

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.

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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 (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). It explains the forms of advice and the manner in which advice is requested by taxpayers and provided by the Service. A sample format of a request for a letter ruling is provided in Appendix B. See section 4 of this revenue procedure for issues outside the scope of this revenue procedure.

Description of terms used in this revenue procedure

.01 For purposes of this revenue procedure—

(1) the term “Service” includes the Internal Revenue Service, the four operating divisions of the Internal Revenue Service that are responsible for meeting the needs of the taxpayers they serve, and the Associate offices. The four operating divisions are:

(a) Large and Mid-Size Business Division (LMSB), which generally serves corporations, including S corporations, and partnerships, with assets in excess of \$10 million;

(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; estates and trusts; 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*), Form 2106, *Employee Business Expenses*, or Form 2106-EZ, *Unreimbursed Employee Business Expenses*; and individuals with international tax returns;

(c) Wage and Investment Division (W&I), 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 or Form 2106-EZ; and

(d) Tax Exempt and Government Entities Division (TE/GE), which serves three distinct taxpayer segments: employee plans, 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 (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 and Special Industries), the Office of Associate Chief Counsel (Procedure and Administration), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), as appropriate.

(3) the term “Director” refers to the Director, Field Operations, LMSB; the Area Director, Field Examination, SB/SE; Chief, SB/SE International Field & Policy; Chief, Estate & Gift Tax Operations, SB/SE; Chief, Employment Tax Operations, SB/SE; Chief, Excise Tax Operations, SB/SE; or the Director, Compliance, W&I; the Director, International, LMSB; the Director, Employee Plans Examinations; the Director, Exempt Organizations Examinations; the Director, Federal, State & Local Governments; the Director, Tax Exempt Bonds; or the Director, Indian Tribal Governments, 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 (including issuers of § 103 obligations) and, when appropriate, their representatives.

Updated annually

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

SECTION 2. WHAT IS THE FORM 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 a written inquiry from an individual or an organization about its status for tax purposes or the tax effects of its acts or transactions, prior to the filing of returns or reports that are required by the revenue laws. A letter ruling interprets and applies the tax laws to the taxpayer’s specific set of facts and is given when appropriate in the interest of sound tax administration. A letter ruling includes the written permission or denial of permission by an Associate office to a request for a change in a taxpayer’s accounting method or accounting period. Once issued, a letter ruling may be revoked or modified for any number of reasons, as explained in section 11 (section 9.19 for a change in accounting method letter ruling) of this revenue procedure, unless it is accompanied by a “closing agreement.”

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 is final unless fraud, malfeasance, or misrepresentation of a material fact can be shown.

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

A closing agreement may be entered into when it is advantageous to have the 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. In appropriate cases, a taxpayer may be asked to enter into a closing agreement as a condition for the issuance of 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 either by an Associate office or by a Director. It 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 thinks 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 requests to Associate offices mailed on or after February 1, 2006, will be subject to a user fee. *See* Appendix A.

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 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 (“FOIA”). Before any information letter is made available to the public, an Associate office will delete any name, address, and other identifying information as appropriate under the FOIA (for example, FOIA personal privacy exemption of 5 U.S.C. § 552(b)(6) and tax details exempt pursuant to § 6103, as incorporated into FOIA by 5 U.S.C. § 552(b)(3)).

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 regarding whether the Service will rule on particular issues and questions relating to procedural matters about submitting 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, substantive issues also may be discussed. Such a discussion will not be 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).

Substantive tax issues involving the taxpayer that are under examination, in Appeals, or in litigation will not be discussed by Service employees not directly involved in the examination, appeal, or litigation of the issues unless the discussion is coordinated with those Service employees who are directly involved in the examination, appeal, or litigation of the issues. The taxpayer or the taxpayer's representative ordinarily will be asked whether the 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. Oral guidance is advisory only, and the Service is not bound to recognize it, for example, in the examination of the taxpayer's return.

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.

SECTION 3. ON WHAT ISSUES MAY TAXPAYERS REQUEST WRITTEN ADVICE UNDER THIS 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 also may request determination letters from the Director in the appropriate operating division on subjects that relate to the Code sections under the jurisdiction of the respective Associate offices. *See* section 12.08 of this revenue procedure for information on where to send the requests for determination letters.

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, and certain earnings and profits questions.

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

.02 Issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) include those that involve income taxes and accounting method changes 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, and financial products.

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

.03 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, the alternative minimum tax, net operating losses generally, including accounting method changes for these issues, and accounting periods.

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

.04 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 without the United States, subpart F questions, domestic international sales corporations (DISCs), foreign sales corporations (FSCs), exclusions under § 114 for extraterritorial income (ETI) pursuant to § 941(a)(5)(A), international boycott determinations, treatment of certain passive foreign investment companies, income affected by treaty, 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 accounting method changes.

For the procedures to obtain advance pricing agreements under § 482, *see* Rev. Proc. 2004-40, 2004-2 C.B. 50 (or successor).

For competent authority procedures related to bilateral and multilateral advance pricing agreements, *see* Rev. Proc. 2002-52, 2002-2 C.B. 242.

Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries)

.05 Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) 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, estate, gift, generation-skipping transfer, and certain excise taxes, amortization, depreciation, depletion, and other engineering issues, accounting method changes for depreciation and amortization, cooperative housing corporations, farmers' cooperatives (under § 521), the low-income housing, disabled access, and 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 (Procedure and Administration)

.06 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, assessing and collecting taxes (including interest and penalties), abating, crediting, or refunding overassessments or overpayments of tax, and filing information returns.

Issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)

.07 Issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) include those that involve income tax and other tax aspects of executive compensation and employee benefit programs, including accounting method changes for these issues (other than those within the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division), section 457 arrangements, employment taxes, taxes on self-employment income, tax-exempt obligations, mortgage credit certificates, qualified zone academy bonds (QZABS), and federal, state, local, and Indian tribal governments.

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

Alcohol, tobacco, and firearms taxes

.01 The procedures for obtaining letter rulings, etc., 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.

Employee plans and exempt organizations

.02 The procedures for obtaining letter rulings, determination letters, etc., on employee plans and exempt organizations are under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division. *See* Rev. Proc. 2006-4, this Bulletin. *See also* Rev. Proc. 2006-6, this Bulletin, for 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), 409, and 4975(e)(7), and the status for exemption of any related trusts or custodial accounts under § 501(a).

For the user fee requirements applicable to requests for letter rulings, determination letters, etc., under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2006–8, this Bulletin.

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 the return is filed for the year in which the transaction is completed.

Special relief for late S corporation and related elections

.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 procedures in Rev. Proc. 2004–49, 2004–2 C.B. 210; Rev. Proc. 2004–48, 2004–2 C.B. 172; Rev. Proc. 2003–43, 2003–1 C.B. 998, or Rev. Proc. 97–48, 1997–2 C.B. 521. These procedures, which are in lieu of the letter ruling process, do not require payment of any user fee. *See* section 4.04 of Rev. Proc. 2004–49, section 3.01 of Rev. Proc. 2004–48, section 3.01 of Rev. Proc. 2003–43, section 3 of Rev. Proc. 97–48, 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 Regulations on Procedure and Administration, 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, or the issues in the return are being considered by Appeals or a federal court. A § 301.9100 request is a letter ruling request. Therefore, the § 301.9100 request should be submitted pursuant to this revenue procedure. 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) 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. In addition, a § 301.9100 request must include the information required by § 301.9100–3(e).

(2) Period of limitations. The running of any applicable period of limitations is not suspended for the period during which a § 301.9100 request has been filed. *See* § 301.9100–3(d)(2). If the period of limitation on assessment under § 6501(a) 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 will expire before receipt of a § 301.9100 letter ruling, the Associate office ordinarily will not issue a § 301.9100 ruling. *See* § 301.9100–3(c)(1)(ii). If, however, the taxpayer secures consent to extend the period of limitations on assessment under § 6501(c)(4), the Associate office may issue the letter ruling. Note that the filing of a claim for refund under § 6511 does not extend the period of limitation on assessment. If § 301.9100 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. If the Service starts an examination of the taxpayer’s 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 while a § 301.9100 request is pending, the taxpayer must notify the Associate office. This notification must include the name and telephone number of the examining agent. *See* § 301.9100–3(e)(4)(i) and section 7.04(1)(b) of this revenue procedure.

(4) Associate office will notify examination agents, appeals officer, or government counsel of a § 301.9100 request if the taxpayer's return is being examined by a field office or is being considered by Appeals or a federal court. If the taxpayer's 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 is being examined by a field office or considered by Appeals or a federal court, the Associate office will notify the appropriate examining agent, appeals officer, or government counsel that a § 301.9100 request has been submitted to the Associate office. The examining officer, appeals officer, or government counsel 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 appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return, appeals officer, or government counsel.

(5) Relief for late initial classification election. In lieu of requesting a letter ruling under § 301.9100-1 through § 301.9100-3 and this revenue procedure, an entity newly formed under local law may apply for late classification election relief under Rev. Proc. 2002-59, 2002-2 C.B. 615. Requests for such relief are not subject to user fees. *See* section 3 of Rev. Proc. 2002-59 and section 15.03(2) of this revenue procedure.

Determinations under § 999(d) of the Internal Revenue Code

.04 As provided in Rev. Proc. 77-9, 1977-1 C.B. 542, the Associate Chief Counsel (International) issues determinations under § 999(d) that may deny certain benefits of the foreign tax credit, deferral of earnings of foreign subsidiaries and domestic international sales corporations (DISCs) to a person, if that person, is a member of a controlled group (within the meaning of § 993(a)(3)) that includes the person, or a foreign corporation of which a member of the controlled group is a United States shareholder, agrees to participate in, or cooperate with, an international boycott. The same principles shall apply with respect to exclusions under § 114 for extritorial income (ETI) pursuant to § 941(a)(5)(A). Requests for determinations under Rev. Proc. 77-9 are letter ruling requests and, therefore, 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 based on the taxpayer's characterization of the transaction but will 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 and Special Industries) 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, and 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 7.04 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 7.04 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, who 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 and Special Industries) 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 and Special Industries) 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 and Special Industries) 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 either before or after the return is filed for those transactions.

Requests regarding employment status (employer/employee relationship) from federal agencies and instrumentalities should be submitted directly to the Associate Chief Counsel (Tax Exempt and Government Entities). Requests regarding employment status from other taxpayers must first be submitted to the appropriate Service office listed on the current Form SS-8 (Rev. June 2003). *See* section 12.04 of this revenue procedure. Generally, the employer is the taxpayer and requests the letter ruling. If the worker asks for the letter ruling, both the worker and the employer are considered to be the taxpayer and both are entitled to the letter ruling.

In administrative provisions 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—

- (1) the time, place, manner, and procedures for reporting and paying taxes; or
- (2) 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 Rev. Proc. 2006-1, this revenue procedure, the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) issues determinations recognizing a tribal entity as an Indian tribal government within the meaning of § 7701(a)(40) or as a political subdivision of an Indian tribal government under § 7871(d) if it determines, after consultation with the Secretary of the Interior, that the entity satisfies the statutory definition of an Indian tribal government or 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 Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) 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, that 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 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. 2002-64, 2002-2 C.B. 717, provides a list of 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, 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, tribal governments or subdivisions recognized under § 7701(a)(40) or § 7871(d) will be included in the list of recognized tribal government entities in revised versions of Rev. Proc. 2002-64 or Rev. Proc. 84-36.

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

.13 The Associate Chief Counsel (Passthroughs and Special Industries) 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 tax purposes.

May be issued before the issuance of a regulation or other published guidance

.14 Unless the issue is covered by section 6 of this revenue procedure, Rev. Proc. 2006-3, this Bulletin, or Rev. Proc. 2006-7, this Bulletin, 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.

In such situations, 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 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 interests of tax administration. *But see* section 6.09 of this revenue procedure.

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 taxpayer;

(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 7.04 of this revenue procedure. In income and gift tax 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

.02 The Service ordinarily does not issue letter rulings or determination letters in certain areas because of the factual nature of the problem involved or because of other reasons. Rev. Proc. 2006-3, this Bulletin, and Rev. Proc. 2006-7, this Bulletin, 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 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 best interests of the Service, issue an information letter calling attention to well-established principles of tax law.

Ordinarily not on part of an integrated transaction

.03 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 does not ordinarily 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.

Generally not to business associations or groups

.05 The Service 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. But groups and associations 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.

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.

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

.06 The Service generally 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.

Revenue Procedure 96-16, 1996-1 C.B. 630, sets forth rules for letter ruling requests involving state and local government obligations.

Generally not to foreign governments

.07 The Service 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. 2002-52, 2002-2 C.B. 242 at 252. 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 Division Counsel/Associate Chief Counsel (Tax Exempt and Government

Entities) 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.

Not before issuance of a regulation or other published guidance

.09 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 decides 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. 2006–3, this Bulletin, or Rev. Proc. 2006–7, this Bulletin.

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 that espouses a position which has been held by the courts to be 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 because it 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 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 is not taxable on income 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 sections 861 through 865 or any other provision of the Internal Revenue 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.

No “comfort” letter rulings

.11 Except as otherwise provided in Rev. Proc. 2006–3, this Bulletin, (*e.g.*, under section 3.01(33), where the Associate office already is ruling on a significant issue in the same transaction), a letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decisions of a court, revenue rulings, revenue procedures, notices, or other authority published in the Internal Revenue Bulletin. The Associate office may in its discretion determine to issue a letter ruling on such an issue if the Associate office is otherwise issuing a 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 return for the taxable year in which the property was converted. 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) it appears that the taxpayer has directed a similar inquiry to an Associate office;
- (2) the same issue, involving the same taxpayer or a related taxpayer, 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 taxpayer; 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 (Passthroughs and Special Industries) 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 explains 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 accounting method.

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 accounting methods 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 E 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 E of this revenue procedure followed by a reference (usually to another revenue procedure) where more information can be obtained.

Certain 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, 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 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; and
- (e) a detailed description of the transaction.

Documents and foreign laws

(2) Copies of all contracts, wills, deeds, agreements, instruments, other documents, and foreign laws.

(a) Documents. True copies of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transaction must be submitted with the request.

If the request concerns a corporate distribution, reorganization, or similar transaction, the corporate balance sheet and profit and loss statement should also be submitted. If the request relates to a prospective transaction, the most recent balance sheet and profit and loss statement should be submitted.

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, 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, 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 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, or other documents, which 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, 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 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, any return of the taxpayer (or any return 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) that would be affected by the requested letter ruling or determination letter is under examination, before Appeals, or before a federal court.

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 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 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 (related taxpayer)) or a predecessor;

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

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

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

If the statement is affirmative for (a), (b), (c), or (d) 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 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;

(b) 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

(c) 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.

Letter from Bureau of Indian Affairs relating to Indian tribal government

(7) 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 Tribal Government & Alaska
Division of Indian Affairs
Office of the Solicitor, Room 6456
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240**

Statement of authorities supporting taxpayer's views

(8) 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 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 the issue is adequately addressed by relevant authorities.

Statement of authorities contrary to taxpayer's views

(9) 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, 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 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 letter ruling or 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.

Statement identifying pending legislation

(10) 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, if legislation is introduced after the request is filed but before a letter ruling or determination letter is issued, the taxpayer must notify the Service.

Deletion statement required by § 6110

(11) Statement identifying information to be deleted from copy of letter ruling or determination letter for public inspection. 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 ("deletion statement"). If the deletion 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 deletion statement within 21 calendar days. *See* section 8.05 of this revenue procedure.

(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, additional deletion statements may be submitted.

(b) Location of deletion statement. The deletion 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 deletion 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 of this section 7.01(11) 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 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. 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 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 ("Commissioner") may determine whether there are good reasons for the delay.

Signature on request

(12) 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 stamped signature or faxed signature is not permitted.

Authorized representatives

(13) (a) Authorized representatives. To sign the request or to appear before the Service in connection with the request, the taxpayer's authorized representative (for rules on who may practice before the Service, *see* Treasury Department Circular No. 230, 31 C.F.R. part 10, July 26, 2002) must be:

Attorney

(1) 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

(2) 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;

Enrolled agent

(3) An enrolled agent who is a person, other than an attorney or certified public accountant, who is currently enrolled to practice before the Service 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 enrollment and authorization to represent the taxpayer. The enrollment number must be included in the declaration;

Enrolled actuary	(4) An enrolled actuary who is a person, other than an attorney or certified public accountant, who is currently enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. § 1242 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 before the Service as an enrolled actuary is limited to representation with respect to issues involving §§ 401, 403(a), 404, 412, 413, 414, 419, 419A, 420, 4971, 4972, 4976, 4980, 6057, 6058, 6059, 6652(e), 6652(f), 6692, and 7805(b); former § 405; and 29 U.S.C. § 1083; or
A person with a “Letter of Authorization”	(5) 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.
Representative authorized based on relationship to taxpayer	(b) A regular full-time employee representing his or her employer; a general partner representing his or her partnership; a <i>bona fide</i> officer representing his or her corporation, association, or organized group; a 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.
Return preparer	(c) A return preparer who is not described in 13(a) and 13(b) of this section may not sign the request, or appear before the Service, or represent a taxpayer in connection with a letter ruling or a determination letter. <i>See</i> section 10.7(c) of Treasury Department Circular No. 230.
Foreign representative	(d) A foreign representative, other than a person referred to in 13(a) and 13(b) of this section, is not authorized to practice before the Service within the United States and, therefore, 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 (13)(a) and (b) of this section.
Power of attorney and declaration of representative	(14) Power of attorney and declaration of representative. It is preferred that Form 2848, <i>Power of Attorney and Declaration of Representative</i> , be used to provide the representative’s authority (Part I of Form 2848, <i>Power of Attorney</i>) and the representative’s qualification (Part II of Form 2848, <i>Declaration of Representative</i>). 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 facsimile transmission (fax) of the power of attorney is acceptable so long as its authenticity is not reasonably disputed. For additional information regarding the power of attorney form, <i>see</i> 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	(15) 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. A stamped signature or faxed signature is not 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.

Number of copies of request to be submitted

(16) Number of copies of request to be submitted. Generally, a taxpayer needs to submit the original and one copy of the request for a letter ruling or determination letter. If more than one issue is presented in the letter ruling request, the taxpayer is encouraged to submit additional copies of the request.

Further, the original and two copies of the request for a letter ruling or determination letter are required if—

(a) the taxpayer is requesting separate letter rulings or determination letters on different issues as explained later under section 7.02(1) of this revenue procedure; or

(b) the taxpayer is requesting deletions other than names, addresses, and identifying numbers, as explained in section 7.01(11)(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

(c) a closing agreement (as defined in section 2.02 of this revenue procedure) is being requested on the issue presented.

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 by the taxpayer or the taxpayer's representative.

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 placed on top of 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 listed in section 1 of Appendix E of this revenue procedure and must also be completed and placed on top of the letter ruling request along with the checklist in Appendix C.

Copies of the checklist in Appendix C can be obtained by calling (202) 622-7560 (not a toll-free call) or a copy can be obtained from this revenue procedure in Internal Revenue Bulletin 2006-1 on the IRS web site at www.irs.gov by accessing the Newsroom link, and then the IRS Guidance link, to obtain Internal Revenue Bulletin 2006-1. A photocopy 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 it is not feasible or not in the best interests of the Associate office to do so. A taxpayer who wants separate letter rulings on multiple issues should make this clear in the request and submit the original and two copies of the request.

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, it will send the original to the taxpayer. The Service will not send the original letter ruling or determination letter to the taxpayer's representative. The Service may send copies of the letter ruling or determination to the taxpayer's representative, but in no case to more than two representatives.

Unless otherwise indicated by the taxpayer on the Form 2848, the Service will send a copy of the letter ruling or determination letter to the first representative listed on the Form 2848. If the taxpayer appoints more than one representative on the Form 2848 and checks the Box (a) on Line 7, an additional copy will be sent to the second representative listed on the Form 2848. The Service will not send a copy of the letter ruling or determination letter to any representative if the taxpayer checks the Box (b) on Line 7 on the Form 2848 indicating that notices or written communications from the Service should not be sent to the taxpayer's representative.

It is preferred that the taxpayers use the Form 2848, *Power of Attorney and Declaration of Representative*, to appoint representatives. If a taxpayer does not use Form 2848 to appoint a representative, a copy of the letter ruling or determination letter will be mailed to the first representative listed on the power of attorney, unless the taxpayer indicates that an additional copy of the letter ruling or determination letter should be mailed to a second representative, or that no copies of the letter ruling or determination letter should be mailed to the taxpayer's representative.

"Two-Part" letter ruling requests

(3) To request a particular conclusion on a proposed transaction. A taxpayer who is requesting 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 § 521, or 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 the regular order. 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. Notwithstanding the previous sentence, expedited handling may be available for certain transactions intended to qualify as reorganizations described in § 368 or distributions described in § 355, as provided below.

A taxpayer who has a compelling need to have a 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 or determination letter. If the request is not made in a separate letter, then the letter in which the letter ruling or 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 a branch for action until the check for the user fee is received.

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 time in order 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 or determination letter 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 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 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 ahead of the regular 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 E of this revenue procedure), to prepare “two-part” requests described in section 7.02(3) of this revenue procedure when possible, and to provide any additional information requested by the Service promptly.

EXPEDITED LETTER RULING PROCESS FOR REORGANIZATIONS AND FOR DISTRIBUTIONS UNDER SECTION 355: If a taxpayer requests a letter ruling on whether a transaction constitutes a reorganization under § 368 or a distribution under § 355 and asks for expedited handling pursuant to this provision, the Service will grant expedited handling. If expedited handling is granted, the Service will endeavor to complete and issue the letter ruling subject to Section 3.01(33) of Rev. Proc. 2006–3 within ten weeks after receiving the ruling request. If the transaction involves an issue or issues not entirely within the jurisdiction of the

Associate Chief Counsel (Corporate), the letter ruling request will be processed in the usual manner, unless each Associate Chief Counsel having jurisdiction over an issue in the transaction agrees to process the letter ruling request on an expedited basis.

To initiate this process, the taxpayer must (i) state at the top of the first page of the request letter: "Expedited Handling is Requested" and (ii) provide the Associate Chief Counsel (Corporate) with a copy of the request letter by facsimile transmission (fax), without attachments, when the formal request is submitted. The fax copy should be sent to (202) 622-7707, Attn: CC:CORP (Expedite). In due course, the taxpayer must also provide the Associate Chief Counsel (Corporate) with a draft ruling letter setting forth the relevant facts, applicable representations, and requested rulings in a manner consistent with the format used by the Associate Chief Counsel (Corporate) in similar cases. See section 7.02(3) of this revenue procedure. In addition, the taxpayer must ensure that the formal submission of its letter ruling request complies with all of the requirements of this revenue procedure (including the requirements of other applicable guidelines set forth in Appendix E of this revenue procedure). See section 8.05(1) of this revenue procedure for a modified requirement regarding the submission of additional information. If the taxpayer does not satisfy the requirements of this paragraph, the letter ruling request will not be processed on an expedited basis, but instead will be processed in the usual manner. **For further information regarding this EXPEDITED LETTER RULING PROCESS FOR REORGANIZATIONS AND FOR DISTRIBUTIONS UNDER SECTION 355, call the telephone number provided in section 10.07(1) of this revenue procedure for pre-submission conferences with the Office of Associate Chief Counsel (Corporate).**

Facsimile transmission (fax) to taxpayer or taxpayer's authorized representative of any document related to the letter ruling request

(5) Taxpayer requests to receive any document related to the letter ruling request by facsimile transmission (fax). If the taxpayer requests, the Associate office may fax a copy of any document related to the letter ruling request to the taxpayer or the taxpayer's authorized representative (for example, a request for additional information or the letter ruling).

A request to fax a copy of any document related to the letter ruling request 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 mailing, or with respect to the letter ruling prior to the signing, of the document. The request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the document is to be faxed.

A document other than the letter ruling will be faxed by a branch representative. The letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division (CC:PA:LPD:DLS). For purposes of § 301.6110-2(h), a letter ruling is not issued until the ruling is mailed.

Requesting a conference

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

Address to send the request

.03

Original letter ruling requests must be sent to the appropriate Associate office. The package should be marked: RULING REQUEST SUBMISSION.

(1) Requests for letter rulings should be sent to the following address:

**Internal Revenue Service
Attn: CC:PA:LPD:DRU
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044**

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

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

(2) 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 the loading dock (behind the 12th Street security station) of 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:DRU, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224**

(3) Requests for letter rulings must not be submitted by fax. (*But see* section 7.02(4), above, regarding submissions of an initial fax in certain situations where expedited handling is requested.)

Pending letter ruling requests

.04

(1) Circumstances under which the taxpayer 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) an examination of the issue or the identical issue on an earlier year's return has been started by a field office;

(b) in the case of a § 301.9100 request, 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, has been started by a field office. *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(10) of this revenue procedure; or

(d) another letter ruling request (including an application for change in accounting method) has been submitted by the taxpayer (or a related party 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) involving the same or similar issue that is currently pending with the Service.

(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 to the return to alert the field office and thereby avoid premature field action on the issue. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date of the letter ruling request and 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 notify the Associate office that the return has been filed. 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 thereby avoid premature field action on the issue.

This section 7.04 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 7.04, the term “return” includes the original return, amended return, and claim for refund.

When to attach letter ruling to return

.05 A taxpayer who receives a letter ruling before filing a return about any transaction that is relevant to the return being filed must attach a copy of the letter ruling to the return when it is filed. Alternatively, 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.

For purposes of this section 7.05, the term “return” includes the original return, amended return, and claim for refund.

How to check on status of request

.06 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 acknowledgment of receipt of the request or the appropriate branch representative who contacts the taxpayer as explained in section 8.02 of this revenue procedure.

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

.07

(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) of this revenue procedure. In appropriate cases, an Associate office may publish its conclusions in a revenue ruling or revenue procedure.

(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 and may give its views on the issues in the request to the Service official to consider in any later examination of the return. This section 7.07(2)(a) generally does not apply if the taxpayer withdraws the letter ruling request and submits a written statement that the transaction has been, or is being, abandoned and if the Associate office has not already formed an adverse opinion. *See*, in appropriate cases, section 7.07(1) above.

(b) Notification of Service official may constitute Chief Counsel Advice. If the memorandum to the Service official referred to in paragraph (a) of this section 7.07(2) provides more than the fact that the request was withdrawn and the Associate office was tentatively adverse, or that the Associate office declines to issue a letter ruling, the memorandum may constitute Chief Counsel Advice, as defined in § 6110(i)(1), subject to disclosure under § 6110.

(3) Refund of user fee. Ordinarily, the user fee will not be returned for a letter ruling request that is withdrawn. If the Associate office declines to issue a letter ruling on all of the issues in the request, the user fee will be returned. If the Associate office issues a letter ruling on some, but not all, of the issues, the user fee will not be returned. *See* section 15.10 of this revenue procedure for additional information regarding the refunds of user fees.

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 accounting method requests.

Docket, Records, and User Fee 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 Docket, Records, and User Fee Branch of the Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DRU). That office will process the incoming documents and the user fee, and 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 days

.02 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 discuss the procedural issues in the letter ruling request with the taxpayer or, if the request includes a properly executed power of attorney, with the authorized representative unless the power of attorney provides otherwise. 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—

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

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

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

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

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 days—

(1) 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

(2) 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 involving a request for change in accounting method or accounting period and cases within the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) concerning insurance issues requiring actuarial computations.

Determines if transaction can be modified to obtain favorable letter ruling

.03 If less than a fully favorable letter ruling is indicated, 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.

Is 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).

Additional information

.05

Must be submitted within 21 calendar days

(1) Additional information must be submitted within 21 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 tell the taxpayer during the initial contact, or subsequent contacts, that the request will be closed if the Associate office does not receive the information within 21 calendar days from the date of the request for additional information, unless an extension of time is granted. To facilitate prompt action on letter ruling requests, taxpayers are encouraged to request that the Associate office request additional information by fax. *See* section 7.02(5) of this revenue procedure.

Material facts furnished to the Associate office by telephone or fax, or orally at a conference, must be promptly confirmed by letter 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.

The Service will not endeavor to process a ruling request on the expedited basis for requests regarding reorganizations under section 368 and distributions under section 355 provided by section 7.02(4) of this revenue procedure, unless the branch representative in Associate Chief Counsel (Corporate) receives all requested additional information within 10 calendar days from the date of the request for such additional information, unless an extension of time is granted. If the information is not provided within 10 calendar days (with any extension) but is provided within 21 calendar days (with any extension), the letter ruling request will cease to be processed on an expedited basis and instead will be processed in the usual manner.

Extension of reply period if justified and approved

(2) Extension of reply period. An extension of the 21-day period for providing additional information will be granted only if justified in writing by the taxpayer and approved by the branch reviewer. A request for 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 coming soon. 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 contact, 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(15)(b) of this revenue procedure.

Faxing request and additional information

(5) Faxing request and additional information. To facilitate prompt action on letter ruling requests, taxpayers are encouraged to request that the Associate office request additional information by fax. *See* section 7.02(5) of this revenue procedure. Taxpayers also are encouraged to submit additional information by fax as soon as the information is available. The Associate office representative who requests additional information can provide a telephone number to which the information can be faxed. The original of the faxed material and a signed perjury statement must be mailed or delivered to the Associate office.

Address to send additional information

(6) Address to send additional information.

(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
Ben Franklin Station
Washington, DC 20044**

For cases involving a request for change in accounting method or period under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting), or a § 301.9100 request for an extension of time on a request for change in accounting method or period, 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 14095
Ben Franklin Station
Washington, DC 20044**

(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**

Identifying information included in additional information

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

Number of copies of additional information to be submitted

(8) Number of copies. Generally, a taxpayer needs only to submit one copy of the additional information, although in appropriate cases, the Associate office may request additional copies of the information.

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

.06 Generally, after the conference of right as discussed in section 10 of this revenue procedure is held but before the letter ruling is issued, the branch representative will orally inform the taxpayer or the taxpayer's representative of the Associate office's conclusions. If the Associate office is going to rule adversely, the taxpayer will be offered the opportunity to withdraw the letter ruling request. Unless an extension is granted, if the taxpayer or the taxpayer's representative does not notify the branch representative of a decision to withdraw the ruling request within 10 days of the notification, the adverse letter ruling will be issued. The user fee will

not be refunded for a letter ruling request that is withdrawn. *See* section 15.10(1)(a) of this revenue procedure.

May request draft of 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 on the basis of discussions of the issues. The taxpayer is not required to prepare a draft letter ruling to receive a letter ruling.

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 the facts, analysis, and letter ruling language to be included.

Taxpayer may also submit draft on a computer disk

In addition to a typed draft, taxpayers are encouraged to submit this draft on a computer disk in Microsoft Word to the Associate office. The typed draft will become part of the permanent files of the Associate office, and the computer disk will not be returned. The proposed letter ruling (both typed draft and computer disk) 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 8.05(4) of this revenue procedure.

Issues separate letter rulings for substantially identical letter rulings and generally issues a single letter ruling for related § 301.9100 letter

.08

(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 generally will be issued for each entity with a common member or sponsor, or for each member of a common entity.

(2) Related § 301.9100 letter rulings. For a § 301.9100 letter ruling request for an extension of time to file Form 3115 requesting an identical accounting method change for multiple separate and distinct trades or businesses (including a qualified subchapter S subsidiary or a single-member limited liability company of a taxpayer, multiple members of a consolidated group, or multiple eligible CFCs qualifying under section 15.07(4) for the user fee provided in paragraph (A)(5)(d) of Appendix A of this revenue procedure, the Associate office generally will issue a single letter on behalf of all separate and distinct trades or businesses of the taxpayer, all members of the consolidated group, or all eligible CFCs that are the subject of the request.

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 ACCOUNTING METHOD FROM THE ASSOCIATE OFFICES?

This section provides the specific and additional procedures applicable to a request for a change in accounting method.

A request for a change in accounting method is a specialized type of request for a letter ruling. *See* section 2.01 of this revenue procedure.

Automatic and advance consent change in accounting method requests

.01

Automatic change in accounting method

(1) Procedures for requesting an automatic change in accounting method. Certain changes in accounting methods may be made under automatic change request procedures. A change in accounting method provided in an automatic change request procedure must be made using that automatic change request procedure if the taxpayer requesting the change is within the scope of the automatic change request procedure and the change is an automatic change for the requested year of the change. The Commissioner's consent to an otherwise qualifying

automatic change in accounting method 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.

See section 9.22 of this revenue procedure for a list of automatic change request procedures. *See also* section 9.23 of this revenue procedure for a list of sections, in addition to this section 9, and Appendices of this revenue procedure that apply to a request for an accounting method change. No user fee is required for a change made under an automatic change request procedure.

Advance consent change in accounting method

(2) Advance consent letter ruling requests. If a change in accounting method may not be made under an automatic change request procedure, the taxpayer may request an advance consent letter ruling by filing a current Form 3115, *Application for Change in Accounting Method*, under Rev. Proc. 97-27, 1997-1 C.B. 680, as modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, and amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432 (or successors); and this revenue procedure (*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 request for an accounting method change). A Form 3115 filed under Rev. Proc. 97-27 and this revenue procedure is hereinafter referred to as an “advance consent Form 3115.” A taxpayer filing an advance consent 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.

Ordinarily only one change in accounting method on a Form 3115 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 accounting method on a Form 3115. If the taxpayer wants to request a change in accounting method 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 example, *see* section 5.05 in the Appendix of Rev. Proc. 2002-9, 2002-1 C.B. 327, or its successor).

Further, 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 S subsidiary (QSUB) or a single-member limited liability company (single member LLC), requesting a change in accounting method, except as specifically permitted or required in guidance published by the Service. *See*, for example, 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 accounting method must file a Form 3115, unless the procedures applicable to the specific type of change in accounting method do not require a Form 3115 to be submitted.

To be eligible for approval of the requested accounting method change, the taxpayer must provide all information requested on the Form 3115 and in its instructions and in either Rev. Proc. 97-27, 1997-1 C.B. 680, as modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, and amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432 (or successors), or the applicable 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, the taxpayer’s present and proposed method for the item 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 § 481(a) adjustment and an explanation of the methodology used to determine the adjustment.

For an advance consent Form 3115, the taxpayer must also include a full explanation of the legal basis and relevant authorities supporting the proposed method, a detailed and com-

plete description of the facts and explanation of how the law applies to the taxpayer's situation, whether the law in connection with the request is uncertain or inadequately addresses the issue, statement of the applicant's reasons for the proposed change, and copies of all documents related to the proposed change.

The applicant must provide the requested information to be eligible for approval of the requested accounting method change. The taxpayer may be required to provide information specific to the requested accounting method change, such as an attached statement. The taxpayer must provide all information relevant to the requested accounting method change, even if not specifically requested by the Form 3115.

See also sections 7.01(1) and 7.01(8) of this revenue procedure.

Statement of authorities contrary to taxpayer's views

(2) Statement of contrary authorities. For an advance consent 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 accounting method, such as legislation, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements.

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

Documents

(3) Copies of all contracts, agreements, and other documents. True copies of all contracts, agreements, and other documents pertinent to the requested change in accounting method must be submitted with an advance consent 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 (rather than merely incorporating the document by reference). The analysis of the facts must include their bearing on the requested change in accounting method, specifying the provisions that apply.

Same issue in an earlier return

(5) Information regarding whether same issue is in an earlier return. A Form 3115 must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, any 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 accounting method being changed is under examination, before Appeals, or before a federal court. *See* Rev. Proc. 97-27 and Rev. Proc. 2002-9, both as modified and amplified by Rev. Proc. 2002-19.

Issue previously submitted or currently pending

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

(a) Other requests for a change in accounting method 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 (or a related taxpayer within the meaning of § 267 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 accounting method.

If the statement is affirmative, for each separate and distinct trade or business, 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, 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 (or a related taxpayer within the meaning of § 267 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 (including any concurrently filed request) any request for a private letter ruling, a change in accounting method, or a technical advice.

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

Statement identifying pending legislation

(7) Statement identifying pending legislation. At the time the taxpayer files an advance consent Form 3115, the taxpayer must identify any pending legislation that may affect the proposed change in accounting method. In addition, if legislation is introduced after the request is filed but before a change in accounting method letter ruling is issued, the taxpayer must so notify the Associate office.

Authorized representatives

(8) Authorized representatives. To appear before the Service in connection with a request for a change in accounting method, 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(13) 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(14) of this revenue procedure. It is preferred that Form 2848, *Power of Attorney and Declaration of Representative*, be used to provide the representative's authority.

Penalties of perjury statement

(10) 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 by, or on behalf of, the taxpayer requesting the change by an individual with 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 8.08 of Rev. Proc. 97-27 and section 6.02(5) of Rev. Proc. 2002-9. A stamped signature or faxed signature is not permitted.

(c) Signature by preparer. 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 accounting method correspondence. The Service will send the signed original of the change in accounting method letter ruling and other related correspondence to the taxpayer, and copies to the taxpayer's representative, if 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 advance consent Forms 3115 in order of the date received. A taxpayer who has a compelling need to have an advance consent Form 3115 processed on an expedited basis, may request expedited handling. *See* section 7.02(4) of this revenue procedure for procedures.

Facsimile transmission (fax) of any document to the taxpayer or taxpayer's authorized representative

(3) To receive the change in accounting method letter ruling or any other correspondence related to Form 3115 by facsimile transmission (fax). If the taxpayer wants a copy of the change in accounting method letter ruling or any other correspondence related to a Form 3115, such as a request for additional information, faxed to the taxpayer or the taxpayer's authorized representative, the taxpayer must submit a written request to fax the letter ruling or related correspondence, preferably as part of the Form 3115. The request may be submitted at a later date, but must be received prior to the mailing of correspondence other than the letter ruling and prior to the signing of the change in accounting method letter ruling.

The request to have correspondence relating to the Form 3115 faxed to the taxpayer must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the correspondence is to be faxed.

A document other than the change in accounting method letter ruling will be faxed by a branch representative. The change in accounting method 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:DLS).

For purposes of § 301.6110-2(h), a change in accounting method letter ruling is not issued until the change in accounting method 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 of right, or request a conference in a later written communication, if an adverse response is contemplated by the Associate office. *See* section 8.10 of Rev. Proc. 97-27, section 10.03 of Rev. Proc. 2002-9, and sections 10.01, 10.02 of this revenue procedure.

Associate office address for Forms 3115

.05 Associate office address to send Forms 3115. Submit the original Form 3115, in the case of an advance consent Form 3115, or the national office copy of the Form 3115, in the case of an automatic change request, as follows:

(a) Associate office mailing address if private delivery service is not used. If a private delivery service is not used, a taxpayer, other than an exempt organization, must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service
Attn: [insert either “CC:PA:LPD:DRU”
for an advance consent Form 3115 or
“CC:ITA — Automatic Ruling Branch” for an
automatic change request]
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044

An exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change Form 3115) to:

Internal Revenue Service
Tax Exempt & Government Entities
Attn: TEGE:EO
P.O. Box 27720
McPherson Station
Washington, DC 20038

See Rev. Proc. 2006–8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

(b) Mailing address if private delivery service is used. If a private delivery service is used, a taxpayer, other than an exempt organization, must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service
Attn: [insert either “CC:PA:LPD:DRU for an
advance consent Form 3115 or
“CC:ITA—Automatic Rulings Branch” for an
automatic change request]
Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

If a private delivery service is used, an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request) to:

Internal Revenue Service
Tax Exempt & Government Entities
Attn: TEGE:EO
1750 Pennsylvania Ave., NW
Washington, DC 20038

See Rev. Proc. 2006–8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

(c) Address if hand-delivered to the IRS Courier’s desk. For taxpayers other than an exempt organization, the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request), may be hand delivered between the hours of

8:00 a.m. and 4:00 p.m. to the courier's desk at the loading dock (located behind the 12th Street security station) of 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:DRU, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224**

A Form 3115 must not be submitted by fax

.06 A completed Form 3115 must not be submitted by fax.

Controls Form 3115 and refers it to the appropriate Associate office

.07 An advance consent Form 3115 is received and controlled by the Docket, Records, and User Fee Branch, Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DRU) 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

Incomplete Form 3115

(1) Incomplete Form 3115.

(a) Advance consent Form 3115 – 21 day rule. In general, for an advance consent Form 3115, additional information requested by the Associate office and additional information furnished to the Associate office by telephone or fax must be furnished in writing 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 in accounting method request, additional information requested by the Associate office, and additional information furnished to the Associate office by telephone or fax, must be furnished in writing 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) Advance consent Form 3115. For an advance consent Form 3115, an additional period, not to exceed 15 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 coming soon. 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 in accounting method request, an additional period, not to exceed 30 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, 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.

Penalties of perjury statement for additional information

(3) Penalties of perjury statement. 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(10)(b) of this revenue procedure.

Identifying information included in additional information

(4) Identifying information. The additional information should also include the name, office symbols, and room number of the Associate office representative who requested the information, and the taxpayer’s name and the case control number, which the Associate office representative can provide.

Faxing information request and additional information

(5) Faxing information request and additional information. To facilitate prompt action on a change in accounting method ruling request, taxpayers are encouraged to request that the Associate office request additional information by fax. *See* section 9.04(3) of this revenue procedure.

Taxpayers also are encouraged to submit additional information by fax as soon as the information is available. The Associate office representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of the requested information and an original signed penalties of perjury statement also must be mailed or delivered to the Associate office.

Address to send additional information

(6) Address to send additional information.

(a) Address if private delivery service not used. For a request for change in accounting method under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting), 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 14095
Ben Franklin Station
Washington, DC 20044**

For a request for change in accounting method for an exempt organization, if a private delivery service is not used, the additional information should be sent to:

**Internal Revenue Service
Tax Exempt & Government Entities
P.O. Box 27720
McPherson Station
Washington, DC 20038**

For any other request for change in accounting method, 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
Ben Franklin Station
Washington, DC 20044**

(b) Address if private delivery service is used.

For a request for a change in accounting method for other than an exempt organization, 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**

For a request for change in accounting method for an exempt organization, if a private delivery service is used the additional information should be sent to:

**Internal Revenue Service
Tax Exempt & Government Entities
1750 Pennsylvania Ave., NW
Washington, DC 20038**

**Failure to timely submit
additional information**

(7) If taxpayer does not timely submit additional information.

(a) Advance consent Form 3115. In the case of an advance consent 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 in accounting method request, if the required information is not furnished to the Associate office within the reply period, the request does not qualify for the automatic consent procedure. In such a case, the Associate office will notify the taxpayer that consent to make the change in accounting method 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 accounting method procedure.

**Circumstances in which the
taxpayer must notify the Associate
office**

.09

For an advance consent Form 3115, the taxpayer must promptly notify the Associate office if, after the Form 3115 is filed but before a change in accounting method letter ruling is issued, the taxpayer knows that —

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

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

(3) legislation that may affect the change in accounting method 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 (or a related party within the meaning of § 267 or a member of an affiliated group of which the taxpayer is a member within the meaning of §1504).

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

.10 If a less than fully favorable change in accounting method letter ruling is indicated, the branch representative will tell the taxpayer whether minor changes in the proposed accounting method would bring about a favorable ruling. The branch representative will not suggest precise changes that materially alter a taxpayer's proposed 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 the conference of right is held (or offered, in the event no conference is held) and before issuing any change in accounting method letter ruling that is adverse to the requested change in accounting method, the taxpayer will be offered the opportunity to withdraw the Form 3115. *See* section 9.12 of this revenue procedure. Unless an extension is granted, if the taxpayer or the taxpayer's representative does not notify the branch representative of a decision to withdraw the Form 3115 within 10 days of the notification, the adverse change in accounting method letter ruling will be issued. Ordinarily, the user fee (in the case of an advance consent Form 3115) will not be refunded for a Form 3115 that is withdrawn.

Advance consent Form 3115 may be withdrawn or Associate office may decline to issue a change in accounting method letter ruling

.12

(1) In general. A taxpayer may withdraw an advance consent Form 3115 at any time before the change in accounting method 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.

(2) Notification of appropriate Service official. If a taxpayer withdraws or the Associate office declines to grant (for any reason) a request to change from or to an improper accounting method, the Associate office will notify, by memorandum, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return and the Change in Method of Accounting Technical Advisor, 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 memorandum 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 accounting method, the memorandum may constitute Chief Counsel Advice, as defined in § 6110(i)(1), subject to disclosure under § 6110.

(3) Refund of user fee. Ordinarily, the user fee will not be returned for an advance consent Form 3115 that is withdrawn. *See* section 15.10 of this revenue procedure for information regarding refunds of user fees.

How to check status of a pending Form 3115

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

Is not bound by informal opinion expressed

.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 accounting method

.15 For an advance consent 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 accounting method changes, the Associate office generally will issue a single letter ruling on behalf of all affected separate and distinct trades or businesses of a taxpayer, all affected members of the consolidated group, or all eligible and affected CFCs.

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 accounting method involving only one of the items or submethods.

Consent Agreement

.17 Ordinarily, for an advance consent Form 3115, the Commissioner's permission to change a taxpayer's accounting method is set forth in a letter ruling (original and a Consent Agreement copy). If the taxpayer agrees to the terms and conditions contained in the change in accounting method 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 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 § 1.481-4(b) of the regulations. The signed Consent Agreement copy of the letter ruling must be returned to the Associate office within 45 days. In addition, a photocopy of the signed Consent Agreement copy of the letter ruling must be attached to the taxpayer's income tax return for the year of change. *See* section 8.11 of Rev. Proc. 97-27. If the taxpayer has filed its income tax return for the year of change before the ruling has been received and the Consent Agreement has been signed and returned, the photocopy of the signed Consent Agreement copy of the letter ruling should be attached to the amended return for the year of change that the taxpayer files to implement the change in accounting method.

A taxpayer may not take an advance consent change in accounting method into account in any federal income tax return until the taxpayer receives the letter ruling from the Associate office granting permission to make the accounting method change and the taxpayer signs and returns the Consent Agreement copy of that letter ruling. Reg. section 1.446-1(e)(2)(i).

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

.18 The Associate office will send a copy of each change in accounting method 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.

Consent to change an accounting method may be relied on subject to limitations

.19 A taxpayer may rely on a change in accounting method letter ruling received from the Associate office, subject to certain conditions and limitations. *See* sections 9, 10, and 11 of Rev. Proc. 97-27, as modified and amplified by Rev. Proc. 2002-19.

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 accounting method, subject to certain conditions and limitations. *See*, in general, sections 6.01, 7 and 8 of Rev. Proc. 2002-9, as modified and amplified by Rev. Proc. 2002-19. 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 10 of Rev. Proc. 2002-9. Further, the field office that has jurisdiction over the taxpayer's return may review the Form 3115. *See* section 9 of Rev. Proc. 2002-9.

Change in accounting method letter ruling will not apply to another taxpayer

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

Associate office discretion to permit requested change in accounting method

.21 The Associate office reserves the right to decline to process any advance consent Form 3115 in situations in which it would not be in the best interest of sound tax administration to permit the requested change. 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 8.01 of Rev. Proc. 97-27.

List of automatic change in accounting method request procedures

.22 For procedures regarding requests for an automatic change in accounting method, refer to the following published automatic change request procedures. The Commissioner's consent to an otherwise qualifying automatic change in accounting method 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 accounting method include:

(1) Rev. Proc. 2002-9, 2002-1 C.B. 327, as modified and clarified by Announcement 2002-17, 2002-1 C.B. 561, as modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, as amplified, clarified and modified by Rev. Proc. 2002-54, 2002-2 C.B. 432, and as modified by Rev. Proc. 2003-45, 2003-2 C.B. 11, which, for most (but not all) types of changes provided therein, requires a completed Form 3115. Rev. Proc. 2002-9 applies to the accounting method changes described in the Appendix of Rev. Proc. 2002-9 involving §§ 56, 61, 77, 162, 166, 167, 168, 171, 174, 197, 263, 263A, 267, 404, 446, 448, 451, 454, 455, 458, 460, 461, 471, 472, 475, 585, 832, 846, 861, 985, 1272, 1273, 1278, 1281, 1286, and former § 168.

(2) The following automatic change request procedures modify and amplify Rev. Proc. 2002-9 in that they add the following changes to the list of accounting method changes listed in the Appendix of Rev. Proc. 2002-9 or require certain automatic changes to be made using the provisions of Rev. Proc. 2002-9:

Rev. Rul. 2004-62, 2004-1 C.B. 1072 (section 162 — post-establishment fertilization of established timber stands);

Rev. Proc. 2002-27, 2002-1 C.B. 802 (section 168 — depreciation of original and replacement tires of certain vehicles);

Rev. Rul. 2003-54, 2003-1 C.B. 982 (section 168 — depreciation of gas pump canopies);

Rev. Rul. 2003-81, 2003-2 C.B. 126 (section 168 — depreciation of utility assets);

Rev. Proc. 2003-63, 2003-2 C.B. 304 (section 168 — depreciation of cable TV fiber optics);

Regs. § 1.168(i)-1(1)(2)(ii) (change in general asset account treatment due to a change in the use of MACRS property);

Regs. § 1.168(i)-4(g)(2) (change in method of accounting for depreciation due to a change in the use of MACRS property);

Regs. § 1.168(i)-6T(k)(2) (for a like-kind exchange or involuntary conversion of MACRS property for which the time of disposition, the time of replacement, or both, occurred on or before February 27, 2004, change in method of accounting for relinquished MACRS property and replacement MACRS property);

Rev. Proc. 2005-43, 2005-29 I.R.B.107 (sections 168 and 1400L(c) — election to not treat qualified New York Liberty Zone leasehold improvement property as 5-year property for purposes of § 168);

Rev. Proc. 2004-11, 2004-1 C.B. 311, (or its successor) (sections 56(a)(1), 56(g)(4)(A), 167, 168, 197, 1400I, and 1400L — revised sections 2.01 and 2.02 and 2B of the Appendix and added section 2.05 to the Appendix of Rev. Proc. 2002-9);

Rev. Proc. 2005-9, 2005-2 I.R.B. 303, as modified by Rev. Proc. 2005-17, 2005-13 I.R.B. 797 (section 263 — amounts paid or incurred to acquire or create intangibles or to facilitate an acquisition of a trade or business, change in the capital structure of a business entity, and certain other transactions, for a taxpayer's second taxable year ending on or after December 31, 2003);

Rev. Rul. 2002–9, 2002–1 C.B. 614 (section 263A — impact fees incurred in connection with construction of a new residential rental building);

Rev. Rul. 2004–18, 2004–1 C.B. 509 (section 263A — environmental remediation costs);

Rev. Rul. 2005–42, 2005–28 I.R.B. 67 (section 263A — allocation of environmental remediation costs to production);

Regs. § 1.263A–1T(k)(1) (section 263A — change in method of accounting for mixed service costs to comply with the temporary regulations);

Regs. § 1.263A–2T(e)(1) (section 263A — change in method of accounting for additional section 263A costs to comply with the temporary regulations);

Rev. Proc. 2004–11, 2004–1 C.B. 311, (or its successor) (sections 56(a)(1), 56(g)(4)(A), 167, 168, 197, 1400I, and 1400L, and former section 168 — replaced sections 2.01 and 2.02 and 2B of the Appendix of Rev. Proc. 2002–9 and added section 2.05 to the Appendix of Rev. Proc. 2002–9);

Regs. § 1.280F–6(f)(2)(iv) (for certain qualified nonpersonal use vehicles placed in service before July 7, 2003, exclusion from limits on depreciation applicable to passenger automobiles);

Rev. Rul. 2002–46, 2002–2 C.B. 117, as modified by Rev. Rul. 2002–73, 2002–2 C.B. 805 (section 404 — grace period contributions);

Rev. Proc. 2002–28, 2002–1 C.B. 815 (section 446 — certain small businesses who seek to change to the cash method and/or to a method of accounting for inventoriable items as materials and supplies that are not incidental);

Rev. Proc. 2004–30, 2004–1 C.B. 950 (section 446 — inducement fees received in connection with becoming holders of noneconomic residual interests in Real Estate Mortgage Investment Conduits);

Rev. Proc. 2004–32, 2004–1 C.B. 988 (section 446 — credit card annual fees);

Rev. Proc. 2004–36, 2004–1 C.B. 1063 (section 446 — safe harbor method of accounting for film producers' treatment of certain creative property costs);

Rev. Proc. 2002–36, 2002–1 C.B. 993 (section 451 — certain taxpayers who purchase vehicles subject to leases who seek to change to the capital cost reduction (CCR) method);

Rev. Rul. 2003–3, 2003–1 C.B. 252 (section 451 — accrual method taxpayer with state or local income or franchise tax refund);

Rev. Proc. 2004–34, 2004–1 C.B. 991 (section 451 — certain advance payments);

Rev. Proc. 2005–35, 2005–28 I.R.B. 76 (section 451 — up-front network upgrade payments made to utilities);

Rev. Proc. 2002–17, 2002–1 C.B. 676 (section 472 — certain automobile dealers seeking to change to the replacement cost method for vehicle parts inventory);

Rev. Proc. 2003–20, 2003–1 C.B. 445 (section 471 — valuation of remanufactured motor vehicle core parts);

Rev. Proc. 2002–46, 2002–2 C.B. 105 (section 832 — certain insurance companies seeking to change to safe harbor method for premium acquisition expenses);

Rev. Proc. 2004–41, 2004–2 C.B. 90 (section 832 — insurance companies' incentive payments to health care providers);

Rev. Proc. 2002–74, 2002–2 C.B. 980 (section 846 — insurance companies other than life insurance companies computing discounted unpaid losses);

Rev. Proc. 2004–33, 2004–1 C.B. 989 (section 1272 — credit card late fees);

Rev. Proc. 2005–47, 2005–32 I.R.B. 269 (section 1273 — credit card cash advance fees); and

Rev. Proc. 2005–43, 2005–29 I.R.B. 107 (section 1400L(c) — retroactive election to use the 5-year recovery period (or 9-year recovery period, if applicable) for qualified New York Liberty Zone leasehold improvement property placed in service after September 10, 2001, during the 2000, 2001, 2002, 2003, or 2004 taxable year).

(3) The following automatic change request procedures, which require a completed Form 3115, provide both the type of accounting method change that may be made automatically and the procedures under which such change must be made:

Regs. § 1.166–2(d)(3) (bank conformity for bad debts);

Regs. § 1.448–1 (to an overall accrual method for the taxpayer’s first taxable year it is subject to Code section 448);

Regs. § 1.448–2T and Notice 88–51 (nonaccrual experience method);

Regs. § 1.458–1 and –2 (exclusion for certain returned magazines, paperbacks, or records);

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

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

(4) The following automatic change request procedures, which do not require a completed Form 3115, provide the type of accounting method change 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 (section 446 — change to comply with Statement of Financial Accounting Standards No. 116);

Rev. Proc. 92–29, 1992–1 C.B. 748 (section 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. 710 (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);

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

Code § 585(c) and Regs. §§ 1.585–6 and 1.585–7 (large bank changing from the reserve method of section 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).

(5) See Appendix E for the list of revenue procedures for automatic changes in accounting period.

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

.23 In addition to this section 9, the following sections of this revenue procedure are applicable to Forms 3115:

1 (purpose of Rev. Proc. 2006–1);

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 (Financial Institutions and Products));

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

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

3.05 (issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries));

3.07 (issues under the jurisdiction of the Associate Chief Counsel (Tax Exempt and Governmental Entities));

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

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

6.06 (letter rulings generally 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 situation);

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

7.01(8) (statement of supporting authorities);

7.01(13) (authorized representatives);

7.01(14) (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);

7.04(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);

7.05 (attach letter ruling to the return, amended return or claim for refund);

10 (scheduling conferences);

15 (user fees);

16 (significant changes to Rev. Proc. 2005–1);

17 (effect of Rev. Proc. 2006–1 on other documents);

18 (effective date of this revenue procedure);

Appendix A (schedule of user fees); and

Appendix E (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) (section 9.08(2)(a) for a change in accounting method 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, only the party entitled to the letter ruling is 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, 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 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 accounting method request. *See* section 9.08 of this revenue procedure for instructions on submitting additional information for a change in accounting method 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 official 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. This memorandum may constitute Chief Counsel Advice, as defined in § 6110(i), 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. It is preferred that Form 2848, *Power of Attorney and Declaration of Representative*, be used 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 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 prior to scheduling the pre-submission conference.

The request should identify the taxpayer and include a brief explanation of the primary issue so that an assignment to the appropriate branch can be made. 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 7.03 of this revenue procedure.

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

(a) (202) 622-7700 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Corporate);

(b) (202) 622-3900 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Financial Institutions and Products);

(c) (202) 622-4800 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Income Tax and Accounting);

(d) (202) 622-3800 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (International);

(e) (202) 622-3000 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Passthroughs and Special Industries);

(f) (202) 622-3400 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Procedure and Administration); or

(g) (202) 622-6000 (not a toll-free call) for matters under the jurisdiction of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities).

(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, at least three business days before the scheduled pre-submission conference, a statement of whether the issue is an issue on which a letter ruling is ordinarily issued, a draft of the letter ruling request or other detailed written statement of the proposed transaction, issue, and legal analysis. 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).

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).

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 reflected 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 expedited advice (TEAM) and the provisions of Rev. Proc. 2006-2, this Bulletin, relating to requests for technical expedited advice will be followed, except that no consensus among field office, taxpayer and Associate office will be required to make the request subject to TEAM procedures. Otherwise, the letter ruling is to be applied by the field office in the determination of the taxpayer's liability. Appropriate coordination with the Associate office must be undertaken if any 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.

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 limitations 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 or until it is specifically withdrawn.

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.

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; or

(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) if the transaction involves a continuing action or series of actions, 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. The shareholders' reliance on the letter ruling may, depending on all facts and circumstances, 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 and, 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 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.

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. And, 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.

If a letter ruling on a transaction is later found to be in error or no longer in accord with the position of the Service, it will not protect a similar transaction of the taxpayer in the same year or later year.

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 or Division Counsel/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, 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 Employment Tax 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. (Section 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 retroactivity 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 Associate Chief Counsel limit the retroactive effect of any revocation or modification of the letter ruling.

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. These requirements are given 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 and 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 16.03 of Rev. Proc. 2006-2, 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, or regulations, 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.

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. 2002-52, 2002-2 C.B. 242.

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, even though not yet made, of involuntarily converted property under § 1033, if the taxpayer has filed an income tax return for the year in which the property was involuntarily converted.

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. *See also* section 5.10 of this revenue procedure.

Requests concerning income, estate, or gift tax returns

.05 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.

Attach a copy of determination letter to taxpayer's return

.06 A taxpayer who, before filing a return, receives a determination letter about any transaction that has been consummated and that is relevant to the return being filed should attach a copy of the determination letter to the return when it is filed.

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. 2006-2, this Bulletin.

Addresses to send determination letter requests

.08 (a) For taxpayers under the jurisdiction of LMSB, send a request for a determination letter to the following address:

Internal Revenue Service
Attn: Manager, Office of Pre-Filing and Technical Services
Large and Mid-Size Business Division
SE:LM:PFT:PFTS
Mint Building, 3rd Floor
1111 Constitution Ave., NW
Washington, DC 20224

(b) SB/SE and W&I taxpayers should send requests for determination letters to the appropriate SB/SE office listed in Appendix D.

(c) For a determination letter under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2006-4, this Bulletin.

(d) For fees required with determination letter requests, *see* section 15 and Appendix A of this revenue procedure.

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).

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. 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 16.03 of Rev. Proc. 2006-2, 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 16.03 of Rev. Proc. 2006-2, 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 and 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 16.04 of Rev. Proc. 2006-2, this Bulletin.

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

Requests for determination letters

.01 Requests for determination letters received by a Director with respect to which it may not issue a determination letter, under the provisions of this revenue procedure, will be forwarded to an Associate office for reply. The field office will notify the taxpayer that the matter has been referred.

Directors will also refer to an Associate office any request for a determination letter that in their judgment should have the attention of the Associate office.

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 Requests for a letter ruling received by an Associate office that, under section 6 of this revenue procedure, may not be acted upon by the Associate office will be forwarded 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 A request for a letter ruling mistakenly sent to a Director will be returned by the Director 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 of the Internal Revenue Code 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 similar requests. The fees apply to requests made through September 30, 2014. 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 and 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 must not be less than the amount specified in § 7528.

Requests to which a user fee applies

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

(1) letter rulings (including advance consent Forms 3115), determination letters, information 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. 2005-12, 2005-2 I.R.B. 311;

(3) renewal of advance pricing agreements; and

(4) reconsideration of letter rulings or determination letters.

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 initial classification elections made pursuant to Rev. Proc. 2002-59 (*see* section 5.03(5) of this revenue procedure);

(3) late S corporation and related elections made pursuant to Rev. Proc. 2004-49, Rev. Proc. 2004-48, Rev. Proc. 2003-43 or Rev. Proc. 97-48 (*see* section 5.02 of this revenue procedure); or

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

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 4.12 of Rev. Proc. 2004-40, 2004-2 C.B. 50; or 5.14 of Rev. Proc. 96-53, 1996-2 C.B. at 379; or

(2) requests for letter rulings, determination letters, etc., under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2006-8, 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 of the offices within the Service (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) and another issue is under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. *See* Rev. Proc. 2006-8, this Bulletin for the user fees applicable to issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

(2) Requests involving several fee categories. If a request dealing with only one transaction involves more than one fee category, only one fee applies, namely 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 accounting method 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, namely 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.

(4) Requests involving several unrelated transactions. If a request involves several unrelated transactions, a request for a change in accounting method 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.

Applicable user fee for requests for substantially identical letter rulings or identical accounting method changes

.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 advance consent Forms 3115, type or print at the top of the letter ruling request: “REQUEST FOR USER FEE UNDER SECTION 15.07 OF REV. PROC. 2006-1”;

(b) List on the first page of the submission all taxpayers and entities, and separate and distinct trades or businesses, including qualified subchapter S subsidiaries (QSUBs) or single member limited liability companies (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) Submit one check 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. The user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure applies to a taxpayer that requests substantially identical letter rulings (including accounting period, accounting method, and earnings and profits requests other than those submitted on Forms 1128, 2553, 3115, and 5452) for either multiple entities with a common member or sponsor, or multiple members of a common entity. To qualify for this user fee, all information and underlying documents must be substantially identical and all letter ruling requests must be submitted at the same time. In addition, the letter ruling requests must—

(a) State that the letter ruling requests, and all information and underlying documents, are substantially identical; and

(b) Specifically identify the extent to which the letter ruling requests, information, and underlying documents are not identical.

(3) Substantially identical plans under section 25(c)(2)(B). The user fee provided in paragraph (A)(5)(b) of Appendix A of this revenue procedure shall apply to a taxpayer that submits substantially identical plans for administering the 95-percent requirement of section 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 plans and the subsequent plan.

(4) Identical accounting method changes and related § 301.9100 letter rulings. The following situations are eligible for the user fees provided in paragraphs (A)(5)(b) and (d) of Appendix A of this revenue procedure:

(i) A taxpayer requests an identical accounting method change on a single Form 3115, or an extension of time to file Form 3115 under § 301.9100-3 for the identical accounting method change, for two or more separate and distinct trades or businesses (for purposes of § 1.446-1(d)) of that taxpayer, including QSUBs and single member LLCs;

(ii) A common parent requests the identical accounting method change on a single Form 3115, or an extension of time to file Form 3115 under § 301.9100-3 for the identical accounting method change, on behalf of two or more members of the consolidated group;

(iii) A common parent requests the identical accounting method change on a single Form 3115, or an extension of time to file Form 3115 under § 301.9100-3 for the identical accounting method change, on behalf of two or more controlled foreign corporations (CFCs) that do not engage in a trade or business within the United States where all controlling U.S. shareholders of the CFCs are members of the consolidated group; or

(iv) A taxpayer requests an identical accounting method change on a single Form 3115, or an extension of time to file Form 3115 under § 301.9100-3 for the identical accounting method change, on behalf of two or more CFCs that do not engage in a trade or business within the United States for which the taxpayer is the sole controlling U.S. shareholder of the CFCs.

To qualify as an identical accounting method change the multiple separate and distinct trades or businesses of a taxpayer, including QSUBs and single member LLCs, the multiple members of a consolidated group, or the multiple eligible CFCs must request to change from an identical present method of accounting to an identical proposed method of accounting. All aspects of the requested accounting method change, including the present and proposed methods, the underlying facts and the authority for the request, must be identical, except for the § 481(a) adjustments for the year of change. If the Associate office determines that the requested accounting method changes are not identical, additional user fees will be required before any letter ruling is issued.

The taxpayer or common parent must, for each separate and distinct trade or business (including a QSUB or single-member LLC) member of a consolidated group, or eligible CFC for which the accounting method change is being requested, attach to the Form 3115 a schedule providing the name, employer identification number (where applicable), and § 481(a) adjustment for the year of change. If the request is on behalf of eligible CFCs, the taxpayer or common parent must attach a statement that “[a]ll controlling U.S. shareholders (as defined in § 1.964-1(c)(5)) of all the CFCs to which the request relates are members of the common parent’s consolidated group” or 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,” as applicable.

In the case of a § 301.9100 request for an extension of time to file a Form 3115 requesting an identical accounting method change for multiple separate and distinct trades or businesses of a taxpayer (including QSUBs or single-member LLCs) multiple members of the consolidated group or multiple eligible CFCs, the taxpayer 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 for a letter ruling, determination letter, information letter, advance pricing agreement, closing agreement described in paragraph (A)(3)(d) of Appendix A of this revenue procedure, or reconsideration of a letter ruling or determination letter must

be accompanied by a check or money order in U.S. dollars, payable to the Internal Revenue Service, in the appropriate amount. (The user fee check or money order should not be attached to the Form 2553, *Election by a Small Business Corporation*, when it is filed at the Service Center. If on the Form 2553 an electing S corporation requests a ruling to use a fiscal year under section 6.03 of Rev. Proc. 2002–39, 2002–1 C.B. 1046, the Service Center will forward the request to the Associate office. When the Associate office receives the Form 2553 from the Service Center, it will notify the taxpayer that the fee is due.) Taxpayers should not send cash.

Effect of nonpayment or payment of incorrect amount

.09 If a request is not accompanied by a properly completed check or money order or is accompanied by a check or money order for less than the correct amount, the respective office within the Service that is responsible for issuing the letter ruling, determination letter, information letter, advance pricing agreement, closing agreement, or reconsideration of a letter ruling or determination letter generally will exercise discretion in deciding whether to return immediately 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 entire 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 days of the date of the cover letter returning the request.

If a request is accompanied by a check or money order for more than the correct amount, the request will be accepted and the amount of the excess payment will be returned to the taxpayer.

Refunds of user fee

.10 In general, the user fee will not be refunded unless the Service declines to rule on all issues for which a ruling is requested.

(1) The following situations are examples of situations in which the user fee will not be refunded:

(a) The request for a letter ruling, determination letter, etc., 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 taxpayer that a higher user fee than was sent with the request is applicable and the taxpayer is unwilling to pay the higher fee.

(b) The request is procedurally deficient, although accompanied by the proper fee or an overpayment, and is not timely perfected. When there is a failure to perfect timely 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. *See* section 8.05(3) of this revenue procedure.

(c) The Associate office notifies the taxpayer that the Associate office will not issue the letter ruling and has closed the case as a result of the taxpayer's failure to submit timely the additional information requested by the Associate office. The failure to submit the additional information will be treated as a withdrawal for purposes of this revenue procedure. *See* section 8.05(3) of this revenue procedure (section 9.08(7) for a request for a change in accounting method).

(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 taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or not responsive (other than an issue on which the Associate office has declined to rule) and requests reconsideration. The Associate office, upon reconsideration, does not agree that the letter ruling is erroneous or is not responsive. The fee accompanying the request for reconsideration will not be refunded.

(g) The situation is the same as described in paragraph (f) of this section 15.10(1) except that the letter ruling covered several unrelated transactions. The Associate office, upon reconsideration, does not agree with the taxpayer that the letter ruling is erroneous or is not responsive for all of the transactions, but does agree that it is erroneous as to one transaction. The fee accompanying the request for reconsideration will not be refunded except to the extent applicable to the transaction for which the Associate office 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.

(2) The following situations are examples of situations in which the user fee will be refunded:

(a) In a situation to which section 15.10(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 Associate office declined to rule) and requests reconsideration. The Associate office agrees, upon reconsideration, 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 15.10(1)(i) of this revenue procedure does not apply, the taxpayer requests a supplemental letter ruling, determination letter, etc., to correct a mistake that the Service 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 the Service 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, determination letter, etc. The fee accompanying the request for relief will be refunded.

(d) In a situation to which section 15.10(1)(e) of this revenue procedure applies, the taxpayer requests reconsideration of the Service's decision not to rule on an issue. Once the Service agrees to rule on the issue, the fee accompanying the request for reconsideration will be refunded.

(e) The letter ruling is not issued and taking into account all the facts and circumstances, including the Service's resources devoted to the request, the responsible Associate Chief Counsel in his or her sole discretion decides a refund is appropriate.

**Request for reconsideration
of user fee**

.11 A taxpayer that 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 7.03 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 (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 and advance pricing
agreement requests**

Associate Chief Counsel (International)

**Associate Chief Counsel (Passthroughs
and Special Industries) letter ruling
requests**

Associate Chief Counsel (Passthroughs and Special Industries)

**Associate Chief Counsel (Procedure and
Administration) letter ruling requests**

Associate Chief Counsel (Procedure and Administration)

**Division Counsel/Associate Chief
Counsel (Tax Exempt and Government
Entities) letter ruling requests**

Assistant Chief Counsel ()
(Complete by using whichever of the following designations applies:
(Employee Benefits) or (Employment Tax/Exempt Organizations/Gov-
ernment Entities))

**Determination letter requests submitted
pursuant to this revenue procedure
by taxpayers under the jurisdiction of
LMSB**

Manager, Office of Pre-Filing and Technical Services

**Determination letter requests submitted
pursuant to this revenue procedure
by taxpayers under the jurisdiction of
SB/SE, W&I**

The appropriate SB/SE official listed in Appendix D

**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, Federal, State & Local Governments
Director, Tax Exempt Bonds
Director, Indian Tribal Governments

(Add name of field office handling the request)

SECTION 16. WHAT SIGNIFICANT CHANGES HAVE BEEN MADE TO REV. PROC. 2005-1?

.01 Section 7.02(4) was revised to provide for expedited handling of sections 355 and 368 requests under certain circumstances.

.02 Section 15 was revised to reflect the addition of user fees to information letters and to reflect changes in entities eligible for the reduced fees for substantially similar requests. This latter change was made to section 9 as well.

.03 Appendix A was revised to reflect the new user fees and to clarify the definition of “gross income” of state, local, and Indian tribal government entities.

.04 Appendix D was revised to reflect the reorganization of the SB/SE Division.

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

Rev. Proc. 2005-1, 2005-1 C.B. 1 and Rev. Proc. 2005-68, 2005-41 I.R.B. 694, are superseded. Section 10 of Rev. Proc. 2005-12, 2005-2 I.R.B. 311, is modified and superseded with respect to the user fee charged for pre-filing agreements.

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

This revenue procedure is effective January 3, 2006, except that any increase in the user fee in Appendix A of this revenue procedure is effective only for requests postmarked or, if not mailed, received on or after February 1, 2006.

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, 7.01, 7.02, 7.03, 7.04, 7.05, 7.07, 8.02, 8.05, 8.07, 10.01, 10.06, 10.07, 11.11, 12.06, 13.02, 15.02, 15.07, 15.08, 15.09, 15.11, paragraph (B)(1) of Appendix A, Appendix C, and Appendix E (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 business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 305,140 hours.

The estimated annual burden per respondent/recordkeeper varies from 1 to 200 hours, depending on individual circumstances, with an estimated average burden of 80.3 hours. The estimated number of respondents and/or recordkeepers is 3,800.

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 Allen Madison 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 Richard Todd at (202) 622-7700 (not a toll-free call),

(2) the Associate Chief Counsel (Financial Institutions and Products), contact Arturo Estrada at (202) 622-3900 (not a toll-free call),

(3) the Associate Chief Counsel (Income Tax and Accounting), contact Brenda Wilson at (202) 622-4800 (not a toll-free call),

(4) the Associate Chief Counsel (Passthroughs and Special Industries), contact Stephanie Bland at (202) 622-3110 (not a toll-free call),

(5) the Associate Chief Counsel (Procedure and Administration), contact George Bowden or Henry Schneiderman at (202) 622-3400 (not a toll-free call),

(6) the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), contact Sheila Eley at (202) 622-6000 (not a toll-free call), or

(7) the Associate Chief Counsel (International), contact Gerard Traficanti at (202) 622-3619 (not a toll-free call).

For further information regarding user fees, contact the Docket, Records, and User Fee Branch at (202) 622-7560 (not a toll-free call).

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APPENDIX A

SCHEDULE OF USER FEES

NOTE: Checks or money orders must be in U.S. dollars.

(A) *FEE SCHEDULE*

<i>CATEGORY</i>	<i>USER FEE FOR REQUESTS POSTMARKED BEFORE 2-1-2006</i>	<i>USER FEE FOR REQUESTS POSTMARKED ON OR AFTER 2-1-2006</i>
<p>(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. 2006-1 (this revenue procedure).</p>	\$275	\$275
<p>(2) User fee for a request for an advance pricing agreement or a renewal of an advance pricing agreement.</p>	<i>See</i> section 4.12 of Rev. Proc. 2004-40, 2004-2 C.B. 50	<i>See</i> section 4.12 of Rev. Proc. 2006-9, 2006-2 I.R.B. 278
<p>(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 Rev. Proc. 2006-1, 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 (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) is as follows:</p>		
(a) Accounting periods		
(i) Form 1128 (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$1,500	\$1,500
(ii) Requests made on Part II of Form 2553 to use a fiscal year based on a business purpose (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$1,500	\$1,500
(iii) Letter ruling requests for extensions of time to file Form 1128, Form 8716, or Part II of Form 2553 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$1,500	\$1,500
(b) Changes in Accounting Methods		
(i) Form 3115 (except as provided in paragraph (A)(4)(a) or (b), or (5)(b) of this appendix)	\$1,500	\$2,500
(ii) Letter ruling requests for extensions of time to file Form 3115 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b), or (5)(c) of this appendix)	\$1,500	\$2,500

CATEGORY

NOTE: No user fee is required if the change in accounting period or accounting method is permitted to be made pursuant to a published automatic change request procedure. See section 9.22 and Appendix E of Rev. Proc. 2006-1, this revenue procedure, for the list of automatic change request procedures published and/or in effect as of December 31, 2005.

- | | | |
|--|---------|----------|
| (c) All other letter ruling requests (which includes accounting period and accounting method requests other than those properly submitted on Form 1128, Part II of Form 2553, or Form 3115) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix) | \$7,000 | \$10,000 |
| (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) of this appendix) | \$7,000 | \$10,000 |

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

(4) Reduced user fee for a request for a letter ruling or closing agreement. A reduced user fee is provided in the following situations if the person provides the certification described in paragraph (B)(1) of this appendix:

- | | | |
|---|-------|---------|
| (a) Request involves a personal or business tax issue from a person with gross income (as determined under paragraphs (B)(2) and (4) of this appendix) of less than \$ 250,000 | \$625 | \$625 |
| (b) Request involves a personal or business-related tax issue (for example, including home-office expenses, residential rental property issues) from a person with gross income (as determined under paragraphs (B)(3) and (4) of this appendix) of less than \$ 1 million and more than \$250,000. | \$625 | \$2,500 |

(5) User fee for substantially identical letter ruling requests, identical accounting method changes, or plans from issuing authorities under section 25(c)(2)(B). If the requirements of section 15.07 of Rev. Proc. 2006-1, this revenue procedure, are satisfied, the user fee for the following situations is as follows:

- | | | |
|---|-------|-------|
| (a) Substantially identical letter rulings requested | | |
| Situations in which a taxpayer requests substantially identical letter rulings for multiple entities with a common member or sponsor, or for multiple members of a common entity, or for two or more identical trusts or for multiple beneficiaries of a trust or a trust divided into identical subtrusts or for husband and wife making split gifts, for each additional letter ruling request after the \$7,000 fee or reduced fee, as applicable, has been paid for the first letter ruling request | \$300 | \$700 |

CATEGORY

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.

- (b) Identical accounting method change requested on a single Form 3115

Situations in which a common parent requests the identical accounting method change on a single Form 3115 on behalf of two or more members of a consolidated group or two or more eligible CFCs (*see* section 15.07(4)), or in which a taxpayer requests the identical accounting method change on a single Form 3115 for two or more eligible CFCs (*see* section 15.07(4)) or two or more separate and distinct trades or businesses, including qualified subchapter S subsidiaries (QSUBs) and single-member limited liability companies (single-member LLCs) (*see* § 1.446-1(d) for what constitutes a separate and distinct trade or business), for each additional member of the group, eligible CFC, or separate and distinct trade or business of the taxpayer seeking the identical accounting method change on the same Form 3115 after the \$1,500 fee or \$625 reduced fee, as applicable, has been paid for the first member of the group, eligible CFC, or separate and distinct trade or business.

\$50

\$150

- (c) Substantially identical plans under section 25(c)(2)(B)

Situations where an issuing authority under section 25 submits substantially identical plans for administering the 95-percent requirement of section 143(d)(1) following the submission of an initial plan that was approved.

not available

\$700

- (d) Extension of time requested to file Form 3115 for an identical accounting method change

Situations in which a common parent requests an extension of time under § 301.9100-3 to file a single Form 3115 for the identical accounting method change on behalf of two or more members of a consolidated group or two or more eligible CFCs (*see* section 15.07(4)), or in which a taxpayer requests an extension of time under § 301.9100-3 to file a single Form 3115 for the identical accounting method change for two or more eligible CFCs (*see* section 15.07(4)) or two or more separate and distinct trades or businesses, including QSUBs and single-member LLCs (*see* § 1.446-1(d) for what constitutes a separate and distinct trade or business), for each additional member of the group, eligible CFC or separate and distinct trade or business of the taxpayer seeking the identical accounting method change on the same Form 3115 after the \$ 1,500 fee or \$ 625 reduced fee as applicable, has been paid for the first member of the group, eligible CFC, or separate and distinct trade or business.

\$50

\$75

CATEGORY

USER FEE FOR
REQUESTS
POSTMARKED
BEFORE 2-1-2006

USER FEE FOR
REQUESTS
POSTMARKED ON
OR AFTER 2-1-2006

NOTE: When an extension of time to file Form 3115 is granted under § 301.9100-3 for multiple members of a consolidated group, eligible CFCs, or separate and distinct trades or businesses of a taxpayer, including QSUBs and single-member LLCs, a separate user fee will be charged for the accounting method change application, Form 3115.

(6) User fee for information letter requests.	\$0	\$2,000
(7) User fee for pre-filing agreements The increased fee applies to pre-filing agreements requested on or after February 1, 2006. Pre-filing agreement requests requested prior to February 1, 2006, but accepted by the Service on or after February 1, 2006 are subject to the Rev. Proc. 2005-12 fee schedule.	As reflected in Rev. Proc. 2005-12	\$50,000

(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) and (4) of this appendix, is less than \$ 250,000 for the last 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)(3) and (4) of this appendix, is less than \$1 million and more than \$250,000 for the last full (12 months) taxable year ending before the date the request is filed.

The certification must be attached as part of the ruling request.

(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 of—

(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 months) 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 2004 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 22.

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 this paragraph (B)(2)(a), is less than \$ 250,000. 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 2004 Form 1040NR, *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 1040NR is the amount entered on line 23.

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 \$ 250,000. 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 fee 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) Domestic partnerships and corporations, “gross income” is equal to “total 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 “cost of goods sold” as reported on the same federal income tax return, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. If a domestic partnership or corporation is not subject to tax, “total income” and “cost of goods sold” are the amounts that the domestic partnership or corporation would have reported on the federal income tax return if the domestic partnership or corporation were subject to tax.

“Cost of goods sold” and “total income” are line items on federal tax returns. For example, if the 2004 Form 1065, *U.S. Return of Partnership Income*, is the most recent 12-month taxable year return filed by a domestic partnership, “cost of goods sold” and “total income” on the Form 1065 are the amounts entered on lines 2 and 8, respectively, and if the 2004 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.

If, at the time the request is filed, a domestic partnership or corporation subject to tax has not filed a federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(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), (c), or (d) of this appendix, as applicable) is less than \$1 million 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.

(d) 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.

(e) Gross income of 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.

(4) Special rules for determining gross income. For purposes of paragraphs (B)(2) and (3) 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 who: (1) is legally separated from his or her spouse and (2) the spouse does not file a joint income tax return with his or her spouse; 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 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 related taxpayer that is involved in the transaction on which the letter ruling or closing agreement is requested, must be combined; and

(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.

(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)(3)(d) of this appendix) of the applicants must be combined.

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 defer consideration of your request.

(Insert the date of request)

Internal Revenue Service

Insert either: Associate Chief Counsel (Insert one of the following: Corporate, Financial Institutions and Products, Income Tax and Accounting, International, Passthroughs and Special Industries, or Procedure and Administration) or Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)

Attn: CC:PA:LPD:DRU

P.O. Box 7604

Ben 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. At the top of the first page write in bold, “**Expedited Handling Requested.**” See section 7.02(4) of Rev. Proc. 2006–1, 2006–1 I.R.B. 1. Hereafter, all references are to Rev. Proc. 2006–1 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. It is preferred that the language of the requested ruling be exactly the same as that 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 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(8), 7.01(9), and 7.01(10).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. The taxpayer also is 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(8), 7.01(9), and 7.01(10).]

E. CONCLUSION

[The ruling request should contain a statement of the taxpayer's conclusion on the ruling requested.]

F. PROCEDURAL MATTERS

1. Revenue Procedure 2006–1 Statements

- a. [Provide the statement required by section 7.01(4) 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.]
- 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 taxpayer, 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 taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in accounting method) 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 taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or a 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 taxpayer is presently submitting another request (including an application for change in accounting method) involving the same or similar issue to the Service.]
- f. [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 taxpayer, 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.]
- g. [Provide the statement required by section 7.01(8) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
- h. [If the taxpayer determines that there are no contrary authorities, a statement to that effect would be helpful. *See* section 7.01(9).]
- i. [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).]
- j. [If the taxpayer is requesting a copy of any document related to the letter ruling request to be sent by facsimile (fax) transmission, the ruling request should contain a statement to that effect. *See* section 7.02(5).]
- k. [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).]
- l. [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. 2006–1 are enclosed.” See sections 7.01(11) and 7.01(18).]
- b. [The ruling request should state: “The required user fee of \$ *(Insert the amount of the fee)* is enclosed.” Please note that the check or money order must be in U.S. dollars and made payable to the Internal Revenue Service. See section 15 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(13), 7.01(14), 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(15).]

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

[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(15).]

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. 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." 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 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 either 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 (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)? <i>See</i> section 3 of Rev. Proc. 2006-1, 2006-1 I.R.B. 1. For issues under the jurisdiction of other offices, <i>see</i> section 4 of Rev. Proc. 2006-1. (Hereafter, all references are to Rev. Proc. 2006-1 unless otherwise noted.) |
| Yes No | 2. Have you read Rev. Proc. 2006-3, 2006-1 I.R.B. 122, and Rev. Proc. 2006-7, 2006-1 I.R.B. 242, 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 (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 and Special Industries), the Office of Associate Chief Counsel (Procedure and Administration), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) 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 (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), the Office of the Associate Chief Counsel (Procedure and Administration), the appropriate branch to call may be obtained by calling (202) 622-7560 (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) 622-3800 (not a toll-free call).

Yes No N/A
Page _____

4. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? *See* section 5.01.

Yes No

5. Are you requesting the letter ruling on a hypothetical situation or question? *See* section 6.12.

Yes No

6. Are you requesting the letter ruling on alternative plans of a proposed transaction? *See* section 6.12.

Yes No

7. Are you requesting the letter ruling for only part of an integrated transaction? *See* section 6.03.

Yes No

8. 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

9. Are you requesting the letter ruling for a foreign government or its political subdivision? *See* section 6.07.

Yes No
Pages _____

10. Have you included a complete statement of all the facts relevant to the transaction? *See* section 7.01(1).

Yes No N/A

11. 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

12. 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
Page _____

13. 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 _____

14. 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 7.01(4).

Yes No
Page _____

15. 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 7.01(5)(a).

Yes No
Page _____

16. Have you included the required statement regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in accounting method) 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 _____
17. Have you included the required statement regarding whether the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or similar issue that is currently pending with the Service? *See* section 7.01(5)(c).
- Yes No
Page _____
18. Have you included the required statement regarding whether, at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in accounting method) involving the same or similar issue to the Service? *See* section 7.01(5)(d).
- Yes No N/A
Page _____
19. If your request involves the interpretation of 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 taxpayer, 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 _____
20. If your request is for recognition of Indian tribal 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(7), 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
Pages _____
21. Have you included the required statement of relevant authorities in support of your views? *See* section 7.01(8).
- Yes No
Page _____
22. 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(8).
- Yes No
Pages _____
23. 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(9), which states that taxpayers are encouraged to inform the Service of such authorities.
- Yes No N/A
Page _____
24. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? *See* section 7.01(9).
- Yes No N/A
Page _____
25. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? *See* section 7.01(10).
- Yes No
26. Is the request accompanied by the deletion statement required by § 6110? *See* section 7.01(11).
- Yes No
Page _____
27. Have you (or your authorized representative) signed and dated the request? *See* section 7.01(12).
- Yes No N/A
28. 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(14).
- Yes No
Page _____
29. Have you included, signed, and dated the penalties of perjury statement in the format required by section 7.01(15)?

- Yes No N/A 30. Are you submitting your request in duplicate if necessary? *See* section 7.01(16).
- Yes No N/A
Pages _____ 31. 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 32. 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 33. 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 34. 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 _____ 35. 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? But, a request dealing solely with a section 368 reorganization or a section 355 distribution may receive expedited treatment without stating a compelling need. Section 7.02(4) of this revenue procedure.
- Yes No N/A
Page _____ 36. If you are requesting a copy of any document related to the letter ruling request to be sent by facsimile (fax) transmission, have you included a statement to that effect? *See* section 7.02(5).
- Yes No N/A
Page _____ 37. 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 38. Have you included the correct user fee with the request and is your check or money order in U.S. dollars and payable to the Internal Revenue Service? *See* section 15 and Appendix A to determine the correct amount.
- Yes No N/A
Page _____ 39. If your request involves a personal tax issue and you qualify for the reduced user fee when gross income is less than \$250,000, have you included the required certification? *See* paragraphs (A)(4)(a) and (B)(1) of Appendix A.
- Yes No N/A
Page _____ 40. If your request involves a business-related tax issue and you qualify for the reduced user fee when gross income is less than \$1 million, have you included the required certification? *See* paragraphs (A)(4)(b) and (B)(1) of Appendix A.
- Yes No N/A
Page _____ 41. 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 _____ 42. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical accounting method change on a single Form 3115, have you included the required information? *See* section 15.07(4) and paragraph (A)(5)(d) of Appendix A.
- Yes No N/A 43. 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 E, have you complied with all of the requirements of the applicable revenue procedure or notice?

Rev. Proc. _____ 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 _____ 44. 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 45. Have you addressed your request to the attention 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 (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), as appropriate? The mailing address is:

**Internal Revenue Service
Attn: CC:PA:LPD:DRU
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044**

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

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

The package should be marked: RULING REQUEST SUBMISSION. Improperly addressed requests may be delayed (sometimes for over a week) in reaching CC:PA:LPD:DRU for initial processing.

Signature

Title or Authority

Date

Typed or printed name of
person signing checklist

APPENDIX D

LIST OF SMALL BUSINESS/SELF-EMPLOYED OPERATING DIVISION (SB/SE) OFFICES FOR REQUESTING DETERMINATION LETTERS

Requests for determination letters under Rev. Proc. 2006-1, this revenue procedure, from SB/SE and W&I taxpayers, should be sent to the appropriate SB/SE office listed below based upon the type of tax involved. Both the request and the envelope in which it is sent should be marked "DETERMINATION LETTER REQUEST."

INCOME TAX

Requests for determination letters regarding income tax (including requests from international taxpayers) should be sent to:

**Office of the Director, Technical Services
Internal Revenue Service
Attn: SE:S:E:TS
Mail Stop 5000
24000 Avila Road
Laguna Niguel, CA 92677**

ESTATE AND GIFT TAXES

Requests for determination letters regarding estate and gift tax should be sent to:

**Chief, Estate & Gift Tax Operations
Internal Revenue Service
SE:S:SP:E&G
1222 Spruce Street
M/S 1022STL
St. Louis, MO 63103-2839**

EMPLOYMENT TAXES

Requests for determination letters regarding employment tax (except for requests for determination of worker status, which should be sent to the appropriate office listed in the instructions to Form SS-8) should be sent to:

**Chief, Employment Tax Operations
Internal Revenue Service
Attn: SE:S:SP:ETO
1111 Constitution Ave., NW
Room 2404
Washington, DC 20224**

EXCISE TAXES

Requests for determination letters regarding excise taxes should be sent to:

**Chief, Excise Tax Operations
Internal Revenue Service
Attn: SE:S:SP:EX
1111 Constitution Ave., NW
Room 2016
Washington, DC 20224**

APPENDIX E

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, 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 and
Adjustments

Rev. Proc. 77–37, 1977–2 C.B. 568, as modified by Rev. Proc. 89–30, 1989–1 C.B. 895, and as amplified by Rev. Proc. 77–41, 1977–2 C.B. 574, Rev. Proc. 83–81, 1983–2 C.B. 598 (*see also* Rev. Proc. 2006–3, this Bulletin), Rev. Proc. 84–42, 1984–1 C.B. 521 (superseded as to no-rule areas by Rev. Proc. 2006–3, this Bulletin), Rev. Proc. 86–42, 1986–2 C.B. 722, and Rev. Proc. 89–50, 1989–2 C.B. 631. *But see* section 3.01 of Rev. Proc. 2006–3, this Bulletin, (corporate distributions, transfers, and reorganizations under §§ 332, 351, 368(a)(1)(A), 368(a)(1)(B), 368(a)(1)(C), 368(a)(1)(E), 368(a)(1)(F), and 1036), which describes certain corporate transactions where the Service will not issue letter rulings or determination letters.

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; and Rev. Proc. 77–41, 1977–2 C.B. 574.

302(b)(4)
Checklist questionnaire

Rev. Proc. 81–42, 1981–2 C.B. 611.

311
Checklist questionnaire

Rev. Proc. 86–16, 1986–1 C.B. 546.

332
Checklist questionnaire

Rev. Proc. 90–52, 1990–2 C.B. 626. *But see* section 3.01 of Rev. Proc. 2006–3, this Bulletin, which describes certain corporate transactions where the Service will not issue letter rulings or determination letters.

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 Regulations on Procedure and Administration may be obtained to file elections under § 338. This revenue procedure 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. <i>But see</i> section 3.01 of Rev. Proc. 2006–3, this Bulletin, which describes certain transfers to controlled corporations where the Service will not issue letter rulings or determination letters.
355 Checklist questionnaire	Rev. Proc. 96–30, 1996–1 C.B. 696, as modified and amplified by Rev. Proc. 2003–48, 2003–2 C.B. 86.
368(a)(1)(E) Checklist questionnaire	Rev. Proc. 81–60, 1981–2 C.B. 680. <i>But see</i> section 3.01 of Rev. Proc. 2006–3, this Bulletin, which describes circumstances under which the Service will not issue letter rulings or determination letters as to whether a transaction constitutes a corporate recapitalization within the meaning of § 368(a)(1)(E) (or a transaction that also qualifies under § 1036).
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. 96–53, 1996–2 C.B. 375, as modified by Notice 98–65, 1998–2 C.B. 803, and amplified by Rev. Proc. 2002–52, 2002–2 C.B. 242.
521 Appeal procedure with regard to adverse determination letters and revocation or modification of exemption letter rulings and determination letters	Rev. Proc. 90–27, 1990–1 C.B. 514.
1.817–5(a)(2) Issuer of a variable contract requesting relief	Rev. Proc. 92–25, 1992–1 C.B. 741.
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.
1362(b)(5) and 1362(f) Relief for late S corporation and related elections under certain circumstances	Rev. Proc. 2004–49, 2004–2 C.B. 210; Rev. Proc. 2003–43, 2003–1 C.B. 998; Rev. Proc. 97–48, 1997–2 C.B. 521.
1362(b)(5) and 301.7701–3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2004–48, 2004–2 C.B. 172.

1.1502–13(e)(3) Consent to treat intercompany transactions on a separate entity basis and revocation of this consent	Rev. Proc. 97–49, 1997–2 C.B. 523.
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.
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.
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.
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. This revenue procedure 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). This revenue procedure 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 initial classification election for a newly formed entity	Rev. Proc. 2002–59, 2002–2 C.B. 615.
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 Rev. Proc. 2006–1, 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 recognized tribal governments in revised versions of Rev. Proc. 2002–64, 2002–2 C.B. 717, 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. 2004-48, 2004-2 C.B. 172.
301.9100-3 Extension of time to make entity classification election	Rev. Proc. 2002-59, 2002-2 C.B. 615.
7702 Closing agreement for failed life insurance contracts	Notice 99-48, 1999-2 C.B. 429; Rev. Rul. 91-17, 1991-1 C.B. 190.
7702A Relief for inadvertent non-egregious failure to comply with modified endowment contract rules	Rev. Proc. 2001-42, 2001-2 C.B. 212.
7704(g) Revocation of election	Notice 98-3, 1998-1 C.B. 333.

SUBJECT MATTERS

Accounting periods; changes in period

Classification of liquidating trusts

Earnings and profits determinations

Estate, gift, and generation-skipping transfer tax issues

Deferred intercompany transactions; election not to defer gain or loss

Leveraged leasing

REVENUE PROCEDURE

Rev. Proc. 2002-39, 2002-1 C.B. 1046, as clarified and modified by Notice 2002-72, 2002-2 C.B. 843, and as modified by Rev. Proc. 2003-34, 2003-1 C.B. 856; and Rev. Proc. 2006-1, this revenue procedure, for which sections 1, 2.01, 2.02, 2.05, 3.03, 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(8), 7.01(9), 7.01(10), 7.01(13), 7.01(14), 7.01(15), 7.02(2), 7.02(4), 7.02(5), 7.02(6), 7.03, 7.04, 7.05, 7.07, 8.01, 8.03, 8.04, 8.05, 8.06, 10, 11, 15, 17, 18, Appendix A, and Appendix E are applicable.

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.

Rev. Proc. 75-17, 1975-1 C.B. 677; Rev. Proc. 2006-1, this revenue procedure, sections 2.05, 3.03, 7, 8, and 10.05; and Rev. Proc. 2006-3, this Bulletin, section 3.01.

Rev. Proc. 91-14, 1991-1 C.B. 482 (checklist questionnaire).

Rev. Proc. 97-49, 1997-2 C.B. 523.

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 & Administration), Attn: CC:PA:LPD:DRU, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (or, if a private delivery service is used: Internal Revenue Service, Associate Chief Counsel (Procedure & Administration), Attn: CC:PA:LPD:DRU, 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

103 and 141-150
Issuance of state or local obligations

Rev. Proc. 93-17, 1993-1 C.B. 507 (change of use of proceeds); Rev. Proc. 97-13, 1997-1 C.B. 632, as modified by Rev. Proc. 2001-39, 2001-2 C.B. 38 (management contracts); and Rev. Proc. 97-14, 1997-1 C.B. 634 (research agreements).

61
Utility Cost Recovery
Securitization
Transactions

Rev. Proc. 2005-62, 2005-37 I.R.B. 507.

162
Restaurant Small Wares
Costs

Rev. Proc. 2002-12, 2002-1 C.B. 374.

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 television
distribution system

Rev. Proc. 2003-63, 2003-2 C.B. 304.

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.
451 Up-front network upgrade payments made to utilities	Rev. Proc. 2005-35, 2005-28 I.R.B. 76.
471 Estimating inventory shrinkage	Rev. Proc. 98-29, 1998-1 C.B. 857.
471 Valuation of remanufactured cores	Rev. Proc. 2003-20, 2003-1 C.B. 445.
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, 2005-16 I.R.B. 909.
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) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 2005-52, 2005-34 I.R.B. 326; Rev. Proc. 2005-53, 2005-34 I.R.B. 339; Rev. Proc. 2005-54, 2005-34 I.R.B. 353; Rev. Proc. 2005-55, 2005-34 I.R.B. 367; Rev. Proc. 2005-56, 2005-34 I.R.B. 383; Rev. Proc. 2005-57, 2005-34 I.R.B. 392; Rev. Proc. 2005-58, 2005-34 I.R.B. 402; Rev. Proc. 2005-59, 2005-34 I.R.B. 412.
856(c) Certain loans treated as real estate assets	Rev. Proc. 2003-65, 2003-2 C.B. 336.
860H Transfers of ownership interests in Financial Asset Securitization Investment Trusts	Rev. Proc. 2001-12, 2001-1 C.B. 335.
1031(a) Qualification as a qualified exchange accommodation arrangement	Rev. Proc. 2000-37, 2000-2 C.B. 308.
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. 2003-43, 2003-1 C.B. 998.
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, 2005-14 I.R.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.
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**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 published and/or in effect as of December 31, 2004:

Rev. Proc. 2002-37, 2002-1 C.B. 1030, as clarified and modified by Notice 2002-72, 2002-2 C.B. 843, and as modified by Rev. Proc. 2003-34, 2003-1 C.B. 856 (certain corporations); Rev. Proc. 2002-38, 2002-2 C.B. 1037, as clarified and modified by Notice 2002-72, 2002-2 C.B. 843 (certain partnerships, S corporations, electing S corporations, or personal service corporations); and Rev. Proc. 2003-62, 2003-2 C.B. 299 (individual 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.

Rev. Proc. 2006-1, 2006-1 I.R.B. 1.

Rev. Proc. 2006-3

SECTION 1. PURPOSE AND NATURE OF CHANGES

.01 The purpose of this revenue procedure is to update Rev. Proc. 2005-3, 2005-1 C.B. 118, by providing a revised list of those areas of the Internal Revenue 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 and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) relating to issues on which the Internal Revenue 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. 2006-7, this Bulletin. For a list of areas under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division relating to issues, plans or plan amendments on which the Service will not issue letter rulings and determination letters, see, respectively, section 8 of Rev. Proc. 2006-4 (this Bulletin) and section 3.02 of Rev. Proc. 2006-6 (this Bulletin).

.02 Changes.

(1) New section 3.01(3) (Sections 61, 451, and 1001.—Gross Income Defined...) has been added. *See* Rev. Proc. 2005-61, 2005-37 I.R.B. 507.

(2) Section 3.01(9) (Section 105(h).—Amount Paid to Highly Compensated Individuals Under Discriminatory Self-Insured Medical Expense Reimbursement Plan) has been modified to simplify the language.

(3) New section 3.01(11) (Section 107.—Rental Value of Parsonages) has been added.

(4) Section 3.01(33) (Sections 332, 351, 368(a)(1)(A), (B), (C), (E) and (F), and 1036.—Complete Liquidations of

Subsidiaries...) has been modified regarding the definition of “Significant Issue.” *See* Rev. Proc. 2005-68, 2005-41 I.R.B. 694.

(5) Section 4.01(30) (Section 441(i).—Taxable Year of Personal Service Corporations) has been modified to update the regulation citation.

(6) Section 4.01(37) (Section 664.—Charitable Remainder Trusts) has been modified to indicate that this no-rule area includes unitrust payments for a term of years.

(7) Section 4.01(44) (Section 2055.—Transfers for Public, Charitable, and Religious Uses) has been modified to include annuity or unitrust payments for a term of years.

(8) Section 4.01(48) (Section 2522.—Charitable and Similar Gifts) has been modified to include annuity or unitrust payments for a term of years.

(9) New section 5.02 (Sections 101 and 7702.—Certain Death Benefits; Life Insurance Contract Defined) has been added.

(10) Section 5.03 (Section 409A.—Inclusion in Gross Income of Deferred Compensation Under Nonqualified Deferred Compensation Plans) has been modified by including in this no-rule area the question of whether an arrangement is an arrangement described in § 409A.

SECTION 2. BACKGROUND AND SCOPE OF APPLICATION

.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.

There are, however, certain areas in which, because of the inherently factual nature of the problems involved, or for other reasons, the Service will not issue rulings or determination letters. These areas are set forth in four sections of this revenue procedure. Section 3 reflects those areas in which rulings and determinations will not be issued. Section 4 sets forth those areas in which they will not ordinarily be issued. “Not ordinarily” means that unique and compelling

reasons must be demonstrated to justify the issuance of a ruling or determination letter. Those sections reflect a number of specific questions and problems as well as general areas. Section 5 lists specific areas for which the Service is temporarily not issuing rulings and determinations because those matters are under study. Finally, section 6 of this revenue procedure lists specific areas where the Service will not ordinarily issue rulings because the Service has provided automatic approval procedures for these matters.

See Rev. Proc. 2006-1 (this Bulletin) particularly section 6 captioned “Under What Circumstances Does The Service Not Issue Letter Rulings Or Determination Letters?” 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. 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.

.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 Larger Transactions.

If it is impossible for the Service to determine the tax consequences of a larger transaction without knowing the resolution of an issue on which the Service will not issue rulings and determinations 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 determinations on such larger transactions due to the relevance of the no-rule issue, despite the taxpayer's representation.

SECTION 3. AREAS IN WHICH RULINGS OR DETERMINATION LETTERS WILL NOT BE ISSUED

.01 Specific questions and problems.

(1) 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 a plan maintained by an eligible employer pursuant to the provisions of § 457) are currently includible in the taxpayer's gross income.

(2) 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.)

(3) Sections 61, 451, and 1001.—Gross Income Defined; General Rule for Taxable Year of Inclusion; Determination of Amount and Recognition of Gain or Loss.—Whether, under authorization by an appropriate State agency to recover certain costs pursuant to State specified cost recovery legislation, any investor-owned utility company 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.

(4) 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 regulations if the group consisted of fewer than 10 employees.

(5) 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.

(6) Section 83.—Property Transferred in Connection with Performance of Services.—Which corporation is entitled to the deduction under § 83(h) in cases where 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.

(7) 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.

(8) Sections 101, 761, and 7701.—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 consists or will consist of life insurance policies on the lives of the members.

(9) Section 105(h).—Amount Paid to Highly Compensated Individuals Under Discriminatory Self-Insured Medical Expense Reimbursement Plan.—Whether a self-insured medical reimbursement plan satisfies the requirements of § 105(h) for a plan year.

(10) 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.

(11) 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).)

(12) Section 115.—Income of States, Municipalities, Etc.—The results of transactions pursuant to a plan or arrangement created by state statute a primary objective of which is to enable participants to pay for the costs of a post-secondary education for themselves or a designated beneficiary, including: (i) whether the plan or arrangement, itself, is an entity separate from a state and, if so, how the plan or arrangement is treated for federal tax purposes; and (ii) whether any contract under the plan or arrangement is a debt instrument and, if so, how interest or original issue discount attributable to the contract is treated for federal tax purposes. (Also §§ 61, 163, 1275, 2501, and 7701.)

(13) 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.

(14) 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 there was in Rev. Proc. 76-47, 1976-2 C.B. 670.

(15) 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.

(16) Section 121.—Exclusion of Gain from Sale of Principal Residence.—Whether property qualifies as the taxpayer's principal residence.

(17) 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.

(18) Section 162.—Trade or Business Expenses.—Whether compensation is reasonable in amount.

(19) 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 where the loan proceeds are used for commercial or business activities, or where used 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.)

(20) 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.

(21) 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.

(22) Section 264(b).—Certain Amounts Paid in Connection with Insurance 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.

(23) Section 264(c)(1).—Certain Amounts Paid in Connection with Insurance Contracts.—Whether § 264(c)(1) applies.

(24) Section 269.—Acquisitions Made to Evade or Avoid Income Tax.—Whether

an acquisition is within the meaning of § 269.

(25) 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.

(26) 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.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) Section 312.—Effect on Earnings and Profits.—The determination of the amount of earnings and profits of a corporation.

(32) Sections 331, 453, and 1239.—The Tax Effects of Installment Sales of Property Between Entities with Common Ownership.—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.

(33) Sections 332, 351, 368(a)(1)(A), (B), (C), (E) and (F), and 1036.—Complete Liquidations of Subsidiaries; Transfer to Corporation Controlled by Transferor; Definitions Relating to Corporate Reorganizations; and Stock for Stock of Same Corporation.—Whether a transaction qualifies under § 332, § 351 or § 1036 for nonrecognition treatment, or whether it constitutes a corporate reorganization within the meaning of § 368(a)(1)(A) (including a transaction that qualifies under § 368(a)(1)(A) by reason of § 368(a)(2)(D) or § 368(a)(2)(E)), § 368(a)(1)(B), § 368(a)(1)(C), § 368(a)(1)(E) or § 368(a)(1)(F), and whether various consequences (such as nonrecognition and basis) result from the application of that section, unless the Service determines that there is a significant issue that must be resolved in order to decide those mat-

ters. If the Service determines that there is a significant issue, and to the extent the transaction is not described in another no-rule section, the Service will rule on the entire transaction, and not just the significant issue. Notwithstanding the preceding paragraph, the Service will rule on the application of § 351 to a controlled corporation when the transaction is undertaken prior to the distribution of the stock of the controlled corporation in a transaction qualifying under § 355.

SIGNIFICANT ISSUE: A significant issue is an issue of law that meets the three following tests: (1) the issue is not clearly and adequately addressed by a statute, regulation, decision of a court, tax treaty, revenue ruling, revenue procedure, notice, or other authority published in the Internal Revenue Bulletin; (2) the resolution of the issue is not essentially free from doubt; and (3) the issue is legally significant and germane to determining the major tax consequences of the transaction. An issue of law will be considered not clearly and adequately addressed by the authorities above, and its resolution will not be essentially free from doubt when, because of concern over a legal issue (as opposed to a factual issue), taxpayer's counsel is unable to render an unqualified opinion on what the tax consequences of the transaction will be.

OBTAINING A RULING: To obtain a ruling on a transaction involving a significant issue, the taxpayer must in its ruling request explain the significance of the issue, set forth the authorities most closely related to the issue, and explain why the issue is not resolved by these authorities.

(34) Section 351.—See section 3.01(33), above.

(35) 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).

(36) Section 368.—See section 3.01(33), above.

(37) Section 424.—Substitution or Assumption of Incentive Stock Options.—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).

(38) Section 451.—See section 3.01(3), above.

(39) Section 451.—General Rule for Taxable Year of Inclusion.—The tax consequences of a non-qualified unfunded deferred-compensation arrangement with respect to a controlling shareholder-employee eligible to participate in the arrangement.

(40) Section 451.—General Rule for Taxable Year of Inclusion.—The tax consequences of unfunded deferred-compensation arrangements where 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.

(41) 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.

(42) Section 453.—See section 3.01(32), above.

(43) Section 457.—See section 3.01(41), above.

(44) 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.

(45) 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.

(46) 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.

(47) 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.

(48) Section 704(e).—Family Partnerships.—Matters relating to the validity of a family partnership when capital is not a material income producing factor.

(49) Section 761.—See section 3.01(8), above.

(50) 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.

(51) Section 1001.—See section 3.01(3), above.

(52) Section 1036.—See section 3.01(33), above.

(53) 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.

(54) Section 1239.—See section 3.01(32), above.

(55) Section 1551.—Disallowance of the Benefits of the Graduated Corporate Rates and Accumulated Earnings

Credit.—Whether a transfer is within § 1551.

(56) Section 2031.—Definition of Gross Estate.—Actuarial factors for valuing interests in the prospective gross estate of a living person.

(57) Section 2512.—Valuation of Gifts.—Actuarial factors for valuing prospective or hypothetical gifts of a donor.

(58) 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.

(59) Sections 3121, 3306, and 3401.—Definitions; Employment Taxes.—Who is the employer of an “employee-owner” as defined in § 269A(b)(2).

(60) Sections 3121, 3306, and 3401.—Definitions.—For purposes of determining employment 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 is at issue.

(61) 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.)

(62) 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.

(63) Section 7701.—See section 3.01(8), above.

.02 General Areas.

(1) The results of transactions that lack a *bona fide* business purpose or have as their principal purpose the reduction of federal taxes.

(2) A matter upon which a court decision adverse to the Government has been handed down and the question of follow-

ing the decision or litigating further has not yet been resolved.

(3) A matter involving alternate plans of proposed transactions or involving hypothetical situations.

(4) 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.

(5) Whether a proposed transaction would subject the taxpayer to a criminal penalty.

(6) A request that does not comply with the provisions of Rev. Proc. 2006-1 (this Bulletin).

(7) Whether, under the common law rules applicable in determining the employer-employee relationship, a professional staffing corporation (loan-out corporation) or the subscriber is the employer of individuals, if:

(i) the loan-out corporation hires employees of the subscriber and assigns the employees back to the subscriber, or

(ii) the loan-out corporation assigns individuals to subscribers for more than a temporary period (1 year or longer).

(8) Questions that the Service determines, in its discretion, should not be answered in the general interests of tax administration.

(9) Any frivolous issue, as that term is defined in section 6.10 of Rev. Proc. 2006-1 (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; Reforestation Credit.—Application of these sections where 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, where 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) 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.

(5) 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.

(6) Section 103.—Interest on State and Local Bonds.—Whether a state or local governmental obligation that does not meet the criteria of section 5 of Rev. Proc. 89-5, 1989-1 C.B. 774, is an “arbitrage bond” within the meaning of former § 103(c)(2) solely by reason of the investment of the bond proceeds in acquired non-purpose obligations at a materially higher yield more than 3 years after issuance of the bonds or 5 years after issuance of the bonds in the case of construction issues described in former § 1.103-13(a)(2)(ii)(E) or § 1.148-2(e)(2)(ii).

(7) Sections 104(a)(2) and 3121.—Compensation for Injuries or Sickness; Definitions.—Whether an allocation of the amount of a settlement award (including a lump sum award) between

back pay, compensatory damages, punitive damages, etc. is a proper allocation for federal tax purposes.

(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: (i) subparagraph (5) output of the facility as defined in § 1.103-7(b)(5)(ii)(b) (issued under former § 103(b)), or (ii) available output of the facility as defined in § 1.141-7(b)(1). In similar situations, the Service will not ordinarily issue rulings or determination letters concerning questions arising under paragraphs (3), (4), and (5) of § 141(b).

(9) Sections 142 and 144.—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 non-qualified costs equals more than 5 percent of the net proceeds, as defined in § 150(a)(3).

(10) Section 148.—Arbitrage.—Whether amounts received as proceeds from the sale of municipal bond financed property and pledged to the payment of debt service or pledged as collateral for the municipal bond issue are sinking fund proceeds within the meaning of former § 1.103-13(g) (issued under former § 103(c)) or replaced proceeds described in § 148(a)(2) (or former § 103(c)(2)(B)).

(11) 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.

(12) Section 163.—See section 4.01(3), above.

(13) Section 167.—Depreciation.

(i) Useful lives of assets.

(ii) Depreciation rates.

(iii) Salvage value of assets.

(14) Sections 167 and 168.—Depreciation; Accelerated Cost Recovery System.—Application of those sections where the formal ownership of property is in a party other than the taxpayer except when title is held merely as security.

(15) 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).

(16) Section 170(c).—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.

(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 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).

(19) Section 262.—See section 4.01(11), above.

(20) Section 265(a)(2).—Expenses and Interest Relating to Tax-Exempt Income.—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.

(21) 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.

(22) 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.)

(23) Sections 302(b)(4) and (e), 331, 332, and 346(a).—Effects on Recipients of Distributions in Corporate Liquidations.—The tax effect of the liquidation of a corporation preceded or followed by the transfer of all or a part of the business assets to another corporation (1) that is the alter ego of the liquidating corporation, and (2) which, directly or indirectly, is owned more than 20 percent in value by persons holding directly or indirectly more than 20 percent in value of the liquidating corporation's stock. For purposes of this section, ownership will be determined by application of the constructive ownership rules of § 318(a) as modified by § 304(c)(3).

(24) Section 306.—Dispositions of Certain Stock.—Whether the distribution or 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).

(25) Sections 331 and 332.—See section 4.01(23), above.

(26) Sections 331 and 346(a).—Gain or Loss to Shareholders in Corporate Liquidations.—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 346(a).—See sections 4.01(23) and (26), above.

(28) 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.

(29) 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).

(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).—Limitation on Use of Cash Method of Accounting; 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 where the trust fails to meet the requirements of Rev. Proc. 92-64, 1992-2 C.B. 422.

(33) Section 451.—See section 4.01(4), above.

(34) 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 who are minors or legal incompetents under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701-2721), if the trust meets the requirements of section 5.02 of Rev. Proc. 2003-14, 2003-1 C.B. 319.

(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; Pooled Income Fund.—Whether a pooled income fund satisfies the requirements described in § 642(c)(5).

(37) 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.

(38) 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.

(39) Sections 671 to 679.—Grantors and Others Treated as Substantial Owners.—In a nonqualified, unfunded deferred compensation arrangement described in Rev. Proc. 92-64, the tax consequences of the use of a trust, other than the model trust described in that revenue procedure.

(40) 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 who are minors or legal incompetents under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701-2721) is the grantor and owner of the trust, if the trust meets the requirements of section 5.02 of Rev. Proc. 2003-14, 2003-1 C.B. 319.

(41) Section 1362.—Election; Revocation; Termination.—All situations in which the Service has provided an automatic approval procedure or administrative procedure for an S corporation to obtain relief for late S corporation, qualified subchapter S subsidiary, qualified subchapter S trust, or electing small business trust elections. See Rev. Proc. 2003-43, 2003-1 C.B. 998; Rev. Proc. 2004-48, 2004-2 C.B. 172; and Rev. Proc. 2004-49, 2004-2 C.B. 210. (For instructions on how to seek this relief, see the preceding revenue procedures.)

(42) 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.

(43) 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).

(44) 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).

(45) 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.

(46) 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.

(47) 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).

(48) 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).

(49) Section 2601.—Tax Imposed.—Whether a trust that is excepted from the application of the generation-skipping transfer tax because it was irrevocable on September 25, 1985, will lose its excepted status if the situs of the trust is changed from the United States to a situs outside of the United States.

(50) 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.

(51) 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.

(52) 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.

(53) Section 3121.—See section 4.01(7), above.

.02 General areas.

(1) Any matter in which the determination requested is primarily one of fact, *e.g.*, market value of property, or whether an interest in a corporation is to be treated as stock or indebtedness.

(2) Situations where 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, a taxpayer should call the Office of the 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 division has jurisdiction over a particular issue, *see* section 3 of Rev. Proc.

2006-1 (this Bulletin). For a list of telephone numbers for the different divisions, *see* section 10.07 of Rev. Proc. 2006-1.

(3) Situations where 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 where 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 shall 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 Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) 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. 2006-1.

(9) Except as otherwise provided in this revenue procedure (e.g., under section 3.01(33), where the Service already is ruling on a significant issue in the same transaction), a letter ruling will not ordinarily be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decisions of a court, revenue rulings, revenue procedures, notices, or other authority published in the Internal Revenue Bulletin. However, the Service may in its discretion determine to issue a ruling on such an issue if the Service otherwise is issuing a ruling on another issue arising in the same transaction.

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, REVENUE PROCEDURE, REGULATIONS OR OTHERWISE

.01 Section 62(c).—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).

.02 Sections 101 and 7702.—Certain Death Benefits; Life Insurance Contract Defined.—Whether amounts received under an arrangement 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.

.03 Section 409A.—Inclusion in Gross Income of Deferred Compensation Under Nonqualified Deferred Compensation Plans.—Rulings on the tax consequences

of arrangements described in § 409A, including rulings as to whether an arrangement is an arrangement described in § 409A, will not be issued until this subsection of this revenue procedure is revised.

.04 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 (regardless of whether they are minors or legal incompetents) under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701-2721) if the trust does not meet the requirements of section 5.02 of Rev. Proc. 2003-14, 2003-1 C.B. 319.

.05 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 (regardless of whether they are minors or legal incompetents) under the Indian Gaming Regulatory Act (25 U.S.C. §§ 2701-2721) is the grantor and owner of the trust if the trust does not meet the requirements of section 5.02 of Rev. Proc. 2003-14, 2003-1 C.B. 319.

.06 Section 1361.—Definition of a Small Business Corporation.—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).

.07 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.

.08 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.

.09 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.

.10 Sections 3121, 3306, and 3401.—Definitions; Employment Taxes.—Who is the employer of employees of an entity that is disregarded under § 1361(b)(3) or § 301.7701-2.

.11 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.

.12 Section 7702.—See section 5.02, above.

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 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 section 338 election that have not filed Form 8023 by its due date).

.02 Section 442.—Change of Annual Accounting Period.—All requests for change in annual accounting period where the Service has provided an automatic change procedure for obtaining 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. 2003-79, 2003-2 C.B. 1036; Rev. Proc. 2002-37, 2002-1 C.B. 1030 (certain corporations), as clarified and modified by Notice 2002-72 and modified by Rev. Proc. 2003-34; Rev. Proc. 2002-38, 2002-1 C.B. 1037 (partnership, S corporation, or personal service corporation seeking a natural business year or an ownership taxable year), as clarified and modified by Notice 2002-72 and modified by Rev. Proc. 2003-79; 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 change in method of accounting where the Service has provided an automatic change request procedure for obtaining a change in method of accounting. See the automatic change request procedures listed in section 9.22 of Rev. Proc. 2006–1 (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 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. 97–48, 1997–2 C.B. 521.

.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 waivers or consents on consolidated return issues. See Rev. Proc. 2002–32, 2002–1 C.B. 959 (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 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 (certain affiliated groups of corporations seeking to file a consolidated return where member(s) of the group use a 52–53 week taxable year).

SECTION 7. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 2005–3, 2005–1 C.B. 118, Rev. Proc. 2005–61, 2005–37 I.R.B. 507, and Rev. Proc. 2005–68, 2005–41 I.R.B. 694, are superseded.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective January 3, 2006.

SECTION 9. 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 3.01(33), 3.02(1) and (3), and 4.02(1) and (7)(b).

This information is required to evaluate whether the request for a letter ruling or determination letter is not covered by the

provisions of this revenue procedure. The collections of information are required to obtain a letter ruling or determination letter. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recording burden is 90 hours.

The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 3 hours, depending on individual circumstances, with an estimated average burden of 2 hours. The estimated number of respondents and/or recordkeepers is 45.

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 Michael Danbury of the Office of the Associate Chief Counsel (Corporate). For further information about this revenue procedure, please contact Mr. Danbury at (202) 622–7550 (not a toll-free call), or call the division contacts listed in section 10.07 of Rev. Proc. 2006–1 (this Bulletin). To determine which division has jurisdiction over a particular issue see section 3 of Rev. Proc. 2006–1.