

Rev. Proc. 2016-8

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SECTION 1. PURPOSE

This revenue procedure provides guidance for complying with the user fee program of the Internal Revenue Service as it pertains to requests for letter rulings, determination letters, Voluntary Correction Program (VCP) compliance statements, etc., on matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

SECTION 2. CHANGES

- .01 In general. This revenue procedure is a general update of Rev. Proc. 2015-8,

2015-1 I.R.B. 235. In addition to minor revisions, such as updating references, the following changes have been made:

.02 Changes applicable to Employee Plans

(1) Section 4.04 is modified to reflect that fees for VCP submissions are included in section 6.08 of this revenue procedure.

(2) Section 5 has been modified to include the following definitions, which relate to VCP submissions - 403(b) Plan, Group Submission, Nonamender Failure, Orphan Plan, Plan Loan Failure, Qualified Plan and VCP Submission. In addition, Rev. Proc. 2015-9 has been deleted to reflect that the information previously contained in that revenue procedure is now in Rev. Proc. 2015-5.

(3) Deleted categories (4), through (9) under section 6.01 and renumbered the remaining category. Rulings requested under these categories will continue to be processed under the "All other letter rulings" category.

(4) Deleted categories (1) through (5) under section 6.02. Opinion letters under these categories will continue to be processed under the general section 6.02.

(5) Added a fee of \$1000 to the general section 6.02.

(6) Updated user fee categories and amounts for various employee plan user fees.

The following fee changes have been made:

(a) Changed \$ 2,000 to \$ 11,000 in section 6.03(1)(b)

(b) Changed \$ 400 to \$ 300 in section 6.03(2)

(c) Changed \$ 1,000 to \$ 700 in section 6.03(3)

(d) Changed \$ 14,000 to \$ 16,000 in section 6.03(4)(a)

(e) Changed \$ 1,000 to \$600 in section 6.03(8)

(f) Modified Section 6.04(1)(a) and (b) and 6.04(2)(a) and (b) into new categories 6.04(1), Volume Submitter specimen plan (mass and non mass submitter) including one adoption agreement and 6.04(2), each additional adoption agreement and the fee for 6.04(1) and 6.04(2) is \$28,000

(g) Changed \$ 400 to \$ 300 in section 6.04(3)

(h) Changed \$ 1,000 to \$ 600 in section 6.04(6)

(i) Deleted "if the plan is intended to satisfy a design-based safe harbor" from 6.05(1) and changed the fee from \$ 500 to \$ 800 in section 6.05(1)(b)

(j) Changed \$ 2,000 to \$2,300 in section 6.05(1)(c)

(k) Deleted subcategories (i) through (iv) of section 6.05(1)(d), added "regardless of number of forms submitted" and the fee is \$4,000

(l) Deleted subcategories (i) through (iv) of section 6.05(1)(e), added "regardless of number of participants" and the fee is \$4,000

(m) Changed \$ 12,000 to \$16,000 in section 6.06(1)(a)

(n) Changed \$ 1,000 to \$11,000 in section 6.06(1)(b)

(o) Changed \$1,000 to \$700 in section 6.06(3)

(p) Changed \$12,000 to \$16,000 in section 6.06(4)(a)

(q) Changed \$9,500 to \$11,000 in section 6.06(4)(b)

(r) Modified section 6.07(1)(a) and (b) and 6.07(2)(a) and (b) into new categories 6.07(1), 403(b) volume submitter specimen plan (mass and non mass submitter) including one adoption agreement and 6.07(2), each additional adoption

agreement and the fee for 6.07(1) and 6.07(2) is \$28,000

(s) Changed \$1,000 to \$700 in section 6.07(4)

(7) Added new section 6.08 "User Fees for Voluntary Correction Program (VCP) submissions under the Employee Plans Compliance Resolution System."

(8) Added references to § 403(b) pre-approved plans under Rev. Proc. 2013-22 to section 7.02(3).

(9) Added new section 7.03 "Matters handled by EP Voluntary Compliance" to provide information concerning the filing of VCP submissions.

(10) Modified 9.02(1) to reflect that Forms 8717, *User Fee for Employee Plan Determination Letter Request* and 8717-A, *User Fee for Employee Plan Opinion or Advisory Letter Request*, are currently being revised and that taxpayers should use existing forms but refer to the applicable user fees in section 6.

(11) Added section 9.02(2) to reflect the Forms required to be included with a VCP submission and that Form 8951, *Compliance Fee for Application for Voluntary Correction Program*, is being revised

(12) Deleted (a) in section 9.03(3).

(13) Added section 9.03(5) to reflect that a VCP submission may be returned if it is not accompanied by the appropriate fee.

(14) Added section 10.03 to provide information concerning refunds for VCP submissions.

(15) Added a new paragraph to the end of section 11 concerning the reconsideration of fees related to VCP submissions.

(16) Appendix B is revised to include Rev. Proc. 2013-12 as modified, which contains the most recent restatement of the Employee Plans Compliance Resolution System.

.03 Changes applicable to Exempt Organizations

(1) Modified section 6.10 to delete accounting method changes.

(2) Renumbered sections 6.08 and 6.09 under Exempt Organization User Fees as sections 6.09 and 6.10.

(3) Modified section 6.09(5) by replacing "Publication 78" with "Exempt Organizations Select Check database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data)"

(4) Modified Appendix D to reflect that the information previously found in Rev. Proc. 2015-9 will now be in Rev. Proc. 2016-5.

.04 Changes applicable to Employee Plans and Exempt Organizations

(1) Deleted subsection (2) from section 8.03 and 8.04 as no longer applicable and renumbered the remaining subsection.

(2) Modified the language in section 9, including deleting references to money order.

(3) Modified sections 10.01 and 10.02 to reflect that these sections apply to ruling or determination letter requests.

(4) Modified section 10.02(1)(b) to add "upon request" and "if accepted" to the

example. Deleted the word “substantially” and “letter ruling” from the last sentence.

(5) Added new section 10.02(2)(d) and redesignated the remaining sections.

(6) Modified section 13 to provide that the effective date of this revenue procedure is February 1, 2016 for Employee Plans user fees and January 4, 2016 for Exempt Organizations user fees.

SECTION 3. BACKGROUND

.01 Legislation authorizing user fees. Section 7528 of the Code directs the Secretary of the Treasury or delegate (the “Secretary”) to 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 charged under the program: (1) are to vary according to categories or subcategories established by the Secretary; (2) are to be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance. Section 7528(b)(3) directs the Secretary to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category may not be less than the amount specified in § 7528.

.02 Related revenue procedures. The various revenue procedures that require payment of a user fee are described in the appendix to this revenue procedure.

SECTION 4. SCOPE

.01 Requests to which user fees apply. In general, user fees apply to all requests for letter rulings, opinion letters, determination letters, and advisory letters submitted by or on behalf of taxpayers, sponsoring organizations or other entities as described in this revenue procedure. Requests to which a user fee is applicable must be accompanied by the appropriate fee as determined from the fee schedule set forth in section 6 of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 10.

.02 Requests and other actions that do not require the payment of a user fee. Actions which do not require the payment of a user fee include the following:

(1) Requests for information letters as defined in Rev. Proc. 2016-4, in this Bulletin;

(2) Elections pertaining to automatic extensions of time under § 301.9100-1 of the Procedure and Administration regulations;

(3) Use of forms which are not to be filed with the Service. For example, no user fee is required in connection with the use of Form 5305, *Traditional Individual Retirement Trust Account*, or Form 5305-A, *Traditional Individual Retirement Custodial Account*, in order to adopt an individual retirement account under § 408(a);

(4) In general, plan amendments whereby sponsors amend their plans by adopting, word-for-word, the model language contained in a revenue procedure which states that the amendment should not be submitted to the Service and that the Service will

not issue new opinion, advisory, ruling or determination letters for plans that are amended solely to add the model language; and

(5) Change in accounting period or accounting method permitted by a published revenue procedure that permits an automatic change without prior approval of the Commissioner.

.03 Exemptions from the user fee requirements. The following exemptions apply to the user fee requirements. These are the only exemptions that apply:

(1) Departments, agencies, or instrumentalities of the United States that certify that they are seeking a letter ruling, determination letter, opinion letter or similar letter on behalf of a program or activity funded by federal appropriations. The fact that a user fee is not charged has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any provision of the Code except for § 7528.

(2) The exemption from the user fee requirements applies to all eligible employers within the meaning of § 7528(b)(2)(C)(ii) who request a determination letter within the first five plan years or, if later, the end of any remedial amendment period with respect to the plan that begins within the first five plan years. See, Instructions to Form 8717, *User Fee for Employee Plans Determination Letter Request*, and Notice 2002-1, 2002-1 C.B. 283, as amplified by Notice 2003-49, 2003-2 C.B. 294, and Notice 2011-86, 2011-45 I.R.B. 698.

.04 User Fees under the Employee Plans Compliance Resolution System (EPCRS). The general user fee schedule for submissions under the Voluntary Correction Program (VCP) of EPCRS is set forth in section 6.08. Exceptions to the general fee schedule are also included in section 6.08. For further guidance on fees and eligibility for reduced fees, please see Rev. Proc. 2013-12, 2013-4 I.R.B. 313, as modified by Rev. Proc. 2015-27, 2015-16 I.R.B. 914 and Rev. Proc. 2015-28, 2015-16 I.R.B. 920.

SECTION 5. DEFINITIONS

The following terms used in this revenue procedure are defined in the pertinent revenue procedures referred to below, which are described in the appendix:

§ 403(b) pre-approved plan	Rev. Procs. 2013-22, 2014-28, 2015-22
403(b) Plan	Rev. Proc. 2013-12
Adoption agreement	Rev. Procs. 2015-36, 2013-22
Advisory letter	Rev. Procs. 2015-36, 2013-22, 2016-6
Basic plan document	Rev. Procs. 2015-36, 2013-22

Determination letter	Rev. Procs. 2016-5, 2016-6
Dual-purpose IRA	Rev. Procs. 98-59, 2010-48
Form 1023-EZ	Rev. Proc. 2016-5
Group exemption letter	Rev. Proc. 80-27
Group Submission	Rev. Proc. 2013-12
Information letter	Rev. Proc. 2016-4
Letter ruling	Rev. Proc. 2016-4
Mass submitter	Rev. Procs. 87-50, 2015-36, 2013-22
Mass submitter plan	Rev. Procs. 2015-36, 2013-22
Minor modification/modifier	Rev. Procs. 87-50, 2015-36, 2013-22
Nonamender Failure	Rev. Proc. 2013-12
Opinion letter	Rev. Procs. 2015-36, 2013-22, 2016-4
Orphan Plan	Rev. Proc. 2013-12
Plan Loan Failure	Rev. Proc. 2013-12
Prototype plan	Rev. Procs. 2015-36, 2013-22
Qualified Plan	Rev. Proc. 2013-12
Roth IRA	Rev. Procs. 98-59, 2010-48
SIMPLE IRA	Rev. Proc. 97-29
SIMPLE IRA Plan	Rev. Proc. 97-29
Sponsor	Rev. Procs. 2015-36, 2013-22
Sponsoring organization	Rev. Proc. 87-50
Substitute mortality table	Rev. Proc. 2008-62
VCP Submission	Rev. Procs. 2013-12, 2015-27

Volume submitter plans	Rev. Procs. 2015-36, 2013-22
Volume submitter specimen plan	Rev. Procs. 2015-36, 2013-22
Word-for-word identical adoption/Adopter	Rev. Procs. 87-50, 2015-36, 2013-22

SECTION 6. FEE SCHEDULE

The amount of the user fee payable with respect to each category or subcategory of submission is as set forth in the following schedule.

CATEGORY	
EMPLOYEE PLANS USER FEES	
.01 <u>Letter ruling requests.</u>	
(1) Computation of exclusion for annuitant under § 72	\$1,000
(2) Change in plan year (Form 5308)	\$1,000
<p>Note: No user fee is required if the requested change is permitted to be made pursuant to the procedure for automatic approval set forth in Rev. Proc. 87-27, 1987-1 C.B. 769. In such a case, Form 5308 should not be submitted to the Service.</p>	
(3) Five-Year Automatic Extension of the Amortization Period	\$1,000
(4) All other letter rulings under jurisdiction of the Employee Plans Office	\$10,000
.02 <u>Opinion letters on prototype individual retirement accounts and/or annuities, SEPs, SIMPLE IRAs, SIMPLE IRA Plans, Roth IRAs and dual-purpose IRAs.</u>	
	\$1,000

Note: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters of prototype IRAs or prototype dual-purpose IRAs with respect to a particular plan document, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.

.03 Opinion letters on master and prototype plans.

(1) Mass submitter M & P plan	\$1
(a) per basic plan document, new or amended, with one adoption agreement	6,000
(b) per each additional adoption agreement	\$11,000
(2) Sponsor's word-for-word identical adoption of M & P mass submitter's basic plan document (or an amendment thereof), per adoption agreement	\$300
(3) Sponsor's minor modification of M & P mass submitter's basic plan document, per adoption agreement	\$700
(4) Non-mass submitter M & P plan	
(a) per basic plan document, new or amended, with one adoption agreement	\$16,000
(b) per each additional adoption agreement	\$11,000
(5) M & P mass submitter's request for an opinion letter with respect to the addition of optional provisions following issuance of a favorable opinion letter, per basic plan document (regardless of the number of adoption agreements) (see section 12.03(1)(c) of Rev. Proc. 2015-36)	\$1000
(6) Assumption of sponsorship of an approved M & P plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document	\$300
(7) Change in name and/or address of sponsor of an approved M & P plan, per basic plan document	None
(8) Mass submitter or non-mass submitter sponsor per trust document in excess of 10	\$600

Note: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters with respect to a particular adoption agreement, only the first 300 such applications will be subject to the fee; no fee will apply to those in

excess of the first 300 such applications submitted within the 12-month period.

.04 Advisory letters on volume submitter plans.

(1) Volume submitter specimen plan (mass and non mass submitter) including one adoption agreement	\$28,000
(2) Each additional adoption agreement	\$28,000
(3) Volume submitter specimen plan that is word-for-word identical to a mass submitter specimen plan	\$300
(4) Assumption of sponsorship of an approved volume submitter plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document	\$300
(5) Change in name and/or address of practitioner of an approved volume submitter specimen plan, per basic plan document	None
(6) Mass submitter or non-mass submitter practitioner per trust document in excess of 10	\$ 600

.05 Determination letters

(1) Determination Letters:	
(a) Form 5300 (<i>Application for Determination for Employee Benefit Plan</i>)	\$2,500
(b) Form 5307 (<i>Application for Determination for Adopters of Modified Volume Submitter Plans</i>)	\$800
(c) Form 5310 (<i>Application for Determination for Terminating Plan</i>)	\$2,300
(d) Multiple employer plans (Form 5300), regardless of number of forms submitted	\$4,000

Note: In the case of a multiple employer plan that is

adopted by other employers after the initial submission, the fee would be the same as in paragraph (1)(a) or (d) above as applicable.

	\$4,000
(e) Multiple employer plans (Form 5310), regardless of number of participants	
(2) Group trusts contemplated by Rev. Rul. 81-100, 1981-1 C.B. 326, Rev. Rul. 2004-67, 2004-2 C.B. 28, Rev. Rul. 2011-1, 2011-2 I.R.B. 251, Rev. Rul. 2014-24, 2014-37 I.R.B. 529. Form 5316 is available for group trust submissions.	\$1,000
.06 <u>Opinion letters on § 403(b) prototype plans.</u>	
(1) Mass submitter § 403(b) prototype plan	
(a) per basic plan document with one adoption agreement	\$16,000
(b) per each additional adoption agreement	0
(2) Section 403(b) prototype plan of a word-for-word identical adopter of a § 403(b) prototype mass submitter's basic plan document (or an amendment thereof), per adoption agreement	\$11,000
(3) Section 403(b) prototype plan of a minor modifier of a § 403(b) prototype mass submitter's basic plan document, per adoption agreement	\$300
(4) Non-mass submitter § 403(b) prototype plan	
(a) per basic plan document with one adoption agreement	\$
(b) per each additional adoption agreement	700
(5) Assumption of sponsorship of an approved § 403(b) prototype plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per basic plan document	\$16,000
(6) Change in name and/or address of sponsor of an approved § 403(b) prototype plan, per basic	\$11,000
	\$300
	None

plan document

Note: If a mass submitter submits, during the period set forth in Rev. Proc. 2013-22, more than 300 applications on behalf of word-for-word adopters with respect to a particular adoption agreement, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.

.07 Advisory letters on § 403(b) volume submitter plans.

(1) Section 403(b) volume submitter specimen plan (mass and non-mass submitter) including one adoption agreement	\$28,000
(2) Each additional adoption agreement	\$28,000
(3) Section 403(b) volume submitter specimen plan of a word-for-word identical adopter of a mass submitter specimen plan	\$300
(4) Section 403(b) volume submitter specimen plan of a minor modifier of a 403(b) volume submitter mass submitter specimen plan (or per adoption agreement if applicable)	\$700
(5) Assumption of sponsorship of an approved § 403(b) volume submitter plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per specimen plan	\$300
(6) Change in name and/or address of practitioner of an approved § 403(b) volume submitter specimen plan, per specimen plan	None

.08 User Fees for Voluntary Correction Program (VCP) submissions under the Employee Plans Compliance Resolution System

(1) Regular submissions under VCP for Qualified Plans and 403(b) Plans:	
(a) 20 or fewer participants	\$500
(b) 21 to 50 participants	\$750
(c) 51 to 100 participants	\$1,500

(d) 101 to 1,000 participants	\$5,000
(e) 1,001 to 10,000 participants	\$10,000
(f) Over 10,000 participants	\$15,000

Note: For information on determining the number of participants, see Rev. Proc. 2013-12, section 12.08.

(2) VCP submissions for SEPs, SARSEPS or SIMPLE IRA Plans	\$250
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Note: See Rev. Proc. 2013-12 section 6.11 and 12.06 for circumstances where an additional fee may be imposed.

(3) VCP fee for Group Submissions, initial fee for first 20 plans.	\$10,000
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Note: An additional fee will be requested by the Service at a later time based on the number of plans in excess of 20 that will be part of the group submission (capped at \$50,000). See Form 8951 Instructions and Rev. Proc. 2013-12 sections 10.11 and 12.05.

(4) Terminating Orphan Plans	Fee applicable under 6.08(1) (if no fee waiver is requested or if the waiver request is denied)
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Note: At the discretion of the Service, the fee may be waived. Do not include an initial fee with the submission if a written waiver request is submitted. See Form 8951 Instructions and Rev. Proc. 2013-12, sections 11.03(13) and 12.02(4).

(5) Special reduced fees for VCP submissions involving non amender failures, certain failures related to minimum distribution requirements of § 401(a)(9), certain plan loan failures and VCP submissions requesting minor modifications of previously issued compliance statements.	See section 12 of Rev. Proc. 2013-12 as modified by Rev. Proc. 2015-27
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(6) Refund information relating to VCP submissions.	See section 10.07 of Rev. Proc. 2013-12
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Note: Other VCP fees found in section 12 of Rev. Proc. 2013-12 as modified by Rev. Proc. 2015-27 have not changed. For further information on VCP Fees, see Rev. Proc. 2013-12 and Rev. Proc. 2015-27.

EXEMPT ORGANIZATIONS USER FEES

.09 Determination letters and requests for group exemption letters

- | | |
|--|-------|
| (1) Applications for recognition of exemption under § 501(c)(3) submitted on Form 1023-EZ. | \$400 |
| | |
| (2) Applications for recognition of exemption under § 501 not included in (1) or under § 521 from organizations (other than pension, profit-sharing, and stock bonus plans described in § 401) that have had annual gross receipts averaging not more than \$10,000 during the preceding four years, or new organizations that anticipate gross receipts averaging not more than \$10,000 during the first four years. | \$400 |

Note: Organizations seeking this reduced fee must sign a certification with their application that the receipts are or will be not more than the indicated amounts.

- | | |
|--|-------|
| (3) Applications (for recognition of exemption under § 501 not included in (1) or (2) of section 6.09 or under § 521 from organizations whose actual or anticipated gross receipts exceed the \$10,000 average annually. | \$850 |
|--|-------|

Note: If an organization that is already recognized as exempt under § 501(c) seeks reclassification under another subparagraph of § 501(c), a new user fee will be charged whether or not a new application is required. An additional fee applies to organizations that seek recognition of exemption under § 501(c)(4) (unless requested at the time of the § 501(c)(3) application) for a period for which they do not qualify for exemption under § 501(c)(3) because their application was filed late and they do not qualify for relief under § 301.9100-1.

- | | |
|-----------------------------|---------|
| (4) Group Exemption letters | \$3,000 |
|-----------------------------|---------|

Note: An additional user fee under (1), (2), or (3) above is also required when a central organization submits an initial application for exemption with its request for a group exemption letter.

(5) Canadian registered charities

None

In accordance with the income tax treaty between the United States and Canada, Canadian registered charities are automatically recognized as exempt under § 501(c)(3) without filing an application for exemption. For details, see Notice 99–47, 1999–2 C.B. 391. Therefore, no user fee is required when a Canadian registered charity submits all or part of a Form 1023 or other written request to be listed in Exempt Organizations Select Check database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data), or for a determination on its private foundation status.

.10 Summary of exempt organization fees

This table summarizes the various types of exempt organization issues, indicates the office of jurisdiction for each type, and lists the applicable user fee. Reduced fees may be applicable in certain instances.

ISSUE	DETERMINATIONS OFFICE	USER FEE
Accounting period changes (Form 1128)		None
Application for recognition of exemption under § 501(c)(3) submitted on Form 1023-EZ		\$400
Application for recognition of exemption under § 501 or § 521 other than those filed on Form 1023-EZ		\$850
Reduced user fee for organizations described in section 6.09(2)		\$400

Group exemption letters	\$3,000
Confirmation of exemption (to replace lost exempt status letter, and to reflect name and address changes)	None
Reclassification of private foundation status, including operating foundation status described in § 4942(j)(3) and exempt operating foundation status described in § 4940(d); a determination that a public charity is described in § 509(a)(3)(i), (ii), or (iii), including whether or not a Type III supporting organization is functionally integrated; reclassification of foundation status, including voluntary requests from public charities for private foundation status and voluntary requests from public charities, including requests from subordinate organizations, to change from one public charity status to another public charity status; or final public charity classification determination for organizations whose advance ruling periods expired prior to June 9, 2008 without providing the required information (Form 8940).	\$400
Regulations § 301.9100 relief in connection with applications for recognition of exemption	None
Section 507 terminations – advance ruling under § 507(b)(1)(B) and notice under § 507(a)(1) or 507(b)(1)(B)	\$400
Section 4942(g)(2) set asides – advance approval (Form 8940)	\$1000
Section 4945 advance approval of organization's grant making procedures (Form 8940)	\$1000
Section 4945(f) advance approval of voter registration activities (Form 8940)	\$1000

Section 6033 annual information return filing requirements (including a subordinate organization's change of filing requirements) (Form 8940)	\$400
Unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2) (Form 8940)	\$400
User Fee for determination letters under the jurisdiction of the Determinations Office not otherwise described or covered in this section 6.10.	\$400

SECTION 7. MAILING ADDRESS FOR REQUESTING LETTER RULINGS, DETERMINATION LETTERS, VCP COMPLIANCE STATEMENTS

.01 Matters handled by EP Rulings and Agreements. Requests should be mailed to the appropriate address set forth in this section 7.01.

(1) Employee plans letter rulings under Rev. Procs. 87-50, 90-49, 2000-41, 2003-16, 2008-62, 2010-52, or 2016-4:

Internal Revenue Service
 Attention: EP Letter Rulings
 Stop 31
 P.O. Box 12192
 Covington, KY 41012-0192

(2) Employee plans opinion letters under Rev. Procs. 87-50, 97-29, 98-59, and 2010-48:

Internal Revenue Service
 Attention: EP Opinion Letters
 Stop 31
 P.O. Box 12192
 Covington, KY 41012-0192

Note: Hand delivered requests must be marked RULING REQUEST SUBMISSION. The delivery should be made to the following address between the hours of 8:30 a.m. and 4:00 p.m., where a receipt will be given:

Courier's Desk
 Internal Revenue Service

Attention: EP Letter Rulings
Stop 31
201 West Rivercenter Boulevard
Covington, KY 41011

.02 Matters handled by EP or EO Determinations Office.

(1) The following types of requests and applications are handled by the EP or EO Determinations Office and should be sent to the Internal Revenue Service Center in Covington, Kentucky, at the address shown below: (a) requests for determination letters on the qualified status of employee plans under § 401, 403(a), or 409, and the exempt status of any related trust under § 501; (b) applications for recognition of tax exemption on Form 1023, Form 1024 and Form 1028; (c) requests for determination letters submitted with Form 8940; (d) requests for changes in accounting period; and (e) and other applications for recognition of qualification or exemption (other than on Form 1023-EZ). The address is:

Internal Revenue Service
Attention: EP/EO Determination Letters
Stop 31
P.O. Box 12192
Covington, KY 41012-0192

(2) Applications for recognition of exemption on Form 1023-EZ are handled by the EO Determinations Office, but must be submitted electronically online at www.pay.gov. Paper submissions of Form 1023-EZ will not accepted.

(3) The following types of requests and applications are handled by the EP Determinations Office and should be sent to the Internal Revenue Service at the address shown below: (a) requests for master and prototype opinion letters and for volume submitter advisory letters on the form of pre-approved employee plans under § 401 or 403(a); (b) the exempt status of any related trust under § 501; and (c) requests for prototype opinion letters and for volume submitter advisory letters for § 403(b) pre-approved plans under Rev. Proc. 2013-22. The address is:

Internal Revenue Service
Attn. Pre-Approved Plans Coordinator
P.O. Box 2508
Rm. 5106: Group 7521
Cincinnati, OH 45201

(4) Determinations and requests not subject to a user fee are handled by the EO Determinations Office and should be sent to the Internal Revenue Service at the address shown below:

Internal Revenue Service
P.O. Box 2508
Rm. 4024
Cincinnati, OH 45201

(5) Applications shipped by Express Mail or a delivery service for all of the above **except for pre-approved employee plans** should be sent to:

Internal Revenue Service
Attention: EP/EO Determination Letters
Stop 31
201 West Rivercenter Boulevard
Covington, KY 41011

Applications shipped by Express Mail or a delivery service for **pre-approved employee plans** should be sent to:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
550 Main Street
Room 5106: Group 7521
Cincinnati, OH 45202

.03 Matters handled by EP Voluntary Compliance

(1) VCP submissions are handled by the EP Voluntary Compliance function and should be sent to the Internal Revenue Service in Covington, Kentucky, at the address shown below. Submission procedures for VCP are set forth in section 11 of Rev. Proc. 2013-12, as revised by Rev. Proc. 2015-27. Refer to instructions associated with Form 8950. Forms 8950 and 8951 must accompany the VCP submission.

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

(2) Submissions shipped by Express Mail or a delivery service should be sent to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn; Extracting Stop 312
Covington, KY 41011

SECTION 8. REQUESTS INVOLVING MULTIPLE OFFICES, FEE CATEGORIES, ISSUES, TRANSACTIONS, OR ENTITIES

.01 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 (Income Tax & Accounting) and another issue is under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division), the taxpayer is only responsible for the payment of the single highest fee that could be charged by any of the offices involved. See Rev. Proc. 2016-1, in this Bulletin, for the user fees applicable to issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions & Products), the Associate Chief Counsel (Income Tax & Accounting), the Associate Chief Counsel (Passthroughs & Special Industries), the Associate Chief Counsel (Procedure and Administration), the Associate Chief Counsel (International) or the Associate Chief Counsel (Tax Exempt and Government Entities).

.02 Requests involving several fee categories. If a request dealing with only one transaction involves more than one fee category, the taxpayer only is responsible for payment of the single highest fee that could be charged for any of the categories involved.

.03 Requests involving several issues. A request is treated as one request if: (1) the request deals with only one transaction but involves several issues or (2) the request is one for a change in accounting period dealing with only one item but involves several issues. In such instances, only one fee applies, namely the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction will not result in an additional fee, unless the issue places the transaction in a higher fee category.

.04 Requests involving several unrelated transactions. In situations where: (1) a request involves several unrelated transactions or (2) a request for a change in accounting period involves several unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction or item. An additional fee will apply if the request is changed by the addition of an unrelated transaction or item not contained in the initial submission.

.05 Requests for separate letter rulings for several entities. Each entity involved in a transaction that desires a separate letter ruling in its own name (for example, an exempt hospital reorganization) must pay a separate fee. Payment of a separate fee is required regardless of whether the transaction or transactions may be viewed as related.

SECTION 9. PAYMENT OF FEE

.01 Method of payment. Except as provided in sections 9.04 and 9.05, each request to the Service for a letter ruling, determination letter, opinion letter, or VCP compliance statement, must be accompanied by a check, payable to the United States Treasury, in the appropriate amount. Taxpayers should not send cash.

The check may be converted to an electronic fund transfer. "Electronic fund transfer" is the term used to refer to the process in which the Service electronically instructs the financial institution holding the funds to transfer funds from the account named on the check to the

U.S. Treasury account, rather than processing your check. By sending a completed, signed check to the Service, the Service is authorized to copy the check and to use the account information from the check to make an electronic fund transfer from the account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, the Service is authorized to process the copy of the check.

The electronic fund transfer from an account will usually occur within 24 hours, which is faster than a check is normally processed. Therefore, it is necessary to ensure there are sufficient funds available in the checking account when the check is sent to the Service. The check will not be returned from your financial institution.

.02 Transmittal forms. (1) Form 8717, *User Fee for Employee Plan Determination Letter Request* (or a payment confirmation from pay.gov as described in section 9.04), Form 8717-A, *User Fee for Employee Plan Opinion or Advisory Letter Request* and Form 8718, *User Fee for Exempt Organization Determination Letter Request*, are intended to be used as attachments to certain determination letter, opinion letter and advisory letter applications. Space is reserved for the attachment of the applicable user fee check. No similar form has been designed to be used in connection with requests for letter rulings. Do not use Form 8717 for VCP submissions. Instead, see paragraph 9.02(2) of this revenue procedure. (Form 8717, *User Fee for Employee Plan Determination Letter Request* (Rev. August 2014) and Form 8717-A, *User Fee for Employee Opinion or Advisory Letter Request* (August 2014) are currently being revised. Until such revised forms are published, taxpayers should continue to use the existing forms. However, when completing the forms, taxpayers should refer to the applicable Employee Plans user fees listed in section 6 of this revenue procedure.)

(2) Form 8950, *Application for Voluntary Correction Program (VCP) Submission under the Employee Plans Compliance Resolution System (EPCRS)* and Form 8951, *Compliance Fee for Application for Voluntary Correction Program (VCP)*, must be included with VCP submissions. A check for the amount of the user fee must be attached to Form 8951. (Form 8951, *Compliance Fee for Application for Voluntary Correction Program (VCP)* (Rev. September 2015) is currently being revised. Until such revised form is published, taxpayers should continue to use the existing form. However, when completing line 7, taxpayers should refer to the fees listed in section 6.08(1) of this revenue procedure.)

.03 Effect of nonpayment or payment of incorrect amount.

Except as provided in Rev. Proc. 2016-6, it will be the general practice of the Service that:

(1) The respective offices within the Service that are responsible for issuing letter ruling or determination letters will exercise discretion in deciding whether to immediately return submissions that are not accompanied by a properly completed check or that are accompanied by a check for less than the correct amount. In those instances where the submission is not immediately returned, the requester 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 submission will then be returned. However, the respective offices of the Service, in their discretion, may defer substantive

consideration of a submission until proper payment has been received.

(2) An application for a determination or opinion or advisory letter will not be returned merely because Form 8717, Form 8717-A or Form 8718 was not attached.

(3) The return of a submission to the requester may adversely affect substantive rights if the submission is not perfected and resubmitted to the Service within 30 days of the date of the cover letter returning the submission. An example of this is where an application for exemption under § 501(c)(3) is submitted before expiration of the period provided by § 1.508-1(a)(2) and is returned because no user fee was attached, the submission will be timely if it is resubmitted before expiration of the period provided by § 1.508-1(a)(2) or within 30 days, whichever is later.

(4) If a check is for more than the correct amount, the submission will be accepted and the amount of the excess payment will be returned to the requester.

(5) If the user fee included with the VCP submission is less than the user fee required under section 6.08, the submission may be returned.

.04 Payment of user fees for Employee Plan Determination applications.

User fees for Employee Plan Determination applications (Form 5300 series only) may be paid by credit or direct debit from a checking or savings account through www.pay.gov. Payment confirmations are provided through the www.pay.gov portal and must be submitted in lieu of the paper Form 8717. Additional information can be found at Frequently Asked Questions at www.pay.gov.

.05 Payment of user fees for applications of recognition of exemption on Form 1023-EZ.

User fees for applications for recognition of exemption on Form 1023-EZ must be paid through www.pay.gov.

SECTION 10. REFUNDS

.01 Ruling or determination letter requests. In general, the fee **will not be refunded** unless the Service declines to rule or make a determination on **all issues** for which a ruling or determination letter is requested.

.02 Examples relating to ruling and determination letter requests.

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

(a) The request for a letter ruling or determination letter, is withdrawn at any time subsequent to its receipt by the Service, unless the only reason for withdrawal is that the Service has advised the requester that a higher user fee than was sent with the request is applicable and the requester is unwilling to pay the higher fee. For example, no fee will be refunded where the taxpayer has been advised that a proposed adverse ruling is contemplated and subsequently withdraws its submission.

(b) The request is procedurally deficient, although accompanied by the proper fee or an overpayment, and it is not timely perfected upon request. When there is a

failure to timely perfect the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure. If accepted, an exemption application that is not complete is considered a procedurally deficient request for a determination letter on exempt status.

(c) In the case of a request for an EP letter ruling, if the case has been closed by the Service because essential information has not been submitted timely, the request may be reopened and treated as a new request, but the requester must pay another user fee before the case can be reopened. See 11.04(5) of Rev. Proc. 2016-4. In the case of a request for an EP determination letter, if the case has been closed by the Service because the requested information has not been timely submitted, the case will be closed and the user fee will not be refunded. See 6.13 of Rev. Proc. 2016-6.

(d) A letter ruling, determination letter, etc., is revoked in whole or in part at the initiative of the Service. The fee paid at the time the original letter ruling, determination letter, etc., was requested will not be refunded.

(e) The request contains several issues and the Service rules on some, but not all, of the issues. The highest fee applicable to the issues on which the Service rules will not be refunded.

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

(g) The situation is the same as described in subparagraph (f) of this section 10.02(1) except that the letter ruling covered several unrelated transactions. The Service, upon reconsideration, does not agree with the requester that the letter ruling is erroneous or is not responsive for all 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 Service agrees the letter ruling was in error.

(h) The request is for a supplemental letter ruling, determination letter, etc., concerning a change in facts (whether significant or not) relating to the transaction on which the Service ruled.

(i) The request is for reconsideration of an adverse or partially adverse letter ruling or a final adverse determination letter, and the taxpayer submits arguments and authorities not submitted before the original letter ruling or determination letter was issued.

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

(a) In a situation to which section 10.02(1)(i) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Service declined to rule) and requests reconsideration. Upon reconsideration, the Service agrees that the letter ruling is erroneous or is not responsive. The fee accompanying the taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 10.02(1)(i) of this revenue procedure does

not apply, the requester 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) See Rev. Proc. 2016-1, section 15.10(2), concerning refund of user fees when a taxpayer requests relief under § 7805(b).

(d) In a situation to which section 10.02(1)(b) of this revenue procedure would otherwise apply, except that the Service does not request perfection of the procedural deficiencies in the application but rather does not accept the application and returns it to the requester, the fee accompanying the request will be returned or refunded.

(e) In a situation to which section 10.02(1)(e) of this revenue procedure applies, the requester 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.

.03 VCP Submissions For refunds relating to VCP submissions, see Rev. Proc. 2013-12, section 10.07.

SECTION 11. REQUEST FOR RECONSIDERATION OF USER FEE

A taxpayer that believes the user fee charged by the Service for its request for a letter ruling, determination letter, etc., is either not applicable or incorrect and wishes to receive a refund of all or part of the amount paid (see section 10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Internal Revenue Service at the applicable Post Office Box or other address given in section 7 of this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of the appropriate unit as listed in the table below

If the matter involves primarily:

Mark for the attention of:

Employee plans letter ruling requests and all other employee plans matters handled by EP Rulings and Agreements

Employee Plans Rulings and Agreements

Employee plans determination letter requests and opinion letter and advisory letter requests pursuant to Rev. Proc. 2015-36

Manager, EP Determinations Quality Assurance

Exempt organizations determination letter requests

Manager, EO Determinations Quality Assurance

Notwithstanding the above, user fees associated with submissions made to the Employee Plans VCP program are fixed, apply to all plan sponsors, and generally will not be refunded. However, if a taxpayer believes they submitted an incorrect fee relating to a VCP submission, the taxpayer should contact the Service's employee who is working the case to determine whether a partial refund or additional payment is applicable. If the taxpayer is not in contact with a specific Service employee with regard to the taxpayer's submission, the taxpayer may call the VCP Case Status Telephone number at (626) 927-2011. If there is a disagreement as to the fee that applies to a specific VCP case, the matter may be discussed with the employee's manager.

SECTION 12. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2015-8 and Rev. Proc. 2015-22 are superseded.

SECTION 13. EFFECTIVE DATE

This revenue procedure is effective February 1, 2016, except that the Exempt Organization user fees set forth in sections 6.09 and 6.10 are effective January 4, 2016.

SECTION 14. 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 1545-1772.

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

The collections of information in this revenue procedure are in section 6.09. This information is required; to substantiate that a taxpayer or an exempt organization seeking to pay a reduced user fee with respect to a request for a determination letter is entitled to pay the reduced fee; to identify the user fee category and corresponding fee required to be paid with respect to determination letter requests; to request reconsideration of the user fee charged by the Service; and, in connection with such a request, to indicate whether an oral discussion is desired. This information will be used to enable the Service to determine whether the taxpayer or exempt organization is entitled to pay a reduced user fee, to ascertain whether reconsideration of the user fee is being requested and, if it is being requested, whether an oral discussion is requested. The collections of information are voluntary, to obtain a benefit. The likely respondents are individuals, businesses or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

The estimated total annual reporting and/or recordkeeping burden is 300 hours.

The estimated annual burden per respondent/recordkeeper varies from one hour to ten hours, depending on individual circumstances, with an estimated average of three

hours. The estimated number of respondents and/or recordkeepers is 90 (requests for reduced fees) and 10 (requests for reconsideration of fee).

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 26 U.S.C. 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Kathleen Herrmann of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure, contact Kathleen Herrmann at (202) 317-6799 (not a toll free number).

APPENDIX

Following is a list of revenue procedures relating to requests for letter rulings, determination letters, etc. that require the payment of a user fee.

A. Procedures applicable to both Employee Plans and Exempt Organizations

Rev. Proc. 2016-4, in this Bulletin, provides procedures for issuing letter rulings, information letters, etc., on matters relating to matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

B. Procedures applicable to Employee Plans matters other than actuarial matters

Rev. Proc. 87-50, 1987-2 C.B. 647, as modified by Rev. Proc. 91-44, Rev. Proc. 92-38, Rev. Proc. 2002-10, 2002-1 C.B. 401, and Rev. Proc. 2010-48, 2010-50 I.R.B. 828 sets forth the procedures of the Service relating to the issuance of rulings and opinion letters with respect to the establishment of individual retirement accounts and annuities (IRAs) under § 408, the entitlement to exemption of related trusts or custodial accounts under § 408(e), and the acceptability of the form of prototype simplified employee pension (SEP) agreements under §§ 408(k) and 415.

Rev. Proc. 92-24, 1992-1 C.B. 739, provides procedures for requesting determination letters on the effect on a plan's qualified status under § 401(a) of the Code of plan language that permits, pursuant to § 420, the transfer of assets in a defined benefit plan to a health benefits account described in § 401(h).

Rev. Proc. 92-38, 1992-1 C.B. 859, provides notice that individual retirement

arrangement trusts, custodial account agreements, and annuity contracts must be amended to provide for the required distribution rules in § 408(a)(6) or (b)(3) of the Code. In addition, Rev. Proc. 92-38 modifies the guidance in Rev. Proc. 87-50 with regard to opinion letters issued to sponsoring organizations, including mass submitters and sponsors of prototype IRAs.

Rev. Proc. 97-29, 1997-1 C.B. 698, describes model amendments for SIMPLE IRAs; guidance to drafters of prototype SIMPLE IRAs on obtaining opinion letters; permissive amendments to sponsors of nonSIMPLE IRAs; the opening of a prototype program for SIMPLE IRA Plans; and transitional relief for users of SIMPLE IRAs and SIMPLE IRA Plans that have not been approved by the Service.

Rev. Proc. 98-59, 1998-2 C.B. 727, as modified by Rev. Proc. 2010-48, 2010-50 I.R.B. 828 provides guidance on obtaining opinion letters to drafters of prototype Roth IRAs, and provides transitional relief for users of Roth IRAs that have not been approved by the Internal Revenue Service.

Rev. Proc. 2003-16, 2003-1 C.B. 359, sets forth guidelines for the implementation of the provision for a waiver of the 60-day rollover period described in section 644 of EGTRRA.

Rev. Proc. 2013-12, 2013-4 I.R.B. 313, as modified by Rev. Proc. 2015-27, 2015-16 I.R.B. 914 and Rev. Proc. 2015-28, 2015-16 I.R.B. 920 contains the most recent restatement of the Employee Plans Compliance Resolution System (EPCRS) a comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy § 401(a), 403(a), 403(b) 408(k) or 408(p) of the Code but have failed to meet those requirements for a period of time.

Rev. Proc. 2013-22, 2013-18 I.R.B. 985, as modified by Rev. Proc. 2014-28, 2014-16 I.R.B. 944 contains the Service's procedures for issuing opinion and advisory letters for § 403(b) pre-approved plans (that is, § 403(b) prototype plans and § 403(b) volume submitter plans).

Rev. Proc. 2015-36, 2015-27 I.R.B. 20, contains the Service's master and prototype (M&P) and volume submitter program procedures for the pre-approval of pension, profit-sharing and annuity plans.

Rev. Proc. 2016-6, in this Bulletin, provides procedures for issuing determination letters on the qualified status of employee plans under §§ 401(a), 403(a), 409, and 4975(e) (7).

C. Procedures applicable to Employee Plans actuarial matters

Rev. Proc. 90-49, 1990-2 C.B. 620, modifies and replaces Rev. Proc. 89-35, 1989-1

C.B. 917, in order to extend the effective date to contributions made for plan years beginning after December 31, 1989, to change the deadline for requesting rulings under the revenue procedure, to revise the information requirements for a ruling request made under the revenue procedure, to furnish a worksheet for actuarial computations, and to provide a special rule under which certain de minimis nondeductible employer contributions to a qualified defined benefit plan may be returned to the taxpayer without a formal ruling or disallowance from the Service.

Rev. Proc. 2000-41, 2000-2 C.B. 371, sets forth the procedure by which a plan administrator or plan sponsor may obtain approval of the Secretary of the Treasury for a change in funding method as provided by § 412(c)(5) of the Code and section 302(c)(5) of ERISA.

Rev. Proc. 2008-62, 2008-42 I.R.B. 935, sets forth the procedure by which the sponsor of a defined benefit plan, other than a multiemployer plan, may request and obtain approval for the use of plan-specific substitute mortality tables in accordance with section 430(h)(3)(C) of the Code and section 303(h)(3)(C) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

Rev. Proc. 2010-52, 2010-52 I.R.B. 927, describes the procedure by which the plan sponsor of a multiemployer pension plan may request and obtain approval of an extension of an amortization period in accordance with section 431(d) of the Code.

D. Procedures applicable to Exempt Organizations matters only

Rev. Proc. 80-27, 1980-1 C.B. 677, as modified by Rev. Proc. 96-40, 1996-2 C.B. 301, provides procedures under which recognition of exemption from federal income tax under § 501(c) may be obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. This procedure relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption.

Rev. Proc. 2016-5, in this Bulletin, will set forth any applicable revised procedures with regard to applications for recognition of exemption from federal income tax under §§ 501 (including on Form 1023-EZ) and 521. Rev. Proc. 2016-10, next Bulletin, sets forth procedures with regard to changes of foundation classification.