for § 403(b) pre-approved plans began on July 1, 2020.

(b) Rev. Proc. 2019-39, as modified by Rev. Proc. 2020-40, Notice 2020-35, and Rev. Proc. 2021-37, 2021-38 IRB 385, sets forth a system of recurring remedial amendment periods for correcting form defects in § 403(b) individually designed plans and § 403(b) pre-approved plans first occurring after the initial remedial amendment period ends. Rev. Proc. 2019-39 also provides plan amendment deadlines for § 403(b) individually designed and pre-approved plans. Rev. Proc. 2020-40 modifies Rev. Proc. 2019-39 to provide that the general deadline for adopting a discretionary amendment made to a § 403(b) pre-approved plan (generally the end of the plan year for which the plan amendment is put into effect) applies unless a statutory provision, regulations, or other guidance published in the Internal Revenue Bulletin, sets forth a different deadline. In addition, section 13.04 of Rev. Proc. 2019-39 provides a procedural rule regarding restatements for Cycle 1 § 403(b) pre-approved plans. See section 12.08 of this revenue procedure.

(c) Rev. Proc. 2021-37 provides rules for opinion letter applications submitted with respect to Cycle 2 for a § 403(b) pre-approved plan.

(d) Announcement 2024-38 provides that the Service intends to issue opinion letters with respect to Cycle 2 for § 403(b) pre-approved plans by November 29, 2024, or soon thereafter. Announcement 2024-38 also provides that an employer adopting a newly approved § 403(b) plan will be required to adopt the plan document by December 31, 2026, and that, from January 1, 2025, to December 31, 2026, the Service will accept applications for determination letters from employers who adopt such plans under Cycle 2 and are otherwise eligible to submit a determination letter request. Announcement 2024-38 also announces that the Treasury Department and the Service intend to clarify in future guidance that the restatement rule in Rev. Proc. 2019-39 and Rev. Proc. 2016-37 continues to apply to all pre-approved plans, including Cycle 2 (and future) § 403(b) pre-approved plans and Cycle 3 (and future) qualified pre-approved plans. See section 12.08 of this revenue procedure.

(4) Guidance applicable to the IRA opinion letter program

Announcement 2022-6, 2022-13 IRB 934, temporarily suspends the opinion letter program for prototype IRAs (traditional, Roth, and SIMPLE IRAs), SEP arrangements (including salary reduction SEPs (SARSEPs)), and SIMPLE IRA plans. As provided in Announcement 2022-6, the Service intends to issue a new revenue procedure describing procedures for submitting a request to the Service for an opinion letter on a prototype IRA, SEP arrangement, or SIMPLE IRA plan document and will announce when applications may be submitted under the revised prototype IRA opinion letter program.

(5) Other guidance related to EP determinations programs

(a) Rev. Proc. 2021-30, 2021-31 IRB 172, sets forth the procedures for correcting qualification and other eligible failures under the Employee Plans Compliance Resolution System (EPCRS). This includes the Voluntary Correction Program (VCP), the Self Correction Program (SCP) and Audit Closing Agreement Program (CAP). Submissions made under VCP cannot be made anonymously; however, requests for a no fee anonymous pre-submission conference are permitted under specific circumstances.

(b) Notice 2023-43, 2023-24 IRB 919, provides guidance with respect to section 305 of Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), enacted on December 29, 2022. Section 305 of the SECURE 2.0 Act provides for the expansion of EPCRS, which is currently set forth in Rev. Proc. 2021-30, and directs the Secretary of the Treasury (Secretary) or the Secretary's delegate to revise Rev. Proc. 2021-30, or any successor guidance, to take into account the provisions of section 305 not later than the date that is two years after the date of enactment of the SECURE 2.0 Act. Notice 2023-43 is intended to assist taxpayers by providing interim guidance in advance of an update to Rev. Proc. 2021-30.

Updated annually

.04 This revenue procedure is updated annually, but it may be modified, amplified, or clarified during the year.

Possible future updates related to Appeals review

.05 As part of the implementation of the Taxpayer First Act, Pub. L. 116-25, 133 Stat. 981 (2019), the Service and the Internal Revenue Service Independent Office of Appeals (Independent Office of Appeals) continue to review current policies and procedures and prior administrative pronouncements. As a result of this review, there may be additional updates to this revenue procedure or other forms of guidance.

SECTION 2. WHAT CHANGES HAVE BEEN MADE TO REVENUE PROCEDURE 2025-4?

In general

.01 This revenue procedure is a general update of Rev. Proc. 2025-4, 2025-1 IRB 164, which sets forth general information about the types of advice provided by Employee Plans Rulings and Agreements; general procedures for letter ruling and determination letter requests; specific procedures for determination letter requests; and the user fees associated with advice requested from Employee Plans Rulings and Agreements. Procedures and user fees applicable to advice provided by the Commissioner, Tax Exempt and Government Entities, Exempt Organizations Office, are set forth in Rev. Proc. 2026-5, this Bulletin.

Changes made to Revenue Procedure 2025-4

.02 In addition to minor non-substantive changes, including changes to dates, cross references, and citations to other revenue procedures, the following changes have been made:

(1) Section 6.02(2)(b) has been revised to state that all Form 5300 series determination letter requests must be submitted electronically on www.pay.gov.

(2) Sections 7.03 and 30.10(1)(j) have been revised to state that user fees for letter rulings and determination requests will generally not be refunded if there is an omission of material facts in the original submission that, had Employee Plans Rulings and Agreements known of the omission at the time of submission, would have resulted in it declining to rule on all the issues.

PART I. GENERALLY APPLICABLE PROCEDURES

SECTION 3. IN WHAT FORM IS ADVICE PROVIDED BY EMPLOYEE PLANS RULINGS AND AGREEMENTS?

In general

.01 Employee Plans Rulings and Agreements provides advice in the form of letter rulings, closing agreements, compliance statements, determination letters, opinion letters, nonbank trustee approval letters, and oral advice.

Letter ruling

.02 A "letter ruling" is a written statement issued to a taxpayer by Employee Plans Rulings and Agreements that interprets and applies the tax laws or any nontax laws applicable to employee plans to the taxpayer's specific set of facts. Once issued, a letter ruling may be revoked or modified for any number of reasons, as described in section 29 of this revenue procedure, unless it is accompanied by a "closing agreement."

Closing agreement

.03 A "closing agreement" is a final agreement between the Service and a taxpayer on a specific issue or liability. It is entered into under the authority in § 7121 and is final unless fraud, malfeasance, or misrepresentation of a material fact can be shown.

A closing agreement may be entered into if it is advantageous to have the matter permanently and conclusively closed, or if a taxpayer can show that there are good reasons for an agreement and that making the agreement will not prejudice the interests of the Government. In appropriate

cases, taxpayers may be asked to enter into a closing agreement as a condition to the issuance of a letter ruling.

In appropriate cases, a closing agreement may be entered into with sponsors of pre-approved plans.

A closing agreement may also be entered into with respect to retirement plan failures corrected under EPCRS, as set forth in Rev. Proc. 2021-30 (or its successor).

Determination letter

.04 A "determination letter" is a written statement issued to a taxpayer by Employee Plans Rulings and Agreements that applies the principles and precedents previously announced to a specific set of facts. It is issued only if a determination can be made based on clearly established rules in the statute, a tax treaty, or the regulations, or based on a conclusion in a revenue ruling, opinion, or court decision that represents the position of the Service, and that specifically answers the questions presented. Employee Plans Rulings and Agreements issues determination letters on the qualified status of pension, profit-sharing, stock bonus, annuity, and ESOPs under § 401(a), 403(a), 409, or 4975(e)(7), and (except with respect to an adopting employer of a pre-approved plan requesting a determination letter under section 12.03 or 12.04(2) of this revenue procedure) the status for exemption of any related trusts or custodial accounts under § 501(a). Employee Plans Rulings and Agreements also accepts determination letter applications for § 403(b) individually designed plans.

Opinion letter

.05

(1) For applications submitted with respect to Cycle 3 for defined contribution qualified pre-approved plans and defined benefit qualified pre-approved plans, an opinion letter is a written statement issued by Employee Plans Rulings and Agreements to a provider or mass submitter as to the qualification in form of a pre-approved plan under § 401(a), § 403(a), or both §§ 401(a) and 4975(e)(7). See Rev. Proc. 2017-41.

(2) For applications submitted with respect to Cycle 4 (and subsequent cycles) for defined contribution qualified pre-approved plans and defined benefit qualified pre-approved plans, an opinion letter is a written statement issued by Employee Plans Rulings and Agreements to a provider or mass submitter as to the qualification in form of a pre-approved plan under § 401(a), 403(a), 409, or 4975(e)(7). See Rev Proc. 2023-37.

(3) An opinion letter will also be issued as to the acceptability of the form of a § 403(b) pre-approved plan for Cycle 2. See Rev. Proc. 2021-37.

(4) Announcement 2022-6 temporarily suspends the opinion letter program for prototype IRAs (traditional, Roth, and SIMPLE IRAs), SEP arrangements (including salary reduction SEPs (SARSEPs)), and SIMPLE IRA plans. Under the IRA prototype program, an opinion letter will be issued concerning the conformance of a prototype trust, custodial account, or individual annuity with the requirements of § 408(a), (b), (k), or (p) or § 408A, as applicable. See Rev. Proc. 87-50, 1987-2 CB 647; Rev. Proc. 91-44, 1991-2 CB 733; Rev. Proc. 92-38, 1992-1 CB 859; Rev. Proc. 97-29, 1997-1 CB 698; Rev. Proc. 98-59, 1998-2 CB 729; Rev. Proc. 2002-10, 2002-1 CB 401; and Rev. Proc. 2010-48, 2010-50 IRB 828 (pre-approved IRAs).

Oral advice

.06 Oral advice is advisory only and is not binding on the Service.

(1) No oral rulings and no written rulings in response to oral requests.

The Service does not orally issue rulings or determinations, nor does it issue letter rulings or determination letters in response to oral requests from taxpayers. Service employees ordinarily will discuss with taxpayers or their representatives inquiries about whether the Service will rule on particular issues and about procedural matters regarding the submission of requests for letter rulings or determination letters.

(2) Discussion possible on substantive issues.

At the discretion of the Service and as time permits, Service employees may also discuss substantive issues with taxpayers or their representatives. Such a discussion will not bind the Service or the Office of Associate Chief Counsel, and it cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

Service employees who are not directly involved in the examination, appeal, or litigation of particular substantive tax issues will not discuss those issues with taxpayers or their representatives unless the discussion is coordinated with Service employees who are directly involved in the matter. The taxpayer or the taxpayer's representative ordinarily will be asked whether an oral request for advice or information relates to a matter pending before another office of the Service or before a Federal court.

If a tax issue is not under examination, in the Independent Office of Appeals, or in litigation, the tax issue may be discussed even though the issue is affected by a nontax issue pending in litigation.

A taxpayer may seek oral technical guidance from a Service employee in a field office or service center when preparing a return or report.

The Service does not respond to letters seeking to confirm the substance of oral discussions, and the absence of a response to such a letter is not a confirmation.

Nonbank trustee approval letters

.07 A "nonbank trustee approval letter" is a letter ruling that determines that the applicant is qualified to act as a nonbank trustee or custodian pursuant to the requirements of Treas. Reg. § 1.408-2(e)(2) through (5) with respect to custodial accounts described in § 401(f) of qualified trusts established under § 401(a); custodial accounts described in § 403(b)(7); IRAs established under § 408(a), (c), or (h); Roth IRAs established under § 408A; SIMPLE IRAs described in § 408(p); deemed IRAs established under qualified employer plans described in § 408(q); custodial accounts and contracts described in § 457(g)(3) of eligible deferred compensation plans established under § 457(b); Coverdell education savings accounts established under § 530; Trump accounts established under § 530A; Archer medical savings accounts established under § 220; or health savings accounts established under § 223. An applicant requesting approval as a nonbank trustee must provide Employee Plans Rulings and Agreements with clear and convincing proof that the requirements of the regulations are met. If there is a requirement that the applicant feels is not applicable, the application must provide clear and convincing proof that such requirement is not germane to the manner in which the applicant will administer any trust or custodial account. See § 1.408-2(e)(6).

To assist Employee Plans Rulings & Agreements in considering an application for nonbank trustee approval, Appendices E and F should be submitted with the request for approval.

Compliance statement

.08 A "compliance statement" is a binding written agreement between Employee Plans Rulings and Agreements and, generally, the plan sponsor with respect to certain failures of a retirement plan to meet the applicable Code requirements identified by the plan sponsor in a voluntary submission under VCP. The compliance statement addresses the failures identified in the VCP submission, the terms of correction, including any revision of administrative procedures, and the

time period within which proposed corrections must be implemented. A compliance statement is conditioned on (i) there being no misstatement or omission of material fact in connection with the submission, and (ii) the implementation of the specific corrections and satisfaction of any other conditions in the compliance statement within the prescribed time frame. See Rev. Proc. 2021-30 (or its successor).

SECTION 4. ON WHAT ISSUES MAY TAXPAYERS REQUEST WRITTEN ADVICE UNDER THIS PROCEDURE?

In general

.01 Taxpayers may request determination letters, letter rulings, and closing agreements on issues within the jurisdiction of Employee Plans Rulings and Agreements under this revenue procedure.

Determination Letters

.02 Employee Plans Rulings and Agreements issues determination letters on the status of pension, profit-sharing, stock bonus, annuity, and ESOPs under § 401, 403(a), 409, or 4975(e)(7), and (except with respect to an adopting employer of a pre-approved plan requesting a determination letter under section 12.03 or 12.04(2) of this revenue procedure) the status for exemption of any related trusts or custodial accounts under § 501(a). Employee Plans Rulings and Agreements also accepts determination letter applications for § 403(b) individually designed plans.

Letter Rulings

.03 Employee Plans Rulings and Agreements issues letter rulings on the Code sections listed in section 24.01 of this revenue procedure, if appropriate in the interest of sound tax administration, to answer written inquiries of individuals and organizations about their status for tax purposes and the tax effects of their acts or transactions.

Voluntary Closing Agreements

.04 Employee Plans Rulings and Agreements considers voluntary closing agreement requests to resolve certain income or excise tax issues that are ineligible for resolution under EPCRS. See www.irs.gov/retirement-plans/employee-plans-voluntary-closing-agreements.

Other Matters

.05 Note that issues involving employee plans not listed in section 24.01 of this revenue procedure generally fall under the jurisdiction of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). See section 5.03 of this revenue procedure and Rev. Proc. 2026-1, this Bulletin.

SECTION 5. ON WHAT ISSUES MUST WRITTEN ADVICE BE REQUESTED UNDER DIFFERENT PROCEDURES?

Pre-approved plans

.01

(1) The procedures for obtaining opinion letters for qualified pre-approved plans submitted with respect to (a) Cycle 3 defined contribution qualified pre-approved plans and defined benefit qualified pre-approved plans are set forth in Rev. Proc. 2017-41, and (b) Cycle 4 (and subsequent cycles) defined contribution qualified pre-approved plans and defined benefit qualified pre-approved plans are set forth in Rev. Proc. 2023-37.

(2) The procedures for obtaining an opinion letter with respect to Cycle 2 for a § 403(b) pre-approved plan are set forth in Rev. Proc. 2021-37.

Employee Plans Compliance Resolution System

.02 The procedures for obtaining compliance statements under VCP for certain failures of plans qualified under § 401(a), § 403(b) plans, SEP arrangements, SIMPLE IRA plans, and § 457(b) plans under EPCRS are set forth in Part V of Rev. Proc. 2021-30 (or its successor).

Chief Counsel

.03 The procedures for obtaining letter rulings, information letters, and technical advice requests on matters within the jurisdiction of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), or within the jurisdiction of other Offices of Associate Chief Counsel are set forth in the following revenue procedures:

(1) Chief Counsel's letter rulings and information letters: See Rev. Proc. 2026-1, this Bulletin.

(2) Technical Advice Requests: See Rev. Proc. 2026-2, this Bulletin.

(3) Chief Counsel's no-rule positions: See Rev. Proc. 2026-3, this Bulletin.

Letter rulings for requests for minimum funding waivers

.04 A request for a letter ruling on a waiver of the minimum funding standard must be submitted to the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) and may no longer be submitted to Employee Plans Rulings and Agreements. See Rev. Proc. 2026-1, this Bulletin.

SECTION 6. WHAT ARE THE GENERAL INSTRUCTIONS FOR REQUESTING LETTER RULINGS AND DETERMINATION LETTERS FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS?

In general

.01 This section explains the general instructions for requesting letter rulings and determination letters, as applicable to the particular type of request, on all matters within the jurisdiction of Employee Plans Rulings and Agreements. Requests for letter rulings and determination letters require the payment of the applicable user fee discussed in section 6.02(15), section 30, and Appendix A of this revenue procedure. Specific and additional instructions also apply to requests for letter rulings and determination letters on certain matters.

All requests must be submitted in English. All documents submitted in support of such requests must be in English or accompanied by an English translation.

Certain information required in requests for letter rulings or determination letters, as applicable

.02

Facts

(1) Complete statement of facts and other information. Each request for a letter ruling or determination letter must set forth a complete statement of all facts relating to the transaction or determination letter request. These facts include —

(a) names, addresses, telephone numbers, and taxpayer identification numbers of all interested parties (the term "all interested parties" does not mean all shareholders of a widely held corporation requesting a letter ruling relating to a reorganization, or all employees if a large number may be involved);

(b) a complete statement of the business reasons for the transaction; and

(c) a detailed description of the transaction.

The Service usually will not rule on only one step of a larger integrated transaction described in a letter ruling request. See section 25.04 of this revenue procedure. However, if such a letter ruling is requested, the facts and circumstances relating to the entire transaction, including true copies of relevant documents, etc., must be submitted.

Documents

(2) Copies of all contracts, wills, deeds, agreements, instruments, plan documents, and other documents. (a) All documents that are pertinent to a letter ruling request (including contracts, wills, deeds, agreements, instruments, plan documents, trust documents, and proposed disclaimers) must be submitted with the request. The request must also include:

- Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization
- Penalty of perjury statement
- Cover letter

(b) To more efficiently process determination letter applications, the following documents (as applicable to a particular submission) should be submitted in the following order:

- Form 2848 or Form 8821
- Prior determination letter
- Opinion/advisory letter
- Penalty of perjury statement if application in www.pay.gov is not signed by the plan sponsor (see section 6.02(14) of this revenue procedure)
- Cover letter
- Amendments (any prior plan documents being submitted along with any applicable amendments)
- Current plan document
- Adoption agreement
- For nonstandardized plans, a written representation (signature optional) made by the pre-approved plan provider that explains how the plan differs from the approved plan, describing the location, nature, and effect of each deviation from the language of the approved plan. Also include any other information or materials that may be required by Employee Plans Rulings and Agreements Determinations Office (EP Determinations).

All Form 5300 series applications must be submitted electronically on www.pay.gov. Do not submit any documents on paper, including the Form 8717, User Fee for Employee Plan Determination Letter Request. Any applications submitted on paper will be returned to the applicant, including any paper checks.

With respect to determination letter applications, follow the directions provided on www.pay.gov. Note: When using www.pay.gov, if you receive an email that the payment was returned, you must resubmit the application package along with the new user fee. When resubmitting, include the email received regarding the dishonored check with the submission package. Do not use Form 8717 to submit the user fee.

The size of the submissions made through www.pay.gov may be up to 15MB. If the submission is over the 15MB threshold, additional documents may be faxed to 844-255-4818. Be sure the www.pay.gov tracking ID number is listed on the fax coversheet along with the EIN, applicant name, and plan name. Faxes sent to the Service are converted into attachments delivered via email to an Outlook mailbox. If the size of the fax creates an attachment that exceeds 150MB it will not be delivered due to network protections. No notification is issued if it occurs. To avoid the problem, split up a large fax by sending separate, smaller faxes. Fax the EP Customer Service line at 855-224-1311 if you want the Service to confirm your fax or faxes have been delivered.

For additional information relating to a determination letter request for a plan termination, see section 15 of this revenue procedure.

See also the instructions to the form applicable to a particular submission for any additional submission requirements. For additional information relating to a determination letter request submitted by an adopting employer of a pre-approved plan, see sections 12 and 13 of this revenue procedure.

(3) Analysis of material facts. All material facts in documents must be included, rather than merely incorporated by reference, in the taxpayer's initial request or in supplemental letters. These facts must be accompanied by an analysis of their bearing on the issue or issues, specifying the legal provisions that apply.

Same issue in an earlier return

(4) Statement regarding whether same issue is in an earlier return. The request must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, the same issue is in an earlier return of the taxpayer (or in a return for any year of a related taxpayer within the meaning of § 267 or of a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504 or of a predecessor of the taxpayer).

If the statement is affirmative, it must specify whether the issue—

(a) is being examined by the Service;

(b) has been examined and, if so, whether the statutory period of limitations has expired for either assessing tax or filing a claim for refund or credit of tax;

(c) has been examined and, if so, whether a closing agreement covering the issue or liability has been entered into by the Service;

(d) is being considered by the Independent Office of Appeals in connection with a return from an earlier period;

(e) has been considered by the Independent Office of Appeals in connection with a return from an earlier period and, if so, whether the statutory period of limitations has expired for either assessing tax or filing a claim for refund or credit of tax;

(f) has been considered by the Independent Office of Appeals in connection with a return from an earlier period and whether a closing agreement covering the issue or liability has been entered into by the Independent Office of Appeals;

(g) is pending in litigation in a case involving the taxpayer or a related taxpayer; or

(h) is being considered by the Pension Benefit Guaranty Corporation (PBGC) or the Department of Labor (DOL).

Same or similar issue previously submitted or currently pending

(5) Statement regarding whether same or similar issue was previously ruled on or requested or is currently pending. The request must also state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives—

(a) Employee Plans Rulings and Agreements previously ruled on the same or a similar issue for the taxpayer (or a related taxpayer within the meaning of § 267, or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504 or a predecessor);

(b) the taxpayer, a related taxpayer, or a predecessor previously submitted the same or a similar issue to Employee Plans Rulings and Agreements but withdrew the request before a letter ruling or determination letter was issued;

(c) the taxpayer, a related taxpayer, or a predecessor previously submitted a request involving the same or a similar issue that is currently pending with Employee Plans Rulings and Agreements or the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes); or

(d) at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request involving the same or a similar issue to Employee Plans Rulings and Agreements or the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes).

If the statement is affirmative for (a), (b), (c), or (d) of this section 6.02(5), the statement must give the date the request was submitted, the date the request was withdrawn or ruled on, if applicable, and other details of the consideration of the issue by Employee Plans Rulings and Agreements or the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes).

Statement of authorities supporting taxpayer's views

(6) Statement of supporting authorities. If the taxpayer advocates a particular conclusion, an explanation of the grounds for that conclusion and the relevant authorities to support it must also be included. Even if not advocating a particular tax treatment of a proposed transaction, the taxpayer must still furnish views on the tax results of the proposed transaction and a statement of relevant authorities to support those views.

In all events, the request must include a statement of whether the law in connection with the request is uncertain and whether and how the issue is addressed by relevant authorities.

Statement of authorities contrary to taxpayer's views

(7) Statement of contrary authorities. The taxpayer is also encouraged to inform Employee Plans Rulings and Agreements about, and discuss the implications of, any authority believed to be contrary to the conclusion requested, such as legislation (or pending legislation), tax treaties, court decisions, regulations, revenue rulings, revenue procedures, notices, or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect would be helpful. If the taxpayer does not furnish either contrary authorities or a statement that none exists, Employee Plans Rulings and Agreements, in complex cases or those presenting difficult or novel issues, may request submission of contrary authorities or a statement that none exists. Failure to comply with this request may result in Employee Plans Rulings and Agreements refusing to issue a letter ruling or determination letter.

Identifying and discussing contrary authorities generally will enable Employee Plans Rulings and Agreements personnel to understand the issue and relevant authorities more quickly. In that case, when Employee Plans Rulings and Agreements personnel receive the request, they will have before them the taxpayer's thinking on the effect and applicability of contrary authorities. This information should lead to earlier action by Employee Plans Rulings and Agreements. If the taxpayer does not disclose and distinguish significant contrary authorities, Employee Plans Rulings and Agreements may need to request additional information, which will delay action on the request and may result in the application being returned due to being an incomplete submission.

Statement identifying pending legislation

(8) Statement identifying pending legislation. At the time of filing the request, the taxpayer must identify any pending legislation that may affect the proposed transaction. In addition, the taxpayer must notify Employee Plans Rulings and Agreements if applicable legislation is introduced after the request is filed but before a letter ruling or determination letter is issued.

Deletions statement required by § 6110 for private letter rulings and § 403(b) plan determination letters

(9) Statement identifying information to be deleted from copy of letter ruling and § 403(b) plan determination letters for public inspection. The text of private letter rulings and determination letters for § 403(b) plans is open to public inspection under § 6110. The Service makes deletions from the text before it is made available for inspection. To help the Service make the deletions required by § 6110(c), a request for a letter ruling or a determination letter for a § 403(b) plan must be accompanied by a statement indicating the deletions desired ("deletions statement"). If the deletions statement is not submitted with the request, a Service representative will tell the taxpayer that the request will be closed if the Service does not receive the deletions statement within 30 calendar days. See section 27.05 of this revenue procedure.

(a) Format of deletions statement. A taxpayer who wants only names, addresses, and identifying numbers to be deleted should state this in the deletions statement. If the taxpayer wants more information deleted, the deletions statement must be accompanied by a copy of the request and supporting documents on which the taxpayer should bracket the material to be deleted. The deletions statement must indicate the statutory basis under § 6110(c) for each proposed deletion.

If the taxpayer decides to ask for additional deletions before the letter ruling or determination letter is issued, additional deletions statements may be submitted.

(b) Location of deletions statement. The deletions statement must not appear in the request, but instead must be made in a separate document and placed on top of the request for a letter ruling or determination letter.

(c) Signature. The deletions statement must be signed and dated by the taxpayer or the taxpayer's authorized representative. A stamped signature or faxed signature is not permitted.

(d) Additional information. The taxpayer should follow the same procedures above to propose deletions from any additional information submitted after the initial request. An additional deletions statement, however, is not required with each submission of additional information if the taxpayer's initial deletions statement requests that only names, addresses, and identifying numbers be deleted, and the taxpayer wants only the same information deleted from the additional information.

(e) Taxpayer may protest deletions not made. After receiving from the Service, the notice under § 6110(f)(1) of intention to disclose the letter ruling or determination letter (including a copy of the version proposed to be open to public inspection and notation of third-party communications under § 6110(d)), the taxpayer may protest the disclosure of certain information in the letter ruling or determination letter. The taxpayer must send a written statement within 20 calendar days to the Service office indicated on the notice of intention to disclose. The statement must identify those deletions that the Service has not made and that the taxpayer believes should have been made. The taxpayer must also submit a copy of the version of the letter ruling or determination letter and bracket the deletions proposed that have not been made by the Service. Generally, the Service will not consider deleting any material that the taxpayer did not propose to be deleted before the letter ruling or determination letter was issued.

Within 20 calendar days after the Service receives the response to the notice under § 6110(f)(1), the Service will mail to the taxpayer its final administrative conclusion regarding the deletions to be made. The taxpayer does not have the right to a conference to resolve any disagreements concerning material to be deleted from the text of the letter ruling or determination letter. However, these matters may be taken up at any conference that is otherwise scheduled regarding the request.

(f) Taxpayer may request delay of public inspection. After receiving the notice under § 6110(f)(1) of intention to disclose, but within 60 calendar days after the date of notice, the taxpayer may send a request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the notice of intention to disclose. A request for delay under § 6110(g)(3) must contain the date on which it is expected that the underlying transaction will be completed. The request for delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine that there are good reasons for the delay.

(g) Section 6110 does not apply to certain matters. Section 6110(l)(1) states that § 6110 disclosure provisions do not apply to any matter to which § 6104 applies. Therefore, letter rulings, determination letters with respect to qualified plans, and related background file documents dealing with the following matters (covered by § 6104) are not subject to § 6110 disclosure provisions—

(i) An application for the qualification of a pension, profit-sharing or stock bonus plan, or an individual retirement arrangement described in § 408 or § 408A, or any application for exemption under § 501(a) by an organization forming part of such a plan or an account;

(ii) Any document issued by the Service in which the qualification or exempt status of a plan or account is granted, denied, or revoked;

(iii) Any application filed, and any document issued by the Service with respect to the qualification or status of pre-approved plans; and

(iv) The portion of any document issued by the Service with respect to the qualification or exempt status of a plan or account of a proposed transaction by such plan or account.

Signature on request

(10) Signature by taxpayer or authorized representative. The request for a letter ruling or determination letter must be signed and dated by the taxpayer or the taxpayer's authorized representative. For paper applications, neither a stamped signature nor a faxed signature is permitted.

Authorized representatives

(11) Authorized representatives. To sign the request or to appear before the Service in connection with the request, the representative must be one of the following:

Attorney

(a) An attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an attorney and current authorization to represent the taxpayer.

Certified public accountant

(b) A certified public accountant who is qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as a certified public accountant and current authorization to represent the taxpayer.

Enrolled agent

(c) An enrolled agent is a person, other than an attorney or certified public accountant that is currently enrolled to practice before the Service and is not currently under suspension or disbarment from practice before the Service, including a person enrolled to practice only for employee plans matters. He or she must file a written declaration with the Service showing current enrollment and authorization to represent the taxpayer. Either the enrollment number or the expiration date of the enrollment card must be included in the declaration. For the rules on who may practice before the Service, see Treasury Department Circular No. 230.

Enrolled actuary

(d) An enrolled actuary is a person enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242 and qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an enrolled actuary and current authorization to represent the taxpayer. Practice as an enrolled actuary is limited to representation with respect to issues involving the following statutory provisions: §§ 401, 403(a), 404, 412, 413, 414, 419, 419A, 420, 4971, 4972, 4976, 4980, 6057, 6058, 6059, 6652(d), 6652(e), 6692, 7805(b), former § 405, and 29 U.S.C. 1083.

Enrolled retirement plan agent

(e) An enrolled retirement plan agent (ERPA) is an individual who is authorized to practice before the Service under the ERPA program. The ERPA program is established under Treasury Department Circular No. 230 and is administered by the Office of Professional Responsibility.

Practice as an ERPA is limited to representation with respect to issues involving the Employee Plans determination letter program, EPCRS, and the pre-approved programs. In addition, ERPAs are generally permitted to represent taxpayers with respect to Form 5300 series and Form 5500 filings, but not with respect to actuarial forms or schedules. For additional information on ERPAs, see section 10.4, 10.5, and 10.6 of Treasury Department Circular No. 230.

A person with a "Letter of Authorization"

(f) Any other person, including a foreign representative, who has received a "Letter of Authorization" from the Director, Office of Professional Responsibility under section 10.7(d) of Treasury Department Circular No. 230. A person may make a written request for a "Letter of Authorization" to: Office of Director, Office of Professional Responsibility, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224. Section 10.7(d) of Treasury Department Circular No. 230 authorizes the Commissioner of Internal Revenue to allow an individual who is not otherwise eligible to practice before the Service to represent another person in a particular matter. For additional information, see section 6.02(12) of this revenue procedure.

Employee, general partner, bona fide officer, administrator, trustee, etc.

(g) The above requirements do not apply to a regular full-time employee representing his or her employer; to a general partner representing his or her partnership; to a *bona fide* officer representing his or her corporation, association, or organized group; to a trustee, receiver, guardian, personal representative, administrator, or executor representing a trust, receivership, guardianship, or estate; or to an individual representing his or her immediate family. A preparer of a return (other than a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 6.02(11)) who is not a full-time employee, a general partner, a *bona fide* officer, an administrator, a trustee, etc., or an individual representing his or her immediate family may not represent a taxpayer in connection with a letter ruling, determination letter, or technical advice request. See section 10.7(c) of Treasury Department Circular No. 230.

Foreign representative

(h) A foreign representative (other than a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 6.02(11)) is not authorized to practice before the Service and, therefore, may not represent a taxpayer in a request for a letter ruling or a determination letter. In this situation, the nonresident alien or foreign entity must submit the request for a letter ruling or a determination letter on the individual's or entity's own behalf or through a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 6.02(11).

Power of attorney and declaration of representative

(12) Power of attorney and declaration of representative. Any authorized representative, whether enrolled to practice, must also comply with the conference and practice requirements of the Statement of Procedural Rules (26 C.F.R. § 601.501-601.509), which provide the rules for representing a taxpayer before the Service. An unenrolled preparer must file a Form 8821 for certain limited employee plans matters.

Form 2848 must be used to provide the representative's authorization (Part I of Form 2848, Power of Attorney) and the representative's qualification (Part II of Form 2848, Declaration of Representative). The name of the person signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted. An original, a copy, or a fax of the power of attorney is acceptable so long as its authenticity is not reasonably disputed. For additional information regarding the Form 2848, see section 6.03(2) of this revenue procedure.

Compliance with Treasury Department Circular No. 230

(13) Compliance with Treasury Department Circular No. 230. The taxpayer's authorized representative, whether enrolled, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service. In those situations in which Employee Plans Rulings and Agreements believes that the taxpayer's representative is not in compliance with Treasury Department Circular No. 230, Employee Plans Rulings and Agreements will bring the matter to the attention of the Director, Office of Professional Responsibility.

Penalties of perjury statement

(14) Penalties of perjury statement.

(a) Format of penalties of perjury statement. A request for a letter ruling or determination letter and any change in the request submitted at a later time must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined this request, or**

this modification to the request, including accompanying documents, and, to the best of my knowledge and belief, the request or the modification contains all the relevant facts relating to the request, and such facts are true, correct, and complete." See section 27.06 of this revenue procedure for the penalties of perjury statement applicable for submissions of additional information.

Applications on www.pay.gov for determination letters accompanied by the Form 5300 series include a penalty of perjury statement with each submission. If this is a determination letter submission filed by an authorized representative on behalf of a plan sponsor, as provided in an attached Form 2848, the penalty of perjury statement does not apply (although the penalties of perjury box should still be marked). The plan sponsor must sign a separate penalty of perjury statement and submit the statement as an additional attachment.

(b) Signature by taxpayer. The declaration must be signed and dated by the taxpayer, not the taxpayer's representative. Neither a stamped signature nor a faxed signature is permitted.

The person who signs for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts, and whose duties are not limited to obtaining a letter ruling or determination letter from the Service. If the corporate taxpayer is a member of an affiliated group filing consolidated returns, a penalties of perjury statement must also be signed and submitted by an officer of the common parent of the group.

The person signing for a trust, a state law partnership, or a limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

Applicable user fee

(15) Applicable user fee. Section 7528 requires taxpayers to pay user fees for requests for letter rulings, opinion letters, advisory letters, determination letters, and similar requests. Appendix A to this revenue procedure contains the schedule of user fees for each type of request under the jurisdiction of Employee Plans Rulings and Agreements. Section 30 of this revenue procedure provides guidance for applying the user fee requirements. If two or more taxpayers are parties to a transaction and each requests a letter ruling, each taxpayer must satisfy the rules herein and additional user fees may apply. See section 30.04 of this revenue procedure for exemptions from the user fee requirements.

Number of copies of request to be submitted

(16) Number of copies of request to be submitted. Generally, a taxpayer needs to submit only one copy of the request for a letter ruling or determination letter. If, however, more than one issue is presented in a letter ruling request, the taxpayer is encouraged to submit additional copies of the request.

Further, two copies of the request for a letter ruling are required if—

(a) the taxpayer is requesting separate letter rulings on different issues as described in section 6.03(1) of this revenue procedure;

(b) the taxpayer is requesting deletions other than names, addresses, and identifying numbers, as described in section 6.02(9) of this revenue procedure (one copy is the request for the letter ruling and the second copy is the deleted version of such request); or

(c) the taxpayer is requesting a closing agreement (as defined in section 3.03 of this revenue procedure) on the issue presented.

Sample of a letter ruling request

(17) Sample format for a letter ruling request. To assist a taxpayer or the taxpayer's representative in preparing a letter ruling request, a sample format for a letter ruling request is provided in Appendix D. This format is not required to be used by the taxpayer or the taxpayer's representative. If the letter ruling request is not identical or similar to the format in Appendix D, the different format will neither defer consideration of the letter ruling request nor be cause for returning the request to the taxpayer or taxpayer's representative.

Checklist

(18) Checklist for letter ruling requests. Employee Plans Rulings and Agreements will be able to respond more quickly to a taxpayer's letter ruling request if it is carefully prepared and complete. The checklist in Appendix E of this revenue procedure is designed to assist taxpayers in preparing a request by reminding them of the essential information and documents to be furnished with the request. The checklist in Appendix E must be completed to the extent required by the instructions in the checklist, signed and dated by the taxpayer or the taxpayer's representative, and placed on top of the letter ruling request. If the checklist in Appendix E is not received, Employee Plans Rulings and Agreements will ask the taxpayer or the taxpayer's representative to submit the checklist, which may delay action on the letter ruling request. A photocopy of this checklist may be used.

Additional information required in certain circumstances

.03

Multiple issues

(1) To request a separate letter ruling for multiple issues in a single situation. If more than one issue is presented in a request for a letter ruling, Employee Plans Rulings and Agreements generally will issue a single letter ruling covering all the issues. However, if the taxpayer requests a separate letter ruling on any of the issues (because, for example, one letter ruling is needed sooner than another), Employee Plans Rulings and Agreements usually will comply with the request unless it is not feasible or not in the best interests of the Service to do so. A taxpayer who wants a separate letter ruling on multiple issues should make this clear in the request and submit two copies of the request. Additional checklists are solely for the specific issues designated.

In issuing each letter ruling, Employee Plans Rulings and Agreements will state that it has issued a separate letter ruling or that requests for other letter rulings are pending.

Power of attorney

(2) Recipient of original letter ruling or determination letter. Employee Plans Rulings and Agreements will send the original of the letter ruling or determination letter to the taxpayer and a copy of the letter ruling or determination letter to the taxpayer's representative. The letter ruling or determination letter is addressed to the taxpayer. A Form 2848 must be used to provide the representative's authorization except in certain employee plans matters. See section 6.02(12) of this revenue procedure.

To have a copy sent to taxpayer's representative. A copy of the letter ruling or determination letter will be sent to any representative with a check in the box in the name and address block on Form 2848 to indicate the representative is to receive notices and communications. Copies of the letter ruling or determination letter, however, will be sent to no more than two representatives.

Expedited handling

(3) To request expedited handling. Employee Plans Rulings and Agreements ordinarily processes requests for letter rulings and determination letters in the order of the date received. Determination letter requests are not eligible for expedited handling. Expedited handling with

respect to a letter ruling request means that the request is processed ahead of the regular order. Expedited handling is granted only in rare and unusual cases, both out of fairness to other taxpayers and because Employee Plans Rulings and Agreements seeks to process all requests as expeditiously as possible and to give appropriate deference to normal business exigencies in all cases not involving expedited handling.

A taxpayer who has a compelling need to have a letter ruling request processed ahead of the regular order may request expedited handling. This request must explain in detail the need for expedited handling. The request must be made in writing, preferably in a separate letter with, or soon after filing, the request for the letter ruling. If the request is not made in a separate letter, then the letter in which the letter ruling request is made should state, at the top of the first page: **"Expedited Handling Is Requested. See page ___ of this letter."**

A request for expedited handling of requests for letter rulings will not be forwarded to the appropriate group for action until the check or money order for the user fee in the correct amount is received.

Whether the request will be granted is within the discretion of Employee Plans Rulings and Agreements. Employee Plans Rulings and Agreements may grant a request if a factor outside a taxpayer's control creates a real business need to obtain a letter ruling before a certain time to avoid serious business consequences. Examples include situations in which a court or governmental agency has imposed a specific deadline for the completion of a transaction, or a transaction must be completed expeditiously to avoid an imminent business emergency (such as the hostile takeover of a corporate taxpayer), provided that the taxpayer can demonstrate that the deadline or business emergency, and the need for expedited handling, resulted from circumstances that could not reasonably have been anticipated or controlled by the taxpayer. To qualify for expedited handling in such situations, the taxpayer must also demonstrate that the taxpayer submitted the request as promptly as possible after becoming aware of the deadline or emergency. The extent to which the letter ruling request complies with all the applicable requirements of this revenue procedure, and fully and clearly presents the issues, is a factor in determining whether expedited treatment will be granted. If Employee Plans Rulings and Agreements agrees to process a request out of order, it cannot give assurance that any letter ruling will be processed by the time requested. The scheduling of a closing date for a transaction or a meeting of the board of directors or shareholders of a corporation, without regard for the time it may take to obtain a letter ruling, will not be considered a sufficient reason to process a request ahead of its regular order. Also, the possible effect of fluctuation in the market price of stocks on a transaction will not be considered a sufficient reason to process a request out of order.

Because most requests for letter rulings cannot be processed ahead of their regular order, Employee Plans Rulings and Agreements urges all taxpayers to submit their requests well in advance of the contemplated transaction. In addition, to facilitate prompt action on letter ruling requests, taxpayers are encouraged to ensure that their initial submissions comply with all the requirements of this revenue procedure (including the requirements of other applicable guidelines set forth in sections 1.03 and 26.02 of this revenue procedure), and to provide promptly any additional information requested by Employee Plans Rulings and Agreements.

Facsimile transmission (fax)

(4) To receive a letter ruling by facsimile transmission (fax). A letter ruling ordinarily is not sent by fax. However, if the taxpayer requests, a copy of a letter ruling may be faxed to the taxpayer or the taxpayer's authorized representative. A letter ruling, however, is not issued until the ruling is mailed. See § 301.6110-2(h).

A request to fax a copy of the letter ruling to the taxpayer or the taxpayer's authorized representative must be made in writing, either as part of the original letter ruling request or prior

to the approval of the letter ruling. The request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the letter ruling is to be faxed.

Employee Plans Rulings and Agreements will take certain precautions to protect confidential information. For example, Employee Plans Rulings and Agreements will use a cover sheet that identifies the intended recipient of the fax and the number of pages transmitted. The cover sheet, if possible, will not identify the specific taxpayer by name, and it will be the first page covering the letter ruling being faxed.

Requesting a conference

(5) To request a conference. A taxpayer who wants to have a conference on the issues involved in a request for a letter ruling should indicate this in writing when, or soon after, filing the request.

Address to send the request

.04

The addresses for sending requests are provided in section 31 of this revenue procedure.

Pending letter ruling requests

.05

(1) Circumstances under which the taxpayer must notify Employee Plans Rulings and Agreements. The taxpayer must notify Employee Plans Rulings and Agreements if, after the letter ruling request is filed but before a letter ruling is issued, the taxpayer knows that—

(a) an examination of the issue or the identical issue on an earlier year's return has been started by an Examinations office of the Service;

(b) the issue is being considered by the PBGC or the DOL; or

(c) legislation that may affect the transaction has been introduced (see section 6.02(8) of this revenue procedure).

(2) Taxpayer must notify Employee Plans Rulings and Agreements if a return is filed and must attach request to return. If the taxpayer files a return before a letter ruling is received from Employee Plans Rulings and Agreements concerning the issue, the taxpayer must notify Employee Plans Rulings and Agreements that the return has been filed. The taxpayer must also attach a copy of the letter ruling request to the return to alert the Employee Plans Examinations office and thereby avoid premature Employee Plans Examinations office action on the issue.

When to attach letter ruling to return

.06 If, before filing a return, a taxpayer receives a letter ruling about any transaction that is relevant to the return, the taxpayer must attach a copy of the letter ruling to the return when it is filed.

How to check on status of request

.07 The taxpayer or the taxpayer's authorized representative may obtain information regarding the status of a request by calling the person whose name and telephone number are shown on the acknowledgement of receipt of the request.

SECTION 7. WHAT ACTIONS ARE TAKEN IF A REQUEST IS WITHDRAWN OR EMPLOYEE PLANS RULINGS AND AGREEMENTS DECLINES TO ISSUE A LETTER RULING OR DETERMINATION LETTER?

In general

.01 A taxpayer may withdraw a request for a letter ruling or determination letter at any time before the letter ruling or determination letter is signed by Employee Plans Rulings and Agreements. Correspondence and exhibits related to a request that is withdrawn or related to a letter ruling request or determination letter request for which Employee Plans Rulings and Agreements declines to issue a letter ruling or determination letter will not be returned to the taxpayer. See section 6.02(2) of this revenue procedure.

The processing of a request for a letter ruling or determination letter will not be suspended in Employee Plans Rulings and Agreements at the request of a taxpayer.

Notification of appropriate Service official

.02 If a taxpayer withdraws a request for a letter ruling, or if Employee Plans Rulings and Agreements declines to issue a letter ruling, Employee Plans Rulings and Agreements may notify the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return. Employee Plans Rulings and Agreements also may give the Service official its views on the issues in the request to consider in any later examination of the return. See section 10.15 of this revenue procedure regarding the withdrawal of a determination letter application.

Refunds of user fees

.03 The user fee will not be returned for a letter ruling or determination letter request that is withdrawn. If Employee Plans Rulings and Agreements declines to issue a letter ruling on all the issues in the request or declines to issue a determination letter, the user fee will be returned. If Employee Plans Rulings and Agreements, however, issues a letter ruling on some, but not all, of the issues, the user fee will not be returned.

The user fee for a letter ruling will generally not be returned if Employee Plans Rulings and Agreements later discovers an omission of material facts in the original submission that, had Employee Plans Rulings and Agreements known of the omission at the time of submission, would have resulted in it declining to rule on all the issues.

PART II. PROCEDURES FOR DETERMINATION LETTER REQUESTS

PART IIA. REQUESTING DETERMINATION LETTERS

SECTION 8. IN WHAT AREAS ARE DETERMINATION LETTERS ISSUED?

Circumstances under which determination letters are issued

.01 Employee Plans Rulings and Agreements issues determination letters in response to taxpayers' written requests on completed transactions on matters within its jurisdiction.

Employee Plans Rulings and Agreements does not issue determination letters on the tax consequences of proposed transactions, except on the qualified status of employee plans under § 401(a), 403(a), 409, or 4975(e)(7), and the exempt status of any related trust under § 501. Employee Plans Rulings and Agreements also accepts determination letter applications for § 403(b) individually designed plans. See section 1.03(1) of this revenue procedure for eligibility.

The procedures for obtaining an opinion letter with respect to a § 403(b) pre-approved plan for Cycle 2 are set forth in Rev. Proc. 2021-37.

Types of requests

.02 Determination letters may be requested on completed and proposed transactions as set forth in the table below:

TYPE OF REQUEST	FORMS	REV. PROC. SECTION
1. Initial Qualification		
a. Individually designed plans (including collectively bargained plans and § 403(b) plans)	5300	11
b. Pre-approved plans	5300, 5307	12
c. ESOPs	5300, 5309	11
d. Multiple employer plans (§ 413(c) only)	5300	14
e. Group trusts	5316	16
f. Section 414(x) combined qualified plans	5300	11
2. Termination		
a. Individually designed plans (including collectively bargained plans and § 403(b) plans)	5310, 6088	6, 15
b. Pre-approved plans	5310, 6088	6, 15
c. Multiemployer plan covered by PBGC insurance	5300, 6088, Cover letter	15
Note: Form 5310-A, Notice of Plan Merger, Consolidation, Spinoff or Transfer of Plan Assets or Liabilities – Notice of Qualified Separate Lines of Business, generally must be filed not less than 30 days before the merger, consolidation or transfer of assets and liabilities. The filing of Form 5310-A will not result in the issuance of a determination letter.		
3. Certain Merged Plans Eligible to be Submitted under Rev. Proc. 2022-40	5300	10.06(2), 11
4. Standardized and Nonstandardized Qualified Pre-approved Plans (applicable to determination letter requests submitted pursuant to Rev. Proc. 2023-37, with respect to Cycle 4)	5300, 5307	12, 13
5. Standardized and Nonstandardized Cycle 2 § 403(b) Pre-approved Plans (applicable to determination letter requests pursuant to section 25 of Rev. Proc. 2023-37)	5300, 5307	12, 13
6. Special Types of Requests for Qualified Plans		
a. Leased employees (§ 414(n))	5300, Cover letter	17
b. Partial termination	5300, Cover letter	9.09
c. Section 401(h) determination letters	5300, Cover letter	18
d. Section 420 determination letters including other matters under § 401(a)	5300, Cover letter, Checklist	18
e. Section 420 determination letters excluding other matters under § 401(a)	5300, Cover letter, Checklist	18

Areas in which determination letters will not be issued

.03 Determination letters issued in accordance with this revenue procedure do not include determinations involving the following:

(1) Issues involving § 72, 79, 105, 125, 127, 129, 402, 404, 409(l), 409(n), 412, 414(b), 414(c), 414(h)(2), 414(m), 415(m), 457, 511 through 515, or 4975 (other than 4975(e)(7));

(2) Plans or plan amendments for which automatic reliance is granted pursuant to section 8 of Rev. Proc. 2021-37, or section 12 of Rev. Proc. 2023-37;

(3) Plan amendments described below (these amendments will, to the extent provided, be deemed not to alter the status of a plan):

(a) An amendment solely to permit a trust forming part of a plan to participate in a pooled fund arrangement described in Rev. Rul. 81-100, 1981-1 CB 326, as clarified and modified by Rev. Rul. 2004-67, 2004-2 CB 28; Rev. Rul. 2011-1, 2011-2 IRB 251; Notice 2012-6, 2012-3 IRB 293; and Rev. Rul. 2014-24, 2014-37 IRB 529;

(b) An amendment that merely adjusts the maximum limitations under § 415 to reflect annual cost-of-living increases under § 415(d), other than an amendment that adds an automatic cost-of-living adjustment provision to the plan;

(c) An amendment to qualified plans solely to include language pursuant to section 403(c)(2) of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) concerning the reversion of employer contributions made as a result of mistake of fact; and

(4) Determination letter requests with respect to plans that combine an ESOP (as defined in § 4975(e)(7)) with retiree medical benefit features described in § 401(h) (sometimes referred to as an HSOP):

(a) In general, determination letters will not be issued with respect to plans that combine an ESOP with another ESOP containing § 401(h) features with respect to:

(i) whether the requirements of § 4975(e)(7) are satisfied;

(ii) whether the requirements of § 401(h) are satisfied; or

(iii) whether the combination of an ESOP with an ESOP that contains § 401(h) features in a plan adversely affects its qualification under § 401(a);

(b) However, an arrangement will not be considered to be covered by this section 8.03(4) if, under the provisions of the plan, the following conditions are satisfied:

(i) No individual accounts are maintained in the § 401(h) account (except as required by § 401(h)(6));

(ii) No employer securities are held in the § 401(h) account;

(iii) The § 401(h) account does not contain the proceeds (directly or otherwise) of an exempt loan as defined in § 54.4975-7(b)(1)(iii) of the Pension Excise Tax Regulations; and

(iv) The amount of actual contributions to provide § 401(h) benefits (when added to actual contributions for life insurance protection under the plan) does not exceed 25 percent of the sum of (1) the amount of cash contributions actually allocated to participants' accounts in the plan, and (2) the amount of cash contributions used to repay principal with respect to the exempt loan, both determined on an aggregate basis since the inception of the § 401(h) arrangement;

(5) Any issue, if the same issue involving the same taxpayer or a related taxpayer is pending in a case in litigation or before the Independent Office of Appeals; and

(6) Any issue relating to § 403(b) multiple employer plans.

Determination letter applications

.04 The Service will accept applications for determination letters for plans seeking initial qualification and terminating plans any time during the year. See section 12 of Rev. Proc. 2022-40. In addition, the Service will accept applications for determination letters for certain individually designed merged plans, provided the conditions described in Rev. Proc. 2022-40 are met. Employee Plans Rulings and Agreements also accepts determination letter applications for § 403(b) individually designed plans. See section 1.03(1) of this revenue procedure for eligibility.

Review of determination letters

.05 Determination letters issued under this revenue procedure generally are not reviewed by any other office of the Service before they are issued. If a taxpayer believes that the conclusion reached in a determination letter is in error, the taxpayer may ask Employee Plans Rulings and Agreements to reconsider the matter or to request technical advice from the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) as described in Rev. Proc. 2026-2, this Bulletin.

SECTION 9. WHAT IS THE GENERAL SCOPE OF A DETERMINATION LETTER?

Scope of this section

.01 This section delineates, generally, the scope of a determination letter issued by Employee Plans Rulings and Agreements. This section also identifies certain requirements that are not considered by Employee Plans Rulings and Agreements in its review of a plan and with respect to which determination letters do not provide reliance. This section applies to all determination letters, other than letters relating to group trusts, and certain letters relating solely to the requirements of § 420 (regarding the transfer of assets in a defined benefit plan to a health benefit account described in § 401(h)). For additional information pertaining to the scope of reliance on a determination letter, see section 23 of this revenue procedure.

Scope of determination letters

.02

(1)(a) General rule for changes in qualification requirements or § 403(b) requirements as defined in Rev. Proc. 2022-40 that have been or will be included on a Required Amendments List. Except as otherwise provided in section 9.02(1)(c), with respect to ongoing plans, the Service will consider, in reviewing changes in qualification requirements and § 403(b) requirements that have been or will be included on a Required Amendments List, only those changes that appear on a Required Amendments List issued on or before the last day of the second calendar year preceding the year in which the determination letter application is submitted.

(b) General rule for qualification requirements or § 403(b) requirements as defined in Rev. Proc. 2022-40 that have not been and will not be included on a Required Amendments List. Except as otherwise provided in section 9.02(1)(c), with respect to ongoing plans, the Service will consider, in reviewing qualification requirements and § 403(b) requirements that have not been and will not be included on a Required Amendments List, only those qualification requirements and § 403(b) requirements that are in effect on or before the last day of the second calendar year preceding the year in which the determination letter application is submitted.

See Section 10 of Rev. Proc. 2022-40 for further details on the scope of Employee Plans Rulings and Agreements' review of determination letter applications.

(c) There are no exceptions to the general rules for ongoing plans under section 9.02(1)(a) or (b) for 2026. See section 10.03 of Rev. Proc. 2022-40.

(2) Terminating plans. For terminating plans, the Service will consider the qualification requirements or § 403(b) requirements that apply as of the date of termination, regardless of whether such requirements are included on a Required Amendments List. See sections 5.03(3) and 10.02 of Rev. Proc. 2022-40.

Design-based safe harbor

.03 Generally, a plan will not be reviewed for, and a determination letter may not be relied on with respect to, whether a plan satisfies the nondiscrimination requirements of § 401(a)(4), the minimum participation requirements of § 401(a)(26), or the minimum coverage requirements of § 410(b). However, if the applicant elects, and the plan document provides a definition of compensation that satisfies § 1.414(s)-1(c), a plan will be reviewed for, and a determination letter may be relied on with respect to, whether the terms of the plan satisfy one of the design-based safe harbors in § 1.401(a)(4)-2(b)(2) (relating to nondiscrimination in amount of contributions) or § 1.401(a)(4)-3(b)(3), (4), or (5) (relating to nondiscrimination in amount of benefits). A defined contribution plan will also be reviewed for, and a determination letter may be relied on with respect to, whether a plan's terms satisfy the applicable requirements of § 401(k) and 401(m).

Governmental plans under § 414(d)

.04 A plan will not be reviewed for, and a determination letter does not constitute a ruling or determination as to, whether the plan is a governmental plan within the meaning of § 414(d). If a determination letter applicant represents on the application that the plan is a governmental plan within the meaning of § 414(d), the determination letter issued for the plan is predicated on that representation, and the Service's determination is conditioned on the plan constituting a governmental plan within the meaning of § 414(d).

Church plans under § 414(e)

.05 A plan will not be reviewed for, and a determination letter does not constitute a ruling or determination as to, whether the plan is a church plan within the meaning of § 414(e). If a determination letter applicant represents on the application that the plan is a church plan within the meaning of § 414(e), the determination letter issued for the plan is predicated on that representation, and the Service's determination is conditioned on the plan constituting a church plan within the meaning of § 414(e).

Tax treatment of certain contributions under § 414(h)

.06 A plan will not be reviewed for, and a determination letter does not constitute a ruling or determination as to, whether contributions to the plan satisfy § 414(h). A determination letter does not express an opinion on whether contributions made to a plan treated as a governmental plan defined in § 414(d) constitute employer contributions under § 414(h)(2).

Other limits on scope of determination letter

.07 A favorable determination letter does not provide reliance for purposes of §§ 404, 412, 430, 431, and 432 with respect to whether an interest rate (or any other actuarial assumption) is reasonable. A favorable determination letter does not constitute a determination with respect

to whether any requirements of § 414(r), relating to whether an employer is operating qualified separate lines of business, are satisfied.

Leased employees

.08 In addition to a determination letter request for a qualified plan, an applicant that is otherwise eligible to submit an application for a determination letter for a qualified plan may submit a cover letter requesting a determination as to whether leased employees are deemed employees of the employer under the meaning of § 414(n), with the additional information set forth in section 17 of this revenue procedure, including the Form 5300, Application for Determination for Employee Benefit Plan.

Partial terminations

.09 An applicant that seeks a determination as to whether a partial termination has occurred in a qualified plan must file a determination letter application electing such a determination using Form 5300. The applicant may file for a determination as to whether a partial termination has occurred, whether or not the plan is otherwise eligible to be submitted for a determination letter pursuant to section 11.01 or 12.04(3)(b) of this revenue procedure with respect to Cycle 4 (and subsequent cycles), as long as the scope of the determination letter issued with respect to the plan is limited solely to the request regarding whether a partial termination has occurred. In addition, an adopting employer of a pre-approved plan (or, if the plan is a multiple employer plan, the controlling member (an adopting employer sponsoring a qualified plan that submits the application as the lead employer of the multiple employer plan)) may request a determination limited to whether a partial termination has occurred. Applicants may not request a determination letter with respect to the entire plan unless the plan is otherwise eligible to be submitted for a determination letter.

Publication 794, Favorable Determination Letter

.10 Publication 794, Favorable Determination Letter, contains other information regarding the scope of a determination letter, including the requirement that all information submitted with the application be retained as a condition of reliance. In addition, the specific terms of each letter may further define its scope and the extent to which it may be relied upon. Publication 794 can also be found at https://www.irs.gov/forms-instructions.

SECTION 10. WHAT IS THE GENERAL PROCEDURE FOR REQUESTING DETERMINATION LETTERS?

Scope

.01 Section 6 of this revenue procedure and this section 10 set forth procedures that are generally applicable to all determination letter requests. Additional procedures for specific types of requests are set forth in sections 11 through 18 of this revenue procedure.

Complete information required

.02 An applicant requesting a determination letter must file the materials required by this revenue procedure with EP Determinations at the address provided in section 31 of this revenue procedure. The filing of the application, when accompanied by all information and documents required by this revenue procedure, will generally serve to provide EP Determinations with the information required to make the requested determination. However, in making the determination, EP Determinations may require the submission of additional information. If an application is determined by EP Determinations to be procedurally or technically deficient, EP Determinations may decline to process the application and an applicant may be required to resubmit the entire application and pay a new user fee to request a determination letter. See section 10.11 of this revenue procedure for additional information. Information submitted to EP Determinations in connection with an application for a determination letter for a qualified plan may be subject to public inspection to the extent provided by § 6104. The applicant must include EPCRS documentation for any closing agreement or compliance statement, if applicable. This includes applicable attachments or model schedules and copies of corrective amendments.

Complete copy of plan and applicable amendments required

.03 In addition to a copy of the plan and other required materials under this revenue procedure to be included with a determination letter application, the determination letter application must also include a copy of all signed and dated plan amendments (including interim amendments, if applicable) adopted or effective subsequent to the most recent determination letter issued with respect to the plan (other than amendments adopted on behalf of the employer that adopted a pre-approved plan by the practitioner that sponsors the employer's pre-approved plan) even if these amendments are dated earlier than a previous determination letter issued with respect to the plan. See section 11.04 of this revenue procedure for information on when plan restatements must be included in the application.

Separate application for each single § 414(l) plan (qualified plans only)

.04 A separate application is required for each single plan within the meaning of § 414(l). This requirement does not pertain to applications regarding group trusts.

Prior letters

.05 If the plan (other than a plan submitted for initial determination) has received a favorable determination letter in the past, the application must include a copy of the latest determination letter. If a prior determination letter is not available, an explanation must be included with the application, and the applicant must include a copy of the prior plan or adoption agreement, and the opinion or advisory letter, if applicable. The application also must include all amendments necessary to verify that the plan was amended timely.

Plans involving mergers (qualified plans only)

.06 If the submitted plan is the result of a merger of two or more qualified plans, the applicant must include a copy of the prior determination letter for each of the plans that were combined to result in the merged plan. The applicant must include a copy of the prior plan document or, if applicable, the adoption agreement, and the opinion or advisory letter for each of the plans. The applicant also must include all amendments necessary to verify that each plan was amended timely. Additionally, for each plan involved in a merger that has a prior determination letter the applicant should only include all signed and dated plan amendments (including interim amendments, if applicable) adopted or effective subsequent to the most recent determination letter issued with respect to the plan. The requirements of this section 10.06 apply regardless of the circumstances under which a determination letter application is submitted. See section 11.01 for circumstances under which determination letter applications may be submitted and section 11.03 of this revenue procedure for additional documents that must be submitted.

User fees

.07 The appropriate user fee, if applicable, must be paid with the application submitted on www.pay.gov, as described in section 30.07(1) of this revenue procedure, unless the criteria for the qualified plan user fee exemption are met in accordance with Notice 2017-1, 2017-2 IRB 367. See sections 6.02(2) and 30.07 of this revenue procedure for procedures relating to electronic submissions made on Form 5300, Form 5310, Application for Determination for Terminating Plan, Form 5307, Application for Determination for Adopters of Modified Nonstandardized Pre-Approved Plans, or Form 5316, Application for Group or Pooled Trust Ruling.

DO NOT use the Form 8717 on www.pay.gov to transmit the fee, unless paying a supplemental user fee.

Interested party/person notification and comment

.08

(1) Before filing an application for a qualified plan, the applicant requesting a determination letter must satisfy the requirements of section 3001(a) of ERISA, and § 7476(b)(2) of the Code and the regulations thereunder, which provide that an applicant requesting a determination letter on the qualified status of certain retirement plans must notify interested parties of such application. The general rules with respect to notifying interested parties of requests for determination letters

relating to the qualification of plans involving §§ 401(a) and 403(a) are set out below in sections 19A and 20A of this revenue procedure.

(2) Before filing an application for a § 403(b) plan, the applicant must satisfy the requirements for notifying interested persons set forth in sections 19B and 20B of this revenue procedure.

Contrary authority must be distinguished

.09 If the application for determination involves an issue with respect to which contrary authorities exist, failure to disclose or distinguish such contrary authorities will result in requests for additional information or the determination that the application is not complete and cannot be processed.

Employer-employee relationship

.10 EP Determinations does not make determinations regarding the existence of an employer-employee relationship as part of its determination of a plan's satisfaction of applicable requirements, but relies on the applicant's representations or assumptions, stated or implicit, regarding the existence of such a relationship. Taxpayers are reminded, however, that they may file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, with the Service to determine the employment status of the individuals involved prior to filing an application for a determination letter. See section 12.04 of Rev. Proc. 2026-1, this Bulletin.

Incomplete applications

.11 This section provides procedures for processing incomplete applications.

(1) *Procedural Completeness*. An application will be reviewed to determine if it is procedurally complete. For an application to be procedurally complete, the application must include all the information and documents required by this revenue procedure, including, but not limited to, the Form 5300 series application. See section 10.03 of this revenue procedure.

(2) *Procedurally or Technically Deficient Determination Letter Applications – Individually Designed Plans.* EP Determinations may request the submission of additional information for a procedurally or technically deficient application.

(a) If EP Determinations needs additional information to process the application, the applicant will be sent an information request with a 21-day response date.

(b) If the applicant's response to such information request is not timely or complete, a letter will be sent to the applicant, giving an additional 30-day period in which to respond.

(c) If a complete response is not received by the response deadline set forth in the letter referenced in section 10.11(2)(b) of this revenue procedure, the case will be closed. The application will not be returned, and any user fee submitted with respect to the application will not be refunded.

(3) *Procedurally or Technically Deficient Determination Letter Applications – Pre-approved Plans.* EP Determinations may request the submission of additional information for a procedurally or technically deficient application submitted by an adopter of a pre-approved plan.

(a) If an application submitted by an adopter of a pre-approved plan is procedurally deficient, EP Determinations will send the applicant a letter identifying the missing information. The applicant will have 21 days from the date of the letter to submit the missing information identified. If the missing information is not sent within 21 days of EP Determinations' letter, the case will be

closed. The application will not be returned, and any user fee with respect to the application will not be refunded.

(b) If a determination letter application for an adopter of a pre-approved plan is closed pursuant to section 10.11(3)(a) of this revenue procedure, the applicant must resubmit the entire application, including a new user fee (if applicable), by the end of the plan sponsor's remedial amendment cycle, unless a later date is specified in EP Determinations' letter.

Effect of failure to disclose material fact

.12 EP Determinations may determine, based on the application form, the extent of review of the plan document. A failure to disclose a material fact or misrepresentation of a material fact on the application adversely affects the reliance that would otherwise be obtained through issuance by EP Determinations of a favorable determination letter. Similarly, failure to accurately provide any of the information called for on any form required by this revenue procedure may result in no reliance on the determination letter.

Where to file requests

.13 Requests for determination letters must be submitted electronically on www.pay.gov.

Submission of related plans

.14 If applications for two or more plans of the same employer are submitted together, each application should include a cover letter that identifies the name of the employer and the plan numbers and employer identification numbers of all the related plans submitted together. EP Determinations will determine whether these applications will be worked simultaneously.

Withdrawal of requests

.15 The applicant's request for a determination letter may be withdrawn by a written request at any time prior to the issuance of a final adverse determination letter. If an appeal to a proposed adverse determination letter is filed, a request for a determination letter may be withdrawn at any time prior to the forwarding of the proposed adverse action to the Chief, Independent Office of Appeals. In the case of a withdrawal of a determination request, the Service will not issue a determination of any type. For determination letter requests with respect to qualified plans, a failure to issue a determination letter as a result of a withdrawal will not be considered a failure of the Secretary or the Secretary's delegate to make a determination within the meaning of § 7476. The Service may consider the information submitted in connection with the withdrawn request in a subsequent examination. Generally, the user fee will not be refunded if the application is withdrawn; however, the applicant may submit a subsequent request for a determination letter pursuant to section 11 of this revenue procedure. The application must be accompanied with the appropriate user fee in accordance with section 30 of this revenue procedure. Any such application will be treated as an initial request.

Right to status conference

.16 An applicant for a determination letter has the right to have a conference with the Director, EP Rulings and Agreements concerning the status of the application if the application has been pending at least 270 days. The status conference may be by phone or in person, as mutually agreed upon. During the conference, any issues relevant to the processing of the application may be addressed, but the conference will not involve substantive discussion of technical issues. No tape, stenographic, or other verbatim recording of a status conference may be made by any party. Subsequent status conferences may also be requested if at least 90 days have passed since the last preceding status conference.

How to request status conference

.17 A request for a status conference with the Director, EP Rulings and Agreements is to be made in writing and is to be sent to the specialist assigned to review the application or, if the applicant does not know who is reviewing the application, to the Director, EP Rulings and Agreements at the address provided in section 31 of this revenue procedure.

SECTION 11. WHAT IS THE PROCESS FOR REQUESTING DETERMINATION LETTERS FOR INDIVIDUALLY DESIGNED PLANS?

Requesting determination letters

.01 This section 11 contains the procedures for requesting determination letters for individually designed plans for qualified plans and for § 403(b) plans. Determination letters will be issued with respect to individually designed plans solely in the following circumstances:

(1) Initial plan determination. See Rev. Proc. 2022-40, section 9.02, for a description of which plans may be submitted on a Form 5300;

(2) Determination upon plan termination. See section 15 of this revenue procedure and section 9.04 of Rev. Proc. 2022-40 for additional procedures for requesting determination upon plan termination;

(3) Merged Plans. Individually designed qualified plan resulting from merged plans of previously unrelated entities, under the conditions set forth in section 9.05 of Rev. Proc. 2022-40; and

(4) Certain other circumstances as may be set forth in guidance published in the Internal Revenue Bulletin (see section 9.06 of Rev. Proc. 2022-40).

Forms

.02 A determination letter request for the items listed in section 11.01 of this revenue procedure is made by filing the appropriate form and submitting as an attachment any related documents on www.pay.gov according to the instructions to the form and any prevailing revenue procedures, notices, and announcements.

(1) Form 5300 must be filed to request a determination letter for an individually designed plan, including a collectively bargained plan. See section 12 of this revenue procedure for circumstances under which an adopting employer that has modified a pre-approved plan may submit a determination letter request. In accordance with Rev. Proc. 2022-40, section 9.02(1), an employer may submit a plan for initial plan qualification on a Form 5300 as long as a favorable determination letter has never been issued with respect to the plan as an individually designed plan. Employers submitting requests on behalf of individually designed plans should file the most recent version of the Form 5300.

(2) Form 5309, Application for Determination of Employee Stock Ownership Plan, must be filed as an attachment with a Form 5300 to request a determination whether the plan is an ESOP under § 409 or § 4975(e)(7).

(3) Form 5310 must be filed to request a determination for a terminating plan. Also, see section 15 of this revenue procedure for additional procedures pertaining to applications for determination upon plan termination. See sections 6.02(2)(b) and 30.07 of this revenue procedure for procedures relating to electronic submissions. These forms, any applicable user fee, and all related documents must be filed electronically on www.pay.gov, as described in section 30.07(1) of this revenue procedure. When completing the form, taxpayers should refer to the applicable Employee Plans user fees listed in Appendix A of this revenue procedure.

(4) Form 2848.

(5) Form 8821.

Application must include a copy of plan and amendments

.03 The application must include a copy of all signed and dated plan amendments (including interim amendments, if applicable) adopted or effective subsequent to the most recent determination letter issued with respect to the plan, even if these amendments are dated earlier than a previous determination letter issued with respect to the plan. The application must also include a copy of the restated plan, if applicable. If a plan did not receive a favorable determination letter, all plan documents and amendments must be submitted. EP Determinations has the discretion to request copies of any other amendments during its review of a plan. If the submitted plan is the result of a merger of two or more plans, the applicant must include, for each of the plans involved in the merger, a copy of the prior plan document, or if applicable, the adoption agreement, the opinion or advisory letter, and applicable amendments. See section 10.06 of this revenue procedure for further detail on information required for plans involving mergers.

Restatements required

.04 An individually designed plan must be restated when it is submitted for a determination letter unless it is a terminating plan. Sponsors of terminating plans are encouraged, but not required, to submit a restatement when submitting a determination letter application. Plans submitted during 2026 must be restated for compliance for the items described in section 9 of this revenue procedure, as applicable. A plan sponsor of a dual-qualified plan that is intended to comply with both the Code and the Código de Rentas Internas para un Nuevo Puerto Rico de la Ley Núm. 1 de 31 de enero de 2011 ("Puerto Rico Code") must submit a restatement showing compliance with these lists and the qualification requirements of the Code when submitting a determination letter application.

Section 414(x) combined plans

.05 EP Determinations will consider § 414(x) in issuing determination letters for individually designed plans that consist of a defined benefit plan and a qualified cash or deferred arrangement (subject to the eligibility requirements in section 11.01 of this revenue procedure). A § 414(x) plan sponsor must submit two Forms 5300 and two applicable user fees.

SECTION 12. WHEN MAY AN ADOPTER OF A PRE-APPROVED PLAN (STANDARDIZED OR NONSTANDARDIZED) SUBMIT A DETERMINATION LETTER APPLICATION?

Eligibility to apply for a determination letter for a Cycle 4 qualified pre-approved plan under Rev. Proc. 2023-37

.01 Rev. Proc. 2023-37 is applicable to providers of qualified pre-approved plans that submit requests for opinion letters with respect to Cycle 4. Under Rev. Proc. 2023-37, a qualified pre-approved plan is either a standardized or a nonstandardized plan. This section 12, in part, provides guidance on the eligibility of an adopting employer of a qualified pre-approved plan that received an opinion letter, pursuant to Rev. Proc. 2023-37, to submit a determination letter application with regard to that plan. The adoption period for defined contribution qualified pre-approved plans, and the ability for plan sponsors to apply for a determination letter (on Form 5300 or 5307) with respect to Cycle 4 is expected to begin in 2026, and will be published in the Internal Revenue Bulletin.

Eligibility to apply for a determination letter for a Cycle 2 § 403(b) pre-approved plan under Rev. Proc. 2021-37 and Rev. Proc. 2023-37

.02 Rev. Proc. 2021-37 is applicable to providers of § 403(b) pre-approved plans that submit requests for opinion letters with respect to Cycle 2. Under Rev. Proc. 2021-37, a § 403(b) pre-approved plan is either a standardized or a nonstandardized plan. This section 12, in part, provides guidance on the eligibility of an adopting employer of a § 403(b) pre-approved plan to submit a determination letter application with regard to that plan under Rev. Proc. 2023-37. The employer adoption window for Cycle 2 § 403(b) pre-approved plans and the window during which a plan sponsor of such a plan may apply for a determination letter (on Form 5300 or 5307) is January 1, 2025, through December 31, 2026, pursuant to Announcement 2024-38.

Determination letter applications on Form 5307

.03

(1) Except as provided in section 12.03(3) of this revenue procedure, an adopting employer of a nonstandardized qualified or § 403(b) pre-approved plan that has made modifications to the terms of the pre-approved plan that are not extensive, or an adopting employer of any qualified or § 403(b) pre-approved plan (either standardized or nonstandardized) that amends its pre-approved plan solely to add language to satisfy the requirements of § 415 (and § 416, in the case of a qualified pre-approved plan) due to the required aggregation of plans, may file for a determination letter using a Form 5307.

(2) An adopting employer eligible to file for a determination letter on Form 5307 may file on a Form 5307 regardless of whether a prior favorable determination letter has been issued with respect to the plan.

See section 13 of this revenue procedure, which sets forth the procedures for adopting employers of qualified and § 403(b) pre-approved plans requesting determination letters on Form 5307.

(3) Determination letter requests for the following qualified pre-approved plans must be filed on Form 5300 (if otherwise permitted), regardless of whether they are otherwise described in section 12.03(1) of this revenue procedure:

(a) A request with respect to a multiple employer pre-approved plan;

(b) A request for a nonstandardized pre-approved plan that is a pension plan that is not a governmental plan (within the meaning of § 414(d)) in which the normal retirement age is lower than the age 62 safe harbor in § 1.401(a)-1(b)(2), that requests reliance on whether the plan satisfies § 1.401(a)-1(b)(2) (if an employer modified the plan, the modifications cannot be extensive);

(c) A request for a nonstandardized pre-approved plan that is a pension plan that is a governmental plan (within the meaning of § 414(d)) in which the normal retirement age does not satisfy any of the safe harbors described in § 1.401(a)-1(b)(2)(v) of the proposed regulations, that requests reliance on whether the plan satisfies § 1.401(a)-1(b)(2) of the proposed regulations (if an employer modified the plan, the modifications cannot be extensive); and

(d) A request for a nonstandardized pre-approved plan regarding a partial termination.

Determination letter applications on Form 5300

.04

(1) An adopting employer of a pre-approved plan whose plan is treated as individually designed pursuant to section 13.05 of Rev. Proc. 2023-37 or section 9.05 of Rev. Proc. 2021-37 (for example, if the adopting employer makes amendments to a standardized plan other than certain

permitted amendments, or makes amendments to a nonstandardized plan, that, due to the nature and extent of the amendments, result in the Service determining that the plan should be treated as individually designed) must use a Form 5300 to apply for a determination letter as an individually designed plan, and is subject to the eligibility requirements under Rev. Proc. 2022-40, including the criteria that the plan previously had not been filed for a determination letter submitted on a Form 5300 and had not been issued a determination letter as an individually designed plan.

(2) The following adopting employers of a pre-approved plan, or controlling members, as applicable, may file on Form 5300, regardless of whether a favorable determination letter has been issued with respect to the plan:

(a) The controlling member of a multiple employer qualified plan that makes modifications to its nonstandardized pre-approved plan that are not extensive or that amends its pre-approved plan (whether standardized or nonstandardized) solely to add language to satisfy the requirements of § 415 and § 416 due to the required aggregation of plans;

(b) An adopting employer of a nonstandardized qualified or § 403(b) pre-approved plan that has extensive modifications, but the modifications do not cause the plan to be treated as individually designed as described in section 12.04(1) of this revenue procedure;

(c) An adopting employer (or, if the plan is a multiple employer qualified plan, the controlling member) of a qualified pre-approved pension plan (standardized or nonstandardized) that is not a governmental plan (within the meaning of § 414(d)), that files a determination letter request that is limited to a determination as to whether a plan's normal retirement age that is lower than the age 62 safe harbor in § 1.401(a)-1(b)(2) satisfies the requirements of § 1.401(a)-1(b)(2);

(d) An adopting employer (or, if the plan is a multiple employer qualified plan, the controlling member) of a qualified pre-approved pension plan (standardized or nonstandardized) that is a governmental plan (within the meaning of § 414(d)) with a normal retirement age that does not satisfy any of the safe harbors described in § 1.401(a)-1(b)(2)(v) of the proposed regulations, that files a determination letter request that is limited to a determination as to whether a plan's normal retirement age satisfies the requirements of § 1.401(a)-1(b)(2) of the proposed regulations;

(e) An adopting employer (or, if the plan is a multiple employer qualified plan, the controlling member) of a nonstandardized qualified pre-approved pension plan that is not a governmental plan (within the meaning of § 414(d)) in which the normal retirement age is lower than the age 62 safe harbor, that files a determination letter request that includes, but is not limited to, a determination as to whether the plan satisfies § 1.401(a)-1(b)(2), and that has made additional modifications to the terms of the plan that are not extensive; or

(f) An adopting employer (or, if the plan is a multiple employer qualified plan, the controlling member) of a nonstandardized qualified pre-approved pension plan that is a governmental plan (within the meaning of § 414(d)) in which the normal retirement age does not satisfy any of the safe harbors described in § 1.401(a)-1(b)(2)(v) of the proposed regulations, that files a determination letter request that includes, but is not limited to, a determination as to whether the plan satisfies § 1.401(a)-1(b)(2) of the proposed regulations, and that has made additional modifications to the terms of the plan that are not extensive.

An adopting employer that submits an application for a determination letter for a pre-approved plan for one or more of the reasons described in this section 12.04(2) must identify the applicable reason(s) in a cover letter to the application and include a copy of the opinion letter.

(3) Special rules. The following special rules apply with regard to the determination letter requests for qualified plans described below:

(a) Leased employees. An adopting employer of a standardized or nonstandardized qualified pre-approved plan (or, if the plan is a multiple employer plan, the controlling member) that is eligible to submit a determination letter on Form 5300 in accordance with this section and Rev. Proc. 2022-40 may also request a determination regarding leased employee status under § 414(n) (see section 17.05 of this revenue procedure).

(b) Partial terminations. An adopting employer of a standardized or nonstandardized qualified pre-approved plan (or, if the plan is a multiple employer plan, the controlling member) that requests a determination regarding partial termination (see section 9.09 of this revenue procedure) must file using Form 5300. If the request is limited to whether a partial termination has occurred, the employer may file on Form 5300 at any time, regardless of whether the employer is otherwise eligible to submit a determination letter application. If the request is not limited to whether a partial termination has occurred, the employer must be otherwise eligible to submit a determination letter application.

See section 18 of this revenue procedure for procedures for requesting § 401(h) and § 420 determination letters. See section 13.04 of Rev. Proc. 2023-37 regarding the effect of employer amendments on the remedial amendment cycle. See section 12.04(1) of this revenue procedure for treatment as an individually designed plan.

Scope of review

.05

(1) Determination letter applications filed on Form 5307, as described in section 12.03 of this revenue procedure, or on Form 5300, as described in section 12.04(2) of this revenue procedure, will be reviewed on the basis of the Cumulative List that was used to review the underlying pre-approved plan.

(2) Determination letter applications filed on Form 5300 as an individually designed plan, as described in section 12.04(1) of this revenue procedure, will be reviewed based on the Required Amendments List that was issued during the second calendar year preceding the submission of the determination letter application.

Submission period for pre-approved plans

.06 An adopting employer of a pre-approved plan must submit an application for a determination letter (whether on a Form 5300 or Form 5307) during the approximately two-year period in which employers may adopt the pre-approved plan (employer adoption window), as described in section 14.03 of Rev. Proc. 2016-37 and section 25 of Rev. Proc. 2023-37, except with respect to requests limited to partial terminations of qualified pre-approved plans, as noted in section 12.04(3)(b) of this revenue procedure. However, with respect to Cycle 2 § 403(b) pre-approved plans, if the adopting employer had not previously adopted a pre-approved plan that had received an opinion letter for the preceding cycle, the adopting employer has until the start of the employer adoption window for the next cycle to apply for a determination letter submitted on Form 5307 or 5300. Note that applications described under section 12.04(1) of this revenue procedure (for an adopting employer of a pre-approved plan that is treated as an individually designed plan) may be filed at any time to the extent permitted under Rev. Proc. 2022-40.

Reliance on a favorable opinion letter equivalent to determination letter

.07 If an employer sponsoring a § 403(b) plan may rely on a favorable opinion letter pursuant to section 8 of Rev. Proc. 2021-37 and section 12 of Rev. Proc. 2023-37, the opinion letter is equivalent to a favorable determination letter. For example, the favorable opinion letter is treated as a favorable determination letter as provided in section 23 of this revenue procedure, regarding

the effect of a determination letter. Rev. Procs. 2021-37 and 2023-37 also describe the extent to which adopting employers of such plans may rely on favorable opinion letters without requesting individual determination letters.

Restatement rule

.08 A pre-approved plan restatement that generally is effective as of a certain date should not be treated as superseding a previously adopted interim plan amendment that is effective before or after the restatement's effective date and that has not been incorporated or reflected in the restatement, provided that the pre-approved plan is operated in a manner consistent with the interim plan amendment. A plan is presumed to be operating in compliance with an interim plan amendment in any case in which the operation of the plan cannot be determined.

SECTION 13. WHAT ARE THE DETERMINATION LETTER FILING PROCEDURES FOR FORM 5307?

Scope

.01 This section sets forth procedures for requesting determination letters for adopting employers of pre-approved plans that are eligible to submit determination letter applications on Form 5307.

Form 5307 filing procedures

.02 Applicants must submit the Form 5307 application electronically on www.pay.gov and may not submit any documents on paper, including the Form 8717. Do not submit a copy of the trust or any investment arrangement because a determination will not be provided on these documents. Note: EP Determinations may request proof of provider adoption of interim amendments. The application for a determination letter submitted on a Form 5307 must include the following:

(1) The applicable user fee;

(2) Form 5307;

(3) Form 2848 (if applicable, submit Form 8821);

(4) A copy of the most recent opinion letter for the pre-approved plan;

(5) Penalty of perjury statement if application in www.pay.gov is not signed by the plan sponsor (see section 6.02(14) of this revenue procedure);

(6) A complete copy of the plan and, if applicable, a copy of the completed adoption agreement;

(7) A written representation (signature optional) made by the pre-approved plan provider that explains how the nonstandardized plan differs from the approved plan, describing the location, nature, and effect of each deviation from the language of the approved plan;

(8) Prior determination letter, if applicable; and

(9) Any other information or material that may be required by EP Determinations. Note: EP Determinations may request proof of provider adoption of interim amendments.

Deviations from language of approved plan

.03 Deviations from the language of the approved plan will be evaluated based on the extent and complexities of the changes. If the changes are determined to be extensive, EP Determinations will require the applicant to file Form 5300, Application for Determination for Employee Benefit Plan and pay the higher user fee. If the changes are too extensive to be compatible with the pre-approved program, the adopting employer's plan will not be eligible for the pre-approved program. See section 20.03(5) of Rev. Proc. 2016-37, and section 9.05(4) of Rev. Proc. 2021-37. See also section 25.04(1) of Rev. Proc. 2023-37.

Adoption of plan prior to date of plan's letter

.04 An employer will not be treated as having adopted a pre-approved plan if the employer has signed or otherwise adopted the plan prior to the date of issuance of the pre-approved plan's opinion letter. See section 8.03(2) of Rev. Proc. 2021-37 and section 12.03(2) of Rev. Proc. 2023-37. In this case, the determination letter application for the employer's plan may not be filed on Form 5307 and will not be eligible for a reduced user fee. A determination letter application for a pre-approved plan must be based on the pre-approved plan with any applicable modifications.

Timing of determination letter applications for adopting employers of pre-approved plans

.05 In accordance with section 5 of Rev. Proc. 2023-37 (for qualified pre-approved plans) and section 10 of Rev. Proc. 2019-39 (for § 403(b) pre-approved plans), adopting employers of pre-approved plans have a remedial amendment cycle. An adopting employer of a nonstandardized plan that makes changes to the plan that are not extensive must submit the determination letter application within the employer adoption window announced by the Service, as described in section 14.03 of Rev. Proc. 2016-37 for Cycle 3 qualified pre-approved plans, and section 25 of Rev. Proc. 2023-37 for Cycle 2 § 403(b) pre-approved plans and Cycle 4 (and subsequent cycles) defined contribution qualified pre-approved plans and defined benefit qualified pre-approved plans. Applications submitted outside of that employer adoption window will be returned.

SECTION 14. WHAT ARE THE DETERMINATION LETTER FILING PROCEDURES FOR MULTIPLE EMPLOYER PLANS (QUALIFIED PLANS ONLY)?

Scope

.01 This section sets forth procedures for applications filed with respect to plans described in § 413(c). A plan is not described in § 413(c) if all the employers maintaining the plan are members of the same controlled group or affiliated service group under § 414(b), (c), or (m).

Applicant must request letter for plan in the name of the controlling member

.02

(1) A determination letter applicant for a multiple employer plan that is otherwise eligible to apply for a determination letter must request a letter for the plan in the name of the adopting employer sponsoring a plan that submits the application as the lead employer of the multiple employer plan (controlling member). An applicant requesting a letter for the plan submits one Form 5300 for the plan in the name of the controlling member, either including or omitting the design-based safe harbor questions. A participating employer maintaining a multiple employer plan may not request its own determination letter but may rely on a favorable determination letter issued to the controlling member, except with respect to the requirements of §§ 401(a)(4), 401(a)(26), 401(l), 410(b), and 414(s), and, if the participating employer maintains or has ever maintained another plan, §§ 415 and 416.

(2) A determination letter for a multiple employer plan issued pursuant to this revenue procedure will provide reliance for purposes of the requirements of § 413(c);[5] however, pending issuance of final regulations under § 413(e), a favorable determination letter for a multiple employer plan will not provide reliance for purposes of § 413(e). An applicant that has withdrawn a pending application may resubmit the application following the issuance of final regulations under § 413(e). If the withdrawn application had been submitted for initial qualification of the plan, the resubmission of that application will not cause the application to fail to be considered as an application for initial qualification.

Where to file requests

.03 The application, along with the applicable user fee, must be submitted using www.pay.gov. See Appendix A, section .07(1)(d) and (e) of this revenue procedure for the applicable user fee.

Addition of employers

.04 The controlling member may continue to rely on its favorable determination letter after another employer commences participation in the controlling member's multiple employer plan. An employer that commences participation in the multiple employer plan after the controlling member receives a favorable determination letter may rely on the determination letter of the controlling member.

SECTION 15. WHAT ARE THE PROCEDURES FOR FILING A REQUEST FOR A DETERMINATION UPON TERMINATION OR DISCONTINUANCE OF CONTRIBUTIONS, NOTICE OF MERGER, CONSOLIDATION, ETC.?

Scope

.01 This section sets forth procedures for requesting determination letters involving plan termination or discontinuance of contributions. This section also contains procedures regarding required notices of merger, consolidation, or transfer of assets or liabilities.

Required forms

.02

(1) Form 5310, Application for Determination for Terminating Plan, is filed by plans other than multiemployer plans covered by the insurance program of the PBGC. This form must be filed electronically on www.pay.gov. Paper forms will not be accepted.

(2) Form 5300 is filed in the case of a qualified multiemployer plan covered by PBGC insurance. This form must be filed electronically on www.pay.gov. Paper forms will not be accepted.

(3) Form 6088, Distributable Benefits from Employee Pension Benefit Plans, is filed (as applicable) in addition to Form 5310 or 5300 by a sponsor or plan administrator of a qualified defined benefit plan or a qualified underfunded defined contribution plan that files an application for a determination letter regarding plan termination. For collectively bargained qualified plans, a Form 6088 is required only if the plan benefits either (1) employees who are not collectively bargained employees within the meaning of § 1.410(b)-6(d) or (2) more than 2 percent of the employees covered by the plan are professional employees as defined in § 1.410(b)-9. A separate Form 6088 is required for each employer employing such employees. See the instructions for Form 6088 for information required to be submitted along with the form, including a statement

[5] For more information pertaining to the scope of reliance on a determination letter, see section 23 of this revenue procedure.

explaining how the present values were determined. For cash balance plans, explain the methodology used to calculate employees' accrued benefits, and include an example illustrating the application of the methodology.

(4) Form 5310-A, if required, generally must be filed not later than 30 days before a merger, consolidation, or transfer of assets and liabilities. The filing of Form 5310-A will not result in the issuance of a determination letter.

(5) For electronic submissions on Forms 5310, 5300, 5307, and 5316, www.pay.gov must be utilized for payment in lieu of Form 8717, User Fee for Employee Plan Determination Letter Request. See section 6 of this revenue procedure.

(6) Form 2848. If applicable, submit Form 8821.

(7) Schedule SB (Form 5500), Single-Employer Defined Benefit Plan Actuarial Information, for defined benefit plans.

Supplemental information

.03 The application for a determination letter involving plan termination must also include any supplemental information or schedules required by the forms or form instructions. For example, the application must include copies of all records of actions taken to terminate the plan (such as a resolution of the board of directors) and a schedule providing certain information regarding employees who separated from vesting service with less than 100 percent vesting.

In cases involving the termination of plans that contain a § 401(h) feature, a cover letter must accompany the submission, and it must reference the § 401(h) feature to clarify that this feature is part of the termination application. The cover letter must specifically state the location of plan provisions that relate to the § 401(h) feature.

In the case of the termination of a multiemployer plan, there must be a cover letter accompanying the submission that specifies that it is an application for a termination of a multiemployer plan.

Compliance with Title IV of ERISA

.04 In the case of plans subject to Title IV of ERISA, a favorable determination letter issued in connection with a plan's termination is conditioned on approval that the termination is a valid termination under Title IV of ERISA. Notification by the PBGC that a plan may not be terminated will be treated as a material change of fact.

Termination prior to time for amending for change in law

.05 A plan that terminates after the effective date of a change in law, but prior to the date that amendments related to the change in law are otherwise required, must be amended to comply with the applicable provisions of law from the date on which such provisions become effective with respect to the plan. Because such a terminated plan would no longer be in existence by the required amendment date and therefore could not be amended on that date, such plan must be amended in connection with the plan termination to comply with those provisions of law that become effective with respect to the plan on or before the date of plan termination. Such amendments include any amendments made after the date of plan termination that were required to obtain a favorable determination letter. In addition, annuity contracts distributed from such terminated plans must meet all the applicable provisions of any change in law. See section 7 of Rev. Proc. 2022-40.

An application is deemed to be filed in connection with plan termination if it is filed no later than the later of (i) one year after the effective date of the termination, or (ii) one year after the date on which the action terminating the plan is adopted. However, in no event may the application be

filed later than 12 months from the date of distribution of substantially all plan assets in connection with the termination of the plan.

Restatement not required for terminating plan

.06 An applicant for a terminating plan is encouraged to submit a restatement when applying for a determination letter; however, a restatement for a terminating plan generally is not required.

SECTION 16. WHAT ARE THE DETERMINATION LETTER FILING PROCEDURES FOR GROUP TRUSTS?

Scope

.01 This section provides special procedures for requesting a determination letter on the status of a group trust under Rev. Rul. 81-100, as clarified and modified by Rev. Rul. 2004-67, Rev. Rul. 2011-1, Notice 2012-6, Rev. Rul. 2014-24, and section 336(e) of the Protecting Americans from Tax Hikes Act of 2015, Division Q of Consolidated Appropriations Act, 2016, Pub. L. 114-113, 129 Stat. 2242 (PATH Act).

Required information

.02 Applicants must submit the Form 5316 application electronically on www.pay.gov and may not submit any documents on paper, including the Form 8717. Note: When utilizing www.pay.gov, if an applicant receives an email that the payment was dishonored, the applicant must resubmit the application package along with the new user fee. When resubmitting, include the email received regarding the dishonored payment with the submission package. Do not use Form 8717 to submit the user fee.

A request for a determination letter with respect to a group trust is made by submitting a Form 5316, demonstrating how the group trust satisfies the criteria listed in Rev. Rul. 2011-1, together with the trust instrument and related documents. Rev. Rul. 2004-67 extends the ability to participate in group trusts to eligible governmental plans under § 457(b) and clarifies the ability of certain individual retirement accounts under § 408 to participate.

Rev. Rul. 2011-1 extends the ability to participate in group trusts to custodial accounts under § 403(b)(7), retirement income accounts under § 403(b)(9), and governmental retiree benefit plans under § 401(a)(24). There are two model amendments in Rev. Rul. 2011-1. Amendment 1 is for a group trust that received a determination letter from EP Determinations prior to January 10, 2011, that the group trust satisfies Rev. Rul. 81-100, but that does not satisfy the separate account requirement of paragraph (6) of the holding of Rev. Rul. 2011-1. Amendment 2 is for a group trust that received a determination letter from EP Determinations prior to January 10, 2011, that the group trust satisfies Rev. Rul. 81-100, as modified by Rev. Rul. 2004-67, and that intends to permit custodial accounts under § 403(b)(7), retirement income accounts under § 403(b)(9), or § 401(a)(24) governmental retiree benefit plans to participate in the group trust. Rev. Rul. 2014-24 extends the ability to participate in a group trust to certain retirement plans qualified only under the Puerto Rico Code, and clarifies that assets held by certain separate accounts maintained by insurance companies may be invested in group trusts that satisfy Rev. Rul. 81-100. Section 336(e) of the PATH Act modifies the rules for investment by certain church plan entities in a group trust.

Required forms

.03

(1) Using www.pay.gov requires the user fee and documents to be submitted electronically at the time the form is being submitted. For document requirements, see "What to File" in the Instructions to Form 5316 for a list of what to include in the submission, www.irs.gov/pub/irs-pdf/f5316.pdf.

(2) Form 2848. If applicable, submit Form 8821.

(3) Form 5316.

SECTION 17. WHAT ARE THE PROCEDURES FOR FILING A REQUEST FOR A DETERMINATION OF LEASED EMPLOYEE STATUS (QUALIFIED PLANS ONLY)?

Scope

.01 This section provides procedures for determination letter requests on whether an employee is a leased employee and is deemed to be an employee of the recipient employer for qualification purposes under § 414(n). With respect to an individually designed qualified plan, an applicant may include in its request for a determination letter a request on whether an employee is a leased employee and is deemed to be an employee of the recipient employer for qualification purposes under § 414(n) only if the plan is otherwise eligible to be submitted for a determination letter pursuant to section 11.01 of this revenue procedure.

Employer must request the determination under § 414(n)

.02 Generally, a determination letter will indicate whether an employee is a leased employee and is deemed to be an employee of the recipient employer under § 414(n) only if the employer requests such determination and submits with the determination letter application the information specified in section 17.06 of this revenue procedure.

Forms

.03 Form 5300 is submitted for a request for a determination letter that includes a request on leased employee status. Form 5307 cannot be used for this purpose. In addition to the Form 5300, there must be a cover letter accompanying the submission, specifying that it is an application for determination of leased employee status.

Employer is responsible for determining continuing status under § 414(n)

.04 A determination letter on leased employee status under § 414(n) is based solely on the facts submitted at the time of the application. An employer that is the recipient of services of leased employees within the meaning of § 414(n) is responsible for determining, at any other time, whether it meets the requirements of § 401(a), and if a leased employee is deemed to be an employee of the recipient for qualified plan purposes.

Pre-approved plans

.05 An employer that has adopted a pre-approved plan and that is otherwise eligible to submit a determination letter request pursuant to section 12.04 of this revenue procedure may request a determination with respect to § 414(n). The employer must submit with Form 5300 the information required by section 17.06 of this revenue procedure and any other materials necessary for EP Determinations to make a determination. If an employer that has adopted a pre-approved plan requests a determination regarding leased employees, the plan will be reviewed on the basis of the Cumulative List that was used to review the underlying pre-approved plan, unless the plan is treated as an individually designed plan (in which case the plan will be reviewed on the basis of the Required Amendments List).

Required information for § 414(n) determination

.06 A determination letter will be issued with respect to § 414(n) only if the employer requests and is otherwise eligible to receive such a determination, and the application includes:

(1) A description of the nature of the business of the recipient organization;

(2) A copy of the relevant leasing agreement(s);

(3) A description of the function of all leased employees within the trade or business of the recipient organization (including data as to whether all leased employees are performing services on a substantially full-time basis);

(4) A description of facts and circumstances relevant to a determination of whether such leased employees' services are performed under primary direction or control by the recipient organization (including whether the leased employees are required to comply with instructions of the recipient about when, where, and how to perform the services, whether the services must be performed by particular persons, whether the leased employees are subject to the supervision of the recipient, and whether the leased employees must perform services in the order or sequence set by the recipient); and

(5) If the recipient organization is relying on any qualified plan(s) maintained by the employee leasing organization for purposes of qualification of the recipient organization's plan, a description of such plan(s) (including a description of the contributions or benefits provided for all leased employees that are attributable to services performed for the recipient organization, plan eligibility, and vesting).

SECTION 18. WHAT ARE THE PROCEDURES FOR REQUESTING § 401(h) AND § 420 DETERMINATION LETTERS?

Scope

.01 This section provides procedures for requesting determination letters (i) with respect to whether the requirements of § 401(h) are satisfied in a plan with retiree medical benefit features, and (ii) on plan language that permits, pursuant to § 420, the transfer of assets in a defined benefit plan to a health benefit account described in § 401(h) or to an applicable life insurance account in the plan.

Required information for § 401(h) determination

.02 EP Determinations will issue a determination letter that considers whether the requirements of § 401(h) are satisfied in a plan with retiree medical benefit features only if the plan sponsor requests such a determination, the plan sponsor is otherwise eligible to apply for a determination letter, and the plan sponsor's application includes (in addition to the application forms and any other material required by this revenue procedure) a cover letter that requests consideration of § 401(h). The cover letter must specifically state that consideration is being requested with regard to § 401(h) in addition to other matters under § 401(a) and must specifically state the location of plan provisions that satisfy the requirements of § 401(h) (Part I of the checklist in Appendix C of this revenue procedure must be used to identify the location of relevant plan provisions).

Required information for § 420 determination

.03 EP Determinations will consider the qualified status of certain plan language designed to comply with § 420 only if the plan sponsor requests such consideration with Form 5300. The cover letter must specifically state (i) whether consideration is being requested only with regard to § 420, or (ii) whether consideration is being requested with regard to § 420 in addition to other matters under § 401(a) (if consideration of other matters under § 401(a) is being requested, the application forms and other materials required by this revenue procedure must also be submitted). The cover letter must specifically state the location of plan provisions that satisfy each of the following requirements (Parts I and II of the checklist in Appendix C of this revenue procedure must be used to identify the location of relevant plan provisions).

(1) The plan must include a health benefits account as described in § 401(h).

(2) The plan must provide that transfers shall be limited to transfers of "excess assets" as defined in § 420(e)(2).

(3) The plan must provide that only one transfer may be made in a taxable year. However, if there is a transfer from a defined benefit plan to both a health benefits account and to an applicable life insurance account in the same taxable year, both transfers are treated as one transfer.

(4) The plan must provide that the amount transferred will not exceed the amount that is reasonably estimated to be the amount the employer will pay out (whether directly or through reimbursement) of the health benefit account and applicable life insurance account during the taxable year of the transfer for "qualified current retiree liabilities," as defined in § 420(e)(1).

(5) The plan must provide that no transfer will be made after December 31, 2032.

(6) The plan must provide that any assets transferred, and any income allocable to such assets, will be used only to pay qualified current retiree health liabilities for the taxable year of transfer.

(7) The plan must provide that any amounts transferred to a health benefits account (and income attributable to such amounts) or an applicable life insurance account that are not used to pay qualified current retiree health liabilities will be transferred back to the defined benefit portion of the plan.

(8) The plan must provide that the amounts paid out of a health benefits account will be treated as paid first out of transferred assets and income attributable to those assets.

(9) The plan must provide that the accrued pension benefits for participants and beneficiaries must become nonforfeitable as if the plan had terminated immediately prior to the transfer (or in the case of a participant who separated during the 1-year period ending on the date of transfer immediately before such separation).

(10) The plan must provide that a transfer will be permitted only if each group health plan or arrangement under which health benefits are provided contains provisions satisfying § 420(c)(3). The plan must define "applicable employer cost," "cost maintenance period," and "benefit maintenance period," as applicable, consistent with § 420(c)(3), as amended. The plan may provide that § 420(c)(3) is satisfied separately with respect to individuals eligible for benefits under Title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible, and separately for applicable life insurance benefits with respect to individuals 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year.

(11) The plan must provide that transferred assets will not be used for key employees (as defined in § 416(i)(1)).

PART IIB. INTERESTED PARTY AND INTERESTED PERSON NOTICE AND COMMENT

SECTION 19A. WHAT RIGHTS TO NOTICE AND COMMENT DO INTERESTED PARTIES HAVE (QUALIFIED PLANS ONLY)?

Rights of interested parties

.01 Persons who qualify as interested parties under § 1.7476-1(b) with respect to a qualified plan have the following rights:

(1) To receive notice, in accordance with section 20A of this revenue procedure, that an application for an advance determination will be filed regarding the qualification of plans described in § 401, 403(a), 409, or 4975(e)(7);

(2) To submit written comments with respect to the qualification for such plans to the Service;

(3) To request the DOL to submit a comment to the Service on behalf of the interested parties; and

(4) To submit written comments to the Service on matters with respect to which the DOL was requested to comment but declined.

Comments by interested parties

.02 Comments submitted by interested parties must be received by EP Determinations by the 45th day after the day on which the application for determination is received by EP Determinations (however, see sections 19A.03 and 19A.04 of this revenue procedure for filing deadlines in cases in which the DOL has been requested to comment). Such comments must be in writing and signed by the interested parties or by an authorized representative of such parties (as provided in section 6.02(11) of this revenue procedure), and faxed to: EP Customer Service at 855-224-1311; or addressed to:

Internal Revenue Service
EP Determinations
Attn: Customer Service Manager
P.O. Box 2508
Cincinnati, OH 45202

Comments must contain the following information:

(1) The names of the interested parties making the comments;

(2) The name and taxpayer identification number of the applicant for a determination;

(3) The name of the plan, the plan identification number, and the name of the plan administrator;

(4) Whether the parties submitting the comment are:

(a) Employees eligible to participate under the plan;

(b) Employees with accrued benefits under the plan, or former employees with vested benefits under the plan;

(c) Beneficiaries of deceased former employees who are eligible to receive or are currently receiving benefits under the plan; or

(d) Employees not eligible to participate under the plan;

(5) The specific matters raised by the interested parties on the question of whether the plan meets the requirements for qualification involving §§ 401(a) and 403(a), and how such matters relate to the interests of the parties making the comment; and

(6) The address of the interested party submitting the comment (or if a comment is submitted jointly by more than one party, the name and address of a designated representative) to which all correspondence, including a notice of the Service's final determination with respect to plan's qualification should be sent. (The address designated for notice by the Service will also be used by the DOL in communicating with the parties submitting a request for comment). The designated representative may be one of the interested parties submitting the comment or an authorized representative. If two or more interested parties submit a single comment and one person is not designated in the comment as the representative for receipt of correspondence, a notice of determination mailed to any interested party who submitted the comment shall be notice to all the interested parties who submitted the comment for purposes of § 7476(b)(5).

Requests for DOL to submit comments

.03 A request to the DOL to submit to EP Determinations a comment pursuant to section 3001(b)(2) of ERISA must be made in accordance with the following procedures.

(1) The request must be received by the DOL by the 25th day after the day the application for determination is received by EP Determinations. However, if the parties requesting the DOL to submit a comment wish to preserve the right to comment to EP Determinations in the event the DOL declines to comment, the request must be received by the DOL by the 15th day after the day the application for determination is received by EP Determinations.

(2) The request to the DOL to submit a comment to EP Determinations must:

(a) Be in writing;

(b) Be signed as provided in section 19A.02 of this revenue procedure;

(c) Contain the names of the interested parties requesting the DOL to comment and the address of the interested party or designated representative to whom all correspondence with respect to the request should be sent (see also section 19A.02(6) of this revenue procedure);

(d) Contain the information prescribed in section 19A.02(2), (3), (4), (5), and (6) of this revenue procedure;

(e) Indicate that the application was or will be submitted to EP Determinations at the address provided in section 31 of this revenue procedure;

(f) Contain a statement of the specific matters upon which the DOL's comment is sought, as well as how such matters relate to the interested parties making the request; and

(g) Be addressed as follows:

Deputy Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Attention: 3001 Comment Request

Right to comment if DOL declines to comment

.04 If a request described in section 19A.03 of this revenue procedure is made and the DOL notifies the interested parties making the request that it declines to comment on a matter concerning qualification of the plan which was raised in the request, the parties submitting the request may still submit a comment to EP Determinations on such matter. The comment must be received by the later of the 45th day after the day the application for determination is received by EP Determinations or the 15th day after the day on which notification is given by the DOL that it declines to submit a comment on such matter (see section 19A.07 of this revenue procedure for the date of notification). In no event may the comment be received later than the 60th day after the day the application for determination was received. Such a comment must comply with the requirements of section 19A.02 of this revenue procedure and include a statement that the comment is being submitted on matters raised in a request to the DOL upon which the DOL declined to comment.

Confidentiality of comments

.05 For rules regarding the confidentiality of contents of written comments submitted by interested parties to the Service pursuant to section 19A.02 or 19A.04 of this revenue procedure, see § 601.201(o)(5) of the Statement of Procedural Rules.

Availability of comments

.06 For rules regarding the availability to the applicant of copies of all comments on the application submitted pursuant to section 19A.01(1), (2), (3), and (4) of this revenue procedure, see § 601.201(o)(5) of the Statement of Procedural Rules.

When comments are deemed made

.07 An application for an advance determination, a comment to EP Determinations, or, in the case of a request to the DOL, shall be deemed made when it is received by EP Determinations or the DOL, as applicable. Notification by the DOL that it declines to comment shall be deemed given when it is received by the interested party or designated representative. The notice described in section 20A.01 of this revenue procedure shall be deemed given when it is posted or sent to the person in the manner described in § 1.7476-2. In the case of an application, comment, request, notification, or notice that is sent by mail or a private delivery service that has been designated under § 7502(f), the date as of which it shall be deemed received will be determined under § 7502. However, if such an application, comment, request, notification, or notice is not received within a reasonable period from the date determined under § 7502, the immediately preceding sentence will not apply.

SECTION 19B. WHAT NOTICE REQUIREMENTS APPLY TO INTERESTED PERSONS (§ 403(b) PLANS ONLY)?

Requirement to notify interested persons

.01 Interested persons must receive notice, in accordance with section 20B of this revenue procedure, that an application for an advance determination will be filed regarding whether a § 403(b) plan meets the requirements of § 403(b). An interested person with respect to a determination letter application of an ongoing § 403(b) plan is any employee participating in the plan or eligible to participate in the plan. An interested person with respect to a determination letter application of a terminating § 403(b) plan is any participant in the plan or any beneficiary eligible to receive or receiving benefits from the plan.-

Comments by interested persons

.02 Interested persons may submit written comments to the Service with respect to whether a § 403(b) plan meets the requirements of § 403(b). Comments submitted by interested persons must be received by EP Determinations by the 45th day after the day on which the application for determination is received by EP Determinations. Such comments must be in writing and signed by the interested persons or by an authorized representative of such persons (as provided in section 6.02(11) of this revenue procedure), and faxed to: EP Customer Service at 855-224-1311; or addressed to:

Internal Revenue Service
EP Determinations
Attn: Customer Service Manager
P.O. Box 2508
Cincinnati, OH 45202

Comments must contain the following information:

(1) The names of the interested persons making the comments;

(2) The name and taxpayer identification number of the applicant for a determination;

(3) The name of the plan, the plan identification number, and the name of the plan administrator;

(4) Whether the persons submitting the comment are:

(a) Employees eligible to participate under the plan;

(b) Former employees with an account balance under the plan;

(c) Beneficiaries of deceased former employees who are eligible to receive or are currently receiving benefits under the plan; or

(d) Employees not eligible to participate under the plan;

(5) The specific matters raised by the interested persons on the question of whether the plan meets the requirements of § 403(b), and how such matters relate to the interests of the persons making the comment; and

(6) The address of the interested person submitting the comment (or if a comment is submitted jointly by more than one party, the name and address of a designated representative) to which all correspondence, including a notice of the Service's final determination with respect to the plan meeting the requirements of § 403(b) should be sent. The designated representative may be one of the interested persons submitting the comment or an authorized representative. If two or more interested persons submit a single comment and one person is not designated in the comment as the representative for receipt of correspondence, a notice of determination mailed to any interested person who submitted the comment shall be notice to all the interested persons who submitted the comment.

When comments are deemed made

.03 An application for an advance determination or a comment to EP Determinations shall be deemed made when it is received by EP Determinations.

Section 19B is not applicable to plan sponsors of governmental plans

.04 A plan sponsor of a governmental plan within the meaning of § 414(d) is not required to comply with this section 19B.

SECTION 20A. WHAT ARE THE GENERAL RULES FOR NOTICE TO INTERESTED PARTIES (QUALIFIED PLANS ONLY)?

Notice to interested parties

.01 Notice that an application for an advance determination regarding the qualification of a plan that is described in § 401(a), 403(a), 409, or 4975(e)(7) and that is subject to § 410 is to be made must be given to all interested parties in the manner prescribed in § 1.7476-2(c) and in accordance with the requirements of this section. A notice to interested parties is deemed to be provided in a manner that satisfies § 1.7476-2(c) if the notice is delivered using an electronic medium under a system that satisfies the requirements of § 1.401(a)-21.

Time when notice must be given

.02 Notice must be given not less than 10 days nor more than 24 days prior to the day the application for a determination is submitted. If an applicant fails to provide the notice in a timely manner, the application will be returned to the applicant. If, however, an application is returned to the applicant for failure to adequately satisfy the notification requirements with respect to a particular group or class of interested parties, the applicant need not cause notice to be given to those groups or classes of interested parties with respect to which the notice requirement was already satisfied merely because, as a result of the resubmission of the application, the time limitations for providing the notice in this subsection would not be met.

Content of notice

.03 The notice referred to in section 20A.01 of this revenue procedure must contain the following information:

(1) A brief description identifying the class or classes of interested parties to whom the notice is addressed (e.g., all present employees of the employer, or all present employees eligible to participate);

(2) The name of the plan, the plan identification number, and the name of the plan administrator;

(3) The name and taxpayer identification number of the applicant for a determination;

(4) A statement that an application for a determination as to the qualified status of the plan must be made to EP Determinations at the address provided in section 31 of this revenue procedure, and whether the application relates to an initial determination, determination upon plan termination, or determination upon partial termination;

(5) A description of the class of employees eligible to participate under the plan;

(6) A statement of whether EP Determinations has issued a previous determination as to the qualified status of the plan;

(7) A statement that any person to whom the notice is addressed is entitled to submit, or request the DOL to submit, to EP Determinations a comment on the question of whether the plan meets the requirements of § 401(a) or 403(a); that two or more such persons may join in a single comment or request; and that if such persons, with respect to a qualified plan, request the DOL to submit a comment and the DOL declines to do so with respect to one or more matters raised in the request, the persons may still submit a comment to EP Determinations with respect to the matters on which the DOL declines to comment;

(8) The specific dates by which a comment to EP Determinations or a request to the DOL must be received to preserve the right of comment (see section 19A of this revenue procedure);

(9) The number of interested parties needed for the DOL to comment; and

(10) Except to the extent that the additional information required to be made available to interested parties by sections 20A.05 through 20A.09 of this revenue procedure is included in the notice, a description of a reasonable procedure whereby such additional informational material will be available to interested parties (see section 20A.04 of this revenue procedure). A sample notice setting forth the above information in a case in which the additional information required by sections 20A.05 through 20A.09 of this revenue procedure will be made available at places accessible to the interested parties is provided in Appendix B1 to this revenue procedure.

Procedures for making information available to interested parties

.04 The procedure referred to in section 20A.03(10) of this revenue procedure, whereby the additional information required by sections 20A.05 through 20A.09 of this revenue procedure will (to the extent not included in the notice) be made available to interested parties, may consist of making such material available for inspection and copying by interested parties at a place or places reasonably accessible to such parties, or supplying such material by using a method of delivery or a combination thereof that is reasonably calculated to ensure that all interested parties will have access to the materials, provided such procedure is immediately available to all interested parties, is designed to supply them with such additional informational material in time for them to pursue their rights within the time period prescribed, and is available until the earlier of: 1) the filing of a pleading commencing a declaratory judgment action under § 7476 with respect to the qualification of the plan; or 2) the 92nd day after the day the notice of final determination is mailed to the applicant. Reasonable charges to interested parties for copying and/or mailing such additional informational material are permissible.

Information to be made available to interested parties

.05 Unless provided in the notice, or unless section 20A.06 of this revenue procedure applies, there shall be made available to interested parties under a procedure described in section 20A.04 of this revenue procedure:

(1) An updated copy of the plan and the related trust agreement (if any);

(2) The application for determination; and

(3) Any additional documents relating to the application which are submitted by or for the applicant to EP Determinations or furnished by EP Determinations to the applicant.

Special rules if there are fewer than 26 participants

.06 If there would be fewer than 26 participants in the plan, as described in the application (including, as participants, former employees with vested benefits under the plan, beneficiaries of deceased former employees currently receiving benefits under the plan, and employees who would be eligible to participate upon making mandatory employee contributions, if any), then in lieu of making the materials described in section 20A.05 of this revenue procedure available to interested parties who are not participants (as described above), there may be made available to such interested parties a document containing the following information:

(1) A description of the plan's requirements respecting eligibility for participation and benefits and the plan's benefit formula;

(2) A description of the provisions providing for nonforfeitable benefits;

(3) A description of the circumstances which may result in ineligibility, or denial or loss of benefits;

(4) A description of the source of financing of the plan and the identity of any organization through which benefits are provided; and

(5) A description of any optional forms of benefits described in § 411(d)(6) that have been reduced or eliminated by plan amendment.

However, once an interested party or designated representative receives a notice of final determination, the applicant must, upon request, make available to such interested party (whether the plan has fewer than 26 participants) an updated copy of the plan and related trust agreement (if any) and the application for determination.

Information described in § 6104(a)(1)(D) should not be included

.07 Information of the type described in § 6104(a)(1)(D) should not be included in the application, plan, or related trust agreement submitted to EP Determinations. Accordingly, such information should not be included in any of the materials required by section 20A.05 or 20A.06 of this revenue procedure to be made available to interested parties.

Availability of additional information to interested parties

.08 Unless provided in the notice, there shall be made available to interested parties under a procedure described in section 20A.04 of this revenue procedure any additional documents relating to the application which are submitted by or for the applicant to EP Determinations, or furnished by EP Determinations to the applicant; provided, however, if there would be fewer than 26 participants in the plan as described in the application (including, as participants, former employees with vested benefits under the plan, beneficiaries of deceased former employees currently receiving benefits under the plan, and employees who would be eligible to participate upon making mandatory employee contributions, if any), such additional documents need not be made available to interested parties who are not participants (as described above) until they, or their designated representative, receive a notice of final determination. The applicant may also

withhold from such inspection and copying any information described in § 6104(a)(1)(C) and (D) which may be contained in such additional documents.

Availability of notice to interested parties

.09 Unless provided in the notice, there shall be made available to all interested parties under a procedure described in section 20A.04 of this revenue procedure the material described in sections 19A.02 through 19A.07 of this revenue procedure, as applicable.

SECTION 20B. WHAT ARE THE GENERAL RULES FOR NOTICE TO INTERESTED PERSONS (§ 403(b) PLANS ONLY)?

Notice to interested persons

.01 Notice that an application for an advance determination regarding whether a § 403(b) plan satisfies the requirements of § 403(b) must be given to all interested persons in accordance with the requirements of this section.

The notice described in this section 20B.01 shall be deemed given when it is posted or sent to the person by any method reasonably calculated to ensure that each interested person is notified of the application for a determination. If the notice to interested persons is delivered using an electronic medium under an electronic system that satisfies the applicable notice requirements of § 1.401(a)-21, the notice is deemed to be provided in a manner that satisfies the requirements of this section 20B.01.

Time when notice must be given

.02 Notice must be given not less than 10 days nor more than 24 days prior to the day the application for a determination is submitted. If an applicant fails to provide the notice in a timely manner, the application will be returned to the applicant. If, however, an application is returned to the applicant for failure to adequately satisfy the notification requirements with respect to a particular group or class of interested persons, the applicant need not cause notice to be given to those groups or classes of interested persons with respect to which the notice requirement was already satisfied merely because, as a result of the resubmission of the application, the time limitations for providing the notice in this subsection would not be met.

Content of notice

.03 The notice referred to in section 20B.01 of this revenue procedure must contain the following information (a sample notice is provided in Appendix B2 to this revenue procedure):

(1) A brief description identifying the class or classes of interested persons to whom the notice is addressed;

(2) The name of the plan, the plan identification number, and the name of the plan administrator;

(3) The name and taxpayer identification number of the applicant for a determination;

(4) A statement that an application for a determination as to whether the plan meets the requirements of § 403(b) has been made to EP Determinations at the address provided in section 31 of this revenue procedure, and whether the application relates to an initial determination or determination upon plan termination;

(5) A description of the class of employees eligible to participate under the plan;

(6) A statement of whether EP Determinations has issued a previous determination as to the whether the plan has satisfied the requirements of § 403(b);

(7) A statement that any person to whom the notice is addressed is entitled to submit, to EP Determinations, a comment on the question of whether the plan meets the requirements of § 403(b); and that two or more such persons may join in a single comment or request;

(8) The specific dates by which a comment to EP Determinations must be received to preserve the right of comment (see section 19B.02 of this revenue procedure); and

(9) A description of where the additional information required by section 20B.04 of this revenue procedure will be made available at places accessible to the interested persons.

Information to be made available to interested persons

.04 Interested persons may request the following information from the plan sponsor:

(1) An updated copy of the plan and custodial agreement or annuity contract; and

(2) The application for determination.

Reasonable charges to interested persons for copying and/or mailing such informational materials are permissible.

Information described in § 6110(c) should not be included

.05 Information of the type described in § 6110(c) should not be included in the application, plan, or custodial agreement or annuity contract submitted to EP Determinations. Accordingly, such information should not be included in any of the materials required by section 20B.03 or 20B.04 of this revenue procedure to be made available to interested persons.

Section 20B is not applicable to plan sponsors of governmental plans

.06 A plan sponsor of a governmental plan within the meaning of § 414(d) is not required to comply with this section 20B.

PART IIC. PROCESSING DETERMINATION LETTER REQUESTS

SECTION 21. HOW DOES EMPLOYEE PLANS RULINGS AND AGREEMENTS HANDLE DETERMINATION LETTER REQUESTS?

Oral advice

.01 Oral advice

(1) EP Determinations does not issue determination letters on oral requests. However, personnel in EP Determinations ordinarily will discuss with taxpayers or their representatives inquiries regarding substantive tax issues, whether EP Determinations will issue a determination letter on particular issues, and questions relating to procedural matters about submitting determination letter requests. Any discussion of substantive issues will be at the discretion of EP Determinations on a time-available basis, will not be binding on the Service, and cannot be relied upon as a basis of obtaining retroactive relief under the provisions of § 7805(b). A taxpayer may seek oral technical assistance from a taxpayer Service representative when preparing a return or report,

under established procedures. Oral advice is advisory only, and the Service is not bound to recognize it in the examination of the taxpayer's return.

(2) The advice or assistance furnished, whether requested by personal appearance, telephone, or correspondence will be limited to general procedures, or will direct the inquirer to source material, such as pertinent Code provisions, regulations, revenue procedures, and revenue rulings that may aid the inquirer in resolving the question or problem.

Conferences

.02 EP Determinations may grant a pre-submission conference upon written request from a taxpayer or the taxpayer's representative, provided the request shows that a substantive plan, or amendment or other relevant documents have been developed for submission to the Service, but that special problems or issues are involved, and EP Determinations concludes that a conference would be warranted in the interest of facilitating review and determination when the application is formally submitted. Statements made by EP Determinations at a pre-submission conference will not be binding on the Service and cannot be relied upon as a basis of obtaining retroactive relief under the provisions of § 7805(b). See section 10.16 of this revenue procedure regarding the right to a status conference on applications pending for at least 270 days.

Determination letter based solely on administrative record (qualified plans only)

.03 Administrative record

(1) In the case of a request for a determination letter, the determination of EP Determinations or the Independent Office of Appeals on the qualification or non-qualification of the retirement plan shall be based solely upon the facts contained in the administrative record. The administrative record shall consist of all materials exchanged, received, considered, and developed in connection with the determination. This includes:

(a) The request for determination, the retirement plan and any related trust instruments, and any written modifications or amendments made by the applicant during the proceedings within the Service;

(b) All other documents submitted to the Service by, or on behalf of, the applicant with respect to the request for determination;

(c) All written correspondence between the Service and the applicant with respect to the request for determination, and any other documents issued to the applicant from the Service;

(d) All written comments submitted to the Service pursuant to sections 19A.01(2), (3), and (4) of this revenue procedure, and all correspondence relating to comments submitted between the Service and persons (including the PBGC and the DOL) submitting comments pursuant to sections 19A.01(2), (3), and (4) of this revenue procedure; and

(e) In any case in which the Service makes an investigation regarding the facts as represented or alleged by the applicant in the request for determination or in comments submitted pursuant to this revenue procedure, a copy of the official report of such investigation.

(2) The administrative record shall be closed upon the earlier of the following events:

(a) The date of mailing of a notice of final determination by the Service with respect to the application for determination; or

(b) The filing of a petition with the United States Tax Court seeking a declaratory judgment with respect to the qualified status of a retirement plan under § 401(a) or § 403(a).

(3) Any oral representation or modification of the facts as represented or alleged in the application for determination or in a comment filed by an interested party, which is not reduced to writing, shall not become a part of the administrative record, and shall not be taken into account in the determination of the qualified status of the retirement plan by EP Determinations or the Independent Office of Appeals.

Notice of final determination

.04 In the case of final determination, the notice of final determination shall be one of the following:

(1) The letter issued by EP Determinations or the Independent Office of Appeals which states that the applicant's plan satisfies the qualification requirements of the Code, or, in the case of a § 403(b) plan, meets the requirements of § 403(b). The favorable determination letter will be sent by certified mail in situations in which an interested party, the DOL, or the PBGC has commented on the application for determination.

(2) The letter issued, by certified mail, by EP Determinations or the Independent Office of Appeals subsequent to a letter of proposed determination, stating that the applicant's plan fails to satisfy the qualification requirements of the Code or, in the case of a § 403(b) plan, fails to satisfy the requirements of § 403(b).

Issuance of the notice of final determination (qualified plans only)

.05 EP Determinations or the Independent Office of Appeals will send the notice of final determination to the applicant, to the interested parties who have previously submitted comments on the application to the Service (or to the persons designated by them to receive such notice), to the DOL if the DOL has submitted a comment, and to the PBGC, if the PBGC has submitted a comment.

SECTION 22. WHAT ARE THE STEPS FOR EXHAUSTING ADMINISTRATIVE REMEDIES (QUALIFIED PLANS ONLY)?

In general

.01 For purposes of § 7476(b)(3), a petitioner is deemed to have exhausted the administrative remedies available within the Service upon the completion of the steps described in section 22.02, 22.03, 22.04, or 22.05 of this revenue procedure subject, however, to sections 20A.06 and 20A.07 of this revenue procedure. If applicants, interested parties, or the PBGC do not complete the applicable steps described below, they will not have exhausted their respective available administrative remedies as required by § 7476(b)(3) and will, thus, be precluded from seeking declaratory judgment under § 7476 except to the extent that section 22.05 of this revenue procedure applies.

Steps for exhausting administrative remedies

.02 In the case of an applicant, with respect to any matter relating to the qualification of a plan, the steps referred to in section 22.01 of this revenue procedure are:

(1) Filing a completed application with EP Determinations pursuant to this revenue procedure;

(2) Complying with the requirements pertaining to notice to interested parties as set forth in this revenue procedure and § 1.7476-2; and,

(3) Appealing to the Independent Office of Appeals pursuant to § 601.201(o)(6) of the Statement of Procedural Rules, in the event a notice of proposed adverse determination is issued by EP Determinations.

Applicant's request for § 7805(b) relief

.03 In order for a petitioner to be deemed to have exhausted administrative remedies within the Service with respect to § 7805(b), an applicant must submit a request for relief under § 7805(b) to the agent or specialist assigned to the case in accordance with the procedures in section 23.08 of this revenue procedure.

Interested parties

.04 In the case of an interested party or the PBGC, the steps referred to in section 22.01 of this revenue procedure are, with respect to any matter relating to the qualification of the plan, submitting to EP Determinations a comment raising such matter in accordance with section 19A.01(2) of this revenue procedure, or requesting the DOL to submit to EP Determinations a comment with respect to such matter in accordance with section 19A.01(3) of this revenue procedure and, if the DOL declines to comment, submitting the comment in accordance with section 19A.01(4) of this revenue procedure, so that it may be considered by EP Determinations through the administrative process.

Deemed exhaustion of administrative remedies

.05 An applicant, an interested party, or the PBGC will not be deemed to have exhausted administrative remedies prior to the earlier of:

(1) The completion of those steps applicable to each as set forth in section 22.01, 22.02, 22.03, or 22.04 of this revenue procedure, which constitute their administrative remedies; or

(2) The expiration of the 270–day period described in § 7476(b)(3), which period shall be extended in a case in which there has not been a completion of all the steps referred to in section 22.02 of this revenue procedure, and the Service has proceeded with due diligence in processing the application for determination.

Service must have reasonable time to act on appeal

.06 The step described in section 22.02(3) of this revenue procedure will not be considered completed until the Service has had a reasonable time to act upon the appeal.

Service must have reasonable time to act on request for § 7805(b) relief

.07 If the applicant has requested relief under § 7805(b), the applicant's administrative remedies with respect to the § 7805(b) request will not be considered exhausted unless the procedures for making a § 7805(b) request as set forth in section 23.08 of this revenue procedure have been followed and the Service has had a reasonable time to act upon the request.

SECTION 23. WHAT EFFECT WILL A DETERMINATION LETTER HAVE?

May be relied on subject to limitations

.01 A taxpayer ordinarily may rely on a determination letter received from EP Determinations subject to the conditions and limitations described in this section.

Scope of reliance on determination letter

.02

(1) A determination letter issued pursuant to this revenue procedure contains only the opinion of EP Determinations as to the qualification of the particular plan involving the provisions of §§ 401(a) and 403(a) and the status of a related trust, if any, under § 501(a) or a plan's meeting the requirements of § 403(b). Such a determination letter is based on the facts and information presented to EP Determinations in connection with the application for the determination letter and may not be relied upon after a change in material fact or the effective date of a change in law, except as provided below. EP Determinations may determine, based on the application form, the extent of review of the plan document. Failure to disclose a material fact or misrepresentation of a material fact adversely affects the reliance that would otherwise be obtained through the issuance by EP Determinations of a favorable determination letter. Similarly, failure to accurately provide any of the information called for on any form required by this revenue procedure may result in no reliance. Applicants are advised to retain copies of all supporting data submitted with their applications. Failure to do so may limit the scope of reliance.

(2) While a favorable determination letter may serve as a basis for determining deductions for employer contributions thereunder, it is not to be taken as an indication that contributions are necessarily deductible as made. This latter determination can be made only upon an examination of the employer's tax return in accordance with the limitations, and subject to the conditions, of § 404.

Effect of subsequent publication of revenue ruling, etc.

.03 The prior qualification of a plan as adopted by an employer will not be considered to be adversely affected by the publication of a revenue ruling, a revenue procedure, or an administrative pronouncement within the meaning of § 1.6661-3(b)(2) in cases in which:

(1) The plan was the subject of a favorable determination letter and the request for that letter contained no misstatement or omission of material facts;

(2) The facts subsequently developed are not materially different from the facts on which the determination letter was based;

(3) There has been no change in the applicable law; and

(4) The employer that established the plan acted in good faith in reliance on the determination letter.

However, all such plans must be amended to comply with the published guidance for subsequent years, in accordance with the rules set forth in Rev. Proc. 2022-40.

Effect of subsequent amendment by employer

.04 In general, a plan sponsor that maintains a plan for which a favorable determination letter has been issued and that is otherwise entitled to rely on the determination letter may not continue to rely on the determination letter with respect to a plan provision that is subsequently amended or that is subsequently affected by a change in law. However, a plan sponsor may continue to rely on a determination letter with respect to plan provisions that are not amended (or affected by an amendment) and plan provisions that are not affected by a change in qualification requirements or § 403(b) requirements. In addition, a plan sponsor that adopts a sample or model amendment issued by the Service on a word-for-word basis (or adopts an amendment that is substantially similar to a sample or model amendment in all material respects) may continue to rely on a previously issued determination letter.

An adopting employer of a pre-approved plan amending any provision of a pre-approved plan, including its adoption agreement (other than certain amendments that will not cause a plan to fail

to be identical to a pre-approved plan, as described in section 8.03 of Rev. Proc. 2017-41,section 9.03 of Rev. Proc. 2021-37, and section 13.02 of Rev. Proc. 2023-37), will lose reliance on the opinion letter.

Revocation or modification of a determination letter

.05 If the Director, Employee Plans reaches a conclusion contrary to that expressed in a determination letter, he or she has the authority to revoke or modify a determination letter in any manner.

Determination letter revoked or modified based on material change in facts applied retroactively

.06 The revocation or modification of a determination letter will be applied retroactively to the taxpayer for whom the determination letter was issued or to a taxpayer whose tax liability was directly involved in the determination letter if—

(1) there was a misstatement or omission of controlling facts;

(2) the facts at the time of the transaction are materially different from the controlling facts on which the determination letter was based; or

(3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction.

Not otherwise generally revoked or modified retroactively

.07 If the revocation or modification of a determination letter occurs, for reasons other than a change in facts as described in section 23.06 of this revenue procedure, the revocation or modification will generally not be applied retroactively to the taxpayer for whom the determination letter was issued or to a taxpayer whose tax liability was directly involved in the determination letter provided that—

(1) there was no change in the applicable law;

(2) the determination letter was originally issued for a proposed transaction; and

(3) the taxpayer directly involved in the determination letter acted in good faith in relying on the determination letter, and revoking or modifying the determination letter retroactively would be to the taxpayer's detriment.

Taxpayer may request that retroactive effect of revocation or modification be limited under § 7805(b)

.08 A taxpayer may seek relief from retroactive revocation or modification of a determination letter under § 7805(b). A request for relief under § 7805(b) must be in writing and must be submitted to the agent or specialist assigned to the case. The request for relief under § 7805(b) must be submitted before issuance of the final adverse determination letter.

(1) **Form of request for relief**. A taxpayer's request to limit the retroactive effect of the revocation or modification of the determination letter must--

(a) state that it is being made under § 7805(b);

(b) state the relief sought;

(c) explain the reasons and arguments in support of the relief sought; and

(d) include any documents bearing on the request.

(2) **Notice of denial of request for relief.** If the request for relief under § 7805(b) is denied, the applicant will be notified in writing of the denial.

(3) **Taxpayer must exhaust its administrative remedies**. If a taxpayer seeks declaratory judgment under § 7476 with respect to a qualified plan in response to a retroactive revocation or modification, to preserve judicial review of a claim for relief under § 7805(b), the taxpayer must follow the steps in this revenue procedure to have exhausted its administrative remedies with respect to its request under § 7805(b). If the taxpayer does not complete the applicable steps, the taxpayer will not have exhausted its administrative remedies as required by § 7476(b)(3) with respect to its request for § 7805(b) relief and will thus be precluded from obtaining § 7805(b) relief in any declaratory judgment it seeks under § 7476.

If a taxpayer has requested § 7805(b) relief, the taxpayer's administrative remedies with respect to its § 7805(b) request will not be considered exhausted until the Service has had a reasonable amount of time to act upon the request.

PART III. PROCEDURES FOR LETTER RULING REQUESTS

PART IIIA. REQUESTING LETTER RULINGS

SECTION 24. UNDER WHAT CIRCUMSTANCES DOES EMPLOYEE PLANS RULINGS AND AGREEMENTS ISSUE LETTER RULINGS?

Scope limited to issues specified

.01 Employee Plans Rulings and Agreements issues letter rulings on proposed transactions and on completed transactions either before or after the taxpayer's return covering the issue presented in a ruling request is filed. Employee Plans Rulings and Agreements only issues letter rulings involving:

(1) Section 72 (involving computation of the exclusion ratio only);

(2) Changes in funding methods, including any change in the determination of the value of plan assets or liabilities (see Rev. Proc. 2017-57, 2017-44 IRB 474), or any change in actuarial assumptions under § 412, 430, 431 or 433;

(3) Waiver of the liquidity shortfall (as that term is defined in § 430(j)(4)) excise tax under § 4971(f)(4);

(4) Waiver of the 60-day rollover requirement under §§ 402(c)(3) and 408(d)(3) (see Rev. Proc. 2003-16, 2003-4 IRB 359, as modified by Rev. Proc. 2016-47, 2016-37 IRB 37, and by Rev. Proc. 2020-46, 2020-45 IRB 995);

(5) A change in the plan year of an employee retirement plan and the trust year of a tax-exempt employees' trust (see Rev. Proc. 87-27, 1987-1 CB 769);

(6) The tax consequences of prohibited transactions under §§ 503 and 4975;

(7) Whether individual retirement accounts established by employers or associations of employees meet the requirements of § 408(c) (see Rev. Proc. 87-50; Rev. Proc. 92-38; Rev. Proc. 98-59; Rev. Proc. 2002-10; and Rev. Proc. 2010-48);

(8) Requests for relief under § 301.9100 to recharacterize contributions to a Roth IRA (see section 24.03 of this revenue procedure with respect to elections under § 301.9100-1);

(9) Requests by plan sponsors of a single employer plan under § 433(d) or multiemployer pension plans under § 431(d) for approval of an extension of an amortization period, including requests in connection with an extension of an amortization period involving whether a plan amendment is reasonable and provides for only de minimis increases in plan liabilities in accordance with §§ 401(a)(33) and 412(c)(7)(B)(i) (see Rev. Proc. 2010-52, 2010-52 IRB 927);

(10) Requests for the return to the employer of certain nondeductible contributions (see Rev. Proc. 90-49, 1990-2 CB 620); or

(11) Requests for approval of the use of a substitute mortality table in accordance with § 430(h)(3)(C) (see Rev. Proc. 2024-32).

Letter rulings involving other issues relating to qualified plans may be issued by the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). Procedures for requesting letter rulings under the jurisdiction of the Office of Associate Chief Counsel are set forth in Rev. Proc. 2026-1, this Bulletin.

Generally not in employee plans qualification matters

.02 The Employee Plans Rulings and Agreements office ordinarily will not issue letter rulings on matters involving a plan's status under §§ 401 through 420 and § 4975(e)(7). These matters are generally handled by EP Determinations pursuant to this revenue procedure and Rev. Proc. 2022-40. Occasionally these matters may be handled by the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). See section 4.02(12) of Rev. Proc. 2026-3, this Bulletin.

Request to Employee Plans Rulings and Agreements for extension of time for making an election or for other relief under § 301.9100-1

.03 Employee Plans Rulings and Agreements will consider a request for an extension of time for making an election under § 301.9100-3 to recharacterize annual contributions made to a Roth IRA. Employee Plans Rulings and Agreements will also consider recharacterization requests under § 301.9100-3 that relate to a conversion or rollover contribution to a Roth IRA but only if the rollover or conversion was made prior to January 1, 2018.

With respect to recharacterization of a Roth IRA, Employee Plans Rulings and Agreements will consider a request for an extension of time for making an election or other application for relief under § 301.9100-1 even if submitted after the return covering the issue presented in the § 301.9100-1 request has been filed and even if submitted after an examination of the return has begun or after the issues in the return are being considered by the Independent Office of Appeals or a Federal court. In such a case, Employee Plans Rulings and Agreements will notify the Director, Small Business/Self-Employed (SB/SE) Examinations.

Section 301.9100-1 requests, even those submitted after the examination of the taxpayer's return has begun, are letter ruling requests that should be submitted pursuant to this revenue procedure,

including payment of the applicable user fee referenced in section 6.02(15) of this revenue procedure. In addition, the taxpayer must include the information required by § 301.9100-3(e).

However, an election made pursuant to § 301.9100-2 is not a letter ruling and does not require payment of any user fee. See § 301.9100-2(d). Such an election pertains to an automatic extension of time under § 301.9100-1.

Issuance of a letter ruling before the issuance of a regulation or other published guidance

.04 Unless the issue is covered by section 25 of this revenue procedure, a letter ruling may be issued before the issuance of a temporary or final regulation or other published guidance that interprets the provisions of any act under the following conditions:

(1) Answer is clear or is reasonably certain. If the letter ruling request presents an issue for which the answer seems clear by applying the statute to the facts or for which the answer seems reasonably certain but not entirely free from doubt, a letter ruling will be issued; or

(2) Answer is not reasonably certain. If the letter ruling request presents an issue for which the answer does not seem reasonably certain, Employee Plans Rulings and Agreements may issue the letter ruling, using its best efforts to arrive at a determination, if it is in the best interest of tax administration. Under these circumstances, coordination with the Office of Chief Counsel generally will be required.

However, a letter ruling will not be issued if the letter ruling request presents an issue that cannot be readily resolved before a regulation, or any other published guidance is issued.

Issues in prior return

.05 Employee Plans Rulings and Agreements ordinarily does not issue letter rulings if, at the time the ruling is requested, the identical issue is involved in the taxpayer's return for an earlier period, and that issue:

(1) is being examined by the Director, Employee Plans Examinations;

(2) is being considered by the Independent Office of Appeals;

(3) is pending in litigation in a case involving the taxpayer or related taxpayer; or

(4) has been examined by the Director, Employee Plans Examinations, or considered by the Independent Office of Appeals, and the statutory period of limitation has not expired for either assessment or filing a claim for a refund or a closing agreement covering the issue of liability has not been entered into by the Director, Employee Plans Rulings and Agreements, or by the Independent Office of Appeals.

If a return dealing with an issue for a particular year is filed while a request for a ruling on that issue is pending, Employee Plans Rulings and Agreements will issue the ruling unless it is notified by the taxpayer or otherwise learns that an examination of that issue or the identical issue on an earlier year's return has been started by the Director, Employee Plans Examinations. See section 6.05 of this revenue procedure. However, even if an examination has begun, Employee Plans Rulings and Agreements ordinarily will issue the letter ruling if the Director, Employee Plans Examinations, agrees, by memorandum, to permit the ruling to be issued.

Generally not to business associations or groups

.06 Employee Plans Rulings and Agreements does not issue letter rulings to business, trade, or industrial associations or to similar groups concerning the application of the tax laws to members of the group. Employee Plans Rulings and Agreements, however, may issue letter rulings to groups or associations on their own tax status or liability if the request meets the requirements of this revenue procedure.

Generally not to foreign governments

.07 Employee Plans Rulings and Agreements does not issue letter rulings to foreign governments or their political subdivisions about the U.S. tax effects of their laws. However, Employee Plans Rulings and Agreements may issue letter rulings to foreign governments or their political subdivisions on their own tax status or liability under U.S. law if the request meets the requirements of this revenue procedure.

Generally not on federal tax consequences of proposed legislation

.08 Employee Plans Rulings and Agreements does not issue letter rulings on a matter involving the federal tax consequences of any proposed federal, state, local, municipal, or foreign legislation.

SECTION 25. UNDER WHAT CIRCUMSTANCES DOES EMPLOYEE PLANS RULINGS AND AGREEMENTS HAVE DISCRETION TO ISSUE LETTER RULINGS?

Ordinarily not in certain areas because of factual nature of the problem

.01 Employee Plans Rulings and Agreements ordinarily will not issue a letter ruling in certain areas because of the factual nature of the problem involved or because of other reasons. Employee Plans Rulings and Agreements may decline to issue a letter ruling if appropriate in the interest of sound tax administration, including due to resource constraints, or on other grounds whenever warranted by the facts or circumstances of a particular case.

No "comfort" letter rulings

.02 No letter ruling will be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decision of a court of appropriate jurisdiction, revenue ruling, revenue procedure, notice, or other authority published in the Internal Revenue Bulletin.

Not on alternative plans or hypothetical situations

.03 A letter ruling will not be issued on alternative plans of proposed transactions or on hypothetical situations.

Ordinarily not on part of an integrated transaction

.04 Employee Plans Rulings and Agreements ordinarily will not issue a letter ruling on only part of an integrated transaction. If, however, a part of a transaction falls under a no-rule area, a letter ruling on other parts of the transaction may be issued. In this case, before preparing the letter ruling request, the taxpayer should call the office having jurisdiction for the matters on which the taxpayer is seeking a letter ruling to discuss whether Employee Plans Rulings and Agreements will issue a letter ruling on part of the transaction.

Not on partial terminations of employee plans

.05 Employee Plans Rulings and Agreements will not issue a letter ruling on the partial termination of an employee plan. However, determination letters involving the partial termination of an employee plan may be issued. See section 9.09 of this revenue procedure.

Law requires a letter ruling

.06 Employee Plans Rulings and Agreements will issue a letter ruling on prospective or future transactions if the law or regulations require a determination of the effect of a proposed transaction for tax purposes.

Issues under consideration by the PBGC or the DOL

.07 A letter ruling relating to an issue that is being considered by the PBGC or the DOL, that involves the same taxpayer, shall be issued at the discretion of Employee Plans Rulings and Agreements.

Domicile in a foreign jurisdiction

.08

(1) Employee Plans Rulings and Agreements is ordinarily unwilling to rule in situations in which a taxpayer or a related party is domiciled or organized in a foreign jurisdiction with which the United States does not have an effective mechanism for obtaining tax information with respect to civil tax examinations and criminal investigations, which would preclude Employee Plans Rulings and Agreements from obtaining information located in such jurisdiction that is relevant to the analysis or examination of the tax issues involved in the ruling request.

(2) The provisions of section 25.08(1) of this revenue procedure will not apply if the taxpayer or affected related party (a) consents to the disclosure of all relevant information requested by Employee Plans Rulings and Agreements in processing the ruling request or in the course of an examination to verify the accuracy of the representations made and to otherwise analyze or examine the tax issues involved in the ruling request, and (b) waives all claims to protection of bank and commercial secrecy laws in the foreign jurisdiction with respect to the information requested by the Service.

In the event the taxpayer's or related party's consent to disclose relevant information or to waive protection of bank or commercial secrecy is determined by the Service to be ineffective or of no force and effect, then the Service may retroactively rescind any ruling rendered in reliance on such consent.

SECTION 26. WHAT IS THE PROCEDURE FOR REQUESTING A LETTER RULING FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS?

General procedures for requesting a letter ruling

.01 The procedures in section 6 of this revenue procedure are generally applicable to requests for letter rulings.

Specific additional procedures apply to certain letter ruling requests

.02 The following specific revenue procedures and notices supplement the general instructions for requests described in section 24 of this revenue procedure and apply to requests for a letter ruling regarding the Code sections and matters listed in this section. These revenue procedures and notices may be revised or supplemented.

(1) For requests by the plan sponsor of a multiemployer pension plan for approval of an extension of an amortization period in accordance with § 431(d), see Rev. Proc. 2010-52, 2010-52 IRB 927.

(2) For requests by administrators or sponsors of a defined benefit plan to obtain approval for a change in funding method, see Rev. Proc. 2017-57.

(3) For requests for the return to the employer of certain nondeductible contributions, see Rev. Proc. 90-49, 1990-2 CB 620.

(4) For requests for approval of the use of a substitute mortality table in accordance with § 430(h)(3)(C), see Rev. Proc. 2024-32.

PART IIIB. PROCESSING LETTER RULING REQUESTS

SECTION 27. HOW DOES EMPLOYEE PLANS RULINGS AND AGREEMENTS HANDLE LETTER RULING REQUESTS?

In general

.01 Employee Plans Rulings and Agreements will issue letter rulings on the matters and under the circumstances described in section 24 of this revenue procedure and in the manner described in this section and section 29 of this revenue procedure.

Is not bound by informal opinion expressed

.02 Employee Plans Rulings and Agreements will not be bound by the informal opinion expressed by any authorized Service representative under this procedure, and such an opinion cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

Will return any letter ruling request mistakenly sent to wrong address

.03 A request for a letter ruling sent to EP Determinations will be returned to the sender so that the taxpayer can submit it to the appropriate office.

Tells taxpayer if request lacks essential information during initial contact

.04 If a request for a letter ruling does not comply with all the provisions of this revenue procedure, the request will be acknowledged, and the Employee Plans Rulings and Agreements representative will tell the taxpayer during the initial contact which requirements have not been met.

Information must be submitted within 30 calendar days

.05 If the request lacks essential information, which may include additional information needed to satisfy the procedural requirements of this revenue procedure, as well as substantive changes to transactions or documents needed from the taxpayer, the Employee Plans Rulings and Agreements representative will inform the taxpayer during the initial contact that the request will be closed if Employee Plans Rulings and Agreements does not receive the information within 30 calendar days and extension of time is not granted. See section 27.10 of this revenue procedure for information on extension of time and instructions on submissions of additional information.

Requires prompt submission of additional information requested after initial contact

.06 Material facts furnished to Employee Plans Rulings and Agreements by telephone or fax, or orally at a conference, must be promptly confirmed by letter to Employee Plans Rulings and Agreements. This confirmation and any additional information requested by Employee Plans Rulings and Agreements that is not part of the information requested during the initial contact must be furnished within 21 calendar days to be considered part of the request.

Additional information submitted to Employee Plans Rulings and Agreements must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have**

examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete." This declaration must be signed in accordance with the requirements in section 6.02(14)(b) of this revenue procedure. A taxpayer who submits additional factual information on several occasions may provide one declaration subsequent to all submissions that refers to all submissions.

Encourages use of fax, Taxpayer Digital Communications Secure Messaging, and the IRS Document Upload Tool

.07 To facilitate prompt action on letter ruling requests, taxpayers are encouraged to submit additional information by fax as soon as the information is available. The Employee Plans Rulings and Agreements representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of this information and signed penalties of perjury statement, however, must be mailed or delivered to Employee Plans Rulings and Agreements.

Taxpayers may be offered the option of using Taxpayer Digital Communications Secure Messaging, which provides secure messaging and document sharing between the Service, taxpayers, and their representatives. For more information on secure messaging, see Publication 5295, Secure Messaging for Tax Exempt and Government Entities.

The Service also provides the option of using the IRS Document Upload Tool, which provides a safe means for exchanging documentation with the Service online. The IRS Document Upload Tool can be accessed using an access code provided for each exchange in a notice or letter, or, if no access code is provided, by entering the number and title of the notice or letter for each exchange. More information on the IRS Document Upload Tool can be found at www.irs.gov/help/irs-document-upload-tool.

Where to send additional information

.08 Additional information can be sent by fax, Taxpayer Digital Communications Secure Messaging, the IRS Document Upload Tool, or to the address provided by the Service representative who requested the information. See section 31.01 of this revenue procedure for a list of Employee Plans addresses. The additional information should include the name and room number of the Service representative who requested the information and the taxpayer's name and the case control number (which the Employee Plans Rulings and Agreements representative can provide).

Number of copies of additional information to be submitted

.09 Generally, a taxpayer needs to submit only one copy of the additional information. However, in appropriate cases, Employee Plans Rulings and Agreements may request additional copies of the information.

Extension of 30-day or 21-day period may be granted if justified

.10 An extension of the 30-day period under section 27.05 of this revenue procedure or the 21-day period under section 27.06 of this revenue procedure will be granted only if justified in writing by the taxpayer and approved by the manager of the group to which the case is assigned. A request for extension should be submitted before the end of the 30-day or 21-day period. If unusual circumstances close to the end of the 30-day or 21-day period make a written request impractical, the taxpayer, or authorized representative, should notify Employee Plans Rulings and Agreements within the 30-day or 21-day period that there is a problem and that the written request for extension will be coming soon. The taxpayer, or their authorized representative, will be told promptly of the approval or denial of the requested extension, which will be confirmed later in writing. If the extension request is denied, there is no right of appeal.

Case closed if taxpayer does not submit additional information

.11 If the taxpayer does not follow the instructions for submitting additional information or requesting an extension within the time provided, a letter ruling will be issued on the basis of the information on hand, or, if appropriate, no letter ruling will be issued. If Employee Plans

Rulings and Agreements determines not to issue a letter ruling because essential information is lacking, the case will be closed, and the taxpayer notified in writing. If Employee Plans Rulings and Agreements receives the information after the letter ruling request is closed, the request may be reopened and treated as a new request. However, the taxpayer may be required to pay another user fee before the case can be reopened.

Near the completion of the ruling process, advises taxpayer of conclusions and, if Employee Plans Rulings and Agreements will rule adversely, offers the taxpayer the opportunity to withdraw the letter ruling request

.12 Generally, after the conference of right is held and before the letter ruling is issued, the Employee Plans Rulings and Agreements representative will inform the taxpayer or the taxpayer's authorized representative of Employee Plans Rulings and Agreements' final conclusions on the issues for which the letter ruling is sought. If Employee Plans Rulings and Agreements is going to rule adversely, the taxpayer will be offered the opportunity to withdraw the letter ruling request. If the taxpayer or the taxpayer's representative does not promptly notify the Employee Plans Rulings and Agreements representative of a decision to withdraw the ruling request, the adverse letter will be issued. The user fee will not be refunded for a letter ruling request that is withdrawn. See section 30.10 of this revenue procedure.

May request draft of proposed letter ruling near the completion of the ruling process

.13 To accelerate issuance of letter rulings, in appropriate cases near the completion of the ruling process, the Employee Plans Rulings and Agreements representative may request that the taxpayer or the taxpayer's representative submit a proposed draft of the letter ruling on the basis of discussions of the issues. The taxpayer, however, is not required to prepare a draft letter ruling to receive a letter ruling.

The format of the submission should be discussed with the Employee Plans Rulings and Agreements representative who requests the draft letter ruling. The representative usually can provide a sample format of a letter ruling and will discuss the facts, analysis, and letter ruling language to be included. The draft will become part of the permanent files of Employee Plans Rulings and Agreements.

The proposed letter ruling should be sent to the same address as any additional information and contain in the transmittal the information that should be included with any additional information (for example, a penalties of perjury statement is required). See section 27.06 of this revenue procedure.

SECTION 28. HOW DOES EMPLOYEE PLANS RULINGS AND AGREEMENTS SCHEDULE CONFERENCES WITH TAXPAYERS?

Schedules a conference if requested by taxpayer

.01 A taxpayer may request a conference regarding a letter ruling request. Normally, a conference is scheduled only if Employee Plans Rulings and Agreements considers it to be helpful in deciding the case or if an adverse decision is indicated. If conferences are being arranged for more than one request for a letter ruling involving the same taxpayer, they will be scheduled so as to cause the least inconvenience to the taxpayer. A taxpayer who wants to have a conference on the issue or issues involved should indicate this in writing when, or soon after, filing the request.

If a conference has been requested, the taxpayer will be notified by telephone, if possible, of the time and place of the conference, which must then be held within 21 calendar days after this contact. Instructions for requesting an extension of the 21-day period and notifying the taxpayer or the taxpayer's representative of Employee Plans Rulings and Agreements' approval or denial

of the request for extension are the same as those described in section 27.10 of this revenue procedure regarding providing additional information.

Permits taxpayer one conference of right

.02 A taxpayer is entitled, as a matter of right, to only one conference, except as described under section 28.05 of this revenue procedure. This conference normally will be held at the group level and will be attended by a person who, at the time of the conference, has the authority to sign the letter ruling in his or her own name or for the group manager.

If more than one group has taken an adverse position on an issue in a letter ruling request, or if the position ultimately adopted by one group will affect that adopted by another, a representative from each group with the authority to sign in his or her own name or for the group manager will attend the conference. If more than one subject is to be discussed at the conference, the discussion will constitute a conference on each subject.

To have a thorough and informed discussion of the issues, the conference usually will be held after the group has had an opportunity to study the case. However, at the request of the taxpayer, the conference of right may be held earlier.

No taxpayer has a right to appeal the action of a group to any other official of the Service. But see section 28.05 of this revenue procedure for situations in which the Service may offer additional conferences.

Disallows verbatim recording of conferences

.03 Because conference procedures are informal, no tape, stenographic, or other verbatim recording of a conference may be made by any party.

Makes tentative recommendations on substantive issues

.04 The senior Employee Plans Rulings and Agreements representative present at the conference ensures that the taxpayer has the opportunity to present views on all the issues in question. A Service representative explains Employee Plans Rulings and Agreements' tentative decision on the substantive issues and the reasons for that decision. If the taxpayer asks Employee Plans Rulings and Agreements to limit the retroactive effect of any letter ruling or limit the revocation or modification of a prior letter ruling, an Employee Plans Rulings and Agreements representative will discuss the recommendation concerning this issue and the reasons for the recommendation. However, the representatives will not make a commitment regarding the conclusion that Employee Plans Rulings and Agreements intends to adopt.

May offer additional conferences

.05 Employee Plans Rulings and Agreements will offer the taxpayer an additional conference if, after the conference of right, an adverse holding is proposed, but on a new issue, or on the same issue but on different grounds from those discussed at the first conference. There is no right to another conference if a proposed holding is reversed at a higher level with a result less favorable to the taxpayer if the grounds or arguments on which the reversal is based were discussed at the conference of right.

The limit on the number of conferences to which a taxpayer is entitled does not prevent Employee Plans Rulings and Agreements from offering additional conferences, including conferences with an official higher than the group level, if Employee Plans Rulings and Agreements determines they are needed. Such conferences are not offered as a matter of course simply because the group has reached an adverse decision. In general, conferences with higher level officials are offered only if Employee Plans Rulings and Agreements determines that the case presents significant issues of tax policy or tax administration and that the consideration of these issues would be enhanced by additional conferences with the taxpayer.

Requires written confirmation of information presented at conference

.06 The taxpayer should furnish to Employee Plans Rulings and Agreements any additional data, reasoning, precedents, etc., that were proposed by the taxpayer and discussed at the conference but not previously or adequately presented in writing. The taxpayer must furnish the additional information within 21 calendar days from the date of the conference. See section 27.06 of this revenue procedure for instructions on submission of additional information. If the additional information is not received within that time, a ruling will be issued on the basis of the information on hand or, if appropriate, no ruling will be issued.

Procedures for requesting an extension of the 21-day period and notifying the taxpayer or the taxpayer's representative of Employee Plans Rulings and Agreements' approval or denial of the requested extension are the same as those stated in section 27.10 of this revenue procedure regarding submitting additional information.

May schedule a pre-submission conference

.07 Sometimes it will be advantageous to both Employee Plans Rulings and Agreements and the taxpayer to hold a conference before the taxpayer submits the letter ruling request to discuss substantive or procedural issues relating to a proposed transaction. These conferences are held only: if the identity of the taxpayer is provided to Employee Plans Rulings and Agreements if the taxpayer actually intends to make a request, if the request involves a matter on which a letter ruling is ordinarily issued, and at the discretion of Employee Plans Rulings and Agreements and as time permits. For example, a pre-submission conference will not be held on an issue if, at the time the pre-submission conference is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue is being examined. See section 24 of this revenue procedure. Generally, the taxpayer will be asked to provide a statement of whether the issue is an issue on which a letter ruling is ordinarily issued and a draft of the letter ruling request or other detailed written statement of the proposed transaction, issue(s), and legal analysis before the pre-submission conference. If the taxpayer's representative will attend the pre-submission conference, a power of attorney form is required. A Form 2848 must be used to provide the representative's authorization.

Any discussion of substantive issues at a pre-submission conference is advisory only, is not binding on the Service, and cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b). See section 3.06(2) of this revenue procedure. A letter ruling request submitted following a pre-submission conference will not necessarily be assigned to the group that held the pre-submission conference.

May schedule a conference to be held by telephone

.08 A taxpayer may request that a conference of right be held by telephone. If the request is approved, the taxpayer will be advised when to call the Employee Plans Rulings and Agreements representatives (not a toll-free call).

SECTION 29. WHAT EFFECT WILL A LETTER RULING HAVE?

Has same effect as a determination letter

.01 Except as described in this section 29, a letter ruling issued by Employee Plans Rulings and Agreements has the same effect as a determination letter ruling issued to a taxpayer under Part II of this revenue procedure.

Will not apply to another taxpayer

.02 A taxpayer may not rely on a letter ruling issued to another taxpayer. See § 6110(k)(3).

Will be used by the Service in examining the taxpayer's return

.03 When determining a taxpayer's liability, the Service must ascertain whether—

(1) the conclusions stated in the letter ruling are properly reflected in the return;

(2) the representations upon which the letter ruling was based reflected an accurate statement of the material facts;

(3) the transaction was carried out substantially as proposed; and

(4) there has been any change in the law that applies to the period during which the transaction or continuing series of transactions were consummated.

May be revoked or modified if found to be in error

.04 A letter ruling found to be in error or not in accord with the current views of the Service may be revoked or modified, unless it was part of a closing agreement as described in section 3.03 of this revenue procedure. If a letter ruling is revoked or modified, the revocation or modification applies to all years open under the period of limitation unless a request to limit the retroactive effect of a revocation or modification has been granted under § 7805(b). A request to limit the retroactive revocation or modification of a letter ruling issued by Employee Plans Rulings and Agreements should be submitted to the agent or specialist assigned to the case, and should otherwise follow the procedures described in section 23.08 of this revenue procedure.

A letter ruling may be revoked or modified by—

(1) a letter giving notice of revocation or modification to the taxpayer to whom the letter ruling was issued;

(2) the enactment of legislation or ratification of a tax treaty;

(3) a decision of the United States Supreme Court;

(4) the issuance of temporary or final regulations; or

(5) the issuance of a revenue ruling, revenue procedure, notice, or other statement published in the Internal Revenue Bulletin.

Consistent with these provisions, if a letter ruling relates to a continuing action or a series of actions, it will ordinarily be applied until any one of the events described above occurs or until the letter ruling is specifically withdrawn by the Service.

Publication of a notice of proposed rulemaking will not affect the application of any letter ruling issued under this revenue procedure.

If a letter ruling is revoked or modified by a letter to the taxpayer, the letter will state whether the revocation or modification is retroactive. If a letter ruling is revoked or modified by the issuance of final or temporary regulations or by the publication of a revenue ruling, revenue procedure, notice, or other statement in the Internal Revenue Bulletin, the document may contain a statement as to its retroactive effect on letter rulings.

Letter ruling revoked or modified based on material change in facts applied retroactively

.05 The revocation or modification of a letter ruling will be applied retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling if—

(1) there was a misstatement or omission of controlling facts;

(2) the facts at the time of the transaction are materially different from the controlling facts on which the letter ruling was based; or

(3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction.

Not otherwise generally revoked or modified retroactively

.06 If the revocation or modification of a letter ruling occurs, for reasons other than a change in facts as described in section 29.05 of this revenue procedure, the revocation or modification will generally not be applied retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling provided that—

(1) there was no change in the applicable law;

(2) the letter ruling was originally issued for a proposed transaction; and

(3) the taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking or modifying the letter ruling retroactively would be to the taxpayer's detriment.

If a letter ruling is revoked or modified by a letter with retroactive effect, the letter will, except in fraud cases, state the grounds on which the letter ruling is being revoked or modified and explain the reasons why it is being revoked or modified retroactively.

Will not apply to a similar transaction in same year or any other year

.07 A letter ruling issued by Employee Plans Rulings and Agreements on a particular transaction represents a holding of the Service on that transaction only. It will not apply to a similar transaction in the same year or any other year. Except in unusual circumstances, the application of that letter ruling to the transaction will not be affected by the later issuance of regulations (either temporary or final) if conditions (1) through (3) in section 29.06 of this revenue procedure are met.

Retroactive effect of revocation or modification applied to a continuing action or series of actions

.08 If a letter ruling is issued by Employee Plans Rulings and Agreements covering a continuing action or series of actions and the letter ruling is later found to be in error or no longer in accord with the position of the Service, the Service ordinarily will limit the retroactive effect of revocation or modification to a date that is not earlier than that on which the letter ruling is revoked or modified.

May be retroactively revoked or modified if the transaction is completed without reliance on the letter ruling

.09 A taxpayer is not protected against retroactive revocation or modification of a letter ruling involving a transaction completed before the issuance of the letter ruling or involving a continuing action or series of actions occurring before the issuance of the letter ruling, because the taxpayer did not enter into the transaction relying on a letter ruling.

Taxpayer may request that retroactivity be limited

.10 Under § 7805(b), the Service may prescribe the extent to which a revocation or modification of a letter ruling will be applied without retroactive effect. See section 23.08 of this revenue procedure for further explanation of the procedures for requesting relief under § 7805(b).

PART IV. USER FEES

SECTION 30. WHAT ARE THE USER FEE REQUIREMENTS FOR REQUESTING ADVICE FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS?

Legislation authorizing user fees

.01 Section 7528 directs the Secretary or a delegate to establish a program requiring the payment of user fees for requests to Employee Plans Rulings and Agreements for letter rulings, opinion letters, determination letters, and similar requests. The fees charged under the program: (1) are to vary according to categories or subcategories established by the Secretary or a delegate; (2) are to be determined after considering the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance. Section 7528(b)(3) directs the Secretary or a delegate to provide for exemptions and reduced fees under the program as the Secretary or a delegate determines to be appropriate, but the average fee applicable to each category may not be less than the amount specified in § 7528.

Requests to which user fees apply

.02 In general, user fees apply to all requests for letter rulings, opinion letters, determination letters, advisory letters, and compliance statements submitted by or on behalf of taxpayers, sponsoring organizations or other entities as described in this revenue procedure. Requests to which a user fee is applicable must be accompanied by the appropriate fee as determined from the fee schedule set forth in Appendix A of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 30.10 of this revenue procedure.

Requests and other actions that do not require the payment of a user fee

.03 Actions that do not require the payment of a user fee include the following:

(1) Elections pertaining to automatic extensions of time under § 301.9100-1;

(2) Use of forms that are not to be filed with the Service (for example, no user fee is required in connection with the use of Form 5305, Traditional Individual Retirement Trust Account, or Form 5305-A, Traditional Individual Retirement Custodial Account, to adopt an individual retirement account under § 408(a));

(3) In general, plan amendments whereby sponsors amend their plans by adopting, word-for-word, the model language set forth in a revenue procedure which states that the amendment should not be submitted to the Service and that the Service will not issue new opinion, ruling or determination letters for plans that are amended solely to add the model language; and

(4) Change in accounting period permitted by a published revenue procedure that permits an automatic change without prior approval of the Commissioner.

Exemptions from the user fee requirements

.04 The following exemptions, and only these exemptions, apply to the user fee requirements. No user fees are charged to:

(1) Departments, agencies, or instrumentalities of the United States that certify that they are seeking a letter ruling, determination letter, opinion letter or similar letter on behalf of a program or activity funded by federal appropriations. The fact that a user fee is not charged has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any provision of the Code except for § 7528.

(2) Eligible employers within the meaning of § 7528(b)(2)(C)(ii) who request a determination letter with respect to a qualified plan within the first five plan years or, if later, the end of any remedial amendment period with respect to the plan that begins within the first five plan years. See, Instructions to Form 8717 and Notice 2002-1, 2002-1 CB 283, as amplified by Notice 2003-49, 2003-2 CB 294, and Notice 2017-1.

User Fees under EPCRS

.05 User fees for submissions under VCP are set forth in Appendix A of this revenue procedure. For further guidance on EPCRS, see Rev. Proc. 2021-30 (or its successor).

Requests involving multiple offices, fee categories, issues, transactions, or entities

.06

(1) *Requests involving several offices*. If a request dealing with only one transaction involves more than one of the offices within the Service (for example, one issue is under the jurisdiction of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) and another issue is under the jurisdiction of the Commissioner (Tax Exempt and Government Entities Division), the taxpayer is only responsible for the payment of the single highest fee that could be charged by any of the offices involved. See Rev. Proc. 2026-1, this Bulletin for the user fees applicable to issues under the jurisdiction of the Office of Associate Chief Counsel (Corporate), Office of Associate Chief Counsel (Energy, Credits, and Excise Tax), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates), the Office of Associate Chief Counsel (Procedure and Administration), the Office of Associate Chief Counsel (International), or the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes).

(2) *Requests involving several fee categories*. If a request dealing with only one transaction involves more than one fee category, the taxpayer is responsible only for payment of the single highest fee that could be charged for any of the categories involved.

(3) *Requests involving several issues*. A request is treated as one request if the request deals with only one transaction but involves several issues. In such instances, only one fee applies; namely, the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction will not result in an additional fee unless the issue places the transaction in a higher fee category.

(4) *Requests involving several unrelated transactions*. In situations in which: (a) a request involves several transactions or (b) a request for a change in accounting period involves several unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction or item. An additional fee also will apply if the request is changed by the addition of an unrelated transaction or item not contained in the initial submission. As a result, a separate fee will apply for each unrelated transaction or item.

(5) *Requests for separate letter rulings for several entities*. Each entity involved in a transaction that desires a separate letter ruling in its own name must pay a separate fee. Payment of a separate fee is required regardless of whether the transaction or transactions may be viewed as related.

Method of payment .07

(1) *Payment of user fees for determination letter applications*. User fees for determination letter applications must be paid by using www.pay.gov. DO NOT use Form 8717 to submit user fee on applications submitted electronically.

(2) *Payment of VCP user fees.* User fees should be made using the payment methods available on www.pay.gov. The Service no longer accepts paper submissions under VCP. See Rev. Proc. 2021-30 (or its successor) for detailed procedures on the VCP submission process.

(3) *Payment of user fees for pre-approved plan submissions*. User fees for pre-approved plan submissions for opinion letters on qualified plans under § 401(a) and § 403(b) pre-approved plans must be paid by using www.pay.gov. DO NOT use Form 8717-A to submit user fees on applications submitted electronically.

(4) *Payment of user fees for letter ruling requests.* Each request to Employee Plans Rulings and Agreements for a letter ruling must be accompanied by a check, payable to the United States Treasury, in the appropriate amount. Taxpayers should not send cash. The payment of user fees for letter ruling requests may not be made on www.pay.gov.

The check may be converted to an electronic fund transfer. "Electronic fund transfer" is the term used to refer to the process in which the Service electronically instructs the financial institution holding the funds to transfer funds from the account named on the check to the United States Treasury account, rather than processing the check. By sending a completed, signed check to the Service, the Service is authorized to copy the check and to use the account information from the check to make an electronic fund transfer from the account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, the Service is authorized to process the copy of the check.

The electronic fund transfer from an account will usually occur within 24 hours, which is faster than a check is normally processed. Therefore, it is necessary to ensure there are sufficient funds available in the checking account when the check is sent to the Service. The check will not be returned to the applicant from its financial institution.

Transmittal forms .08

(1) Determination Letter applications must be made to the Service using www.pay.gov using the applicable Form 5300 series application. In addition, opinion letter applications using the applicable Form 4461 series application must be made on www.pay.gov.

(2) VCP submissions must be made to the Service using www.pay.gov, on Form 8950, Application for Voluntary Correction Program (VCP) Submission under the Employee Plans Compliance Resolution System (EPCRS), embedded in www.pay.gov. If a VCP submission is made to the Service but the user fee payment did not go through or is less than the applicable amount, Form 8951, Additional User Fee Payment for Open Application for Voluntary Correction Program (VCP), embedded in www.pay.gov, should be submitted to make the new payment. A duplicate Form 8950 should not be submitted. Requests for a VCP pre-submission conference must also be made via www.pay.gov by submitting a Form 8950. See section 10.01(2) of Rev. Proc. 2021-30 (or its successor).

Effect of nonpayment or payment of incorrect amount

.09 Except as provided in Part II of this revenue procedure, it will be the general practice of Employee Plans Rulings and Agreements that:

(1) The respective offices within Employee Plans Rulings and Agreements that are responsible for issuing letter ruling or determination letters will exercise discretion in deciding whether to immediately return submissions that are not accompanied by a correct user fee. In those instances in which the submission is not immediately returned, the requester will be contacted and given a reasonable period of time to submit the proper fee. If the proper fee is not received within a reasonable amount of time, the entire submission will then be returned. However, the respective offices of Employee Plans Rulings and Agreements, in their discretion, may defer substantive consideration of a submission until proper payment has been received.

(2) The return of a submission to the requester may adversely affect substantive rights if the submission is not perfected and resubmitted to Employee Plans Rulings and Agreements within 30 days of the date of the cover letter returning the submission.

(3) If the user fee included with the VCP submission is less than the user fee required by Appendix A or if no fee is submitted, the submission may not be processed.

Refunds of user fees

.10 In general, the user fee **will not be refunded** unless the Service declines to rule or make a determination on **all issues** for which a ruling or determination letter is requested.

(1) The following situations are examples in which the fee **will not** be refunded:

(a) The request for a letter ruling or determination letter is withdrawn at any time subsequent to its receipt by the Service, unless the only reason for withdrawal is that the Service has advised the requester that a higher user fee than was sent with the request is applicable and the requester is unwilling to pay the higher fee. For example, no fee will be refunded in cases in which the taxpayer has been advised that a proposed adverse ruling is contemplated and subsequently withdraws its submission.

(b) The request is procedurally deficient, although accompanied by the proper fee or an overpayment, and it is not timely perfected upon request. If there is a failure to timely perfect the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure.

(c) In the case of a request for a letter ruling, if the case has been closed by Employee Plans Rulings and Agreements because essential information has not been submitted timely, the request may be reopened and treated as a new request. However, the requester must pay another user fee before the case can be reopened. See section 27.11 of this revenue procedure. In the case of a request for a determination letter, if the case has been closed by EP Determinations because the requested information has not been timely submitted, the case will be closed, and the user fee will not be refunded. See section 10.11 of this revenue procedure.

(d) A letter ruling, determination letter, etc., is revoked in whole or in part at the initiative of the Service. The fee paid at the time the original letter ruling, determination letter, etc., was requested will not be refunded.

(e) The request contains several issues and the Service rules on some, but not all, of the issues. The highest fee applicable to the issues on which the Service rules will not be refunded.

(f) The requester asserts that a letter ruling the requester received covering a single issue is erroneous or not responsive (other than an issue on which the Service has declined to rule) and requests reconsideration. The Service, upon reconsideration, does not agree that the letter ruling is erroneous or is not responsive.

(g) The situation is the same as described in subparagraph (f) of this section 30.10(1) except that the letter ruling covered several unrelated transactions. The Service, upon reconsideration, does not agree with the requester that the letter ruling is erroneous or is not responsive for all the transactions, but does agree that it is erroneous as to one or more of the transactions. The fee accompanying the request for reconsideration will not be refunded except to the extent applicable to any transaction for which the Service agrees the letter ruling was in error.

(h) The request is for a supplemental letter ruling, determination letter, etc., concerning a change in facts (whether significant or not) relating to the transaction on which the Service ruled.

(i) The request is for reconsideration of an adverse or partially adverse letter ruling or a final adverse determination letter, and the taxpayer submits arguments and authorities not submitted before the original letter ruling or determination letter was issued.

(j) Generally in the case of a request for a letter ruling, if before a letter ruling is issued, Employee Plans Rulings and Agreements discovers an omission of material facts in the original submission that had Employee Plans Rulings and Agreements known of the omission at the time of submission, would have resulted in it declining to rule on all the issues.

(2) The following situations are examples in which the user fee **will** be refunded:

(a) In a situation to which section 30.10(1)(i) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Service declined to rule) and requests reconsideration. Upon reconsideration, the Service agrees that the letter ruling is erroneous or is not responsive. The fee accompanying the taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 30.10(1)(i) of this revenue procedure does not apply, the requester requests a supplemental letter ruling, determination letter, etc., to correct a mistake that Employee Plans Rulings and Agreements agrees it made in the original letter ruling, determination letter, etc., such as a mistake in the statement of facts or in the citation of a Code section. Once Employee Plans Rulings and Agreements agrees that it made a mistake, the fee accompanying the request for the supplemental letter ruling, determination letter, etc., will be refunded.

(c) The taxpayer requests and is granted relief under § 7805(b) in connection with the revocation, in whole or in part, of a previously issued letter ruling. The fee accompanying the request for relief will be refunded.

(d) In a situation to which section 30.10(1)(b) of this revenue procedure would otherwise apply, except that Employee Plans Rulings and Agreements does not request perfection of the procedural deficiencies in the application but rather does not accept the application and returns it to the requester, the fee accompanying the request will be returned or refunded.

(e) In a situation to which section 30.10(1)(e) of this revenue procedure applies, the requester requests reconsideration of the Service's decision not to rule on an issue. Once Employee Plans

Rulings and Agreements agrees to rule on the issue, the fee accompanying the request for reconsideration will be refunded.

(3) *VCP Submissions.* For refunds relating to VCP submissions, see Rev. Proc. 2021-30 (or its successor), section 10.07(2).

Request for reconsideration of user fee

.11 A taxpayer that believes the user fee charged by Employee Plans Rulings and Agreements for its request for a letter ruling, determination letter, etc., is either not applicable or incorrect and wishes to receive a refund of all or part of the amount paid (see section 30.10 of this revenue procedure) may request reconsideration of the user fee and, if desired, the opportunity for an oral discussion by sending a letter to the Service at the applicable Post Office Box or other address provided in section 31 of this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request must be marked for the attention of the appropriate unit as listed in the table below.

If the matter involves primarily:	*Mark for the attention of:*
Employee plans letter ruling requests and all other employee plans matters handled by Employee Plans Rulings and Agreements	Employee Plans Rulings and Agreements
Opinion letter and advisory letter requests pursuant to Rev. Proc. 2013-22 and Rev. Proc. 2021-37	Area Manager, EP Determinations
Employee plans determination letter requests and opinion letter requests pursuant to Rev. Proc. 2016-37 and Rev. Proc. 2017-41	Area Manager, EP Determinations
Employee plans determination letter requests and opinion letter requests pursuant to Rev. Proc. 2023-37	Area Manager, EP Determinations

Notwithstanding the above, user fees associated with submissions made under VCP are fixed, apply to all plan sponsors, and generally will not be refunded. However, if a taxpayer believes it submitted an incorrect fee relating to a VCP submission, the taxpayer should contact the Service employee who is working the case to determine whether a partial refund or additional payment is applicable. If the taxpayer is not in contact with a specific Service employee with regard to the taxpayer's submission, the taxpayer may call the VCP Case Status telephone number at (626) 927-2011. If there is a disagreement as to the fee that applies to a specific VCP case, the matter may be discussed with the Service employee's manager.

SECTION 31. WHERE TO SUBMIT REQUESTS FOR LETTER RULINGS, OPINION LETTERS, ADVISORY LETTERS, DETERMINATION LETTERS, AND COMPLIANCE STATEMENTS FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS?

Letter rulings and opinion letters

.01 Requests should be mailed to the appropriate address provided in this section 31.01.

(1) *Employee plans letter rulings under Rev. Procs. 87-50, 90-49, 2003-16, 2010-52, 2017-57, 2024-32, or this revenue procedure*:

Internal Revenue Service
Attention: EP Letter Rulings
P.O. Box 12192
TE/GE Stop 31A Team 105
Covington, KY 41012-0192

(2) *Employee plan opinion letters under Rev. Procs. 87-50, 97-29, 98-59, or 2010-48*:

Internal Revenue Service
Attention: EP Opinion Letters
P.O. Box 12192
TE/GE Stop 31A Team 105
Covington, KY 41012-0192

Announcement 2022-6 temporarily suspends the opinion letter program for prototype IRAs (traditional, Roth, and SIMPLE IRAs), SEP arrangements (including salary reduction SEPs (SARSEPs)), and SIMPLE IRA plans.

(3) *Requests for employee plans letter rulings and opinion letters described in the previous two paragraphs that are shipped by Express Mail or a delivery service should be sent to*:

Internal Revenue Service
Attention: EP Determination Letters
TE/GE Stop 31A Team 105
7940 Kentucky Drive
Florence, KY 41042

Note: Hand-delivered requests must be marked RULING REQUEST SUBMISSION. The delivery should be made to the following address between the hours of 8:30 a.m. and 4:00 p.m., where a receipt will be given:

Courier's Desk
Internal Revenue Service
Attention: EP Letter Rulings
TE/GE Stop 31A Team 105
7940 Kentucky Drive
Florence, KY 41042

Determination letters – electronic submissions only

.02

Requests for determination letters on the qualified status of employee plans under § 401(a), 403(a), 409, or 4975(e)(7), whether a plan meets the requirements of § 403(b), and the exempt status of any related trust under § 501 are handled by the EP Determinations Office. These requests must be submitted on www.pay.gov and may not be mailed to the Service. If a paper submission is mailed, the submission will be returned to the applicant, including any submitted paper checks.

Opinion and advisory letters – electronic submissions only

.03

(1) The following types of requests and applications are handled by EP Determinations and must be submitted on www.pay.gov and may not be mailed to the Service. If a paper submission is mailed, the submission will be returned to the applicant, including any submitted paper checks.

(a) Requests for opinion letters on the form of pre-approved employee plans under § 401(a) or § 403(a) for Cycle 3 pursuant to Rev. Proc. 2017-41 and for Cycle 4 (and subsequent cycles) pursuant to Rev. Proc. 2023-37;

(b) Requests for § 403(b) prototype opinion letters and for § 403(b) VS advisory letters for § 403(b) pre-approved plans under Rev. Proc. 2013-22; and

(c) Requests of § 403(b) pre-approved plans for opinion letters under Rev. Proc. 2021-37.

VCP compliance statements – electronic submissions only

.04

VCP submissions (including requests for pre-submission conferences) may not be mailed to the Service. If this occurs, the submissions will be returned to the applicant, including any submitted paper checks. VCP submissions, including payment of the user fee, are made to the Service on www.pay.gov. For further details, see Form 8950 instructions and sections 10 and 11 of Rev. Proc. 2021-30 (or its successor).

SECTION 32. WHAT IS THE EFFECT OF THIS REVENUE PROCEDURE ON OTHER DOCUMENTS?

Rev. Proc. 2025-4 is superseded.

SECTION 33. EFFECTIVE DATE

This revenue procedure is effective January 1, 2026.

SECTION 34. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1520.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this revenue procedure are in sections 6.02, 6.03, 6.05, 6.06, 10.03, 10.08, 10.11, 10.14, 10.15, 10.17, 11.04, 16, 17, 18, 19A, 19B, 20A, 20B, 21.02, 22.03, 23.02, 23.08, 27.05, 27.06, 27.07, 27.08, 27.09, 27.10, 27.13, 28.01, 28.06, 28.07, and 29.10 of this revenue procedure, and in Appendices B1, B2, C, and E of this revenue procedure. This information is required to evaluate and process the request for a letter ruling or determination letter, and with respect to determination letters, information collected will be used to determine whether a plan is entitled to favorable tax treatment as a qualified plan. In addition, this information will be used to help the Service delete certain information from the text of the letter ruling or determination letter before it is made available for public inspection, as required by §§ 6110 and

6104. The collections of information are required to obtain a letter ruling or determination letter. The likely respondents are individuals, businesses or other for-profit institutions, tax exempt organizations, and government entities.

The estimated total annual reporting and/or recordkeeping burden with respect to letter ruling requests is 769 hours. The estimated total annual reporting and/or recordkeeping burden with respect to determination letters is 38,067 hours.

The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 40 hours, depending on individual circumstances and the type of request involved, with an estimated average burden of 6.01 hours for letter ruling requests and 3.02 hours for determination letter requests. The estimated number of respondents and/or recordkeepers is 128 for letter rulings and 12,605 for determination letters.

For letter rulings, the estimated annual frequency of responses is one request per applicant, except that a taxpayer requesting a letter ruling may also request a pre-submission conference.

For determination letters, the estimated annual frequency of responses (used for reporting requirements only) is once every three years.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Isaac Stein of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding submission and processing of requests under this revenue procedure, contact Ada Perry, Employee Plans, at 202-317-5850 (not a toll-free number).

APPENDIX A
SCHEDULE OF USER FEES

The amount of the user fee payable with respect to each category or subcategory of submission is as set forth in the following schedule.

CATEGORY	USER FEE
.01 *Letter ruling requests*	
(1) Computation of exclusion for annuitant under § 72	$1,000
(2) Change in plan year (Form 5308, *Request for Change in Plan/Trust Year*)	$2,500
Note: No user fee is required if the requested change is permitted to be made pursuant to the procedure for automatic approval set forth in Rev. Proc. 87-27, 1987-1 CB 769. In such a case, Form 5308 should not be submitted to the Service.	
(3) Waiver of the 60-day rollover requirement under §§ 402(c)(3) and 408(d)(3)	$3,500
(4) Requests for relief under § 301.9100 to recharacterize contributions to a Roth IRA	$3,500
(5) Five-Year Automatic Extension of the Amortization Period	$10,000
(6) Change In Selection of Data Elements (see Section 4 of Rev. Proc. 2017-57)	$10,000
(7) Change in in actuarial assumptions under § 412, 430, 431, or 433	$10,000
(8) All other letter rulings under jurisdiction of the Employee Plans Office (see section 24.01 of this revenue procedure)	$18,500
.02 *Opinion letters on prototype IRAs, SEP arrangements, SIMPLE IRAs, SIMPLE IRA Plans, Roth IRAs, and dual-purpose IRAs (until further notice, Announcement 2022-6 temporarily suspends the issuance of opinion letters on IRAs, so fees for the program will be determined when the program reopens)*	N/A
.03 *Opinion letters on pre-approved plans submitted pursuant to Rev. Proc. 2017-41 (§ 401(a))*	
(1) Provider's word-for-word adoption of mass submitter's basic plan document per adoption agreement or single document plan	$300
(2) Assumption of sponsorship of a pre-approved plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document or single document plan	$300
(3) Change in name and/or address of a provider of a pre-approved plan per basic plan document or single document plan	None
.04 *Opinion letters on pre-approved plans submitted pursuant to Rev. Proc 2021-37 (§ 403(b))*	
(1) Provider's word-for-word adoption of mass submitter's basic plan document per adoption agreement or single document plan	$300
(2) Assumption of sponsorship of a pre-approved plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document or single document plan	$300
(3) Change in name and/or address of a provider of a pre-approved plan per basic plan document or single document plan	None
.05 *Opinion letters on § 403(b) prototype plans pursuant to Rev.* Proc. *2013-22 and Rev. Proc. 2014-28*	
(1) Assumption of sponsorship of an approved § 403(b) prototype plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document or single document plan	$300
(2) Change in name and/or address of sponsor of an approved § 403(b) prototype plan, per basic plan document or single document plan	None
.06 *Opinion letters on pre-approved plans submitted pursuant to Rev. Proc. 2023-37 (§ 401(a))*	
(1) Mass submitter and non-mass submitter plans with adoption agreements	
(a) per basic plan document, with one adoption agreement	$22,000
(b) per each additional adoption agreement	$16,500

CATEGORY	USER FEE
(2) Mass submitter and non-mass submitter single document plans (no adoption agreements)	
(a) per each single document plan	$35,200
(3) Provider's word-for-word adoption of mass submitter's basic plan document per adoption agreement or single document plan	$300
(4) Provider's minor modification of mass submitter's basic plan document per adoption agreement or single document plan	$1,100
(5) Assumption of sponsorship of a pre-approved plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document or single document plan	$300
(6) Change in name and/or address of a provider of a pre-approved plan per basic plan document or single document plan	None
.07 *Advisory letters on § 403(b) VS plans pursuant to Rev. Proc. 2013-22 and Rev. Proc. 2014-28*	
(1) Assumption of sponsorship of an approved § 403(b) VS plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per specimen plan	$300
(2) Change in name and/or address of practitioner of an approved § 403(b) VS specimen plan, per specimen plan	None
.08 *Determination letters*	
(1) Determination Letters:	
(a) Form 5300 (Application for Determination for Employee Benefit Plan)	$4,000
(b) Form 5300 (Application for Determination for Employee Benefit Plan, § 403(b) plans, with 100 or more participants)	$4,000
Note: the number of participants is determined on the last day of the plan year before submission.	
(c) Form 5300 (Application for Determination for Employee Benefit Plan, § 403(b) small plans with fewer than 100 participants)	$500
Note: the number of participants is determined on the last day of the plan year before submission.	
(d) Form 5307 *(*Application for Determination for Adopters of Modified Nonstandardized Pre-Approved Plans*)*	$2,000
(e) Form 5310 *(*Application for Determination for Terminating Plan*)*	$4,500
(f) Multiple employer qualified plans (Form 5300)	$4,200
(g) Multiple employer qualified plans (Form 5310), regardless of number of participants	$4,200
(2) Group trusts contemplated by Rev. Rul. 81-100, 1981-1 CB 326, Rev. Rul. 2004-67, 2004-2 CB 28, Rev. Rul. 2011-1, 2011-2 IRB 251, Rev. Rul. 2014-24, 2014-37 IRB 529. Form 5316, Application for Group or Pooled Trust Ruling*,* is available for group trust submissions.	$1,200
.09 *User Fees for VCP submissions under EPCRS Revenue Procedure 2021-30*	
(1) Regular submissions under VCP. (For a special rule relating to terminating Orphan Plans see section 4.08 of Rev. Proc. 2021-30):	
Plans with assets of --	
(a) $500,000 or less	$2,000
(b) Over $500,000 to $10,000,000	$3,500
(c) Over $10,000,000	$4,000

CATEGORY	USER FEE

Note: ***In general***. User fees under this section are determined based on end of year net assets of a plan as reported on the most recently filed Form 5500 series return.

Plans not required to file Form 5500 Series. If the plan sponsor is not required to file a Form 5500 series return with regard to a plan eligible for VCP, the amount of net assets for user fee purposes generally will be the amount of net assets as of the last day of the most recently completed plan year preceding the date of the VCP submission. However, if this information has not been compiled by the time the plan sponsor is ready to make a VCP submission to the Service, the plan sponsor may use the amount of net assets associated with the most recently completed prior plan year for which information on the amount of net assets is available. This exception will not apply if the VCP submission is mailed to the Service more than seven months after the close of the most recently completed plan year preceding the date of the VCP submission.

(2) VCP fee for Group Submissions, initial fee for first 20 plans	$13,500

Note: The fee for a group submission is based on the number of plans affected by the failure as described in the compliance statement. The initial fee is due at the time of submission. An additional fee is due equal to the product of the number of plans in excess of 20 multiplied by $250. The maximum fee for a group submission is $50,000. If additional plans are added following the group submission, the additional fee is paid subject to the $50,000 maximum fee. With respect to pre-approved plans, the fee is determined based on the number of basic plan documents submitted and the number of employers who have adopted each basic plan document by using an adoption agreement associated with that basic plan document. See Form 8951, and Rev. Proc. 2021-30 (or its successor), sections 10.11 and 11.06.

APPENDIX B1

SAMPLE NOTICE TO INTERESTED PARTIES (QUALIFIED PLANS)

The sample notice set forth below may be used to satisfy the requirements of section 20A of this revenue procedure.

NOTICE TO INTERESTED PARTIES

1. Notice To:_____[describe class or classes of interested parties]

An application is to be made to the Internal Revenue Service for an advance determination [on the qualification of the following employee pension benefit plan]:

2. _____

(name of plan)

3. _____

(plan number)

4. _____

(name and address of applicant)

5. _____

(applicant EIN)

6. _____

(name and address of plan administrator)

7. The application will be filed on _____ for an advance determination as to whether the plan meets the qualification requirements of § 401(a) or § 403(a) of the Internal Revenue Code (Code), with respect to the plan's _____ [initial plan qualification, termination, or partial termination]. The application will be filed with the Internal Revenue Service through Pay.gov.

8. The employees eligible to participate under the plan are:

9. The Internal Revenue Service [has/has not] previously issued a determination letter with respect to the qualification of this plan.

RIGHTS OF INTERESTED PARTIES

10. You have the right to submit to EP Determinations, either individually or jointly with other interested parties, your comments as to whether this plan meets the qualification requirements of the Code. Label your comments "Interested Party Statement". Include the EIN, plan name, and plan number in your correspondence. Also include your contact information (mailing address and phone number) in case we need to contact you. Your comments to EP Determinations should be faxed to EP Customer Service at 855-224-1311 or mailed to:

Internal Revenue Service
EP Determinations
Attn: Customer Service Manager
P.O. Box 2508
Cincinnati, OH 45202

You may instead, individually or jointly with other interested parties, request the DOL to submit, on your behalf, comments to EP Determinations regarding qualification of the plan. If the DOL declines to comment on all or some of the matters you raise, you may,

individually, or jointly if your request was made to the DOL, submit your comments on these matters directly to EP Determinations at the Cincinnati address above.

REQUESTS FOR COMMENTS BY THE DOL

11. The DOL may not comment on behalf of interested parties unless requested to do so by the lesser of 10 employees or 10 percent of the employees who qualify as interested parties. The number of persons needed for the DOL to comment with respect to this plan is _____. If you request the DOL to comment, your request must be in writing and must specify the matters upon which comments are requested, and must also include:

(1) the information contained in items 2 through 5 of this Notice; and

(2) the number of persons needed for the DOL to comment.

A request to the DOL to comment should be addressed as follows:

Deputy Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor,
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Attention: 3001 Comment Request

COMMENTS TO THE INTERNAL REVENUE SERVICE

12. Comments submitted by you to EP Determinations must be in writing and received by _____.

However, if there are matters that you request the DOL to comment upon on your behalf, and the DOL declines, you may submit comments on these matters to EP Determinations to be received by it within 15 days from the time the DOL notifies you that it will not comment on a particular matter, or by _____, whichever is later, but not after _____. A request to the DOL to comment on your behalf must be received by it by _____ if you wish to preserve your right to comment on a matter upon which the DOL declines to comment, or by _____ if you wish to waive that right.

ADDITIONAL INFORMATION

13. Detailed instructions regarding the requirements for notification of interested parties may be found in sections 19A and 20A of Rev. Proc. 2026-4, 2026-1 IRB 160. Additional information concerning this application (including, if applicable, the following: an updated copy of the plan and related trust; the application for determination; any additional documents relating to the application that have been submitted to the Service; and copies of section 19A of Rev. Proc. 2026-4) is available at _____ during the hours of _____ for inspection and copying. (There is a nominal charge for copying and/or mailing.)

APPENDIX B2

SAMPLE NOTICE TO INTERESTED PERSONS (§ 403(b) PLANS)

The sample notice set forth below may be used to satisfy the requirements of section 20B of this revenue procedure.

NOTICE TO INTERESTED PERSONS

1. Notice To:_____ [describe class or classes of interested persons]

An application is to be made to the Internal Revenue Service for an advance determination that a § 403(b) plan meets the requirements of § 403(b):

2. _____

(name of plan)

3. _____

(plan number)

4. _____

(name and address of applicant)

5. _____

(applicant EIN)

6. _____

(name and address of plan administrator)

7. The application will be filed on _____ for an advance determination as to whether the plan meets the requirements of § 403(b) of the Internal Revenue Code (Code), with respect to the plan's _____ [initial determination as to whether the plan meets the requirements of § 403(b) or the determination upon plan termination that the plan meets the requirements of § 403(b)]. The application will be filed with the Internal Revenue Service through Pay.gov.

8. The employees eligible to participate under the plan are:

9. The Internal Revenue Service [has/has not] previously issued a determination letter whether this plan meets the requirements of § 403(b).

RIGHTS OF INTERESTED PERSONS

10. You have the right to submit to EP Determinations, either individually or jointly with other interested persons, your comments as to whether this plan meets the requirements of § 403(b). Label your comments "Interested Person Statement". Include the EIN, plan name, and plan number in your correspondence. Also include your contact information (mailing address and phone number) in case we need to contact you. Your comments to EP Determinations should be submitted to EP Customer Service via fax at 855-224-1311 or mailed to:

Internal Revenue Service
EP Determinations
Attn: Customer Service Manager
P.O. Box 2508
Cincinnati, OH 45202

COMMENTS TO THE INTERNAL REVENUE SERVICE

11. Comments submitted by you to EP Determinations must be in writing and received by _____.

ADDITIONAL INFORMATION

12. Detailed instructions regarding the requirements for notification of interested persons may be found in sections 19B and 20B of Rev. Proc. 2026-4, 2026-1 IRB 160. Additional information concerning this application (including, if applicable, the following: an updated copy of the plan and related custodial account or annuity; the application for determination; any additional documents relating to the application that have been submitted to the Service; and copies of section 19B of Rev. Proc. 2026-4) is available at _____ during the hours of _____ for inspection and copying. (There is a nominal charge for copying and/or mailing.)

APPENDIX C

CHECKLIST FOR § 401(h) AND § 420 DETERMINATION LETTERS

As part of a § 401(h) or § 420 determination letter request described in section 18 of this revenue procedure the following checklist must be completed and attached to the determination letter request. If the request relates to § 401(h) but not to § 420, complete Part I only. If the request relates to § 420, complete Parts I and II. Answer each question by circling "Yes" or "No." If a question contains a place for a section number, insert the section number that gives the information called for by a yes answer to a question.

PART I		***CIRCLE***	***SECTION***
1.	Does the Plan contain a medical benefits account within the meaning of § 401(h) of the Internal Revenue Code (Code)? If the medical benefits account is a new provision, items "a" through "h" should be completed.	Yes No	___
a.	Does the medical benefits account specify the medical benefits that will be available and contain provisions for determining the amount that will be paid?	Yes No	___
b.	Does the medical benefits account specify who will benefit?	Yes No	___
c.	Does the medical benefits account indicate that such benefits, when added to any life insurance protection in the Plan, will be subordinate to retirement benefits? (This requirement will not be satisfied unless the amount of actual contributions to provide § 401(h) benefits (when added to actual contributions for life insurance protection under the Plan) does not exceed 25 percent of the total actual contributions to the Plan (other than contributions to fund past service credits), determined on an aggregate basis since the inception of the § 401(h) arrangement.)	Yes No	___
d.	Does the medical benefits account maintain separate accounts with respect to contributions to key employees (as defined in § 416(i)(1)) to fund such benefits?	Yes No	___
e.	Does the medical benefits account state that amounts contributed must be reasonable and ascertainable?	Yes No	___
f.	Does the medical benefits account provide for the impossibility of diversion prior to satisfaction of liabilities (other than item "7" below)?	Yes No	___
g.	Does the medical benefits account provide for reversion upon satisfaction of all liabilities (other than item "7" below)?	Yes No	___
h.	Does the medical benefits account provide that forfeitures must be applied as soon as possible to reduce employer contributions to fund the medical benefits?	Yes No	___

PART II		***CIRCLE***	SECTION
2.	Does the Plan limit transfers to "Excess Assets" as defined in § 420(e)(2)?	Yes No	___
3.	Does the Plan provide that only one transfer may be made in a taxable year?	Yes No	___
4.	Does the Plan provide that the amount transferred shall not exceed the amount reasonably estimated to be paid for qualified current retiree liabilities?	Yes No	___
5.	Does the Plan provide that no transfer will be made after December 31, 2032?	Yes No	___
6.	Does the Plan provide that transferred assets and income attributable to such assets shall be used only to pay qualified current retiree liabilities for the taxable year of transfer?	Yes No	___
7.	Does the Plan provide that any amounts transferred (plus income) that are not used to pay qualified current retiree liabilities shall be transferred back to the defined benefit portion of the Plan?	Yes No	___
8.	Does the Plan provide that amounts paid out of a health benefits account or an applicable life insurance account will be treated as paid first out of transferred assets and income attributable to those assets?	Yes No	___

9.	Does the Plan provide that participants' accrued benefits become nonforfeitable on a termination basis (i) immediately prior to transfer, or (ii) in the case of a participant who separated within 1 year before the transfer, immediately before such separation?	Yes No	___
10.	Does the Plan provide that transfers will be permitted only if each group health plan or arrangement or group-term life insurance plan, as applicable contains provisions satisfying § 420(c)(3), as amended?	Yes No	___
11.	Does the Plan define "applicable employer cost", "cost maintenance period" and "benefit maintenance period", as needed, consistently with § 420(c)(3), as amended?	Yes No	___
12.	Does the Plan provide that transferred assets cannot be used for key employees?	Yes No	___

APPENDIX D

SAMPLE FORMAT FOR A LETTER RULING REQUEST FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS

(*Insert the date of request*)

[for Employee Plans]

Internal Revenue Service

Attention: EP Letter Rulings

P.O. Box 12192

TE/GE Stop 31A Team 105

Covington, KY 41012-0192

Dear Sir or Madam:

(*Insert the name of the taxpayer*) (the "Taxpayer") requests a ruling on the proper treatment of (*insert the subject matter of the letter ruling request*) under § (*insert the number*) of the Internal Revenue Code.

[*If the taxpayer is requesting expedited handling, the letter ruling request must contain a statement to that effect. This statement must explain the need for expedited handling.* See *section 6.03(3) of this revenue procedure.*]

A. STATEMENT OF FACTS

1. Taxpayer Information

[Provide the statements required by sections 6.02(1)(a), (b), and (c) of Rev. Proc. 2026-4, 2026-1 IRB 160. Hereafter, all references are to Rev. Proc. 2026-4, unless otherwise noted.)]

For example, a taxpayer that maintains a qualified employee retirement plan and files an annual Form 5500 series of returns may include the following statement to satisfy sections 6.02(1)(a), (b), and (c):

The Taxpayer is a construction company with principal offices located at 100 Whatever Drive, Wherever, Maryland 12345, and its telephone number is (123) 456-7890. The Taxpayer's federal employer identification number is 00-1234567. The Taxpayer uses the Form 5500 series of returns on a calendar year basis to report its qualified employee retirement plan and trust.

2. Detailed Description of the Transaction.

[The ruling request must contain a complete statement of the facts relating to the transaction that is the subject of the letter ruling request. This statement must include a detailed description of the transaction, including material facts in any accompanying documents, and the business reasons for the transaction. See sections 6.02(1)(b), 6.02(1)(c), and 6.02(2).]

B. RULING REQUESTED

[The ruling request should contain a concise statement of the ruling requested by the taxpayer.]

C. STATEMENT OF LAW

[The ruling request must contain a statement of the law in support of the taxpayer's views or conclusion, including any authorities believed to be contrary to the position advanced in the ruling request. This statement must also identify any pending legislation that may affect the proposed transaction. See sections 6.02(6), 6.02(7), and 6.02(8).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. See sections 6.02(3), 6.02(6), 6.02(7), and 6.02(8).]

E. CONCLUSION

[The ruling request should contain a statement of the taxpayer's conclusion on the ruling requested.]

F. PROCEDURAL MATTERS

1. Rev. Proc. 2026-4 statements
   a. [The statement required by section 6.02(4).]
   b. [The statement required by section 6.02(5).]
   c. [The statement required by section 6.02(6) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
   d. [The statement required by section 6.02(7) if the taxpayer determines that there are no contrary authorities.]
   e. [If the taxpayer wants to have a conference on the issues involved in the letter ruling request, the ruling request should contain a statement to that effect. See section 6.03(5).]
   f. [If the taxpayer is requesting the letter ruling to be issued by fax, the ruling request should contain a statement to that effect. See section 6.03(4).]
   g. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. See section 6.03(1).]
2. Administrative
   a. A Power of Attorney is enclosed. [See sections 6.02(12) and 6.03(2).]
   b. The deletions statement and checklist required by Rev. Proc. 2026–4 are enclosed. [See sections 6.02(9), (16), and (18).]
   c. The required user fee is enclosed. [See section 6.02(15).]

Very truly yours,

(Insert the name of the taxpayer or the taxpayer's authorized representative)

By:

_____ _____
Signature Date

Typed or printed name of person signing request

DECLARATION: [See section 6.02(14).]

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request and such facts are true, correct, and complete.

(*Insert the name of the taxpayer*)

By:

_____

Signature Title Date

_____

Typed or printed name of person signing declaration

APPENDIX E

CHECKLIST FOR LETTER RULINGS FROM EMPLOYEE PLANS RULINGS AND AGREEMENTS IS YOUR RULING REQUEST COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your letter ruling request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. Complete the four items of information requested before the checklist. Answer each question by circling "Yes," "No," or "N/A." If a question contains a place for a page number, insert the page number (or numbers) of the request that gives the information called for by a yes answer to a question. **Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.**

If you are an authorized representative submitting a request for a taxpayer, you must include a completed checklist with the request or the request will either be returned to you or substantive consideration of it will be deferred until a completed checklist is submitted. **If you are a taxpayer preparing your own request without professional assistance, an incomplete checklist will not be cause for returning your request or deferring substantive consideration of the request.** However, you should still complete as much of the checklist as possible and submit it with your request.

TAXPAYER'S NAME _____

TAXPAYER'S I.D. No. _____

ATTORNEY/P.O.A. _____

PRIMARY CODE SECTION _____

CIRCLE ONE	ITEM
Yes No N/A	1. Does your request involve an issue under the jurisdiction of Employee Plans Rulings and Agreements? See section 24.01 of Rev. Proc. 2026-4, for the list of issues on which Employee Plans Rulings and Agreements issues letter rulings. See section 5 of Rev. Proc. 2026-4, for issues under the jurisdiction of other offices. (Hereafter, all references are to Rev. Proc. 2026-4, unless otherwise noted.)
Yes No N/A Page ____	2. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? See section 24.01.
Yes No	3. Are you requesting a letter ruling on a hypothetical situation or question? See section 25.03.
Yes No	4. Are you requesting a letter ruling on alternative plans of a proposed transaction? See section 25.03.
Yes No	5. Are you requesting the letter ruling for only part of an integrated transaction? See section 25.04.
Yes No	6. Have you submitted another letter ruling request for the transaction covered by this request?
Yes No	7. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? See section 24.06.
Yes No Page ____	8. Have you included a complete statement of all the facts relevant to the transaction? See section 6.02(1).
Yes No N/A	9. Have you submitted with the request true copies of all wills, deeds, plan documents, and other documents relevant to the transaction, labeled and attached them in alphabetical sequence? See section 6.02(2)(a).
Yes No Page ____	10. Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? Are they accompanied by an analysis of their bearing on the issues that specifies the document provisions that apply? See section 6.02(3).
Yes No Page ____	11. Have you included the required statement regarding whether the same issue in the letter ruling request is in an earlier return of the taxpayer or in a return for any year of a related taxpayer? See section 6.02(4).
Yes No Page ____	12. Have you included the required statement regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor? See section 6.02(5).

CIRCLE ONE	ITEM
Yes No Page ____	13. Have you included the required statement regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted the same or similar issue but withdrew it before the letter ruling was issued? See section 6.02(5).
Yes No Page ____	14. Have you included the required statement regarding whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities? See section 6.02(6).
Yes No Page ____	15. Have you included the required statement of relevant authorities in support of your views? See section 6.02(6).
Yes No N/A Page ____	16. Does your request discuss the implications of any legislation, tax treaties, court decisions, regulations, notices, revenue rulings, or revenue procedures you determined to be contrary to the position advanced? See section 6.02(7), which states that taxpayers must inform the Service of such authorities.
Yes No N/A Page ____	17. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? See section 6.02(7).
Yes No N/A Page ____	18. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? See section 6.02(8).
Yes No	19. Is the request accompanied by the deletions statement required by section 6110? See section 6.02(9).
Yes No N/A Page____	20. Have you (or your authorized representative) signed and dated the request? See section 6.02(10).
Yes No N/A	21. If the request is signed by your representative, or if your representative will appear before the Service in connection with the request, is the request accompanied by a properly prepared and signed power of attorney (Form 2848) with the signatory's name typed or printed? See section 6.02(12).
Yes No N/A Page____	22. Have you included, signed, and dated, the penalties of perjury statement in the form required by section 6.02(14)?
Yes No N/A	23. Have you included the correct user fee with the request and made your check or money order payable to the United States Treasury? See section 6.02(15) and section 30 and Appendix A, for the correct amount and additional information on user fees.
Yes No N/A	24. Are you submitting your request in duplicate if necessary? See section 6.02(16).
Yes No N/A Page____	25. If you are requesting separate letter rulings on different issues involving one factual situation, have you included a statement to that effect in each request? See section 6.03(1).
Yes No N/A Page____	26. If you have more than one representative, have you designated whether the representatives listed on the power of attorney (Form 2848) are to receive a copy of the letter ruling? See section 6.03(2).
Yes No N/A	27. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the form required by section 6.03(3) and stated a compelling need for such action in the request?
Yes No N/A Page____	28. If you want to have a conference on the issues involved in the request, have you included a request for a conference in the ruling request? See section 6.03(5).
Yes No N/A	29. If your request is covered by any of the revenue procedures listed in section 26, have you complied with all the requirements of the applicable revenue procedures?
Yes No N/A	30. Have you addressed your request to the appropriate office provided in section 31? Improperly addressed requests may be delayed (sometimes for over a week) in reaching the appropriate office for initial processing.

_____ _____ _____

Signature Title or authority Date

_____

Typed or printed name of person signing checklist

APPENDIX F

ADDITIONAL CHECKLIST FOR NONBANK TRUSTEE APPLICATIONS

To assist Employee Plans Rulings and Agreements in considering an application for nonbank trustee approval, please use this checklist, in addition to the checklist in Appendix E, and submit it with your request.

Please respond with Yes, No, or N/A.

1. Did you specify the types of accounts the applicant is requesting approval to handle (e.g., IRAs, Roth IRAs, 403(b)(7) custodial accounts)?

2. Did you specify whether the applicant is requesting approval to handle accounts passively and/or non-passively?

3. Did you identify the percentage ownership of individuals of the applicant, considering the rules for constructive ownership provided in IRC 1563(e) and (f)(2)? Did you describe in detail the intermediate and ultimate ownership of the applicant or provide an organizational chart illustrating such ownership?

4. If the applicant satisfies a safe harbor in Treas. Reg. § 1.408-2(e)(2)(i), did you explain how it was satisfied? If the applicant does not satisfy any of the safe harbors, did you discuss factors relating to satisfying the continuity requirement such as concentration of ownership, number of employees, number of physical locations, non-owner management, and overall financial condition?

5. Did you provide a copy of the applicant's audited financial statements to demonstrate its net worth, as determined at the end of the most recent taxable year?

6. Does your submission include draft Rules of Fiduciary Conduct?

7. Do the draft Rules of Fiduciary Conduct contain each item (if applicable) in Treas. Reg. § 1.408-2(e)(5)?

8. Did you provide a complete copy of the applicant's current bond with riders?

9. Did you discuss each requirement in Treas. Reg. § 1.408-2(e)(2) through § 1.408-2(e)(5)?

10. Did you provide clear and convincing documentation to substantiate compliance with each requirement (if applicable)?

11. Did you provide representations that, if approved, the applicant:

    a. Will notify the Commissioner in writing of any change that affects the continuing accuracy of any representation made in this application, whether the change occurs before or after the applicant receives a notice of approval;

    b. Will act as a custodian or trustee only if the written custodial agreement or trust instrument provides a provision to the effect that the grantor is to substitute another custodian or trustee upon notification by the Commissioner that such substitution is required because the applicant has failed to comply with the requirements of Treas. Reg. § 1.408-2(e) or is not keeping such records, or making such returns, or rendering such statements as are required by forms or regulations; and

    c. Will not accept a fiduciary account until after the plan administrator or the person for whose benefit the account is to be established is furnished with a copy of the written notice of approval issued to the applicant?

12. Did you provide a representation that the applicant pays its debts as they come due, unless subject to reasonable dispute?

Rev. Proc. 2026-5

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SECTION 1. WHAT IS THE PURPOSE OF THIS REVENUE PROCEDURE?

This revenue procedure sets forth procedures for issuing determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements. Specifically, it explains the procedures for issuing determination letters on tax-exempt status (in response to applications for recognition of exemption from federal income tax under §§ 501 or 521 other than those subject to Rev. Proc. 2026-4, this Bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans)), private foundation status, and other determinations related to tax-exempt organizations. These procedures also apply to revocation or modification of determination letters. This revenue procedure also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under § 7428. Finally, this revenue procedure provides guidance on applicable user fees for requesting determination letters.

Description of terms used in this revenue procedure

.01 For purposes of this revenue procedure—

(1) The term "Service" means the Internal Revenue Service.

(2) The term "EO Rulings and Agreements" means the office in Exempt Organizations & Government Entities that is primarily responsible for up-front, customer-initiated activities such as determination letter requests, taxpayer assistance, and assistance to other Exempt Organizations & Government Entities offices. The EO Rulings and Agreements office includes the offices of EO Determinations and EO Determinations Quality Assurance.

(3) The term "EO Determinations" means the office in EO Rulings and Agreements of the Service that is primarily responsible for processing requests for determination letters.

(4) The term "Independent Office of Appeals" (Internal Revenue Service Independent Office of Appeals) means any office under the direction and control of the Chief of Appeals. The purpose of the Independent Office of Appeals is to resolve tax controversies, without litigation, on a fair and impartial basis. The Independent Office of Appeals is independent of EO Rulings and Agreements.

(5) The term "determination letter" means a written statement issued by EO Determinations or the Independent Office of Appeals in response to a request for the Service's ruling on a question of tax-exempt status, foundation status, or other determination under the jurisdiction of the Director, EO Rulings and Agreements. This includes a written statement issued by EO Determinations or an office of the Independent Office of Appeals on the basis of advice secured from the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) pursuant to the procedures prescribed in Rev. Proc. 2026-2, this Bulletin. A determination letter applies the principles and precedents previously announced to a specific set of facts.

(6) The term "request" means the written submission that an organization uses to obtain a determination letter in accordance with the requirements of this revenue procedure.

(7) The term "application" means a request for recognition of exemption from federal income tax under §§ 501 or 521.

Updated annually

.02 This revenue procedure is updated annually but may be modified or amplified during the year.

SECTION 2. NATURE OF CHANGES TO REV. PROC. 2025-5 AND RELATED REVENUE PROCEDURES AND FORMS

What changes have been made to Rev. Proc. 2025-5?

.01 This revenue procedure updates Rev. Proc. 2025-5, 2025-1 IRB 260, which deals with procedures for issuing Exempt Organization determination letters. Notable changes to Rev. Proc. 2025-5 that appear in this year's update include—

(1) Section 3.02(11) has been revised to address requests for a group exemption letter pursuant to publication of the final revenue procedure proposed in Notice 2020-36.

(2) Section 6.07(3)(a) has been revised to remove the reference only to applications under § 501(c)(3).

(3) Section 6.08 has been revised to encourage taxpayers to use fax and the IRS Document Upload Tool when submitting additional information for letter ruling requests.

(4) Section 7.05 has been revised to remove the notice an organization must submit in seeking to terminate its private foundation status under § 507.

(5) Section 9.12 has been revised to add that in certain circumstances, the Independent Office of Appeals will not consider a matter or issue.

(6) Editorial changes were made throughout including minor non-substantive changes, dates, and cross-references. Citations to other revenue procedures were changed to reflect the appropriate annual revenue procedures.

Related revenue procedures

.02 This revenue procedure supplements the following revenue procedures—

(1) Rev. Proc. 80-27, 1980-1 CB 677, which sets forth procedures under which tax-exempt status may be recognized on a group basis for subordinate organizations affiliated with and under the general supervision and control of a central organization.

(2) Rev. Proc. 72-5, 1972-1 CB 709, which provides information for religious and apostolic organizations seeking recognition of exemption under § 501(d).

(3) Rev. Proc. 2015-17, 2015-7 IRB 599, which provides information regarding procedures for organizations described in § 501(c)(29).

(4) Rev. Proc. 2014-11, 2014-3 IRB 411, which sets forth procedures for reinstating the tax-exempt status of organizations that have had their tax-exempt status automatically revoked under § 6033(j)(1).

(5) Rev. Proc. 2016-41, 2016-30 IRB 165, which sets forth the procedure for an organization to notify the Service, consistent with § 506, that it is operating as an organization described in § 501(c)(4).

(6) Rev. Proc. 2018-15, 2018-9 IRB 379, which describes the circumstances under which a domestic § 501(c) organization that changes its form or place of organization will not be required to file a new exemption application and such an organization's reporting requirements.

Related forms that are not a request for a determination letter

.03 **Forms that are not requests for a determination**. Certain organizations are required to submit the following forms, but such forms are not requests for a determination and, thus, are not subject to the procedures in this revenue procedure.

(1) **Form 3115,** ***Application for Change in Accounting Method.*** A tax-exempt organization described in § 501(c) that wants to change its method of accounting for computing taxable income must follow the procedures that are generally applicable to all taxpayers for requesting the Commissioner's consent to an accounting method change, including, if applicable, filing a

Form 3115, *Application for Change in Accounting Method* (*see*, *e.g.*, Rev. Proc. 2015-13, 2015-5 IRB 419, as modified and clarified by Rev. Proc. 2021-34, 2021-35 IRB 337 (or any successor)). A tax-exempt organization described in § 501(c) must request consent to change its method of accounting for computing taxable income only if the tax-exempt organization has previously adopted a method of accounting for computing taxable income for the item(s) being changed. A taxpayer generally adopts a method of accounting in the first year in which an item is taken into account in computing taxable income. Thus, a tax-exempt organization that has adopted a method of accounting for an item of income or expense from an unrelated trade or business must generally request consent in order to change its method of accounting for reporting the item in any subsequent year, regardless of whether the gross income from the unrelated trade or business is greater than or equal to $1,000 in such subsequent year. However, a tax-exempt organization that has not yet adopted a method of accounting for an item does not have to request consent to change the methodology of reporting the item. Thus, a tax-exempt organization that is required to file a Form 990-T, *Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))* solely due to owing a § 6033(e)(2) proxy tax but has not yet adopted a method of accounting for an item of income or expense does not have to request consent to change its methodology for reporting such item on its Form 990-T (or Form 990, as applicable). *See* Rev. Proc. 2015-13, as modified and clarified by Rev. Proc. 2021-34, and Section 9 of Rev. Proc. 2026-1, this Bulletin for procedures applicable to taxpayers, including tax-exempt organizations, for requesting changes in method of accounting.

(2) **Form 8871, *Political Organization Notice of Section 527 Status***. A political party, a campaign committee for a candidate for federal, state, or local office, and a political action committee are all political organizations subject to tax under § 527. To be tax-exempt, a political organization may be required to notify the Service that it is to be treated as a § 527 organization by electronically filing Form 8871, *Political Organization Notice of Section 527 Status*. *See* IRS.gov ("Tax Information for Political Organizations").

(3) **Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*.** An organization described in § 501(c)(4) must, no later than 60 days after the date the organization is established, notify the Service that it is operating as an organization described in § 501(c)(4) by submitting a completed Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)* and the accompanying user fee. *See* IRS.gov ("Electronically Submit Your Form 8976, Notice of Intent to Operate Under Section 501(c)(4)").

SECTION 3. UNDER WHAT CIRCUMSTANCES DOES EO DETERMINATIONS ISSUE DETERMINATION LETTERS?

Matters on which EO Determinations will issue a determination letter

.01 EO Determinations issues determination letters on the following matters—

(1) Initial qualification for tax-exempt status of organizations described in §§ 501 or 521 (including reinstatement of organizations that have been automatically revoked pursuant to § 6033(j) and subordinate organizations included in a group exemption letter that have been revoked pursuant to that provision). *See* Rev. Proc. 2018-15 for procedures applicable to an entity changing its form or state of organization;

Note: EO Determinations will issue a determination letter to an organization currently recognized as described in § 501(c)(3) that seeks recognition as described in a different paragraph

of § 501(c) if the organization establishes that, as of the submission date of its application, (i) it has distributed its assets to another § 501(c)(3) organization or government entity and (ii) it otherwise meets the requirements for the § 501(c) status requested. This determination letter will only be effective from the submission date of the new application. This also applies to an organization automatically revoked under § 6033(j) that was described in § 501(c)(3) that seeks retroactive reinstatement as described in a different paragraph of § 501(c). If the organization is a private foundation, however, it will not be recognized as described in a different paragraph of § 501(c) before terminating its private foundation status in accordance with § 507. *See* § 509(b) and (c). An organization formerly recognized as described in § 501(c)(3) will continue to be treated as an applicable tax-exempt organization subject to § 4958 for a period of five years after ceasing to be exempt as described in § 501(c)(3) unless it is a private foundation or a governmental unit or affiliate. *See* § 4958(e) and Treas. Reg. § 53.4958-2(a)(2).

(2) Updated tax-exempt status letter (affirmation letter) to reflect changes to an organization's name or address, or to replace a lost tax-exempt status letter;

(3) Classification or reclassification of private foundation status, including whether an organization is—

(a) A private foundation;

(b) A public charity described in §§ 509(a)(1) and 170(b)(1)(A) (other than clauses (v), (vii), and (viii));

(c) A public charity described in § 509(a)(2) or (4);

(d) A public charity described in § 509(a)(3), whether such organization is described in § 509(a)(3)(B)(i), (ii), or (iii) (supporting organization type), and whether or not a Type III supporting organization is functionally integrated;

(e) A private operating foundation described in § 4942(j)(3); or

(f) An exempt operating foundation described in § 4940(d)(2).

(4) Recognition of unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2);

(5) Requests for relief under Treas. Reg. § 301.9100-1 in connection with applications for recognition of exemption;

(6) Terminations of private foundation status under § 507(b)(1)(B);

(7) Advance approval of certain set-asides described in § 4942(g)(2);

(8) Advance approval under § 4945(g) of organizations' grant making procedures;

(9) Advance approval of voter registration activities described in § 4945(f);

(10) Whether an organization is exempt from filing annual information returns under § 6033, as provided in Treas. Reg. § 1.6033-2(g)(1), Rev. Proc. 95-48, 1995-2 CB 418, and Rev. Proc. 96-10, 1996-1 CB 577;

(11) Determination of foundation status under § 509(a)(3) of non-exempt charitable trusts described in § 4947(a)(1); and

(12) Government entity voluntary termination of § 501(c)(3) recognition (must include documentation that the organization is not subject to income tax, other than under § 501(a)).

Circumstances under which determination letters are not issued

.02 The Service may decline to issue a determination letter when appropriate in the interest of sound tax administration or on other grounds whenever warranted by the facts or circumstances of a particular case. In addition, the Service will not issue a determination letter in response to any request if—

(1) the request involves an issue under the jurisdiction of the Office of Associate Chief Counsel described in Rev. Proc. 2026-1;

(2) the same issue involving the same taxpayer, or a related taxpayer, is pending in a case in litigation or before the Independent Office of Appeals. If the issue in litigation involving the same taxpayer or a related taxpayer is not the taxpayer or a related taxpayer's qualification as a tax-exempt entity (such as a declaratory judgment action under § 7428), the Service may issue a determination letter on tax-exempt status after consultation with counsel;

(3) the determination letter is requested by an industry, trade association, or similar group on behalf of individual taxpayers within the group (other than subordinate organizations covered by a group exemption letter);

(4) the determination letter is requested by an organization seeking to qualify under § 501(c)(5) the purpose of which is directed to the betterment of conditions of those engaged in the pursuits of labor, agriculture, or horticulture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations relating to an activity involving controlled substances (within the meaning of schedule I and II of the Controlled Substances Act, 21 USC § 801 et seq.) that is prohibited by federal law regardless of its legality under the law of the state in which such activity is conducted;

(5) the determination letter is requested by an organization seeking to qualify under § 501(c)(6) the purpose of which is directed to the improvement of business conditions of one or more lines of business relating to an activity involving controlled substances (within the meaning of schedule I and II of the Controlled Substances Act, 21 USC § 801 et seq.) that is prohibited by federal law regardless of its legality under the law of the state in which such activity is conducted;

(6) the request is based on alternative plans of proposed transactions or on hypothetical situations. An application based on proposed activities that satisfies section 6.07(2) of this revenue procedure (related to recognizing tax-exempt status in advance of actual operations) is not considered to be based on hypothetical situations;

(7) an organization currently recognized as exempt under § 501(c) of the Code seeks a new determination letter confirming that the organization is still recognized under the same Code section under the current facts;

(8) an organization seeks a determination of foundation status that is identical to its current foundation status as determined by EO Determinations. For example, an organization that is already recognized as described in §§ 509(a)(1) and 170(b)(1)(A)(ii) as a school generally will not receive a new determination letter that it is still described in §§ 509(a)(1) and 170(b)(1)(A)(ii) under the current facts;

(9) an organization currently recognized as exempt under § 501(c) (other than a government entity as specified in section 3.01(12) of this revenue procedure) requests a determination to relinquish its tax-exempt status under § 501(a);

(10) a domestic organization currently recognized as exempt under § 501(c) seeks a determination letter but is not required to reapply because it has changed its form or state of organization in accordance with the requirements in Rev. Proc. 2018-15. An organization may request an affirmation letter to reflect changes to its name or address as provided in section 3.01(2) of this revenue procedure; or

(11) a request for a group exemption letter, other than pursuant to publication of the final revenue procedure proposed in Notice 2020-36, 2020-21 IRB 840, or other guidance in the Internal Revenue Bulletin.

Note: In some circumstances, an organization may seek a letter ruling from the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) on a specific legal issue, including whether an activity furthers an organization's exempt purpose. *See* Rev. Proc. 2026-1 and Rev. Proc. 2026-3, this Bulletin.

Technical advice may be requested in certain cases

.03 EO Determinations generally issues determination letters only if the question presented is answered by a statute, tax treaty, regulation, court opinion, or guidance published in the Internal Revenue Bulletin. At any time during the course of consideration by EO Determinations, if either EO Determinations or the organization believes that its case involves an issue on which there is no published precedent, or there has been non-uniformity in the Service's handling of similar cases, EO Determinations may decide to seek, or the organization may request that EO Determinations seek, technical advice from the Office of Associate Chief Counsel with subject matter jurisdiction over the issue. *See* Rev. Proc. 2026-2.

Review of determination letters

.04 Determination letters issued under this revenue procedure are not generally reviewed by any other office outside of EO Rulings and Agreements before they are issued. For post-determination review of determination letters by EO Determinations Quality Assurance, *see* section 11.03 of this revenue procedure.

Determination letter based solely on administrative record

.05 A determination letter is issued based solely upon the facts, attestations, and representations contained in the administrative record.

(1) The taxpayer is responsible for the accuracy of any factual representations or attestations contained in the request.

(2) Any oral representation of additional facts, or modification of facts, as represented or alleged in the request, must be reduced to writing and signed by the taxpayer under a penalty of perjury statement, in accordance with section 4.06 of this revenue procedure.

(3) The failure to disclose a material fact or misrepresentation of a material fact on the request, which includes an incorrect representation or attestation, may adversely affect the reliance that the organization submitting the request would otherwise obtain through issuance by the Service of a favorable determination letter. *See* section 11.02 of this revenue procedure for additional information.

SECTION 4. WHAT ARE THE GENERAL INSTRUCTIONS FOR REQUESTING DETERMINATION LETTERS?

In general

.01 This section explains the general instructions for requesting determination letters. In addition to these general instructions, specific procedures apply to requests submitted by letter (as described in section 5 of this revenue procedure) and to requests for determinations submitted on Form 8940, *Request for Miscellaneous Determinatio*n (as described in section 7 of this revenue procedure).

Format of request

.02 **Which form, if any, should be used for the request?** Some requests are made by letter and some requests are made by submitting a specific form.

Form 1023 application

(1) **Form 1023 application**. An organization seeking recognition of exemption under § 501(c)(3) (including an organization to which § 501(e), (f), (k), (n), (q), or (r) is applicable) must electronically submit a completed Form 1023 at www.pay.gov. In the case of an organization that provides credit counseling services, *see* § 501(q). In the case of an organization that is a hospital and is seeking tax-exempt status under § 501(c)(3), *see* § 501(r). Notwithstanding the foregoing, eligible organizations may seek recognition of exemption under § 501(c)(3) by submitting a completed Form 1023-EZ, as described in section 6.06(2) of this revenue procedure, rather than by submitting Form 1023. For additional information about the electronic submission process, refer to Form 1023 and its Instructions.

Form 1023-EZ application

(2) **Form 1023-EZ application**. An eligible organization, as described in section 6.05 of this revenue procedure, may, but is not required to, seek recognition of exemption under § 501(c)(3) by submitting a completed electronic Form 1023-EZ.

Alternatively, an eligible organization may seek tax-exempt status under § 501(c)(3) by submitting a completed Form 1023, as described in section 6.06(1) of this revenue procedure.

For additional information about the electronic submission process, refer to Form 1023-EZ and its instructions.

Form 1024 application

(3) **Form 1024 application**. An organization seeking a determination letter from the Service recognizing tax-exempt status under § 501(c)(2), (5)-(19), (21)-(23), (25)-(29), or (d) must electronically submit a completed Form 1024, *Application for Recognition of Exemption Under Section 501(a) or Section 521*. An organization seeking a determination letter from the Service recognizing tax-exempt status under § 521 may also electronically submit Form 1024.

Organizations that seek to operate under § 501(c)(9) or (17) must apply for recognition of exemption. *See* § 505. Other organizations may choose to seek a determination letter recognizing tax-exempt status under § 501 by filing Form 1024, but are not required to do so except in certain

cases (*see*, for example, § 6033(j)(2) regarding failures to file annual information returns or annual electronic notifications required under § 6033(a) or (i)).

Form 1024-A application

(4) **Form 1024-A application**. An organization seeking a determination letter from the Service recognizing tax-exempt status under § 501(c)(4) must electronically submit a completed Form 1024-A and the accompanying user fee at www.pay.gov. In the case of an organization that provides credit counseling services and seeks recognition of exemption under § 501(c)(4), *see* § 501(q).

Section 501(c)(4) organizations may choose to seek a determination letter recognizing tax-exempt status under § 501(c)(4) by filing Form 1024-A, but are not required to do so except in certain cases (*see*, for example, § 6033(j)(2) regarding failures to file annual information returns or annual electronic notifications required under § 6033(a) or (i)).

Submission of Form 1024-A does not relieve an organization of the requirement to submit Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*. For additional information about the electronic submission process, refer to Form 1024-A and its Instructions.

Form 1028 application

(5) **Form 1028 application**. An organization seeking recognition of exemption under § 521 may submit a completed Form 1028, *Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code*, along with Form 8718. Note that an organization seeking a determination letter from the Service recognizing tax-exempt status under § 521 may instead electronically submit the revised Form 1024.

Form 8940 request for miscellaneous determination

(6) **Form 8940 request for miscellaneous determination**. An organization requesting certain miscellaneous determinations or providing certain notices to the IRS must electronically submit a completed Form 8940, *Request for Miscellaneous Determination*, at www.pay.gov. The Form 8940, *Request for Miscellaneous Determination,* is used for the following determination letter requests and notices—

(a) Advance approval of certain set-asides described in § 4942(g)(2);

(b) Advance approval of voter registration activities described in § 4945(f);

(c) Advance approval of scholarship procedures described in § 4945(g);

(d) Exception from Form 990 filing requirements;

(e) Advance approval that a potential grant or contribution constitutes an unusual grant;

(f) Change in Type (or initial determination of Type) of a § 509(a)(3) organization;

(g) Reclassification of foundation status, including a voluntary request from a public charity for private foundation status;

(h) Termination of private foundation status under § 507(b)(1)(B)—advance ruling request;

(i) Notice Only – Termination of private foundation status under § 507(b)(1)(B);

(j) Termination of private foundation status under § 507(b)(1)(B)—60-month period ended;

(k) Voluntary termination of § 501(c)(3) recognition by a government entity; and

(l) Canadian registered charities: listing on Pub. 78 Data and/or public charity classification.

Letter request

(7) **Letter request.**

(a) **Letter applications.** A central organization that has previously received or is concurrently requesting recognition of its own tax-exempt status can request a group exemption letter by submitting a letter application along with Form 8718. *But see*, section 3.02(11) of this revenue procedure.

(b) **Other letter request**s. Any determination letter request which is not required to be submitted on a form may be submitted by letter.

Language requirements

.03 All requests must be submitted in English. All documents submitted in support of such requests must be in English or accompanied by an accurate and complete English translation.

Signature on request

.04 **Signature on request**. The request for determination letter must be signed and dated by the taxpayer or, when applicable, the taxpayer's authorized representative. Neither a stamped signature nor a faxed signature is permitted. However, a faxed signature is permitted if requested by the Service in the case of an organization replacing its initial request with a request for a determination under a different subsection of § 501(c) during processing of an initial request, or as otherwise requested during the processing of an initial request.

(1) **Individual authorized to sign Form 1023, Form 1023-EZ, Form 1024, Form 1024-A or Form 8940 on behalf of an organization**. In the case of a request for a determination letter made by filing Form 1023, Form 1023-EZ, Form 1024, Form 1024-A or Form 8940, an officer, director, trustee, or other official who is authorized to sign for the organization must sign the applicable form. The signature of a representative authorized by a power of attorney who is not an officer, director, trustee, or other official of the organization will not satisfy the signature requirement for Form 1023, Form 1023-EZ, Form 1024, Form 1024-A or Form 8940. See the instructions to the applicable form for more information on who may sign the application on behalf of an organization.

(2) **Authorized representatives for all other requests**. Except as provided in (1) of this section 4.04, to sign the request, or to appear before the Service in connection with the request, the authorized representative must be listed in Appendix B.

Power of attorney and declaration of representative

.05 **Power of attorney and declaration of representative**. Any representative authorized by a power of attorney, whether or not licensed to practice, must comply with the conference and practice requirements of the Statement of Procedural Rules (26 CFR §§ 601.501-601.509) and Treasury Department Circular No. 230, which provide the rules for representing a taxpayer before the Service.

Form 2848, *Power of Attorney and Declaration of Representative* must be used to provide the authorized representative's authorization (Part I of Form 2848, *Power of Attorney*) and the authorized representative's qualification (Part II of Form 2848, *Declaration of Representative*).

The name of the individual signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted.

An original, a copy, or a facsimile transmission (fax) of the power of attorney is acceptable so long as its authenticity is not reasonably disputed.

Penalty of perjury statement

.06

(1) **Penalty of perjury statement requirements for requests for determination letters made on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or Form 8940.** The signature of an individual described in section 4.04(1) of this revenue procedure satisfies the penalty of perjury statement signature requirements for requests on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or Form 8940, as applicable.

(2) **Penalty of perjury statement requirements for letter requests and responses to requests for additional information.** Any letter request or information submitted at a later time (regardless of the format of the original request), must be accompanied by the following declaration—

"Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and, to the best of my knowledge and belief, the request or the modification contains all the relevant facts relating to the request, and such facts are true, correct, and complete."

This declaration must be signed and dated by the taxpayer, not the taxpayer's representative authorized by a power of attorney. The signature of an individual described in section 4.04(1) of this revenue procedure is the signature of the taxpayer for purposes of the penalty of perjury statement. The signature of an authorized representative described in section 4.04(2) of this revenue procedure will not satisfy the penalty of perjury statement requirements (except as otherwise provided in Appendix B). See the instructions to the relevant form for additional detail. Neither a stamped signature nor a faxed signature is permitted. However, a faxed signature is permitted if requested by the Service in the case of information submitted in response to a request by the Service for additional information after the request for a determination.

The individual who signs for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts, and whose duties are not limited to obtaining a determination letter from the Service.

The individual signing for a trust, a state law partnership, or a limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

Applicable user fee

.07 Section 7528 requires taxpayers to pay user fees for requests for determination letters. *See* section 14 and Appendix A of this revenue procedure for more information.

Where will copies of the determination letter be sent?

.08 The original of the determination letter will be sent to the taxpayer and a copy of the determination letter will be sent to up to two authorized representatives listed on Form 2848 as appointed to receive notices and communications.

Expedited processing

.09 Requests for determination letters are normally processed in the order of receipt by the Service. However, expedited processing of a request for a determination letter may be approved

where a request for expedited processing is made in writing and contains a compelling reason for processing the request for a determination letter ahead of others. Upon approval of a request for expedited processing, a request for a determination letter will be considered ahead of the normal order. This does not mean the request for a determination letter will be immediately approved or denied.

(1) **Procedures for requesting expedited handling**. In the case of the electronically submitted Form 1023, Form 1024, Form 1024-A, or Form 8940, a request for expedited handling must be indicated on the form and a supporting written statement must be submitted as an attachment with the completed application.

In the case of other requests for determination letters, the request for expedited handling must be made in writing, preferably in a separate letter sent with, or soon after filing, the request for the determination letter. If the request is not made in a separate letter, then the letter in which the determination letter request is made should say, at the top of the first page: "**Expedited Handling Is Requested. See page ___ of this letter.**"

A request for expedited handling will not be forwarded to the appropriate group for action unless the application has been accepted for processing. *See* section 6.06(1) of this revenue procedure (requirements for a complete application).

Whether the request will be granted is within the Service's discretion. Circumstances generally warranting expedited processing include—

(a) a grant to the applicant is pending and the failure to secure the grant may have an adverse impact on the organization's ability to continue to operate;

(b) the purpose of the newly created organization is to provide disaster relief to victims of emergencies such as flood and hurricane; and

(c) there have been undue delays in issuing a determination letter caused by a Service error.

Because most requests for determination letters cannot be processed ahead of their regular order, the Service urges all taxpayers to submit their requests well in advance of the contemplated transaction. In addition, in order to facilitate prompt action on determination letter requests, taxpayers are encouraged to ensure that their initial submissions comply with all of the requirements of this revenue procedure, and to promptly provide any additional information requested by the Service.

(2) **Applications on Form 1023-EZ are ineligible for expedited handlin**g. An organization may not request expedited handling of a Form 1023-EZ.

Non-acceptance for processing

.10 The Service will not accept for processing any request that is substantially incomplete.

(1) **Requests other than Form 1023-EZ**. An application other than Form 1023-EZ that is missing any item of information listed in section 6.06(1) of this revenue procedure will be considered substantially incomplete and will not be accepted for processing. A request other than an application may be considered substantially incomplete if it does not contain the information, documentation, and other materials required by sections 4, 5, or 7 of this revenue procedure, or Form 8940 and its Instructions, as applicable to the particular request.

(2) **Requests on Form 1023-EZ**.

(a) **Incomplete Form 1023-EZ**. A submitted Form 1023-EZ that is not a completed Form 1023-EZ within the meaning of section 6.06(2) of this revenue procedure will not be accepted for processing by the Service. The Service may, but is not required to, request additional information to validate information presented or to clarify an inconsistency on a Form 1023-EZ.

(b) **Form 1023-EZ and pending application**. The Service will not accept for processing a Form 1023-EZ from an organization that has an application for recognition of exemption pending with the Service.

(3) **Effect of non-acceptance**. An organization will be notified if its request is not accepted for processing and any user fee that was paid with the request will be refunded. *See* section 14.09 of this revenue procedure. An organization may then submit a new request, including the missing information, with a new user fee.

How to check on status of request

.11 The taxpayer or the taxpayer's authorized representative should refer to IRS.gov ("Where's My Exemption Application for Tax-Exempt Status?") for guidelines on when to expect to hear from the Service and may obtain information regarding the status of a request by calling the toll-free Customer Account Services number, 877–829–5500.

SECTION 5. WHAT ARE THE SPECIFIC PROCEDURES FOR REQUESTING A DETERMINATION LETTER BY LETTER?

In general

.01 This section explains the specific procedures for requesting a determination letter by letter. Any determination letter request which is not required to be submitted on a form may be submitted by letter. For example, an organization seeking to be described in § 501(d) would submit a letter application in accordance with this section 5 and other applicable sections of this revenue procedure, and Rev. Proc. 72-5, 1972-1 CB 709.

Other specific procedures may apply, depending on the type of request. *See* section 6 of this revenue procedure for applications for recognition of exemption under §§ 501 or 521.

Certain information required

.02

Statement of facts

(1) **Complete statement of facts and other information**. Each request for a determination letter must contain a complete statement of all facts relating to the request. These facts include the organization's name, address, telephone number, and Employer Identification Number (EIN).

Documents

(2) **Copies of all organizing documents, bylaws, contracts, wills, deeds, agreements, instruments, and other documents**. All documents that are pertinent to the request (including organizing documents, bylaws, contracts, wills, deeds, agreements, instruments, trust documents, and proposed disclaimers) must be submitted with the request.

Original documents should not be submitted because they become part of the Service's file and will not be returned to the taxpayer. Instead, true copies of all such documents should be submitted

with the request. Each document, other than the request, should be labeled alphabetically and attached to the request in alphabetical order.

Analysis of material facts

(3) **Analysis of material facts**. All material facts in documents must be included, rather than merely incorporated by reference, in the taxpayer's initial request or in supplemental letters. These facts must be accompanied by an analysis of their bearing on the request, specifying the provisions that apply.

Same or similar issue previously submitted or currently pending

(4) **Statement regarding whether same or similar issue was previously ruled on or requested, or is currently pending**. The request must also state whether, to the best of the knowledge of both the taxpayer and the taxpayer's authorized representatives—

(a) the Service or the Office of Associate Chief Counsel previously ruled on the same or similar issue for the taxpayer (or a related taxpayer within the meaning of § 267, or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504) or a predecessor;

(b) the taxpayer, a related taxpayer, a predecessor, or any authorized representatives previously submitted the same or similar issue to the Service or the Office of Associate Chief Counsel but withdrew the request before a letter ruling or determination letter was issued;

(c) the taxpayer, a related taxpayer, or a predecessor previously submitted a request involving the same or a similar issue that is currently pending with the Service or the Office of Associate Chief Counsel; or

(d) at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request involving the same or a similar issue to the Service or the Office of Associate Chief Counsel.

If the statement is affirmative for (a), (b), (c), or (d) of this section 5.02(4), the statement must give the date the request was submitted, the date the request was withdrawn or ruled on, if applicable, and other details of the Service's or Office of Associate Chief Counsel's consideration of the issue.

Statement of authorities

(5) The request must include a statement of whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities.

(a) **Statement of supporting authorities**. If the taxpayer advocates a particular conclusion, an explanation of the grounds for that conclusion and the relevant authorities to support it must also be included. Even if not advocating a particular tax treatment of a proposed transaction, the taxpayer must still furnish views on the tax results of the proposed transaction and a statement of relevant authorities to support those views.

(b) **Statement of contrary authorities**. The taxpayer is also encouraged to inform the Service about, and discuss the implications of, any authority believed to be contrary to the position advanced, such as legislation (or pending legislation), tax treaties, court decisions, regulations, revenue rulings, revenue procedures, notices, or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect would be helpful. If the taxpayer does not furnish either contrary authorities or a statement that none exists, the Service in complex cases or those presenting difficult or novel issues may request submission of contrary

authorities or a statement that none exists. Failure to comply with this request may result in the Service's refusal to issue a determination letter.

Identifying and discussing contrary authorities will generally enable Service personnel to understand the issue and relevant authorities more quickly. When Service personnel receive the request, they will have before them the taxpayer's thinking on the effect and applicability of contrary authorities. This information should make research easier and lead to earlier action by the Service. If the taxpayer does not disclose and distinguish significant contrary authorities, the Service may need to request additional information, which will delay action on the request.

SECTION 6. WHAT ARE THE SPECIFIC PROCEDURES FOR APPLICATIONS FOR RECOGNITION OF EXEMPTION UNDER §§ 501 OR 521?

In general

.01 This section sets forth procedures for applying for and issuing determination letters in response to applications for recognition of exemption under §§ 501 or 521, other than those subject to Rev. Proc. 2026-4 (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans).

Terrorist organizations not eligible to apply for recognition of exemption

.02 An organization that is identified or designated as a terrorist organization within the meaning of § 501(p)(2) is not eligible to apply for recognition of exemption.

Format of application

.03 An organization seeking recognition of exemption under §§ 501 or 521 is required to submit the appropriate completed application form or the appropriate completed letter request. In the case of a numbered application form, the current version of the form must be submitted. The current version of the form can be found on IRS.gov ("Forms & Instructions").

User fees

.04 An organization applying for recognition of exemption must pay the user fee with its Form 1023, Form 1023-EZ, Form 1024, or Form 1024-A through www.pay.gov when submitting its form. For other applications for recognition of exemption, an organization must attach a completed Form 8718, *User Fee for Exempt Organization Determination Letter Request*, to its application.

Form 1023-EZ applications

.05

(1) **Eligibility for Form 1023-EZ application**. An organization that is an eligible organization may use Form 1023-EZ to apply for recognition of exemption under § 501(c)(3), unless the organization is designated in section 6.05(2) of this revenue procedure as an organization that is ineligible to submit Form 1023-EZ. An organization is an eligible organization if the organization satisfies all of the following criteria—

(a) The organization has projected annual gross receipts of $50,000 or less in the current taxable year and the next two years;

(b) The organization had annual gross receipts of $50,000 or less in each of the past three years for which the organization was in existence; and

(c) The organization has total assets the fair market value of which does not exceed $250,000. For purposes of this eligibility requirement, a good faith estimate of the fair market value of the organization's assets is sufficient.

(2) **Ineligibility for Form 1023-EZ application.** The following organizations are not eligible to submit Form 1023-EZ and must use Form 1023 to apply for recognition of exemption under § 501(c)(3) —

(a) Organizations formed under the laws of a foreign country (United States territories and possessions are not considered foreign countries);

(b) Organizations that do not have a mailing address in the United States (territories and possessions are considered the United States for this purpose);

(c) Organizations that are successors to, or controlled by, an entity suspended under § 501(p) (suspension of tax-exempt status of terrorist organizations);

(d) Organizations that are not corporations, unincorporated associations, or trusts, such as a limited liability corporation (LLC);

(e) Organizations that are formed as for-profit entities or are successors to for-profit entities;

(f) Organizations whose tax-exempt status were previously revoked or that are successors to an organization whose tax-exempt status was previously revoked (other than an organization the tax-exempt status of which was automatically revoked for failure to file a Form 990 series return or notice for three consecutive years under § 6033(j));

(g) Churches or conventions or associations of churches described in § 170(b)(1)(A)(i);

(h) Schools, colleges, or universities described in § 170(b)(1)(A)(ii);

(i) Hospitals or medical research organizations described in §§ 170(b)(1)(A)(iii) or 501(r)(2)(A)(i) (cooperative hospital service organizations described in § 501(e));

(j) Cooperative service organizations of operating educational organizations described in § 501(f);

(k) Qualified charitable risk pools described in § 501(n);

(l) Supporting organizations described in § 509(a)(3);

(m) Organizations that have as a substantial purpose providing assistance to individuals through credit counseling activities such as budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas;

(n) Organizations that invest, or intend to invest, five percent or more of their total assets in securities or funds that are not publicly traded;

(o) Organizations that participate, or intend to participate, in partnerships (including entities or arrangements treated as partnerships for federal tax purposes) in which they share profits and losses with partners other than § 501(c)(3) organizations;

(p) Organizations that sell, or intend to sell, carbon credits or carbon offsets;

(q) Health Maintenance Organizations (HMOs);

(r) Accountable Care Organizations (ACOs), or organizations that engage in, or intend to engage in, ACO activities (such as participation in the Medicare Shared Savings Program (MSSP) or in activities unrelated to the MSSP described in Notice 2011-20, 2011-16 IRB 652);

(s) Organizations that maintain, or intend to maintain, one or more donor advised funds;

(t) Organizations that are organized and operated exclusively for testing for public safety and that are requesting a foundation classification under § 509(a)(4);

(u) Private operating foundations;

(v) Organizations that are applying for retroactive reinstatement of tax-exempt status under sections 5 or 6 of Rev. Proc. 2014-11, 2014-3 IRB 411, after being automatically revoked (*see* section 6.05(3) of this revenue procedure for additional information);

(w) Private foundations applying for reinstatement after automatic revocation and requesting to change to a public charity foundation classification;

(x) Agricultural research organizations described in § 170(b)(1)(A)(ix);

(y) Organizations that are currently or were previously exempt under another subsection of § 501(c);

(z) Organizations that have previously received a ruling or determination letter denying recognition of exemption;

(aa) Organizations previously determined to be ineligible to file Form 1023-EZ;

(bb) Organizations conducting activities involving controlled substances (within the meaning of Schedule I and II of the Controlled Substances Act, 21 USC § 801 et. seq.) which are prohibited by federal law regardless of the legality under the law of the state in which such activity is conducted; and

(cc) Organizations engaged in exchanging, creating, or distributing digital assets.

Further information regarding these eligibility requirements may be provided in the Instructions for Form 1023-EZ.

Form 1023 and Form 1023-EZ applications for reinstatement after automatic revocation

(3) **Form 1023 and Form 1023-EZ applications for reinstatement after automatic revocation.** Organizations that claim tax-exempt status under § 501(c) generally must file annual Form 990 series returns or notices, even if they have not yet received their determination letter recognizing their tax-exempt status. If an organization fails to file required Form 990 series returns or notices for three consecutive years, its tax-exempt status will be automatically revoked by operation of § 6033(j). Such an organization may apply for reinstatement of its tax-exempt status, and such recognition may be granted retroactively, as provided in Rev. Proc. 2014-11. Consistent with the eligibility requirements for using Form 1023-EZ that are set forth in section 6.05(1)-(2) of this revenue procedure, only an organization requesting reinstatement of § 501(c)(3) status under section 4 (streamlined retroactive reinstatement of tax-exempt status for small organizations within 15 months of revocation) or section 7 (reinstatement of tax-exempt status from postmark date) of Rev. Proc. 2014-11 may apply using Form 1023-EZ (other than an organization also seeking a foundation status change as explained in section 6.05(2)(w) of Rev. Proc. 2014-11). An organization requesting reinstatement of § 501(c)(3) status under section 5 (retroactive reinstatement of tax-exempt status within 15 months of revocation) or section 6 (retroactive reinstatement more than 15 months after revocation) of Rev. Proc. 2014-11 must apply using Form 1023.

What are the requirements for a completed application?

.06

Requirements for a completed application other than a Form 1023-EZ application

(1) A completed application (other than a Form 1023-EZ), including a letter application, is one that—

(a) is signed or, in the case of a Form 1023, Form 1024, or Form 1024-A, is electronically signed by an authorized individual under penalties of perjury (see sections 4.04 and 4.06 of this revenue procedure);

(b) includes the organization's correct EIN;

(c) (i) for organizations other than those described in § 501(c)(3) or (4), includes a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years (or the years the organization was in existence, if less than four years), and if the organization has not yet commenced operations or has not completed one accounting period, a proposed budget for two full accounting periods and a current statement of assets and liabilities;

(ii) for organizations described in § 501(c)(3) or (4), *see* Form 1023 and Instructions for Form 1023 or Form 1024-A and Instructions for Form 1024-A, respectively;

(d) includes a detailed narrative statement of proposed activities, including each of the fundraising activities of a § 501(c)(3) organization, and a narrative description of anticipated receipts and contemplated expenditures;

(e) includes a copy of the organizing or enabling document that is signed by a principal officer or two members in the case of an unincorporated association, or is accompanied by a written declaration signed by an authorized individual certifying that the document is a complete and accurate copy of the original or otherwise satisfies the requirements of a "conformed copy," as outlined in Rev. Proc. 68-14, 1968-1 CB 768;

(f) if the organizing or enabling document is in the form of articles of incorporation, includes evidence that it was filed with, and approved by, an appropriate state official (*e.g.*, stamped "Filed"

and dated by the Secretary of State); alternatively, a copy of the articles of incorporation may be submitted if accompanied by a written declaration signed by an authorized individual that the copy is a complete and accurate copy of the original copy that was filed with and approved by the state; if a copy is submitted, the written declaration must include the date the articles were filed with the state;

(g) if the organization has adopted bylaws or similar governing rules, includes a current copy; the bylaws need not be signed if submitted as an attachment to the application for recognition of exemption; otherwise, the bylaws must be verified as current by an authorized individual (*see* section 4.04 of this revenue procedure); and

(h) is accompanied by the correct user fee (and Form 8718, when applicable).

Requirements for a completed Form 1023-EZ application

(2) A Form 1023-EZ submitted online at www.pay.gov by an eligible organization is complete if it—

(a) includes responses for each required line item of the form, including an accurate date of organization and an attestation that the organization has completed the Form 1023-EZ eligibility worksheet, as in effect on the date of submission, is eligible to apply for tax-exempt status using Form 1023-EZ, and has read the Instructions for Form 1023-EZ and understands the requirements to be exempt under § 501(c)(3) as expressed therein;

(b) includes the organization's correct EIN;

(c) is electronically signed, under penalties of perjury, by an individual authorized to sign for the organization (as specified in sections 4.04 and 4.06 of this revenue procedure and the Instructions for Form 1023-EZ); and

(d) is accompanied by the correct user fee.

A Form 1023-EZ will not be considered complete if the organization's name and EIN do not match the records in the Service's Business Master File. Furthermore, a Form 1023-EZ submitted by an organization that is not an eligible organization within the meaning of section 6.05 of this revenue procedure will not be considered complete.

What are the standards for issuing a determination letter on tax-exempt status?

.07

Tax-exempt status must be established in application, including attestation and supporting documents

(1) A favorable determination letter will be issued to an organization if its completed application, including attestations and supporting documents, along with any additional information requested by the Service and provided by the organization, establishes that it satisfies the particular requirements of the section under which exemption from federal income tax is claimed.

Tax-exempt status may be recognized in advance of actual operations

(2) (a) For all applications other than a Form 1023-EZ, tax-exempt status may be recognized in advance of the organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for tax-exempt status pursuant to the section of the Code under which tax-exempt status is claimed.

(i) A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.

(ii) The organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.

(iii) Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for tax-exempt status pursuant to the section of the Code under which tax-exempt status is claimed, the Service will generally issue a proposed adverse determination letter. *See* section 9 of this revenue procedure.

(b) For Form 1023-EZ applications, tax-exempt status may be recognized in advance of the organization's operations if the attestations contained in the organization's completed Form 1023-EZ (along with any additional information requested by the Service and provided by the organization) establish that it satisfies the requirements for tax-exempt status under § 501(c)(3).

Even if application is complete, additional information may be required

(3) Even though an application is complete, the Service may request additional information before issuing a determination letter. The failure to respond to a request for additional information may result in the closure of the application without a determination letter being issued and without a refund of the user fee. If the failure to respond to a request for additional information results in the Service issuing a proposed adverse determination letter to the organization, the proposed adverse determination letter will inform the organization of its opportunity to protest/appeal the decision and request a conference. *See* section 9 of this revenue procedure for the applicable appeal/protest procedures.

(a) The period of time beginning on the date the Service requests additional information until the date the information is submitted to the Service will not be counted for purposes of the 270-day period referred to in § 7428(b)(2).

(b) The Service will select a statistically valid random sample of Form 1023-EZ applications for pre-determination reviews, which will result in requests for additional information.

Encourages use of fax and the IRS Document Upload Tool

.08

(1) To facilitate prompt action on letter ruling requests, taxpayers are encouraged to submit additional information by fax as soon as the information is available. The Exempt Organizations Rulings and Agreements representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of this information and signed penalties of perjury statement, however, must be mailed or delivered to Exempt Organizations Rulings and Agreements.

(2) The Service also encourages the option of using the IRS Document Upload Tool, which provides a safe means for exchanging documentation with the Service online. The IRS Document Upload Tool can be accessed using an access code provided for each exchange in a notice or letter, or, if no access code is provided, by entering the number and title of the notice or letter for each exchange. More information on the IRS Document Upload Tool can be found at www.irs.gov/help/irs-document-upload-tool.

Effective date of tax-exempt status

.09

(1) **In general**. A determination letter recognizing tax-exempt status of an organization described in § 501(c), other than § 501(c)(29), is effective as of the date of formation of an organization if: (1) its purposes and activities prior to the date of the determination letter have been consistent with the requirements for tax-exempt status; and (2) it has filed an application for recognition of exemption within 27 months from the end of the month in which it was organized.

(2) **When an application is not submitted within 27 months of formation**. An organization that otherwise meets the requirements for tax-exempt status and the issuance of a determination letter but does not meet the requirements for recognition from date of formation will be recognized from the postmark date of its application or the submission date of its Form 1023, Form 1023-EZ, Form 1024, or Form 1024-A, as applicable.

(3) **Application of Treas. Reg. § 301.9100-3: Organizations required to apply for tax-exempt status under §§ 505, 508, and 501(c)(29) and the regulations thereunder.** Unlike other tax-exempt organizations, an organization described in § 501(c)(3), (9), or (17) generally is required to apply for recognition of exemption within 27 months from the end of the month in which it was organized in order to be recognized and treated as tax-exempt effective as of the date of formation. *See* §§ 505 and 508, Treas. Reg. §§ 1.505(c)-1T, 1.508-1(a), and 301.9100-2(a)(2)(iii) and (iv). A similar rule applies to organizations described in § 501(c)(29). *See* § 501(c)(29), Treas. Reg. § 1.501(c)(29)-1, and Rev. Proc. 2015-17, 2015-7 IRB 599. In its application for recognition of exemption under § 501(c)(3), (9), (17), or (29), an organization that has not filed its application within the required time period may request relief under Treas. Reg. § 301.9100-3 in order to be recognized and treated as tax-exempt effective as of a date earlier than the date of application, and EO Determinations may grant such relief if the requirements for relief are met. An organization applying for recognition of exemption under § 501(c)(3) after 27 months from formation may not use Form 1023-EZ if it requests an effective date earlier than the submission date, but instead must file a Form 1023. An organization will not be granted relief under Treas. Reg. § 301.9100-3 if either (1) granting the request for relief would result in the organization's tax-exempt status being automatically revoked under § 6033(j)(1) effective before the application date (without regard to the provisions of § 6033(j)(3) and guidance issued thereunder), or (2) the period of limitations on assessment under § 6501(a) for any taxable year for which the organization claims tax-exempt status has expired prior to the date of application.

(4) **Application of Treas. Reg. § 301.9100-3: Organizations not required to apply for tax-exempt status under §§ 505, 508, or 501(c)(29) and the regulations thereunder**. Treas. Reg. § 301.9100-3 does not apply to an organization that is not required to apply for recognition of exemption in order to be tax-exempt, and the Service will not consider a request for relief under Treas. Reg. § 301.9100-3 from such an organization.

(5) **When the Service requires the organization to make amendment**s.

(a) If the Service requires the organization to alter its activities or make substantive amendments to its enabling instrument, tax-exempt status will be effective as of the date specified in the determination letter.

(b) If the Service requires the organization to make a non-substantive amendment, tax-exempt status will ordinarily be recognized as of the date of formation if it satisfies the requirements in section 6.08(1) of this revenue procedure. Examples of non-substantive amendments include correction of a clerical error in the enabling instrument or the addition of a dissolution clause where the activities of the organization prior to the determination letter are consistent with the requirements for tax-exempt status.

SECTION 7. WHAT ARE THE SPECIFIC PROCEDURES FOR DETERMINATION LETTER REQUESTS ON FORM 8940?

In general

.01 This section explains the specific procedures for requesting a determination letter by submitting Form 8940, including requests for a determination letter on foundation status.

Requests made on Form 8940

.02 A request described in section 4.02(6) of this revenue procedure must be electronically submitted on Form 8940 at www.pay.gov (except where otherwise permitted, including when such request is made as part of an application for recognition of exemption), along with all information, documentation, and other materials required by Form 8940 and the instructions thereto, as well as the appropriate user fee provided in Appendix A. Form 8940 must be electronically signed by an authorized individual under penalties of perjury (see sections 4.04 and 4.06 of this revenue procedure). For complete information about filing requirements and the submission process, refer to Form 8940 and the Instructions for Form 8940.

Initial classification of private foundation status

.03 All § 501(c)(3) organizations are classified as private foundations under § 509(a) unless they qualify as a public charity under § 509(a)(1) (which cross-references § 170(b)(1)(A)(i)-(vi), and (ix)), (2), (3), or (4). *See* Treas. Reg. §§ 1.170A-9 and 1.509(a)-1 through 1.509(a)-7. The Service determines an organization's private foundation or public charity status when the organization files its Form 1023, or when eligible, Form 1023-EZ. This status will be included in the organization's determination letter on tax-exempt status.

Under what circumstances must an organization request a determination of foundation status, and when is such a request optional?

.04 (1) **Requests to change from one public charity classification to another public charity classification**. On its Form 990, *Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)*, a public charity indicates the paragraph of § 509(a), and subparagraph of § 170(b)(1)(A), if applicable, under which it qualifies as a public charity. Because of changes in its activities or operations, this may differ from the public charity status listed in its original determination letter. Although an organization is not required to obtain a determination letter to qualify for the new public charity status, in order for Service records to recognize any change in public charity status, an organization must obtain a new determination of foundation status by filing Form 8940 pursuant to this revenue procedure.

(2) **Requests from public charities for private foundation status**. If a public charity no longer qualifies as a public charity under § 509(a)(1)-(4), then it becomes a private foundation, and, as a private foundation, it must file Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation*. The organization is not required to, but may, obtain a determination letter on its new private foundation status. The organization indicates this change in foundation status by filing its Form 990-PF return and following any procedures specified in the form, instructions, or other published guidance. Thereafter, the organization may terminate its private foundation status, such as by giving notice and qualifying as a public charity again under § 509(a)(1)-(3) during a 60-month termination period in accordance with the procedures under § 507(b)(1)(B) and Treas. Reg. § 1.507-2(b).

(3) **Requests from private foundations for public charity status**. An organization that erroneously determined that it was a private foundation (for example, by erroneously classifying an item or items in its calculation of public support) and wishes to correct the error can request a determination letter classifying it as a public charity by showing that it continuously met the public support tests during the relevant periods.

(4) **Requests for private operating foundation status**. A private foundation may qualify as an operating foundation under § 4942(j)(3) without a determination letter from the Service, but the Service will not recognize such status in its records without a determination letter from the Service. An organization claiming to be an exempt operating foundation under § 4940(d)(2) must obtain a determination letter from the Service recognizing such status to be exempt from the § 4940 tax on net investment income.

Not applicable to changes of status pursuant to examination

.05 The procedures in this revenue procedure do not apply to the examination of an organization which results in changes to its foundation status.

SECTION 8. WITHDRAWAL OF A REQUEST FOR DETERMINATION LETTER

Request may be withdrawn prior to issuance of a determination letter

.01 A taxpayer may withdraw a request for a determination letter at any time before the determination letter is issued by the Service. An authorized individual must make such a request in writing in accordance with the instructions to the form on which the request for a determination letter was submitted, if applicable. For purposes of this section 8.01, the issuance of a determination letter includes a proposed adverse determination letter.

(1) When a request for determination letter is withdrawn, the Service will retain the application, Form 8940, or letter request and all supporting documents.

(2) The Service may consider the information submitted in connection with the withdrawn request in a subsequent examination of the organization, or in connection with a subsequent application submitted by the organization.

(3) Generally, the user fee will not be refunded if a request is withdrawn. *See* section 14 of this revenue procedure.

Section 7428 implications of withdrawal of application under § 501(c) or (d)

.02 The withdrawal of an application under § 501(c) or (d) is not a failure to make a determination within the meaning of § 7428(a)(2) or an exhaustion of administrative remedies within the meaning of § 7428(b)(2).

SECTION 9. PROCEDURES FOR ADVERSE DETERMINATION LETTERS

In general

.01 This section explains the procedures for issuing adverse determination letters. Different procedures apply to adverse determination letters relating to issues that may receive consideration by the Independent Office of Appeals and to all other types of adverse determination letters.

Types of requests that may receive Independent Office of Appeals consideration

.02 The following types of determination letter requests will provide an organization with an opportunity to protest/appeal a proposed adverse determination—

(1) the initial qualification of the organization as exempt from tax under §§ 501(a) or 521, or as an organization described in § 170(c)(2);

(2) the classification or reclassification of the organization's foundation status under § 509(a), including the classification or re-classification of a § 4947(a)(1) non-exempt charitable trust as described in § 509(a)(3); and

(3) the classification of the organization as a private operating foundation under § 4942(j)(3).

Contents of proposed adverse determination letter for requests with appeals rights

.03 If EO Determinations reaches the conclusion that the organization does not meet the requirements for a favorable determination letter and the letter is a type for which an opportunity for protest/appeal is available under section 9.02 of this revenue procedure, the Service will issue a proposed adverse determination letter, which will—

(1) include a detailed discussion of the basis for the Service's conclusion; and

(2) inform the organization of its opportunity to protest/appeal the decision and request a conference with the Independent Office of Appeals.

The non-acceptance under section 4.10 of this revenue procedure of a request for a determination letter is not a proposed adverse determination.

Protest/appeal of a proposed adverse determination letter on certain issues

.04 To protest/appeal a proposed adverse determination letter described in section 9.02 of this revenue procedure, the organization must submit a statement of the facts, law, and arguments in support of its position, within 30 days of the date of the proposed adverse determination letter. The organization must also state whether it is requesting a conference with the Independent Office of Appeals.

Final adverse determination letter where no protest/appeal is submitted

.05 If an organization does not submit a timely protest/appeal of a proposed adverse determination letter on an issue described in section 9.02 of this revenue procedure, a final adverse determination letter will be issued to the organization. The final adverse letter will provide information about the disclosure of the proposed and final adverse letters. *See* section 13.04 of this revenue procedure.

The non-acceptance under section 4.10 of this revenue procedure of a request for a determination letter is not a final adverse determination.

Review of protest by EO Determinations

.06 If an organization submits a protest/appeal of a proposed adverse determination letter described in section 9.02 of this revenue procedure, EO Determinations will review the protest and, if it determines that the organization satisfies the requirements for approval of its request, issue a favorable determination letter. If EO Determinations maintains its adverse position after reviewing the protest, it will forward the case file to the Independent Office of Appeals. If new information is raised in the protest, EO Determinations will follow the procedures described in section 9.08 of this revenue procedure, which may require the issuance of a new proposed denial, prior to sending the case to the Independent Office of Appeals.

Consideration by the Independent Office of Appeals

.07 The Independent Office of Appeals will consider the organization's protest/appeal submitted in response to a proposed adverse determination letter described in section 9.02 of this revenue procedure. If the Independent Office of Appeals agrees with the proposed adverse determination, it will either issue a final adverse determination or, if a conference was requested, contact the organization to schedule a conference. At the end of the conference process, which may involve

the submission of additional information, the Independent Office of Appeals will generally issue a final adverse determination letter or a favorable determination letter.

If the Independent Office of Appeals believes that the tax-exempt status or private foundation status issue is not covered by published precedent or that there is non-uniformity, the Independent Office of Appeals must request technical advice from the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). *See* Rev. Proc. 2026-2.

Effect of new information raised in protest/appeal

.08 If the organization submits new information as part of a protest, or during consideration by the Independent Office of Appeals, the matter may be returned to EO Determinations for further consideration. As a result of its review of the new information, EO Determinations may issue a favorable determination letter, rebuttal letter, or new proposed adverse determination letter. If a rebuttal letter is issued, EO Determinations will forward the case to the Independent Office of Appeals. If a new proposed adverse determination letter is issued, the organization must submit a protest/appeal of the new proposed adverse determination letter in order to have consideration of the issue by the Independent Office of Appeals.

An appeal or protest may be withdrawn

.09 An organization may withdraw its protest/appeal before the Service issues a final adverse determination letter. Upon receipt of the withdrawal request, the Service will complete the processing of the case in the same manner as if no appeal or protest was received. An organization that withdraws a protest/appeal will not be considered to have exhausted its administrative remedies within the meaning of § 7428(b)(2).

Appeal and conference rights not applicable in certain situations

.10 The opportunity to appeal a proposed adverse determination letter and the conference rights described above are not applicable to matters where delay would be prejudicial to the interests of the Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the statute of limitations, or where immediate action is necessary to protect the interests of the federal government).

Adverse determination letter on an issue that will not receive consideration by the Independent Office of Appeals

.11 If EO Determinations reaches the conclusion that the organization does not meet the requirements for a favorable determination on an issue that is not described in section 9.02 of this revenue procedure (*e.g.*, advance approval that a potential grant or contribution constitutes an unusual grant; exemption from Form 990 filing requirements), the Service generally will advise the organization of its adverse position and give the organization a chance to submit additional information or withdraw the request before issuing an adverse determination letter, which will include a detailed discussion of the basis for the Service's conclusion. The organization will not have the opportunity to protest/appeal the adverse determination letter.

Exceptions to consideration by the Independent Office of Appeals

.12 In certain circumstances, the Independent Office of Appeals will not consider a matter or issue. For a list of these exceptions, see Treas. Reg. § 301.7803-2(c).

SECTION 10. DECLARATORY JUDGMENT PROVISIONS OF § 7428

Actual controversy involving certain issues

.01 Generally, a declaratory judgment proceeding under § 7428 can be filed in the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia with respect to an actual controversy involving a determination by the Service or a failure of the Service to make a determination with respect to—

(1) the initial qualification or continuing qualification of an organization as an organization described in § 501(c)(3) that is exempt from tax under § 501(a) or as an organization described in § 170(c)(2);

(2) the initial classification or continuing classification of an organization as a private foundation (as defined in § 509(a));

(3) the initial classification or continuing classification of an organization as a private operating foundation (as defined in § 4942(j)(3));

(4) the initial classification or continuing classification of a cooperative as an organization described in § 521(b) which is exempt from tax under § 521(a); or

(5) the initial qualification or continuing qualification of an organization as an organization described in § 501(c) (other than paragraph (3)) or (d) and exempt from tax under § 501(a).

Final determination to which § 7428 applies

.02 A final determination to which § 7428 applies is a determination letter, sent by certified or registered mail, which holds that the organization is—

(1) not described in §§ 501(c), 501(d), or 170(c)(2);

(2) a public charity described in a part of §§ 509 or 170(b)(1)(A) other than the part under which the organization requested classification;

(3) not a private operating foundation as defined in § 4942(j)(3); or

(4) a private foundation and not a public charity described in a part of §§ 509 or 170(b)(1)(A).

Failure to make a determination to which § 7428 applies

.03 If the Service declines to issue a determination letter under section 3.02 of this revenue procedure to an organization seeking a determination described in section 10.01 of this revenue procedure, the organization may be able to pursue a declaratory judgment under § 7428, provided that it has exhausted its administrative remedies.

Section 7428 does not apply to the non-acceptance or withdrawal of a request

.04 (1) The non-acceptance for processing of a request under section 4.10 of this revenue procedure is not a final determination or a failure to make a determination to which § 7428 applies.

(2) The withdrawal of an application pursuant to section 8 of this revenue procedure is not a failure to make a determination within the meaning of § 7428(b)(2).

Exhaustion of administrative remedies

.05 Before filing a declaratory judgment action, an organization must exhaust its administrative remedies by taking, in a timely manner, all reasonable steps to secure a determination from the Service. These include—

(1) (a) For an organization seeking to be described in § 501(c)(3), filing a completed application Form 1023 (within the meaning of section 6.06(1) of this revenue procedure) or a completed Form 1023-EZ (within the meaning of section 6.06(2) of this revenue procedure);

(b) For an organization seeking private foundation classification, filing a completed Form 8940; or

(c) For an organization seeking to be described in § 501(c) (other than paragraph (3)) or in § 501(d), filing a completed appropriate Form or letter request (within the meaning of section 6.06(1) of this revenue procedure).

(2) In appropriate cases, requesting relief pursuant to Treas. Reg. § 301.9100-1 regarding the extension of time for making an election or application for relief from tax;

(3) When applicable, timely submitting all additional information requested by the Service to perfect a determination letter request;

(4) In appropriate cases, requesting relief under § 7805(b) in the manner provided in section 12.04 of this revenue procedure; and

(5) Exhausting all administrative appeals available within the Service pursuant to section 9 of this revenue procedure.

An organization will not have exhausted its administrative remedies by completing the steps in this section 10.05 if the organization submitted Form 1023-EZ but was not eligible to submit Form 1023-EZ, as described in section 6.05(1)-(2) of this revenue procedure.

Not earlier than 270 days after seeking determination

.06 An organization will in no event be deemed to have exhausted its administrative remedies prior to the earlier of—

(1) the completion of all reasonable steps to secure a determination from the Service, including the applicable steps in section 10.05 of this revenue procedure, and the issuance by the Service by certified or registered mail of a final determination letter; or

(2) the expiration of the 270-day period described in § 7428(b)(2) in a case where the Service has not issued a final determination letter, and the organization has taken, in a timely manner, all reasonable steps to secure a determination letter as provided in section 10.05 of this revenue procedure. The 270-day period referred to in § 7428(b)(2) will not be considered to have started prior to the date a completed application is submitted to the Service. If the Service requests additional information from an organization, the period of time beginning on the date the Service requests additional information until the date the information is submitted to the Service will not be counted for purposes of the 270-day period referred to in § 7428(b)(2).

Service must have reasonable time to act on an appeal or protest

.07 The steps described in section 10.05 of this revenue procedure will not be considered completed until the Service has had a reasonable time to act upon a protest/appeal.

SECTION 11. FAVORABLE DETERMINATION LETTERS

Reliance on determination letter

.01 A taxpayer ordinarily may rely on a favorable determination letter received from the Service, regardless of the format of request submitted, subject to the conditions and limitations described in this section 11.

Limitations on reliance .02

(1) **Will not apply to another taxpayer**. A taxpayer may not rely on, use, or cite as precedent a determination letter issued to another taxpayer. *See* § 6110(k)(3).

(2) **Material change in facts**. A determination letter may not be relied upon by the organization submitting the request if there is a material change in facts. For a determination letter on tax-exempt status, a material change includes a change in the character, the purpose, or the method of operation of the organization that is inconsistent with the organization's tax-exempt status. *See* section 12.01 of this revenue procedure.

(3) **Inaccurate information on request**. A determination letter issued to an organization that submitted a request in accordance with this revenue procedure may not be relied upon by the organization submitting the request if it was based on any omission or inaccurate material information submitted by the organization. Inaccurate material information includes an incorrect representation or attestation as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ. *See* section 12.01 of this revenue procedure.

(4) **Change in law**. A change in law may affect reliance. *See* section 12.01 of this revenue procedure.

Post-determination review .03

(1) **Determination letters may be post-reviewed**. Determination letters may be reviewed by EO Determinations Quality Assurance to assure uniform application of the statutes, tax treaties, regulations, court opinions, or guidance published in the Internal Revenue Bulletin.

(2) **Procedures for addressing determination letters reviewed and found to have been issued in error**. If upon post-determination review EO Determinations Quality Assurance concludes, based on the information contained in the existing application file, that a determination letter issued by EO Determinations was issued in error, the matter will be referred to EO Examinations for consideration.

SECTION 12. REVOCATION OR MODIFICATION OF A DETERMINATION LETTER

.01 **In general**. A determination letter may be revoked or modified—

(1) by a notice to the taxpayer to whom the determination letter was issued;

(2) by enactment of legislation or ratification of a tax treaty;

(3) by a decision of the Supreme Court of the United States;

(4) by the issuance of temporary or final regulations;

(5) by the issuance of a revenue ruling, revenue procedure, or other statement published in the Internal Revenue Bulletin; or

(6) automatically, by operation of § 6033(j), for failure to file a required annual return or notice for three consecutive years.

Note: If an organization no longer qualifies under the Code section for which it originally applied for recognition of exemption, then the determination letter will be revoked, rather than modified.

Appeal and conference procedures in the case of revocation or modification of tax-exempt status letter

.02 In the case of a revocation or modification of a determination letter described in section 9.02 of this revenue procedure, the procedures to protest/appeal the revocation or modification are generally the same as set out in section 9 of this revenue procedure. However, organizations revoked under § 6033(j) will not have an opportunity for consideration by the Independent Office of Appeals.

Revocation or modification of a determination letter may be retroactive

.03 The revocation or modification of a determination letter may be retroactive if—

(1) there has been a change in the applicable law;

(2) the organization omitted or misstated material information. A misstatement of material information includes an incorrect representation or attestation as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ;

(3) the organization operated in a manner materially different from that originally represented in an application for recognition of exemption; or

(4) in the case of an organization to which § 503 applies, the organization engaged in a prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purpose and such transaction involved a substantial part of the corpus or income of such organization.

If a determination letter is revoked or modified by a letter with retroactive effect, the letter will, except in fraud cases, state the grounds on which the determination letter is being revoked or modified and explain the reasons why it is being revoked or modified retroactively.

Organization may request that retroactivity be limited under § 7805(b)

.04 An organization may seek relief from retroactive revocation or modification of a determination letter under § 7805(b). A request for relief under § 7805(b) must be in writing and must be submitted to the agent or specialist assigned to the case. The request for relief under § 7805(b) must be submitted before issuance of the final adverse determination letter.

(1) **Form of request for relief**. An organization's request to limit the retroactive effect of the revocation or modification of the determination letter must—

(a) state that it is being made under § 7805(b);

(b) state the relief sought;

(c) explain the reasons and arguments in support of the relief sought; and

(d) include any documents bearing on the request.

(2) **Notice of denial of request for relief**. If the request for relief under § 7805(b) is denied, the organization will be notified in writing of the denial.

(3) **Organization must exhaust its administrative remedies**. If an organization seeks declaratory judgment under § 7428 in response to a retroactive revocation or modification, to preserve judicial review of a claim for relief under § 7805(b), the organization must follow the steps in this revenue procedure in order to have exhausted its administrative remedies with respect to its request under § 7805(b). If the organization does not complete the applicable steps, the organization will not have exhausted its administrative remedies as required by § 7428(b)(2) with respect to its request for § 7805(b) relief, and will thus be precluded from obtaining § 7805(b) relief in any declaratory judgment it seeks under § 7428.

If the organization has requested § 7805(b) relief, the organization's administrative remedies with respect to its § 7805(b) request will not be considered exhausted until the Service has had a reasonable amount of time to act upon the request.

Effective date of revocation or modification of a determination letter on tax-exempt status

.05 **Effective date of revocation or modification**.

(1) If the organization omitted or misstated material information in a request, revocation or modification will be effective as of the effective date of the determination letter issued in response to the request.

(2) If there is a material change in facts, inconsistent with the conclusion of a determination letter, revocation or modification will ordinarily take effect as of the date of such material change.

(3) If a determination letter was issued in error or is no longer in accord with the Service's position and § 7805(b) relief is granted (*see* section 12.04 of this revenue procedure), ordinarily, the revocation or modification will be effective not earlier than the date on which the Service modifies or revokes the original determination letter.

SECTION 13. DISCLOSURE OF APPLICATIONS AND DETERMINATION LETTERS INCLUDING THAT OF FOUNDATION STATUS

Determination letter will be disclosed under §§ 6104 or 6110 depending on the type of request and the type of determination letter issued

.01 Sections 6104 and 6110 provide rules for the disclosure of requests, including forms, supporting documents, and determination letters issued in response to requests.

(1) **A favorable determination letter issued in response to an application for recognition of exemption from federal income tax under §§ 501 or 521, as well as certain determination letters regarding foundation status are disclosed under § 6104.** Determination letters that an applicant organization is exempt from federal income tax and letters or documents issued by the Service that an organization is or is not a private foundation, or described in §§ 509(a), 4940(d)(2), 4942(j)(3), or 4943(f) are disclosed under § 6104.

(2) **Other determination letters are disclosed under § 6110**. Any determination letter that is not disclosed under § 6104 is disclosed under § 6110. This includes proposed and final denial of tax-exempt status when such denial becomes final, advance approval of grant making procedures described in § 4945(g), advance approval of certain set-asides described in § 4942(g)(2), advance approval of voter registration activities described in § 4945(f), and advance approval of an unusual grant per Rev. Proc. 2018-32, 2018-23 IRB 739.

(3) Whether other determination letters are disclosed under §§ 6104 or 6110 will vary based on the type of determination.

Disclosure of applications, supporting documents, and favorable determination letters under § 6104

.02 If a favorable determination letter is issued in response to an application for recognition of exemption from federal income tax under §§ 501 or 521, the application form, any supporting documents, and any determination letter issued in response to the application (including a proposed adverse determination letter) are available for public inspection upon request under § 6104(a)(1). In addition, letters or documents issued by the Service that an organization is or is not a private foundation, or described in §§ 509(a), 4940(d)(2), 4942(j)(3), or 4943(f) are disclosed under § 6104. However, there are certain limited disclosure exceptions for a trade secret, patent, process, style of work, or apparatus, if the Service determines that the disclosure of the information would adversely affect the organization.

(1) Favorable determination letters issued in 2014 and later are available on Tax Exempt Organization Search at IRS.gov/teos. Additionally, the public can request information available for public inspection under § 6104(a)(1) by submitting Form 4506–B, *Request for a Copy of Exempt Organization IRS Application or Letter*, or by using such other form or procedure as the IRS may specify. Organizations should ensure that applications and supporting documents do not include unnecessary personal identifying information (such as bank account numbers or social security numbers) that could result in identity theft or other adverse consequences if publicly disclosed.

(2) The tax-exempt organization is required to make its application for recognition of exemption, supporting documents, and any determination letter issued in response to the application (including a proposed adverse determination letter) available for public inspection without charge. For more information about the tax-exempt organization's disclosure obligations, *see* Publication 557, *Tax-Exempt Status for Your Organization.*

Disclosure of determination letters under § 6110

.03 The Service is required to make any determination letter that is not disclosed under § 6104, including adverse determinations of tax-exempt status, available for public inspection under § 6110. Upon issuance of the final adverse determination letter to an organization, both the proposed adverse determination letter and the final adverse determination letter will be released pursuant to § 6110. In addition, determinations of advance approval of grant making procedures described in § 4945(g), advance approval of certain set-asides described in § 4942(g)(2), advance approval of voter registration activities described in § 4945(f), and advance approval of an unusual grant per Rev. Proc. 2018-32 will be released pursuant to § 6110.

The written determination and background file documents are made available to the public after the deletion of names, addresses, and any other information that might identify the taxpayer. *See* § 6110(c) for other specific disclosure exemptions.

Taxpayer may protest disclosure under § 6110 of certain information in a determination letter

.04 If the determination letter is disclosed under § 6110, the determination letter will enclose Letter 437, *Notice of Intention to Disclose,* and redacted copies of the final and proposed adverse determination letters. Letter 437 provides procedures to follow and instructions if the organization disagrees with the deletions proposed by the Service.

Within 20 calendar days after the Service receives the response to the Letter 437, the Service will mail to the taxpayer its final administrative conclusion regarding the deletions to be made. The taxpayer does not have the right to a conference to resolve any disagreements concerning material to be deleted from the text of the determination letter. However, these matters may be taken up at a conference with the Independent Office of Appeals that is otherwise scheduled regarding the request, if available under section 9 of this revenue procedure.

Taxpayer may request delay of public inspection under § 6110

.05 After receiving the Letter 437, but within 60 calendar days after the date of notice, the taxpayer may send a request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the Letter 437. The request for delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine that there are good reasons for the delay.

Note: Section 6110(l)(1) states that § 6110 disclosure provisions do not apply to any matter to which § 6104 applies. Therefore, disclosure of determination letters and related background file documents dealing with an approved application for recognition of exemption under § 501(a) as an organization described in § 501(c) or (d), or a notice of status as a political organization under § 527 (covered by § 6104) may not be protested or delayed by request of the taxpayer.

Disclosure to state officials when the Service refuses to recognize tax-exempt status under § 501(c)(3)

.06 The Service may notify the appropriate state officials of a refusal to recognize an organization as tax-exempt under § 501(c)(3). *See* § 6104(c). The notice to the state officials may include a copy of a proposed or final adverse determination letter the Service issued to the organization. In addition, upon request by the appropriate state official, the Service may make available for inspection and copying the application for recognition of exemption and other information relating to the Service's determination on tax-exempt status.

The Service does not consider the non-acceptance of an application under section 4.10 of this revenue procedure to be a refusal to recognize an organization as tax-exempt.

Disclosure to state officials of information about § 501(c)(3) applicants

.07 The Service may disclose to state officials the name, address, and identification number of any organization that has applied for recognition of exemption under § 501(c)(3). The Service does not consider an organization the application of which is not accepted under section 4.10 of this revenue procedure to have applied for recognition of exemption.

SECTION 14. WHAT ARE THE USER FEE REQUIREMENTS FOR DETERMINATION LETTERS?

Legislation authorizing user fees

.01 Section 7528 directs the Secretary of the Treasury or delegate (Secretary) to establish a program requiring the payment of user fees for requests to the Service for determination letters and similar requests.

The fees charged under the program: (1) are to vary according to categories or subcategories established by the Secretary; (2) are to be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance.

Section 7528(b)(2) directs the Secretary to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category must not be less than the amount specified in § 7528(b)(3).

Requests to which user fees apply

.02 In general, user fees apply to all requests for determination letters described in this revenue procedure.

Requests to which a user fee applies must be accompanied by the appropriate fee as determined from the fee schedule provided in Appendix A of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 14.09 of this revenue procedure.

Requests and other actions to which user fees do not apply

.03 Actions that do not require the payment of a user fee include—

(1) Elections pertaining to automatic extensions of time under Treas. Reg. § 301.9100-1;

(2) Confirmation of tax-exempt status (affirmation letter) (to replace lost tax-exempt status letter and to reflect name and address changes); and

(3) Notice of intent to terminate private foundation status under § 507(b)(1)(B) without a request for an advance ruling.

Exemption from the user fee requirements

.04 Departments, agencies, or instrumentalities of the United States that certify that they are seeking a determination letter on behalf of a program or activity funded by federal appropriations are exempt from the user fee requirements. The fact that a user fee is not charged under § 7528 has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any other provision of the Code.

In addition, Canadian registered charities do not pay a user fee. *See* Appendix A.

Requests involving multiple fee categories, issues, or entities

.05

(1) **Requests involving several fee categories**. Requests submitted as part of an initial application (*e.g.*, foundation classification; exemption from Form 990 filing requirements) are considered part of the initial application and aren't subject to an additional user fee.

(2) **Multiple requests on a single Form 8940**. A separate Form 8940 and user fee are generally required for each type of request for which an organization has checked a box on Form 8940. However, the following scenarios are considered a single request—

(a) A request for reclassification as a public charity under § 509(a)(3) that checks boxes f and g of Form 8940; or

(b) A request for advance approval of grant making procedures for a program described in both § 4945(g)(1) and (3).

(3) **Requests for separate determination letters for several entities**. Each entity involved in a request that desires a separate determination letter in its own name (for example, subordinate

organizations seeking change of filing requirements) must pay a separate fee. Payment of a separate fee is required regardless of whether the requests may be viewed as related.

Method of payment

.06

(1) **Payment of user fees for applications of recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or requests on Form 8940.** User fees for applications for recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or requests on Form 8940 must be paid at www.pay.gov.

(2) **Payment of user fees for other requests**. For requests other than those in section 14.06(1) of this revenue procedure, each request to the Service for a determination letter must be accompanied by a check, payable to the United States Treasury, in the appropriate amount. Taxpayers should not send cash.

The check may be converted to an electronic fund transfer. "Electronic fund transfer" is the term used to refer to the process in which the Service electronically instructs the financial institution holding the funds to transfer funds from the account named on the check to the United States Treasury account, rather than processing the check. By sending a completed, signed check to the Service, the Service is authorized to copy the check and to use the account information from the check to make an electronic fund transfer from the account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, the Service is authorized to process the copy of the check.

The electronic fund transfer from an account will usually occur within 24 hours, which is faster than a check is normally processed. Therefore, it is necessary to ensure there are sufficient funds available in the checking account when the check is sent to the Service. The check will not be returned from the financial institution.

Transmittal forms

.07 Form 8718 should be attached to applications or requests other than those made on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or Form 8940, to transmit a check in the amount of the required user fee.

Effect of nonpayment or payment of incorrect amount

.08 It will be the general practice of the Service that—

(1) An application for a determination letter containing the correct user fee will generally be accepted for processing even if Form 8718 was not attached.

(2) If a payment is for more than the correct amount, the submission will be accepted for processing and the amount of the excess payment will be returned to the requester.

(3) If a payment is for less than the correct amount, no payment is received, or the payment was later dishonored, the submission will not be accepted for processing and any user fee that was paid with the request will be refunded. *See* section 4.10 of this revenue procedure.

Refunds of user fees

.09 In general, the user fee will not be refunded unless the Service does not accept the request for processing or declines to make a determination on all issues for which a determination letter is requested.

(1) Examples in which the user fee **will not** be refunded:

(a) The request for a determination letter is withdrawn at any time subsequent to its receipt by the Service. For example, no fee will be refunded where the taxpayer has been advised that an adverse ruling is contemplated and the taxpayer subsequently withdraws its submission.

(b) A determination letter is revoked in whole or in part. The fee paid at the time the original determination letter was requested will not be refunded.

(c) The request contains several issues and the Service rules on some, but not all, of the issues. The highest fee applicable to the issues on which the Service rules will not be refunded.

(2) The following situations are examples in which the user fee **will** be refunded:

(a) The request is not accepted for processing under section 4.10 of this revenue procedure.

(b) The Service declines to rule on the request in accordance with section 3.02 of this revenue procedure.

Request for reconsideration of user fee

.10 A taxpayer that believes the user fee charged by the Service for its request for a determination letter is either not applicable or incorrect and wishes to receive a refund of all or part of the amount paid (*see* section 14.09 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Internal Revenue Service at the applicable Post Office Box or other address given in section 15 of this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of "Manager, EO Determinations Quality Assurance."

SECTION 15. MAILING ADDRESS FOR REQUESTING DETERMINATION LETTERS

.01

(1) The following types of requests and applications handled by the EO Determinations Office should be sent to the Internal Revenue Service Center, at the address in section 15.01(2) of this revenue procedure:

(a) applications for recognition of exemption on Form 1028; and

(b) requests submitted by letter.

(2) The address is:

Internal Revenue Service
P.O. Box 12192
TE/GE Stop 31A Team 105
Covington, KY 41012-0192

.02 Applications for recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, and requests on Form 8940 are handled by the EO Determinations Office but must be

submitted electronically online at www.pay.gov. Paper submissions of Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, and Form 8940 will not be accepted for processing.

.03 Requests for exempt status affirmation letters should be sent to the Internal Revenue Service at the address shown below:

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

.04 Requests shipped by Express Mail or a private delivery service for all of the above should be sent to:

Internal Revenue Service
7940 Kentucky Drive TE/GE
Mail Stop 31A Team 105
Florence, KY 41042

.05 Requests may be faxed to 855-204-6184.

SECTION 16. EFFECT OF THIS REVENUE PROCEDURE ON OTHER DOCUMENTS

Revenue Procedure 2025-5 is superseded.

SECTION 17. EFFECTIVE DATE

This Revenue Procedure is effective December 29, 2025.

SECTION 18. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 USC § 3507) under multiple control numbers.

The collection of information on Forms 1023 and 1023-EZ have been reviewed and approved under control number 1545-0047. The collection of information on Forms 1024 and 1024-A have been reviewed and approved under control number 1545-0047. The collection of information on Form 1028 has been reviewed and approved under control number 1545-0047. The collection of information on these forms is required if an organization wants to be recognized as tax-exempt by the Service. The Service needs the information to determine whether the organization satisfies the legal requirements for tax-exempt status.

The specific information collected in connection with requesting a letter application has been approved and reviewed under control number 1545-0047. The Service needs this information to determine whether the organization satisfies the legal requirements for tax-exempt status.

The collection of information for Form 8940 has been approved and reviewed under control number 1545-0047. This information is required to evaluate and process the request for a determination letter.

The collection of information on Form 2848 has been reviewed and approved under control number 1545-0150. It is used to authorize someone to act for the respondent in tax matters. It

grants all powers that the taxpayer has except signing a return and cashing refund checks. Data is used to identify authorized representatives and to ensure that confidential information is not divulged to unauthorized persons.

The collection of information on Form 8718 has been reviewed and approved under control number 1545-0047. The Omnibus Reconciliation Act of 1990, Pub. L. 101-508, requires payment of a "user fee" with each application for a tax-exempt organization determination letter. Because of this requirement, the Form 8718 was created to provide filers the means to enclose their payment and indicate what type of request they are making.

The collections of information are required to obtain a benefit. The likely respondents are tax-exempt organizations and their authorized representatives.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB number.

Books and records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

DRAFTING INFORMATION

The principal author of this Revenue Procedure is Joseph Kovacs of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For additional information, please contact Mr. Kovacs at 202–317–4541 (not a toll-free call).

APPENDIX A

Schedule of User Fees

This table summarizes the various types of Exempt Organization determination letter user fees.

ISSUE	USER FEE
(1) Application for recognition of exemption under § 501(c)(3) submitted on Form 1023-EZ	$275
(2) All other applications for recognition of exemption under § 501 except for those included in (1) of Appendix A of this revenue procedure and under § 521 (other than pension, profit-sharing, and stock bonus plans described in § 401).	$600
(3) Group exemption letters	$3,500
Note: An additional user fee under (1) or (2) of Appendix A of this revenue procedure above is also required when a central organization submits an initial application for recognition of exemption with its request for a group exemption letter. As explained in section 3.02(11) of this revenue procedure, the Service is not currently accepting requests for group exemption letters.	
(4) Canadian registered charities	None
Note: In accordance with the income tax treaty between the United States and Canada, and pursuant to a mutual arrangement between the competent authorities of the two countries, Canadian registered charities are automatically recognized as exempt under § 501(c)(3) without filing an application for recognition of exemption. For details, *see* Notice 99-47, 1999-2 CB 391. Therefore, no user fee is required when a Canadian registered charity submits a Form 8940 to request to be listed in Tax Exempt Organization Search database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data), or to request a determination on its public charity classification. For additional information about the submission process, refer to the Form 8940 Instructions.	
(5) Affirmation Letter – Confirmation of tax-exempt status (to replace lost tax-exempt status letter, and to reflect name and address changes)	None
(6) Reclassification of private foundation status, including • operating foundation status described in § 4942(j)(3) and exempt operating foundation status described in § 4940(d); • a determination that a public charity is described in § 509(a)(3)(i), (ii), or (iii), including whether or not a Type III supporting organization is functionally integrated; • reclassification of foundation status, including voluntary requests from public charities for private foundation status and voluntary requests from public charities, including requests from subordinate organizations, to change from one public charity status to another public charity status; or • final public charity classification determination for organizations whose advance ruling periods expired prior to June 9, 2008, without providing the required information (Form 8940).	$600
(7) Regulations § 301.9100 relief in connection with applications for recognition of exemption	None
(8) Section 507 terminations – advance or final ruling under § 507(b)(1)(B) (Form 8940)	$600
(9) Section 4942(g)(2) set asides – advance approval (Form 8940)	$3,500
(10) Section 4945 advance approval of organization's grant making procedures (Form 8940)	$3,500
(11) Section 4945(f) advance approval of voter registration activities (Form 8940)	$3,500
(12) Section 6033 annual information return filing requirements (including a subordinate organization’s change of filing requirements) (Form 8940)	$600
(13) Unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2) (Form 8940)	$600
(14) User Fee for determination letters under the jurisdiction of the Determinations Office not otherwise described or covered in this Appendix.	$600
(15) Notice of intent to terminate private foundation status under § 507(b)(1)(B) without a request for an advance ruling.	None

APPENDIX B

Authorized Representatives

To sign a request for a determination letter or to appear before the Service in connection with the request, the representative must be:

Attorney	(a) An attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. They must file a written declaration with the Service on Form 2848 showing current qualification as an attorney and current authorization to represent the taxpayer.
Certified public accountant	(b) A certified public accountant who is qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. They must file a written declaration with the Service on Form 2848 showing current qualification as a certified public accountant and current authorization to represent the taxpayer.
Enrolled agent	(c) An enrolled agent, other than an attorney or certified public accountant, that is currently enrolled to practice before the Service and is not currently under suspension or disbarment from practice before the Service, including a person enrolled to practice only for employee plans matters. They must file a written declaration with the Service on Form 2848 showing current enrollment and authorization to represent the taxpayer. Either the enrollment number or the expiration date of the enrollment card must be included in the declaration. For the rules on who may practice before the Service, *see* Treasury Department Circular No. 230.
A person with a "Letter of Authorization"	(d) Any other person, including a foreign representative, who has received a "Letter of Authorization" from the Director, Office of Professional Responsibility under section 10.7(d) of Treasury Department Circular No. 230. They must file a written declaration with the Service on Form 2848 (or equivalent power of attorney and declaration of representative) showing authorization to represent the taxpayer with a copy of the "Letter of Authorization" attached. A person may make a written request for a "Letter of Authorization" to: Director, Office of Professional Responsibility, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, DC 20224. Circular No. 230 section 10.7(d) ("Special appearances") authorizes the Commissioner, or delegate, to allow an individual who is not otherwise eligible to practice before the Service to represent another person in a particular matter.
Employee, general partner, bona fide officer, administrator, trustee, etc.	(e) A regular full-time employee representing their employer, a general partner representing their partnership, a bona fide officer representing their corporation, association, or organized group, a trustee, receiver, guardian, personal representative, administrator, or executor representing a trust, receivership, guardianship, or estate, or an individual representing their immediate family. They may be required to file a written declaration with the Service on Form 2848 showing authorization to represent the taxpayer. *See* Form 2848 for more information. A preparer of a return (other than a person referred to in paragraph (a), (b), or (c) of this Appendix B) who is not a full-time employee, general partner, a bona fide officer, an administrator, trustee, etc., or an individual representing their immediate family may not represent a taxpayer in connection with a determination letter or a technical advice request. *See* section 10.7(c) of Treasury Department Circular No. 230.
Foreign representative	(f) A foreign representative (other than a person referred to in paragraph (a), (b), or (c) of this Appendix B) is not authorized to practice before the Service and, therefore, must withdraw from representing a taxpayer in a request for a determination letter. In this situation, the nonresident alien or foreign entity must submit the request for a determination letter on the individual's or entity's own behalf or through a person referred to in paragraph (a), (b), or (c) of this Appendix B.

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

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