

**Rev. Proc. 2010-6**

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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 Yaguo Zhang of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding how this revenue procedure applies to employee plans matters, please contact the Employee Plans Customer Assistance Service at 877-829-5500 (a toll-free number) between the hours of 8:30 am and 4:30 pm Eastern time, Monday through Friday. In the alternative, please e-mail Mr. Zhang at *RetirementPlanQuestions@irs.gov*. For exempt organizations matters, please email Ms. Nicole M. Siegel at *tege.eo.ra@irs.gov*. Please put “Question about Rev. Proc. 2010-5” in the subject line.

**Form of request to limit retroactivity—technical advice that does not modify or revoke prior memorandum**

.05 A request to limit the retroactive effect of a holding in a TAM that does not modify or revoke a TAM may be made as part of that TAM request, either initially, or at any time before the TAM is issued by EP or EO Technical. In such a case, the taxpayer must also submit a statement in support of the application of § 7805(b), as described in section 19.04 above.

**Taxpayer's right to a conference**

.06 When a request for a TAM concerns only the application of § 7805(b), the taxpayer has the right to a conference in EP or EO Technical in accordance with the provisions of section 14 of this revenue procedure.

If the request for application of § 7805(b) is included in the request for a TAM on the substantive issues or is made before the conference of right on the substantive issues, the § 7805(b) issues will be discussed at the taxpayer's one conference of right.

If the request for the application of § 7805(b) is made as part of a pending TAM request after a conference has been held on the substantive issues, and the Service determines that there is justification for having delayed the request, then the taxpayer will have the right to one conference of right concerning the application of § 7805(b), with the conference limited to discussion of this issue.

**Exhaustion of administrative remedies — employee plans determination letter requests**

.07 Where the applicant has requested EP Determinations to seek a TAM on the applicability of § 7805(b) relief to a qualification issue under § 401(a) pursuant to a determination letter request, the applicant's administrative remedies will not be considered exhausted until EP Technical has a reasonable time to act on the request for a TAM. (*See*, section 20 of Rev. Proc. 2010-6.)

**Exhaustion of administrative remedies — exempt organization matters**

.08 Where a TAM has been requested pursuant to an exempt organization's request for § 7805(b) relief from the retroactive application of an adverse determination within the meaning of § 7428(a)(1), the exempt organization's administrative remedies will not be considered exhausted, within the meaning of § 7428(b)(2), until EO Technical has a reasonable time to act on the request for a TAM.

**SECTION 20. WHAT IS THE EFFECT OF THIS REVENUE PROCEDURE ON OTHER DOCUMENTS?**

Rev. Proc. 2009-5 is superseded.

**SECTION 21. EFFECTIVE DATE**

This revenue procedure is effective January 4, 2010.

**SECTION 22. PAPERWORK REDUCTION ACT**

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1520.

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

The collections of information in this revenue procedure are in sections 6.03, 9, 10.01, 10.05, 11.04, 11.05, 11.06, 12.02, 12.03, 13.01, 14.03, 14.10, 16.10, 16.12, 17.05, 19.03, 19.04, and 19.05. This information is required to evaluate and process the request for a TAM. In addition, this information will be used to help the Service delete certain information from the text of the TAM before it is made available for public inspection, as required by § 6110. The collections of information are required to obtain a TAM. The likely respondents are businesses or other for-profit institutions and not-for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 1,950 hours.

The estimated annual burden per respondent/recordkeeper varies from 4 hours to 60 hours, depending on individual circumstances, with an estimated average of 19.5 hours. The estimated number of respondents and/or recordkeepers is 100.

The estimated annual frequency of responses is one request per applicant.