

Rev. Proc. 2020-5

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

This revenue procedure sets forth procedures for issuing determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements. Specifically, it explains the procedures for issuing determination letters on exempt status (in response to applications for recognition of exemption from Federal income tax under § 501 or § 521 other than those subject to Rev. Proc. 2020-4, this Bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans)), private foundation status, and other determinations related to exempt organizations. These procedures also apply to revocation or modification of determination letters. This revenue procedure also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under § 7428. Finally, this revenue procedure provides guidance on applicable user fees for requesting determination letters.

Description of terms used in this revenue procedure

.01 For purposes of this revenue procedure—

(1) The term “Service” means the Internal Revenue Service.

(2) The term “EO Rulings and Agreements” means the office in EO that is primarily responsible for up-front, customer-initiated activities such as determination letter requests, taxpayer assistance, and assistance to other EO offices. The EO Rulings and Agreements office includes the offices of EO Determinations and EO Determinations Quality Assurance.

(3) The term “EO Determinations” means the office in EO Rulings and Agreements of the Service that is primarily responsible for processing requests for determination letters.

(4) The term “Internal Revenue Service Independent Office of Appeals” (Independent Office of Appeals) means any office under the direction and control of the Chief of Appeals. The purpose of the Independent Office of Appeals is to resolve tax controversies, without litigation, on a fair and impartial basis. The Independent Office of Appeals is independent of EO Rulings and Agreements.

(5) The term “determination letter” means a written statement issued by EO Determinations or the Independent Office of Appeals in response to a request for the Service’s ruling on a question of exempt status, foundation status, or other determination under the jurisdiction of the Director, EO Rulings and Agreements. This includes a written statement issued by EO Determinations or an office of the Independent Office of Appeals on the basis of advice secured from the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) pursuant to the procedures prescribed in Rev. Proc. 2020-2, this Bulletin. A determination letter applies the principles and precedents previously announced to a specific set of facts.

(6) The term “request” means the written submission that an organization uses to obtain a determination letter in accordance with the requirements of this revenue procedure.

(7) The term “application” means a request for recognition of exemption from Federal income tax under § 501 or § 521.

Updated annually

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

SECTION 2. NATURE OF CHANGES TO REV. PROC. 2019-5 AND RELATED REVENUE PROCEDURES AND FORMS

What changes have been made to Rev. Proc. 2019-5?

.01 This revenue procedure updates Rev. Proc. 2019-5, which deals with procedures for issuing Exempt Organization determination letters. Notable changes to Rev. Proc. 2019-5 that appear in this year’s update include –

(1) “Appeals Office” was changed to “Independent Office of Appeals” throughout to reflect the office’s name change.

(2) Section 2.04 was added, which announces that an electronic version of Form 1023 is expected to replace the paper Form 1023 in 2020.

(3) Clarifying language regarding Rev. Proc. 2018-15 was added to sections 2.02(6), 3.01(1), and 3.02.

(4) Sections 4.04 and 4.06(2) were amended to conform to the current practice of permitting taxpayers to submit faxed signatures in certain situations.

(5) Section 6.08(2) was amended to state that an organization applying for recognition of tax-exempt status after 27 months from formation under §501(c)(3) may not use Form 1023-EZ if it requests an effective date earlier than the submission date, but instead must file a Form 1023.

(6) Appendix A was amended to reflect changes in several determination letter user fees as of July 1, 2020.

(7) Editorial changes were made throughout including minor non-substantive changes, dates, and cross-references. Citations to other revenue procedures were changed to reflect the appropriate annual revenue procedures.

Related revenue procedures

.02 This revenue procedure supplements the following revenue procedures—

(1) Rev. Proc. 80-27, 1980-1 C.B. 677, which sets forth procedures under which exemption may be recognized on a group basis for subordinate organizations affiliated with and under the general supervision and control of a central organization.

(2) Rev. Proc. 72-5, 1972-1 C.B. 709, which provides information for religious and apostolic organizations seeking recognition of exemption under § 501(d).

(3) Rev. Proc. 2015-17, 2015-7 I.R.B. 599, which provides information regarding procedures for organizations described in § 501(c)(29).

(4) Rev. Proc. 2014-11, 2014-3 I.R.B. 411, which sets forth procedures for reinstating the tax-exempt status of organizations that have had their tax-exempt status automatically revoked under § 6033(j)(1).

(5) Rev. Proc. 2016-41, 2016-30 I.R.B. 165, which sets forth the procedure for an organization to notify the Service, consistent with § 506, that it is operating as an organization described in § 501(c)(4).

(6) Rev. Proc. 2018-15, 2018-9 I.R.B. 379, which describes the circumstances under which a domestic § 501(c) organization that changes its form or place of organization will not be required to file a new exemption application and such an organization's reporting requirements.

Related forms that are not a request for a determination letter

.03 **Forms that are not requests for a determination.** Certain organizations are required to submit the following forms, but such forms are not requests for a determination and, thus, are not subject to the procedures in this revenue procedure.

(1) **Form 8871, Political Organization Notice of Section 527 Status.** A political party, a campaign committee for a candidate for Federal, state or local office, and a political action committee are all political organizations subject to tax under § 527. To be tax-exempt, a political organization may be required to notify the Service that it is to be treated as a § 527 organization by electronically filing Form 8871, *Political Organization Notice of Section 527 Status*. See irs.gov (“Tax Information for Political Organizations”).

(2) **Form 8976, Notice of Intent to Operate Under Section 501(c)(4)**. An organization described in § 501(c)(4) must, no later than 60 days after the date the organization is established, notify the Service that it is operating as an organization described in § 501(c)(4) by submitting a completed Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)* and accompanying user fee. See irs.gov (“Electronically Submit Your Form 8976, Notice of Intent to Operate Under Section 501(c)(4)”).

Related revenue procedure expected to be published after Rev. Proc. 2020-5

.04 An electronic version of Form 1023 is expected to replace the paper Form 1023 in 2020. A revenue procedure is expected to be published to provide information on and procedures for the new electronic Form 1023, including the applicable transition period.

**SECTION 3.
UNDER WHAT
CIRCUMSTANCES DOES
EO DETERMINATIONS
ISSUE DETERMINATION
LETTERS?**

**Matters on which EO
Determinations will issue a
determination letter**

.01 EO Determinations issues determination letters on the following matters:

(1) Initial qualification for exempt status of organizations described in § 501 or § 521 (including reinstatement of organizations that have been automatically revoked pursuant to § 6033(j) and subordinate organizations included in a group exemption letter that have been revoked pursuant to that provision). See Rev. Proc. 2018-15 for procedures applicable to an entity changing its form or state of organization;

(2) Updated exempt status letter (affirmation letter) to reflect changes to an organization’s name or address, or to replace a lost exempt status letter;

(3) Classification or reclassification of private foundation status, including whether an organization is—

(a) A private foundation;

(b) A public charity described in §§ 509(a)(1) and 170(b)(1)(A) (other than clauses (v), (vii), and (viii));

(c) A public charity described in § 509(a)(2) or (4);

(d) A public charity described in § 509(a)(3), whether such organization is described in § 509(a)(3)(B)(i), (ii), or (iii) (“supporting organization type”), and whether or not a Type III supporting organization is functionally integrated;

(e) A private operating foundation described in § 4942(j)(3); or

(f) An exempt operating foundation described in § 4940(d)(2).

(4) Recognition of unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2);

(5) Requests for relief under § 301.9100-1 of the Procedure and Administration Regulations in connection with applications for recognition of exemption;

(6) Terminations of private foundation status under § 507(b)(1)(B);

(7) Advance approval of certain set-asides described in § 4942(g)(2);

(8) Advance approval under § 4945(g) of organizations' grant making procedures;

(9) Advance approval of voter registration activities described in § 4945(f);

(10) Whether an organization is exempt from filing annual information returns under § 6033 as provided in Treas. Reg. § 1.6033-2(g)(1), Rev. Proc. 95-48, 1995-2 C.B. 418, and Rev. Proc. 96-10, 1996-1 C.B. 577;

(11) Determination of foundation status under § 509(a)(3) of non-exempt charitable trusts described in § 4947(a)(1); and

(12) Government entity voluntary termination of § 501(c)(3) recognition (must include documentation that the organization is not subject to income tax, other than under § 501(a)).

**Circumstances under which
determination letters are
not issued**

.02 The Service may decline to issue a determination letter when appropriate in the interest of sound tax administration or on other grounds whenever warranted by the facts or circumstances of a particular case. In addition, the Service will not issue a determination letter in response to any request if—

(1) the request involves an issue under the jurisdiction of the Associate Chief Counsel described in Rev. Proc. 2020-1, this Bulletin;

(2) the same issue involving the same taxpayer or a related taxpayer is pending in a case in litigation or before the Independent Office of Appeals. If the issue in litigation involving the same taxpayer or a related taxpayer is not the taxpayer or a related taxpayer's qualification as a tax-exempt entity (such as a declaratory judgment action under § 7428), the Service may issue a determination letter on exempt status after consultation with counsel;

(3) the determination letter is requested by an industry, trade association, or similar group on behalf of individual taxpayers within the group (other than subordinate organizations covered by a group exemption letter);

(4) the determination letter is requested by an organization seeking to qualify under § 501(c)(6) of the Internal Revenue Code whose purpose is directed to the improvement of business conditions of one or more lines of business relating to an activity involving controlled substances (within the meaning of schedule I and II of the Controlled Substances Act, 21 U.S.C.S. § 801 et seq.) which is prohibited by Federal law regardless of its legality under the law of the state in which such activity is conducted;

(5) the request is based on alternative plans of proposed transactions or on hypothetical situations. An application based on proposed activities that satisfies section 6.07(2) (related to recog-

nizing exempt status in advance of actual operations) is not considered to be based on hypothetical situations;

(6) an organization currently recognized as exempt under § 501(c) seeks a new determination letter confirming that the organization is still recognized under the same Code section under the currently extant facts;

(7) an organization seeks a determination of foundation status that is identical to its current foundation status as determined by EO Determinations. For example, an organization that is already recognized as described in §§ 509(a)(1) and 170(b)(1)(A)(ii) as a school generally will not receive a new determination letter that it is still described in §§ 509(a)(1) and 170(b)(1)(A)(ii) under the currently extant facts;

(8) an organization currently recognized as described in § 501(c)(3) seeks a determination letter recognizing the organization as described in a different subsection of § 501(c);

(9) an organization currently recognized as exempt under § 501(c) (other than a government entity as specified in section 3.01(12)) requests a determination to relinquish its exempt status under § 501(a); or

(10) a domestic organization currently recognized as exempt under § 501(c) seeks a determination letter but is not required to reapply because it has changed its form or state of organization in accordance with the requirements in Rev. Proc. 2018-15. An organization may request an affirmation letter to reflect changes to its name or address as provided in section 3.01(2).

Note: In some circumstances, an organization may seek a letter ruling from the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) on a specific legal issue including whether an activity furthers an organization's exempt purpose. *See* Rev. Proc. 2020-1 and Rev. Proc. 2020-3, this Bulletin.

Technical advice may be requested in certain cases

.03 EO Determinations generally issues determination letters only if the question presented is answered by a statute, tax treaty, regulation, court opinion, or guidance published in the Internal Revenue Bulletin. At any time during the course of consideration by EO Determinations, if either EO Determinations or the organization believes that its case involves an issue on which there is no published precedent, or there has been non-uniformity in the Service's handling of similar cases, EO Determinations may decide to seek, or the organization may request that EO Determinations seek, technical advice from the Office of Associate Chief Counsel with subject matter jurisdiction over the issue. *See* Rev. Proc. 2020-2, this Bulletin.

Review of determination letters

.04 Determination letters issued under this revenue procedure are not generally reviewed by any other office outside of EO Rulings and Agreements before they are issued. For post-determination review of determination letters by EO Determinations Quality Assurance, *see* section 11.03 of this revenue procedure.

Determination letter based solely on administrative record

.05 A determination letter is issued based solely upon the facts, attestations, and representations contained in the administrative record.

(1) The taxpayer is responsible for the accuracy of any factual representations or attestations contained in the request.

(2) Any oral representation of additional facts, or modification of facts, as represented or alleged in the request, must be reduced to writing and signed by the taxpayer under a penalty of perjury statement, in accordance with section 4.06 of this revenue procedure.

(3) The failure to disclose a material fact or misrepresentation of a material fact on the request, which includes an incorrect representation or attestation, may adversely affect the reliance that the organization submitting the request would otherwise obtain through issuance by the Service of a favorable determination letter. *See* section 11.02 for additional information.

SECTION 4. WHAT ARE THE GENERAL INSTRUCTIONS FOR REQUESTING DETERMINATION LETTERS?

In general

.01 This section explains the general instructions for requesting determination letters. However, certain procedures do not apply to requests submitted on Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, as indicated in this revenue procedure or in the form and its instructions. In addition to these general instructions, specific procedures apply to requests submitted by letter (as described in section 5), applications for recognition of exemption from Federal income tax under § 501 or § 521 (as described in section 6), and to requests for determinations submitted on Form 8940, *Request for Miscellaneous Determination* (as described in section 7).

Format of request

.02 **Which form, if any, should be used for the request?** Some requests are made by letter and some requests are made by submitting a specific form.

Form 1023 application

(1) **Form 1023 application.** An organization seeking recognition of exemption under § 501(c)(3) (including an organization that is additionally seeking a determination that it is described in § 501(e), (f), (k), (n), (q), or (r)) must submit a completed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. In the case of an organization that provides credit counseling services, *see* § 501(q). In the case of an organization that is a hospital and is seeking exemption under § 501(c)(3), *see* § 501(r). Notwithstanding the foregoing, eligible organizations may seek recognition of exemption under § 501(c)(3) by submitting a completed Form 1023-EZ, as described in section 6.06(2) of this revenue procedure, rather than by submitting Form 1023.

Form 1023-EZ application

(2) **Form 1023-EZ application.** An eligible organization, as described in section 6.05 of this revenue procedure, may, but is not required to, seek recognition of tax-exempt status under § 501(c)(3) by submitting a completed electronic Form 1023-EZ.

Alternatively, an eligible organization may seek exemption under § 501(c)(3) by submitting a completed Form 1023, as described in section 6.06(1).

For additional information about the electronic submission process, refer to Form 1023-EZ and its Instructions.

Form 1024 application

(3) **Form 1024 application.** An organization seeking a determination letter from the Service recognizing exemption under § 501(c)(2), (5), (6), (7), (8), (9), (10), (12), (13), (15), (17), (19), or (25) must submit a completed Form 1024, *Application for Recognition of Exemption Under*

Section 501(a), along with Form 8718, *User Fee for Exempt Organization Determination Letter Request*.

Organizations that seek to operate under § 501(c)(9) or (17) must apply for recognition of tax-exempt status. See § 505. Other organizations may choose to seek a determination letter recognizing exemption under § 501 by filing Form 1024, but are not required to do so except in certain cases (see, for example, § 6033(j)(2) regarding failures to file annual information returns or annual electronic notifications required under § 6033(a) or (i)).

Form 1024-A application

(4) **Form 1024-A application.** An organization seeking a determination letter from the Service recognizing exemption under § 501(c)(4) must submit a completed Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code*, along with Form 8718 and the accompanying user fee. In the case of an organization that provides credit counseling services and seeks recognition of exemption under § 501(c)(4), see § 501(q).

Section 501(c)(4) organizations may choose to seek a determination letter recognizing exemption under § 501(c)(4) by filing Form 1024-A, but are not required to do so except in certain cases (see, for example, § 6033(j)(2) regarding failures to file annual information returns or annual electronic notifications required under § 6033(a) or (i)).

Submission of Form 1024-A does not relieve an organization of the requirement to submit Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*.

Form 1028 application

(5) **Form 1028 application.** An organization seeking recognition of exemption under § 521 must submit a completed Form 1028, *Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code*, along with Form 8718.

Form 8940 request for miscellaneous determination

(6) **Form 8940 request for miscellaneous determination.** The Form 8940, *Request for Miscellaneous Determination*, is used for the following determination letter requests:

- (a) Advance approval of certain set-asides described in § 4942(g)(2);
- (b) Advance approval of voter registration activities described in § 4945(f);
- (c) Advance approval of scholarship procedures described in § 4945(g);
- (d) Exemption from Form 990 filing requirements;
- (e) Advance approval that a potential grant or contribution constitutes an “unusual grant”;
- (f) Change in Type (or initial determination of Type) of a § 509(a)(3) organization;
- (g) Reclassification of foundation status, including a voluntary request from a public charity for private foundation status;
- (h) Termination of private foundation status under § 507(b)(1)(B)—advance ruling request; and

(i) Termination of private foundation status under § 507(b)(1)(B)—60-month period ended.

Letter request

(7) Letter request.

(a) **Letter applications.** (i) An organization seeking recognition of exemption under § 501(c)(11), (14), (16), (18), (21), (22), (23), (26), (27), (28), or (29), or under § 501(d), must submit a letter application along with Form 8718.

(ii) A central organization that has previously received or is concurrently requesting recognition of its own exemption can request a group exemption letter by submitting a letter application along with Form 8718.

(b) **Other letter requests.** Any determination letter request which is not required to be submitted on a form may be submitted by letter.

Language requirements

.03 All requests must be submitted in English. All documents submitted in support of such requests must be in English, or accompanied by an accurate and complete English translation.

Signature on request

.04 **Signature on request.** The request for determination letter must be signed and dated by the taxpayer or, when applicable, the taxpayer's representative. Neither a stamped signature nor a faxed signature is permitted. However, a faxed signature is permitted if requested by the Service in the case of an organization replacing its initial request with a request for a determination under a different subsection of § 501(c) during processing of an initial request, or as otherwise requested during the processing of an initial request.

(1) **Individual authorized to sign Form 1023, 1023-EZ, or 8940 on behalf of an organization.** In the case of a request for a determination letter made by filing Form 1023, Form 1023-EZ, or Form 8940, an officer, director, trustee, or other official who is authorized to sign for the organization must sign the applicable form. The signature of a representative authorized by a power of attorney who is not an officer, director, trustee, or other official of the organization will not satisfy the signature requirement for Form 1023, Form 1023-EZ, or Form 8940. *See* the instructions to the applicable form for more information on who may sign the application on behalf of an organization.

(2) **Individual or representative authorized to sign Form 1024.** In the case of a request for a determination letter made by filing Form 1024, an officer, a trustee who is authorized to sign, or a representative authorized by a power of attorney (*see* section 4.05 of this revenue procedure), must sign the application.

(3) **Individual or representative authorized to sign Form 1024-A.** In the case of a request for a determination letter made by filing Form 1024-A, an officer, a director, a trustee who is authorized to sign, or a representative authorized by a power of attorney (*see* section 4.05 of this revenue procedure), must sign the application.

(4) **Authorized representatives for all other requests.** Except as provided in section 4.04(1), and (2), and (3) to sign the request, or to appear before the Service in connection with the request, the representative must be listed in Appendix B.

Power of attorney and declaration of representative

.05 **Power of attorney and declaration of representative.** Any representative authorized by a power of attorney, whether or not enrolled to practice, must comply with the conference and practice requirements of the Statement of Procedural Rules (26 C.F.R. § 601.501–601.509) and

Treasury Department Circular No. 230, which provide the rules for representing a taxpayer before the Service.

Form 2848, *Power of Attorney and Declaration of Representative*, must be used to provide the representative's authorization (Part I of Form 2848, Power of Attorney) and the representative's qualification (Part II of Form 2848, Declaration of Representative).

The name of the individual signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted.

An original, a copy, or a facsimile transmission (fax) of the power of attorney is acceptable so long as its authenticity is not reasonably disputed.

Penalty of perjury statement

.06

(1) Penalty of perjury statement requirements for requests for determination letters made on Form 1023, 1023-EZ, 1024, 1024-A, or 8940. The signature of an individual described in section 4.04(1), (2), or (3) of this revenue procedure meets the penalty of perjury statement signature requirements for requests on Form 1023, 1023-EZ, 1024, 1024-A, or 8940, as applicable.

(2) Penalty of perjury statement requirements for letter requests and responses to requests for additional information. Any letter request or information submitted at a later time (regardless of the format of the original request), must be accompanied by the following declaration—

“Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and, to the best of my knowledge and belief, the request or the modification contains all the relevant facts relating to the request, and such facts are true, correct, and complete.”

This declaration must be signed and dated by the taxpayer, not the taxpayer's representative authorized by a power of attorney. The signature of an individual described in section 4.04(1) is the signature of the taxpayer for purposes of the penalty of perjury statement. The signature of an authorized representative described in section 4.04(2), (3), or (4) will not meet the penalty of perjury statement requirements (except as otherwise provided in Appendix B). *See* the instructions to the relevant form for additional detail. Neither a stamped signature nor a faxed signature is permitted. However, a faxed signature is permitted if requested by the Service in the case of information submitted in response to a request by the Service for additional information after the request for a determination.

The individual who signs for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts, and whose duties are not limited to obtaining a determination letter from the Service.

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

Applicable user fee

.07 Section 7528 requires taxpayers to pay user fees for requests for determination letters. *See* section 14 and Appendix A of this revenue procedure for more information.

Where will copies of the determination letter be sent?

.08 The original of the determination letter will be sent to the taxpayer and a copy of the determination letter will be sent to up to two representatives listed on Form 2848 as appointed to receive notices and communications.

Expedited processing

.09 Requests for determination letters are normally processed in the order of receipt by the Service. However, expedited processing of a request for a determination letter may be approved where a request for expedited processing is made in writing and contains a compelling reason for processing the request for a determination letter ahead of others. Upon approval of a request for expedited processing, a request for a determination letter will be considered ahead of the normal order. This does not mean the request for a determination letter will be immediately approved or denied.

(1) **Procedures for requesting expedited handling.** The request for expedited handling must be made in writing, preferably in a separate letter sent with, or soon after filing, the request for the determination letter. If the request is not made in a separate letter, then the letter in which the determination letter request is made should say, at the top of the first page: “**Expedited Handling Is Requested. See page ___ of this letter.**”

A request for expedited handling will not be forwarded to the appropriate group for action unless the application has been accepted for processing. *See* section 6.06(1) (requirements for a complete application).

Whether the request will be granted is within the Service's discretion. Circumstances generally warranting expedited processing include:

(a) a grant to the applicant is pending and the failure to secure the grant may have an adverse impact on the organization's ability to continue to operate;

(b) the purpose of the newly created organization is to provide disaster relief to victims of emergencies such as flood and hurricane; and

(c) there have been undue delays in issuing a determination letter caused by a Service error.

Because most requests for determination letters cannot be processed ahead of their regular order, the Service urges all taxpayers to submit their requests well in advance of the contemplated transaction. In addition, in order to facilitate prompt action on determination letter requests, taxpayers are encouraged to ensure that their initial submissions comply with all of the requirements of this revenue procedure, and to promptly provide any additional information requested by the Service.

(2) **Applications on Form 1023-EZ are ineligible for expedited handling.** An organization may not request expedited handling of a Form 1023-EZ.

Non-acceptance for processing

.10 The Service will not accept for processing any request that is substantially incomplete.

(1) **Requests other than Form 1023-EZ.** An application other than Form 1023-EZ that is missing any item of information listed in section 6.06(1) will be considered substantially incomplete and will not be accepted for processing. A request other than an application may be considered substantially incomplete if it does not contain the information, documentation, and other materials

required by sections 4, 5, or 7 of this revenue procedure, or Form 8940 and its instructions, as applicable to the particular request.

(2) **Requests on Form 1023-EZ.** (a) **Incomplete Form 1023-EZ.** A submitted Form 1023-EZ that is not a completed Form 1023-EZ within the meaning of section 6.06(2) of this revenue procedure will not be accepted for processing by the Service. The Service may, but is not required to, request additional information to validate information presented or to clarify an inconsistency on a Form 1023-EZ.

(b) **Form 1023-EZ and pending application.** The Service will not accept for processing a Form 1023-EZ from an organization that has an application for recognition of tax-exempt status pending with the Service.

(3) **Effect of non-acceptance.** An organization will be notified if its request is not accepted for processing and any user fee that was paid with the request will be returned or refunded. *See* section 14.09. An organization may then submit a new request, including the missing information, with a new user fee.

How to check on status of request

.11 The taxpayer or the taxpayer's authorized representative should refer to irs.gov ("Where's My Exemption Application?") for guidelines on when to expect to hear from the Service and may obtain information regarding the status of a request by calling the toll-free Customer Account Services number, 877-829-5500.

SECTION 5. WHAT ARE THE SPECIFIC PROCEDURES FOR REQUESTING A DETERMINATION LETTER BY LETTER?

In general

.01 This section explains the specific procedures for requesting a determination letter by letter. Any determination letter request which is not required to be submitted on a form may be submitted by letter. For example, an organization seeking to be described in § 501(d) would submit a letter application in accordance with this section 5, other applicable sections of this revenue procedure, and Rev. Proc. 72-5, 1972-1 C.B. 709.

Other specific procedures may apply, depending on the type of request. *See* section 6 of this revenue procedure for applications for recognition of exempt status under § 501 or § 521.

Certain information required

.02

Statement of facts

(1) **Complete statement of facts and other information.** Each request for a determination letter must contain a complete statement of all facts relating to the request. These facts include the organization's name, address, telephone number, and Employer Identification Number (EIN).

Documents

(2) **Copies of all organizing documents, bylaws, contracts, wills, deeds, agreements, instruments, and other documents.** All documents that are pertinent to the request (including organizing documents, bylaws, contracts, wills, deeds, agreements, instruments, trust documents, and proposed disclaimers) must be submitted with the request.

Original documents should not be submitted because they become part of the Service's file and will not be returned to the taxpayer. Instead, true copies of all such documents should be submitted with the request. Each document, other than the request, should be labeled alphabetically and attached to the request in alphabetical order.

Analysis of material facts

(3) **Analysis of material facts.** All material facts in documents must be included, rather than merely incorporated by reference, in the taxpayer's initial request or in supplemental letters. These facts must be accompanied by an analysis of their bearing on the request, specifying the provisions that apply.

Same or similar issue previously submitted or currently pending

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

(a) the Service or the Office of Associate Chief Counsel previously ruled on the same or similar issue for the taxpayer (or a related taxpayer within the meaning of § 267, or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504) or a predecessor;

(b) the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted the same or similar issue to the Service or the Office of Associate Chief Counsel but withdrew the request before a letter ruling or determination letter was issued;

(c) the taxpayer, a related taxpayer, or a predecessor previously submitted a request involving the same or a similar issue that is currently pending with the Service or the Office of Associate Chief Counsel; or

(d) at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request involving the same or a similar issue to the Service or the Office of Associate Chief Counsel.

If the statement is affirmative for (a), (b), (c), or (d) of section 5.02(4), the statement must give the date the request was submitted, the date the request was withdrawn or ruled on, if applicable, and other details of the Service's or Office of Associate Chief Counsel's consideration of the issue.

Statement of authorities

(5) The request must include a statement of whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities.

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

(b) **Statement of contrary authorities.** The taxpayer is also encouraged to inform the Service about, and discuss the implications of, any authority believed to be contrary to the position advanced, such as legislation (or pending legislation), tax treaties, court decisions, regulations, revenue rulings, revenue procedures, notices or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect would be helpful. If the taxpayer does not furnish either contrary authorities or a statement that none exists, the Service in complex cases or those presenting difficult or novel issues may request submission of contrary

authorities or a statement that none exists. Failure to comply with this request may result in the Service's refusal to issue a determination letter.

Identifying and discussing contrary authorities will generally enable Service personnel to understand the issue and relevant authorities more quickly. When Service personnel receive the request, they will have before them the taxpayer's thinking on the effect and applicability of contrary authorities. This information should make research easier and lead to earlier action by the Service. If the taxpayer does not disclose and distinguish significant contrary authorities, the Service may need to request additional information, which will delay action on the request.

SECTION 6. WHAT ARE THE SPECIFIC PROCEDURES FOR APPLICATIONS FOR RECOGNITION OF EXEMPT STATUS UNDER § 501 OR § 521?

In general

.01 This section sets forth procedures for applying for and issuing determination letters in response to applications for recognition of exempt status under § 501 or § 521 other than those subject to Rev. Proc. 2020-4, this Bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans).

Terrorist organizations not eligible to apply for recognition of exemption

.02 An organization that is identified or designated as a terrorist organization within the meaning of § 501(p)(2) is not eligible to apply for recognition of exemption.

Format of application

.03 An organization seeking recognition of exempt status under § 501 or § 521 is required to submit the appropriate completed application form or the appropriate completed letter request. In the case of a numbered application form, the current version of the form must be submitted. The current version of the form can be found on [irs.gov](https://www.irs.gov) ("Forms & Instructions").

Form 8718

.04 An organization applying for recognition of exempt status must attach a completed Form 8718, *User Fee for Exempt Organization Determination Letter Request*, to its application, unless the organization is submitting Form 1023 or Form 1023-EZ. Form 8718 is an attachment related to user fees that is not, itself, a determination letter application.

Form 1023-EZ applications

.05 (1) **Eligibility for Form 1023-EZ application.** An organization that is an eligible organization may use Form 1023-EZ to apply for recognition of exemption under § 501(c)(3), unless the organization is designated in section 6.05(2) as an organization that is ineligible to submit Form 1023-EZ. An organization is an eligible organization if the organization meets all of the following criteria:

(a) The organization has projected annual gross receipts of \$50,000 or less in the current taxable year and the next 2 years;

(b) The organization had annual gross receipts of \$50,000 or less in each of the past 3 years for which the organization was in existence; and

(c) The organization has total assets the fair market value of which does not exceed \$250,000. For purposes of this eligibility requirement, a good faith estimate of the fair market value of the organization's assets is sufficient.

(2) **Ineligibility for Form 1023-EZ application.** The following organizations are not eligible to submit Form 1023-EZ and must use Form 1023 to apply for recognition of exemption under § 501(c)(3):

(a) Organizations formed under the laws of a foreign country (United States territories and possessions are not considered foreign countries);

(b) Organizations that do not have a mailing address in the United States (territories and possessions are considered the United States for this purpose);

(c) Organizations that are successors to, or controlled by, an entity suspended under § 501(p) (suspension of tax-exempt status of terrorist organizations);

(d) Organizations that are not corporations, unincorporated associations, or trusts, such as a limited liability corporation (LLC);

(e) Organizations that are formed as for-profit entities or are successors to for-profit entities;

(f) Organizations that were previously revoked or that are successors to a previously revoked organization (other than an organization the tax-exempt status of which was automatically revoked for failure to file a Form 990 series return or notice for three consecutive years under § 6033(j));

(g) Churches or conventions or associations of churches described in § 170(b)(1)(A)(i);

(h) Schools, colleges, or universities described in § 170(b)(1)(A)(ii);

(i) Hospitals or medical research organizations described in § 170(b)(1)(A)(iii) or § 501(r)(2)(A)(i) (cooperative hospital service organizations described in § 501(e));

(j) Cooperative service organizations of operating educational organizations described in § 501(f);

(k) Qualified charitable risk pools described in § 501(n);

(l) Supporting organizations described in § 509(a)(3);

(m) Organizations that have as a substantial purpose providing assistance to individuals through credit counseling activities such as budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas;

(n) Organizations that invest, or intend to invest, five percent or more of their total assets in securities or funds that are not publicly traded;

(o) Organizations that participate, or intend to participate, in partnerships (including entities or arrangements treated as partnerships for Federal tax purposes) in which they share profits and losses with partners other than § 501(c)(3) organizations;

- (p) Organizations that sell, or intend to sell, carbon credits or carbon offsets;
- (q) Health Maintenance Organizations (HMOs);
- (r) Accountable Care Organizations (ACOs), or organizations that engage in, or intend to engage in, ACO activities (such as participation in the Medicare Shared Savings Program (MSSP) or in activities unrelated to the MSSP described in Notice 2011-20, 2011-16 I.R.B. 652);
- (s) Organizations that maintain, or intend to maintain, one or more donor advised funds;
- (t) Organizations that are organized and operated exclusively for testing for public safety and that are requesting a foundation classification under § 509(a)(4);
- (u) Private operating foundations;
- (v) Organizations that are applying for retroactive reinstatement of exemption under sections 5 or 6 of Rev. Proc. 2014-11, 2014-3 I.R.B. 411, after being automatically revoked (*see* section 6.05(3) of this revenue procedure for additional information);
- (w) Organizations applying for retroactive reinstatement under section 4 of Rev. Proc. 2014-11, 2014-3 I.R.B. 411, after being automatically revoked that are seeking a foundation classification that is different from the classification they had at the time of revocation;
- (x) Agricultural research organizations described in § 170(b)(1)(A)(ix); and
- (y) Organizations that are currently or were previously exempt under another subsection of § 501(c).

Further information regarding these eligibility requirements may be provided in the Instructions for Form 1023-EZ.

Form 1023 and Form 1023-EZ applications for reinstatement after automatic revocation

(3) **Form 1023 and Form 1023-EZ applications for reinstatement after automatic revocation.** Organizations that claim exempt status under § 501(c) generally must file annual Form 990 series returns or notices, even if they have not yet received their determination letter recognizing exemption. If an organization fails to file required Form 990 series returns or notices for three consecutive years, its exemption will be automatically revoked by operation of § 6033(j). Such an organization may apply for reinstatement of its exempt status, and such recognition may be granted retroactively, as provided in Rev. Proc. 2014-11. Consistent with the eligibility requirements for using Form 1023-EZ that are set forth in section 6.05(1)-(2) of this revenue procedure, only an organization requesting reinstatement of § 501(c)(3) status under section 4 (streamlined retroactive reinstatement of tax-exempt status for small organizations within 15 months of revocation) or section 7 (reinstatement of tax-exempt status from postmark date) of Rev. Proc. 2014-11 may apply using Form 1023-EZ (other than an organization also seeking a foundation status change as explained in section 6.05(2)(w)). An organization requesting reinstatement of § 501(c)(3) status under section 5 (retroactive reinstatement of tax-exempt status within 15 months of revocation) or section 6 (retroactive reinstatement more than 15 months after revocation) of Rev. Proc. 2014-11 must apply using Form 1023.

What are the requirements for a completed application?

.06

Requirements for a completed application other than a Form 1023-EZ application

(1) A completed application (other than a Form 1023-EZ), including a letter application, is one that:

(a) is signed by an authorized individual under penalties of perjury (*see* sections 4.04 and 4.06 of this revenue procedure);

(b) includes the organization's correct EIN;

(c) (i) for organizations other than those described in § 501(c)(3), includes a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years (or the years the organization was in existence, if less than four years), and if the organization has not yet commenced operations or has not completed one accounting period, a proposed budget for two full accounting periods and a current statement of assets and liabilities;

(ii) for organizations described in § 501(c)(3), *see* Form 1023 and Instructions for Form 1023;

(d) includes a detailed narrative statement of proposed activities, including each of the fund-raising activities of a § 501(c)(3) organization, and a narrative description of anticipated receipts and contemplated expenditures;

(e) includes a copy of the organizing or enabling document that is signed by a principal officer or two members in the case of an unincorporated association, or is accompanied by a written declaration signed by an authorized individual certifying that the document is a complete and accurate copy of the original or otherwise meets the requirements of a "conformed copy" as outlined in Rev. Proc. 68-14, 1968-1 C.B. 768;

(f) if the organizing or enabling document is in the form of articles of incorporation, includes evidence that it was filed with, and approved by, an appropriate state official (e.g., stamped "Filed" and dated by the Secretary of State); alternatively, a copy of the articles of incorporation may be submitted if accompanied by a written declaration signed by an authorized individual that the copy is a complete and accurate copy of the original copy that was filed with and approved by the state; if a copy is submitted, the written declaration must include the date the articles were filed with the state;

(g) if the organization has adopted bylaws or similar governing rules, includes a current copy; the bylaws need not be signed if submitted as an attachment to the application for recognition of exemption; otherwise, the bylaws must be verified as current by an authorized individual (*see* section 4.04 of this revenue procedure);

(h) is accompanied by the correct user fee (and Form 8718, when applicable).

Requirements for a completed Form 1023-EZ application

(2) A Form 1023-EZ submitted online at www.pay.gov by an eligible organization is complete if it:

(a) includes responses for each required line item of the form, including an accurate date of organization and an attestation that the organization has completed the Form 1023-EZ eligibility

worksheet, as in effect on the date of submission, is eligible to apply for exemption using Form 1023-EZ, and has read the Instructions for Form 1023-EZ and understands the requirements to be exempt under § 501(c)(3) as expressed therein;

(b) includes the organization's correct EIN;

(c) is electronically signed, under penalties of perjury, by an individual authorized to sign for the organization (as specified in sections 4.04 and 4.06 of this revenue procedure and the Instructions for Form 1023-EZ); and

(d) is accompanied by the correct user fee.

A Form 1023-EZ will not be considered complete if the organization's name and EIN do not match the records in the Service's Business Master File. Furthermore, a Form 1023-EZ submitted by an organization that is not an eligible organization within the meaning of section 6.05 of this revenue procedure will not be considered complete.

What are the standards for issuing a determination letter on exempt status?

.07

Exempt status must be established in application, including attestation and supporting documents

(1) A favorable determination letter will be issued to an organization if its completed application, including attestations and supporting documents, along with any additional information requested by the Service and provided by the organization, establishes that it meets the particular requirements of the section under which exemption from Federal income tax is claimed.

Exempt status may be recognized in advance of actual operations

(2) (a) For all applications other than a Form 1023-EZ, exempt status may be recognized in advance of the organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Code under which exemption is claimed.

(i) A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.

(ii) The organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.

(iii) Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for exemption pursuant to the section of the Code under which exemption is claimed, the Service will generally issue a proposed adverse determination letter. *See* section 9 of this revenue procedure.

(b) For Form 1023-EZ applications, exempt status may be recognized in advance of the organization's operations if the attestations contained in the organization's completed Form 1023-EZ (along with any additional information requested by the Service and provided by the organization) establish that it meets the requirements for exemption under § 501(c)(3).

Even if application is complete, additional information may be required

(3) Even though an application is complete, the Service may request additional information before issuing a determination letter. The failure to respond to a request for additional information

may result in the closure of the application without a determination letter being issued and without a refund of the user fee. If the failure to respond to a request for additional information results in the Service issuing a proposed adverse determination letter to the organization, the proposed adverse determination letter will inform the organization of its opportunity to protest/appeal the decision and request a conference. *See* section 9 for the applicable appeal/protest procedures.

(a) In the case of an application under § 501(c)(3), the period of time beginning on the date the Service requests additional information until the date the information is submitted to the Service will not be counted for purposes of the 270-day period referred to in § 7428(b)(2).

(b) The Service will select a statistically valid random sample of Form 1023-EZ applications for pre-determination reviews, which will result in requests for additional information.

Effective date of exemption .08

(1) **In general.** A determination letter recognizing exemption of an organization described in § 501(c), other than § 501(c)(29), is effective as of the date of formation of an organization if: (1) its purposes and activities prior to the date of the determination letter have been consistent with the requirements for exemption; and (2) it has filed an application for recognition of exemption within 27 months from the end of the month in which it was organized.

(2) **Special cases.** Special rules may apply to an organization applying for exemption under § 501(c)(3), (9), or (17). *See* §§ 505 and 508, and Treas. Reg. §§ 1.508-1(a)(2), 1.508-1(b)(7), and 301.9100-2(a)(2)(iii) and (iv) and 301.9100-3. An organization applying for recognition of tax-exempt status after 27 months from formation under §501(c)(3) may not use Form 1023-EZ if it requests an effective date earlier than the submission date, but instead must file a Form 1023. In addition, special rules apply with respect to organizations described in § 501(c)(29). *See* Rev. Proc. 2015-17, 2015-7 I.R.B. 599.

(3) When the Service requires the organization to make amendments.

(a) If the Service requires the organization to alter its activities or make substantive amendments to its enabling instrument, the exemption will be effective as of the date specified in the determination letter.

(b) If the Service requires the organization to make a nonsubstantive amendment, exemption will ordinarily be recognized as of the date of formation if it meets the requirements in section 6.08(1) of this revenue procedure. Examples of nonsubstantive amendments include correction of a clerical error in the enabling instrument or the addition of a dissolution clause where the activities of the organization prior to the determination letter are consistent with the requirements for exemption.

(4) **When an application is not submitted within 27 months of formation.** An organization that otherwise meets the requirements for tax-exempt status and the issuance of a determination letter that does not meet the requirements for recognition from date of formation will be recognized from the postmark date of its application or the submission date of its Form 1023-EZ, as applicable.

SECTION 7. WHAT ARE THE SPECIFIC PROCEDURES FOR DETERMINATION LETTER REQUESTS ON FORM 8940?

In general

.01 This section explains the specific procedures for requesting a determination letter by submitting Form 8940, including requests for a determination letter on foundation status.

Requests made on Form 8940

.02 A request described in section 4.02(5) must be submitted on Form 8940 (except where otherwise permitted, including when such request is made as part of an application for recognition of exempt status), along with all information, documentation, and other materials required by Form 8940 and the instructions thereto, as well as the appropriate user fee provided in Appendix A. For complete information about filing requirements and the submission process, refer to Form 8940 and the Instructions for Form 8940.

Initial classification of private foundation status

.03 All § 501(c)(3) organizations are classified as private foundations under § 509(a) unless they qualify as a public charity under § 509(a)(1) (which cross-references § 170(b)(1)(A)(i)-(vi), and (ix)), (2), (3), or (4). *See* Treas. Reg. §§ 1.170A-9, 1.509(a)-1 through 1.509(a)-7. The Service determines an organization's private foundation or public charity status when the organization files its Form 1023, or when eligible, Form 1023-EZ. This status will be included in the organization's determination letter on exempt status.

Under what circumstances must an organization request a determination of foundation status, and when is such a request optional?

.04 (1) **Requests to change from one public charity classification to another public charity classification.** On its Form 990, *Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)*, a public charity indicates the paragraph of § 509(a), and subparagraph of § 170(b)(1)(A), if applicable, under which it qualifies as a public charity. Because of changes in its activities or operations, this may differ from the public charity status listed in its original determination letter. Although an organization is not required to obtain a determination letter to qualify for the new public charity status, in order for Service records to recognize any change in public charity status, an organization must obtain a new determination of foundation status by filing Form 8940 pursuant to this revenue procedure.

(2) **Requests from public charities for private foundation status.** If a public charity no longer qualifies as a public charity under § 509(a)(1)-(4), then it becomes a private foundation, and as such, it must file Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation*. The organization is not required to, but may, obtain a determination letter on its new private foundation status. The organization indicates this change in foundation status by filing its Form 990-PF return and following any procedures specified in the form, instructions, or other published guidance. Thereafter, the organization may terminate its private foundation status, such as by giving notice and qualifying as a public charity again under § 509(a)(1)-(3) during a 60-month termination period in accordance with the procedures under § 507(b)(1)(B) and Treas. Reg. § 1.507-2(b).

(3) **Requests from private foundations for public charity status.** An organization that erroneously determined that it was a private foundation (for example, by erroneously classifying an item or items in its calculation of public support) and wishes to correct the error can request a determination letter classifying it as a public charity by showing that it continuously met the public support tests during the relevant periods.

(4) **Requests for private operating foundation status.** A private foundation may qualify as an operating foundation under § 4942(j)(3) without a determination letter from the Service, but the Service will not recognize such status in its records without a determination letter from the Service. An organization claiming to be an exempt operating foundation under § 4940(d)(2) must obtain a determination letter from the Service recognizing such status to be exempt from the § 4940 tax on net investment income.

Not applicable to notices submitted by private foundations regarding terminations under § 507 or changes of status pursuant to examination

.05

(1) The procedures in this revenue procedure do not apply to the notice an organization must submit in seeking to terminate its private foundation status under § 507.

(2) The procedures in this revenue procedure also do not apply to the examination of an organization which results in changes to its foundation status.

SECTION 8. WITHDRAWAL OF A REQUEST FOR DETERMINATION LETTER

Request may be withdrawn prior to issuance of a determination letter

.01 A taxpayer may withdraw a request for a determination letter at any time before the determination letter is issued by the Service. An authorized individual must make such a request in writing in accordance with the instructions to the form on which the request for a determination letter was submitted, if applicable. For purposes of this section, the issuance of a determination letter includes a proposed adverse determination letter.

(1) When a request for determination letter is withdrawn, the Service will retain the application, Form 8940, or letter request and all supporting documents.

(2) The Service may consider the information submitted in connection with the withdrawn request in a subsequent examination of the organization, or in connection with a subsequent application submitted by the organization.

(3) Generally, the user fee will not be refunded if a request is withdrawn. *See* section 14 of this revenue procedure.

Section 7428 implications of withdrawal of application under § 501(c) or (d)

.02 The withdrawal of an application under § 501(c) or (d) is not a failure to make a determination within the meaning of § 7428(a)(2) or an exhaustion of administrative remedies within the meaning of § 7428(b)(2).

SECTION 9. PROCEDURES FOR ADVERSE DETERMINATION LETTERS

In general

.01 This section explains the procedures for issuing adverse determination letters. Different procedures apply to adverse determination letters relating to issues that may receive consideration by the Independent Office of Appeals and to all other types of adverse determination letters.

Types of requests that may receive Independent Office of Appeals consideration

.02 The following types of determination letter requests will provide an organization with an opportunity to protest/appeal a proposed adverse determination:

(1) the initial qualification of the organization as exempt from tax under § 501(a) or § 521, or as an organization described in § 170(c)(2);

(2) the classification or reclassification of the organization's foundation status under § 509(a); and

(3) the classification of the organization as a private operating foundation under § 4942(j)(3).

Contents of proposed adverse determination letter for requests with appeals rights

.03 If EO Determinations reaches the conclusion that the organization does not meet the requirements for a favorable determination letter and the letter is a type for which an opportunity for protest/appeal is available under section 9.02, the Service will issue a proposed adverse determination letter, which will:

(1) include a detailed discussion of the basis for the Service's conclusion; and

(2) inform the organization of its opportunity to protest/appeal the decision and request a conference with the Independent Office of Appeals.

The non-acceptance under section 4.10 of a request for a determination letter is not a proposed adverse determination.

Protest/appeal of a proposed adverse determination letter on certain issues

.04 To protest/appeal a proposed adverse determination letter described in section 9.02, the organization must submit a statement of the facts, law and arguments in support of its position within 30 days from the date of the proposed adverse determination letter. The organization must also state whether it is requesting a conference with the Independent Office of Appeals.

Final adverse determination letter where no protest/appeal is submitted

.05 If an organization does not submit a timely protest/appeal of a proposed adverse determination letter on an issue described in section 9.02, a final adverse determination letter will be issued to the organization. The final adverse letter will provide information about the disclosure of the proposed and final adverse letters. *See* section 13.04 of this revenue procedure.

The non-acceptance under section 4.10 of a request for a determination letter is not a final adverse determination.

Review of protest by EO Determinations

.06 If an organization submits a protest/appeal of a proposed adverse determination letter described in section 9.02, EO Determinations will review the protest, and, if it determines that the organization meets the requirements for approval of its request, issue a favorable determination letter. If EO Determinations maintains its adverse position after reviewing the protest, it will forward the case file to the Independent Office of Appeals. If new information is raised in the protest, EO Determinations will follow the procedures described in section 9.08, which may require the issuance of a new proposed denial, prior to sending the case to the Independent Office of Appeals.

Consideration by the Independent Office of Appeals

.07 The Independent Office of Appeals will consider the organization's protest/appeal submitted in response to a proposed adverse determination letter described in section 9.02. If the Independent Office of Appeals agrees with the proposed adverse determination, it will either issue a final adverse determination or, if a conference was requested, contact the organization to schedule a conference. At the end of the conference process, which may involve the submission of additional information, the Independent Office of Appeals will generally issue a final adverse determination letter or a favorable determination letter.

If the Independent Office of Appeals believes that an exemption or private foundation status issue is not covered by published precedent or that there is non-uniformity, the Independent Office

of Appeals must request technical advice from the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). *See* Rev. Proc. 2020-2, this Bulletin.

Effect of new information raised in protest/appeal

.08 If the organization submits new information as part of a protest, or during consideration by the Independent Office of Appeals, the matter may be returned to EO Determinations for further consideration. As a result of its review of the new information, EO Determinations may issue a favorable determination letter, rebuttal letter, or new proposed adverse determination letter. If a rebuttal letter is issued, EO Determinations will forward the case to the Independent Office of Appeals. If a new proposed adverse determination letter is issued, the organization must submit a protest/appeal of the new proposed adverse determination letter in order to have consideration of the issue by the Independent Office of Appeals.

An appeal or protest may be withdrawn

.09 An organization may withdraw its protest/appeal before the Service issues a final adverse determination letter. Upon receipt of the withdrawal request, the Service will complete the processing of the case in the same manner as if no appeal or protest was received. An organization that withdraws a protest/appeal will not be considered to have exhausted its administrative remedies within the meaning of § 7428(b)(2).

Appeal and conference rights not applicable in certain situations

.10 The opportunity to appeal a proposed adverse determination letter and the conference rights described above are not applicable to matters where delay would be prejudicial to the interests of the Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the statute of limitations, or where immediate action is necessary to protect the interests of the Government).

Adverse determination letter on an issue that will not receive consideration by the Independent Office of Appeals

.11 If EO Determinations reaches the conclusion that the organization does not meet the requirements for a favorable determination on an issue that is not described in section 9.02 (e.g., advance approval that a potential grant or contribution constitutes an “unusual grant”; exemption from Form 990 filing requirements), the Service generally will advise the organization of its adverse position and give the organization a chance to submit additional information or withdraw the request before issuing an adverse determination letter, which will include a detailed discussion of the basis for the Service’s conclusion. The organization will not have the opportunity to protest/appeal the adverse determination letter.

**SECTION 10.
DECLARATORY
JUDGMENT
PROVISIONS OF § 7428**

Actual controversy involving certain issues

.01 Generally, a declaratory judgment proceeding under § 7428 can be filed in the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia with respect to an actual controversy involving a determination by the Service or a failure of the Service to make a determination with respect to:

(1) the initial qualification or continuing qualification of an organization as an organization described in § 501(c)(3) which is exempt from tax under § 501(a) or as an organization described in § 170(c)(2);

(2) the initial classification or continuing classification of an organization as a private foundation (as defined in § 509(a));

(3) the initial classification or continuing classification of an organization as a private operating foundation (as defined in § 4942(j)(3));

(4) the initial classification or continuing classification of a cooperative as an organization described in § 521(b) which is exempt from tax under § 521(a); or

(5) the initial qualification or continuing qualification of an organization as an organization described in § 501(c) (other than paragraph (3)) or § 501(d) and exempt from tax under § 501(a).

Final determination to which § 7428 applies

.02 A final determination to which § 7428 applies is a determination letter, sent by certified or registered mail, which holds that the organization is:

(1) not described in § 501(c), § 501(d), or § 170(c)(2);

(2) a public charity described in a part of § 509 or § 170(b)(1)(A) other than the part under which the organization requested classification;

(3) not a private operating foundation as defined in § 4942(j)(3); or

(4) a private foundation and not a public charity described in a part of § 509 or § 170(b)(1)(A).

Failure to make a determination to which § 7428 applies

.03 If the Service declines to issue a determination letter under section 3.02 of this revenue procedure to an organization seeking a determination described in section 10.01 of this revenue procedure, the organization may be able to pursue a declaratory judgment under § 7428, provided that it has exhausted its administrative remedies.

Section 7428 does not apply to the non-acceptance or withdrawal of a request

.04 (1) The non-acceptance for processing of a request under section 4.10 of this revenue procedure is not a final determination, or a failure to make a determination, to which § 7428 applies.

(2) The withdrawal of an application pursuant to section 8 is not a failure to make a determination within the meaning of § 7428(b)(2).

Exhaustion of administrative remedies

.05 Before filing a declaratory judgment action, an organization must exhaust its administrative remedies by taking, in a timely manner, all reasonable steps to secure a determination from the Service. These include:

(1) (a) For an organization seeking to be described in § 501(c)(3), the filing of a completed application Form 1023 (within the meaning of section 6.06(1) of this revenue procedure) or a completed Form 1023-EZ (within the meaning of section 6.06(2) of this revenue procedure);

(b) For an organization seeking private foundation classification, a completed Form 8940; or

(c) For an organization seeking to be described in § 501(c) (other than paragraph (3)) or in § 501(d), a completed appropriate Form or letter request (within the meaning of section 6.06(1)).

(2) In appropriate cases, requesting relief pursuant to Treas. Reg. § 301.9100-1 regarding the extension of time for making an election or application for relief from tax;

(3) When applicable, the timely submission of all additional information requested by the Service to perfect a determination letter request;

(4) In appropriate cases, requesting relief under § 7805(b) in the manner provided in section 12.04 of this revenue procedure; and

(5) Exhaustion of all administrative appeals available within the Service pursuant to section 9 of this revenue procedure.

An organization will not have exhausted its administrative remedies by completing the steps in this section if the organization submitted Form 1023-EZ but was not eligible to submit Form 1023-EZ, as described in section 6.05(1)-(2) of this revenue procedure.

Not earlier than 270 days after seeking determination

.06 An organization will in no event be deemed to have exhausted its administrative remedies prior to the earlier of:

(1) the completion of all reasonable steps to secure a determination from the Service, including the applicable steps in section 10.05, and the issuance by the Service by certified or registered mail of a final determination letter; or

(2) the expiration of the 270-day period described in § 7428(b)(2) in a case where the Service has not issued a final determination letter, and the organization has taken, in a timely manner, all reasonable steps to secure a determination letter as provided in section 10.05. The 270-day period referred to in § 7428(b)(2) will not be considered to have started prior to the date a completed application is submitted to the Service. If the Service requests additional information from an organization, the period of time beginning on the date the Service requests additional information until the date the information is submitted to the Service will not be counted for purposes of the 270-day period referred to in § 7428(b)(2).

Service must have reasonable time to act on an appeal or protest

.07 The steps described in section 10.05 will not be considered completed until the Service has had a reasonable time to act upon a protest/appeal.

**SECTION 11.
FAVORABLE
DETERMINATION
LETTERS**

Reliance on determination letter

.01 A taxpayer ordinarily may rely on a favorable determination letter received from the Service, regardless of the format of request submitted, subject to the conditions and limitations described in this section.

Limitations on reliance

.02

(1) **Will not apply to another taxpayer.** A taxpayer may not rely on, use, or cite as precedent a determination letter issued to another taxpayer. *See* § 6110(k)(3).

(2) **Material change in facts.** A determination letter may not be relied upon by the organization submitting the request if there is a material change in facts. For a determination letter on exempt status, a material change includes a change in the character, the purpose, or the method of oper-

ation of the organization that is inconsistent with exemption. *See* section 12.01 of this revenue procedure.

(3) **Inaccurate information on request.** A determination letter issued to an organization that submitted a request in accordance with this revenue procedure may not be relied upon by the organization submitting the request if it was based on any omission or inaccurate material information submitted by the organization. Inaccurate material information includes an incorrect representation or attestation as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ. *See* section 12.01 of this revenue procedure.

(4) **Change in law.** A change in law may affect reliance. *See* section 12.01 of this revenue procedure.

Post-determination review .03

(1) **Determination letters may be post-reviewed.** Determination letters may be reviewed by EO Determinations Quality Assurance to assure uniform application of the statutes, tax treaties, regulations, court opinions, or guidance published in the Internal Revenue Bulletin.

(2) **Procedures for addressing determination letters reviewed and found to have been issued in error.** If upon post-determination review EO Determinations Quality Assurance concludes, based on the information contained in the existing application file, that a determination letter issued by EO Determinations was issued in error, the matter will be referred to EO Examinations for consideration.

SECTION 12. REVOCATION OR MODIFICATION OF A DETERMINATION LETTER

.01 **In general.** A determination letter may be revoked or modified:

(1) by a notice to the taxpayer to whom the determination letter was issued;

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

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

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

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

(6) automatically, by operation of § 6033(j), for failure to file a required annual return or notice for three consecutive years.

Note: If an organization no longer qualifies under the Code section for which it originally applied for recognition of tax-exempt status, then the determination letter will be revoked, rather than modified.

Appeal and conference
procedures in the case of
revocation or modification
of exempt status letter

.02 In the case of a revocation or modification of a determination letter described in section 9.02, the procedures to protest/appeal the revocation or modification are generally the same as set

out in section 9 of this revenue procedure. However, organizations revoked under § 6033(j) will not have an opportunity for consideration by the Independent Office of Appeals.

Revocation or modification of a determination letter may be retroactive

.03 The revocation or modification of a determination letter may be retroactive if:

- (1) there has been a change in the applicable law;
- (2) the organization omitted or misstated material information. A misstatement of material information includes an incorrect representation or attestation as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ;
- (3) the organization operated in a manner materially different from that originally represented in an application for recognition of exemption; or
- (4) in the case of an organization to which § 503 applies, the organization engaged in a prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purpose and such transaction involved a substantial part of the corpus or income of such organization.

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

Organization may request that retroactivity be limited under § 7805(b)

.04 An organization may seek relief from retroactive revocation or modification of a determination letter under § 7805(b). A request for relief under § 7805(b) must be in writing and must be submitted to the agent or specialist assigned to the case. The request for relief under § 7805(b) must be submitted before issuance of the final adverse determination letter.

(1) **Form of request for relief.** An organization's request to limit the retroactive effect of the revocation or modification of the determination letter must—

- (a) state that it is being made under § 7805(b);
- (b) state the relief sought;
- (c) explain the reasons and arguments in support of the relief sought; and
- (d) include any documents bearing on the request.

(2) **Notice of denial of request for relief.** If the request for relief under § 7805(b) is denied, the organization will be notified in writing of the denial.

(3) **Organization must exhaust its administrative remedies.** If an organization seeks declaratory judgment under § 7428 in response to a retroactive revocation or modification, to preserve judicial review of a claim for relief under § 7805(b), the organization must follow the steps in this revenue procedure in order to have exhausted its administrative remedies with respect to its request under § 7805(b). If the organization does not complete the applicable steps, the organization

will not have exhausted its administrative remedies as required by § 7428(b)(2) with respect to its request for § 7805(b) relief, and will thus be precluded from obtaining § 7805(b) relief in any declaratory judgment it seeks under § 7428.

If the organization has requested § 7805(b) relief, the organization's administrative remedies with respect to its § 7805(b) request will not be considered exhausted until the Service has had a reasonable amount of time to act upon the request.

Effective date of revocation or modification of a determination letter on exempt status

.05 Effective date of revocation or modification.

(1) Where the organization omitted or misstated material information in a request, revocation or modification will be effective as of the effective date of the determination letter issued in response to the request.

(2) Where there is a material change in facts, inconsistent with the conclusion of a determination letter, revocation or modification will ordinarily take effect as of the date of such material change.

(3) If a determination letter was issued in error or is no longer in accord with the Service's position, and § 7805(b) relief is granted (*see* section 12.04 of this revenue procedure), ordinarily, the revocation or modification will be effective not earlier than the date on which the Service modifies or revokes the original determination letter.

**SECTION 13.
DISCLOSURE OF
APPLICATIONS AND
DETERMINATION
LETTERS INCLUDING
THAT OF FOUNDATION
STATUS**

Determination letter will be disclosed under § 6104 or § 6110 depending on the type of request and the type of determination letter issued

.01 Sections 6104 and 6110 provide rules for the disclosure of requests, including forms, supporting documents, and determination letters issued in response to requests.

(1) **A favorable determination letter issued in response to an application for recognition of exemption from Federal income tax under §§ 501 or 521, as well as certain determination letters regarding foundation status are disclosed under § 6104.** Determination letters that an applicant organization is exempt from Federal income tax and letters or documents issued by the Service that an organization is or is not a private foundation, or described in §§ 509(a), 4940(d)(2), 4942(j)(3), or 4943(f) are disclosed under § 6104.

(2) **Other determination letters are disclosed under § 6110.** Any determination letter that is not disclosed under § 6104 is disclosed under § 6110. This includes proposed and final denial of exemption when such denial becomes final, advance approval of grant making procedures described in § 4545(g), advance approval of certain set-asides described in § 4942(g)(2), advance approval of voter registration activities described in § 4945(f), and advance approval of an unusual grant per Rev. Proc. 2018-32, 2018-23 I.R.B. 739.

(3) Whether other determination letters are disclosed under § 6104 or § 6110 will vary based on the type of determination.

Disclosure of applications, supporting documents, and favorable determination letters under § 6104

.02 If a favorable determination letter is issued in response to an application for recognition of exemption from Federal income tax under § 501 or § 521, the application form, any supporting documents, and any determination letter issued in response to the application (including a proposed adverse determination letter), are available for public inspection upon request under § 6104(a)(1). In addition, letters or documents issued by the Service that an organization is or is not a private foundation, or described in §§ 509(a), 4940(d)(2), 4942(j)(3), or 4943(f) are disclosed under § 6104. However, there are certain limited disclosure exceptions for a trade secret, patent, process, style of work, or apparatus, if the Service determines that the disclosure of the information would adversely affect the organization.

(1) The public can request information available for public inspection under § 6104(a)(1) by submitting Form 4506–A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*. Organizations should ensure that applications and supporting documents do not include unnecessary personal identifying information (such as bank account numbers or social security numbers) that could result in identity theft or other adverse consequences if publicly disclosed.

(2) The exempt organization is required to make its exemption application form, supporting documents, and any determination letter issued in response to the application (including a proposed adverse determination letter) available for public inspection without charge. For more information about the exempt organization’s disclosure obligations, see Publication 557, *Tax-Exempt Status for Your Organization*.

Disclosure of determination letters under § 6110

.03 The Service is required to make any determination letter that is not disclosed under § 6104, including adverse determinations of exempt status, available for public inspection under § 6110. Upon issuance of the final adverse determination letter to an organization, both the proposed adverse determination letter and the final adverse determination letter will be released pursuant to § 6110. In addition, determinations of advance approval of grant making procedures described in § 4945(g), advance approval of certain set-asides described in § 4942(g)(2), advance approval of voter registration activities described in § 4945(f), and advance approval of an unusual grant per Rev. Proc. 2018-32, 2018-23 I.R.B. 739, will be released pursuant to § 6110.

The written determination and background file documents are made available to the public after the deletion of names, addresses, and any other information that might identify the taxpayer. See § 6110(c) for other specific disclosure exemptions.

Taxpayer may protest disclosure under § 6110 of certain information in a determination letter

.04 If the determination letter is being disclosed under § 6110, the determination letter will enclose Notice 437, *Notice of Intention to Disclose*, and redacted copies of the final and proposed adverse determination letters. Notice 437 provides procedures to follow and instructions if the organization disagrees with the deletions proposed by the Service.

Within 20 calendar days after the Service receives the response to the Notice 437, the Service will mail to the taxpayer its final administrative conclusion regarding the deletions to be made. The taxpayer does not have the right to a conference to resolve any disagreements concerning material to be deleted from the text of the determination letter. However, these matters may be taken up at a conference with the Independent Office of Appeals that is otherwise scheduled regarding the request, if available under section 9 of this revenue procedure.

Taxpayer may request delay of public inspection under § 6110

.05 After receiving the Notice 437, but within 60 calendar days after the date of notice, the taxpayer may send a request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the Notice 437. The request for

delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine that there are good reasons for the delay.

Note: Section 6110(l)(1) states that § 6110 disclosure provisions do not apply to any matter to which § 6104 applies. Therefore, disclosure of determination letters and related background file documents dealing with an approved application for exemption under § 501(a) as an organization described in § 501(c) or (d), or a notice of status as a political organization under § 527 (covered by § 6104) may not be protested or delayed by request of the taxpayer.

Disclosure to state officials when the Service refuses to recognize exemption under § 501(c)(3)

.06 The Service may notify the appropriate state officials of a refusal to recognize an organization as tax-exempt under § 501(c)(3). *See* § 6104(c). The notice to the state officials may include a copy of a proposed or final adverse determination letter the Service issued to the organization. In addition, upon request by the appropriate state official, the Service may make available for inspection and copying, the exemption application and other information relating to the Service's determination on exempt status.

The Service does not consider the non-acceptance of an application under section 4.10 to be a refusal to recognize an organization as tax-exempt.

Disclosure to state officials of information about § 501(c)(3) applicants

.07 The Service may disclose to state officials the name, address, and identification number of any organization that has applied for recognition of exemption under § 501(c)(3). The Service does not consider an organization the application of which is not accepted under section 4.10 to have applied for recognition of exemption.

SECTION 14. WHAT ARE THE USER FEE REQUIREMENTS FOR DETERMINATION LETTERS?

Legislation authorizing user fees

.01 Section 7528 directs the Secretary of the Treasury or delegate (Secretary) to establish a program requiring the payment of user fees for requests to the Service for determination letters and similar requests.

The fees charged under the program: (1) are to vary according to categories or subcategories established by the Secretary; (2) are to be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance.

Section 7528(b)(2) directs the Secretary to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category must not be less than the amount specified in § 7528(b)(3).

Requests to which user fees apply

.02 In general, user fees apply to all requests for determination letters described in this revenue procedure.

Requests to which a user fee applies must be accompanied by the appropriate fee as determined from the fee schedule provided in Appendix A of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 14.09 of this revenue procedure.

Requests and other actions to which user fees do not apply

.03 Actions which do not require the payment of a user fee include the following:

- (1) Elections pertaining to automatic extensions of time under Treas. Reg. § 301.9100-1; and
- (2) Confirmation of exemption (affirmation letter) (to replace lost exempt status letter, and to reflect name and address changes).

Exemption from the user fee requirements

.04 Departments, agencies, or instrumentalities of the United States that certify that they are seeking a determination letter on behalf of a program or activity funded by Federal appropriations are exempt from the user fee requirements. The fact that a user fee is not charged under § 7528 has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any other provision of the Code.

In addition, Canadian registered charities do not pay a user fee. *See* Appendix A.

Requests involving multiple fee categories, issues, or entities

.05

(1) **Requests involving several fee categories.** Requests submitted as part of an initial application (e.g., foundation classification; exemption from Form 990 filing requirements) are considered part of the initial application and aren't subject to an additional user fee.

(2) **Multiple requests on a single Form 8940.** A separate Form 8940 and user fee are generally required for each type of request for which an organization has checked a box on Form 8940. However, the following scenarios are considered a single request:

(a) A request for reclassification as a public charity under § 509(a)(3) that checks boxes f and g of Form 8940; or

(b) A request for advance approval of grant making procedures for a program described in both § 4945(g)(1) and (3) is considered a single request.

(3) **Requests for separate determination letters for several entities.** Each entity involved in a request that desires a separate determination letter in its own name (for example, subordinate organizations seeking change of filing requirements) must pay a separate fee. Payment of a separate fee is required regardless of whether the requests may be viewed as related.

Method of payment

.06

(1) **Payment of user fees for applications of recognition of exemption on Form 1023-EZ.** User fees for applications for recognition of exemption on Form 1023-EZ must be paid through www.pay.gov.

(2) **Payment of user fees for all other requests.** Except as provided in section 14.06(1), each request to the Service for a determination letter must be accompanied by a check, payable to the United States Treasury, in the appropriate amount. Taxpayers should not send cash.

The check may be converted to an electronic fund transfer. "Electronic fund transfer" is the term used to refer to the process in which the Service electronically instructs the financial institu-

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

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

Transmittal forms

.07 Form 8718 is intended to be used as an attachment to applications other than Form 1023 or Form 1023-EZ for the attachment of the applicable user fee check.

Effect of nonpayment or payment of incorrect amount

.08 It will be the general practice of the Service that:

(1) An application for a determination letter containing the correct user fee will generally be accepted for processing even if Form 8718 was not attached.

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

(3) If a check is for less than the correct amount or no check is received, the submission will not be accepted for processing and any user fee that was paid with the request will be returned or refunded. *See* section 4.10 of this revenue procedure.

Refunds of user fees

.09 In general, the user fee will not be refunded unless the Service does not accept the request for processing or declines to make a determination on all issues for which a determination letter is requested.

(1) Examples in which the user fee **will not** be refunded:

(a) The request for a determination letter is withdrawn at any time subsequent to its receipt by the Service. For example, no fee will be refunded where the taxpayer has been advised that an adverse ruling is contemplated and the taxpayer subsequently withdraws its submission.

(b) A determination letter is revoked in whole or in part. The fee paid at the time the original determination letter was requested will not be refunded.

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

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

(a) The request is not accepted for processing under section 4.10 of this revenue procedure.

(b) The Service declines to rule on the request in accordance with section 3.02 of this revenue procedure.

**Request for reconsideration
of user fee**

.10 A taxpayer that believes the user fee charged by the Service for its request for a determination letter is either not applicable or incorrect, and wishes to receive a refund of all or part of the amount paid (*see* section 14.09 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Internal Revenue Service at the applicable Post Office Box or other address given in section 15 of this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked “USER FEE RECONSIDERATION REQUEST.” No user fee is required for these requests. The request should be marked for the attention of “Manager, EO Determinations Quality Assurance.”

**SECTION 15.
MAILING ADDRESS
FOR REQUESTING
DETERMINATION
LETTERS**

.01

(1) The following types of requests and applications handled by the EO Determinations Office should be sent to the Internal Revenue Service Center, at the address in section 15.01(2):

(a) applications for recognition of tax exemption on Form 1023, Form 1024, Form 1024-A, and Form 1028;

(b) requests for determination letters submitted on Form 8940; and

(c) requests submitted by letter.

(2) The address is:

Internal Revenue Service
P.O. Box 12192
TE/GE Stop 31A Team 105
Covington, KY 41012-0192

.02 Applications for recognition of exemption on Form 1023-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 be accepted.

.03 Determinations and requests not subject to a user fee (including a Form 1023 that a Canadian registered charity as referenced in Appendix A submits in order to be listed in the Tax Exempt Organization Search database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data) or to determine public charity status) should be sent to the Internal Revenue Service at the address shown below:

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

.04 Requests shipped by Express Mail or a delivery service for all of the above should be sent to:

Internal Revenue Service
7940 Kentucky Drive TE/GE
Mail Stop 31A Team 105
Florence, KY 41042

**SECTION 16. EFFECT
OF THIS REVENUE
PROCEDURE ON OTHER
DOCUMENTS**

Rev. Proc. 2019-5 is superseded.

**SECTION 17. EFFECTIVE
DATE**

This Revenue Procedure is effective January 2, 2020.

**SECTION 18.
PAPERWORK
REDUCTION ACT**

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

The collection of information on Forms 1023 and 1023-EZ have been reviewed and approved under control number 1545-0056. The collection of information on Forms 1024 and 1024-A have been reviewed and approved under control number 1545-0057. The collection of information on Form 1028 has been reviewed and approved under control number 1545-0058. The collection of information on these forms is required if an organization wants to be recognized as tax-exempt by the Service. The Service needs the information to determine whether the organization meets the legal requirements for tax-exempt status.

The collection of information for Form 8940 has been approved and reviewed under control number 1545-2211. This information is required to evaluate and process the request for a determination letter.

The collection of information on Form 2848 has been reviewed and approved under control number 1545-0150. It is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. Data is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons.

The collection of information on Form 8718 has been reviewed and approved under control number 1545-1798. The Omnibus Reconciliation Act of 1990 requires payment of a “user fee” with each application for an exempt organization determination letter. Because of this requirement, the Form 8718 was created to provide filers the means to enclose their payment and indicate what type of request they are making.

The collections of information are voluntary, to obtain a benefit. The likely respondents are tax-exempt organizations and their authorized representatives.

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

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

**DRAFTING
INFORMATION**

The principal author of this Revenue Procedure is Julia Parnell of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For additional information, please contact Ms. Parnell at 202-317-4086 (not a toll-free call).

APPENDIX A

Schedule of User Fees

This table summarizes the various types of Exempt Organization determination letter user fees.

| ISSUE | USER FEE |
|--|----------|
| (1) Application for recognition of exemption under § 501(c)(3) submitted on Form 1023-EZ | \$275 |
| (2) 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). | \$600 |
| (3) Group exemption letters | |
| (a) Submissions postmarked prior to July 1, 2020 | \$2,000 |
| (b) Submissions postmarked on or after July 1, 2020 | \$2,500 |
| Note: An additional user fee under (1) or (2) above is also required when a central organization submits an initial application for exemption with its request for a group exemption letter. | |
| (4) Canadian registered charities | None |
| Note: 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, <i>see</i> 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 to be listed in Tax Exempt Organization Search database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data), or for a determination on its private foundation status. | |
| (5) Affirmation Letter – Confirmation of exemption (to replace lost exempt status letter, and to reflect name and address changes) | None |
| (6) Reclassification of private foundation status, including | |
| • operating foundation status described in § 4942(j)(3) and exempt operating foundation status described in § 4940(d); | |
| • a determination that a public charity is described in § 509(a)(3)(i), (ii), or (iii), including whether or not a Type III supporting organization is functionally integrated; | |
| • reclassification of foundation status, including voluntary requests from public charities for private foundation status and voluntary requests from public charities, including requests from subordinate organizations, to change from one public charity status to another public charity status; or | |
| • final public charity classification determination for organizations whose advance ruling periods expired prior to June 9, 2008 without providing the required information (Form 8940). | |
| (a) Submissions postmarked prior to July 1, 2020 | \$400 |
| (b) Submissions postmarked on or after July 1, 2020 | \$500 |
| (7) Regulations § 301.9100 relief in connection with applications for recognition of exemption | None |
| (8) Section 507 terminations – advance or final ruling under § 507(b)(1)(B) (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$400 |
| (b) Submissions postmarked on or after July 1, 2020 | \$500 |
| (9) Section 4942(g)(2) set asides – advance approval (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$2,000 |
| (b) Submissions postmarked on or after July 1, 2020 | \$2,500 |
| (10) Section 4945 advance approval of organization's grant making procedures (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$2,000 |
| (b) Submissions postmarked on or after July 1, 2020 | \$2,500 |
| (11) Section 4945(f) advance approval of voter registration activities (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$2,000 |
| (b) Submissions postmarked on or after July 1, 2020 | \$2,500 |

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| (12) Section 6033 annual information return filing requirements (including a subordinate organization's change of filing requirements) (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$400 |
| (b) Submissions postmarked on or after July 1, 2020 | \$500 |
| (13) Unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2) (Form 8940) | |
| (a) Submissions postmarked prior to July 1, 2020 | \$400 |
| (b) Submissions postmarked on or after July 1, 2020 | \$500 |
| (14) User Fee for determination letters under the jurisdiction of the Determinations Office not otherwise described or covered in this Appendix. | |
| (a) Submissions postmarked prior to July 1, 2020 | \$400 |
| (b) Submissions postmarked on or after July 1, 2020 | \$500 |

APPENDIX B

Authorized Representatives

To sign a request for a determination letter or to appear before the Service in connection with the request, the representative must be:

- Attorney** (a) An attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service on Form 2848 showing current qualification as an attorney and current authorization to represent the taxpayer.
- Certified public accountant** (b) A certified public accountant who is qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service on Form 2848 showing current qualification as a certified public accountant and current authorization to represent the taxpayer.
- Enrolled agent** (c) An enrolled agent, other than an attorney or certified public accountant, that is currently enrolled to practice before the Service and is not currently under suspension or disbarment from practice before the Service, including a person enrolled to practice only for employee plans matters. He or she must file a written declaration with the Service on Form 2848 showing current enrollment and authorization to represent the taxpayer. Either the enrollment number or the expiration date of the enrollment card must be included in the declaration. For the rules on who may practice before the Service, *see* Treasury Department Circular No. 230.
- A person with a “Letter of Authorization”** (d) Any other person, including a foreign representative, who has received a “Letter of Authorization” from the Director, Office of Professional Responsibility under section 10.7(d) of Treasury Department Circular No. 230. He or she must file a written declaration with the Service on Form 2848 (or equivalent power of attorney and declaration of representative) showing authorization to represent the taxpayer with a copy of the “Letter of Authorization” attached.
- A person may make a written request for a “Letter of Authorization” to: Director, Office of Professional Responsibility, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, DC 20224. Circular No. 230 section 10.7(d) (“Special appearances”) authorizes the Commissioner, or delegate, to allow an individual who is not otherwise eligible to practice before the Service to represent another person in a particular matter.
- Employee, general partner, bona fide officer, administrator, trustee, etc.** (e) A regular full-time employee representing his or her employer, a general partner representing his or her partnership, a bona fide officer representing his or her corporation, association, or organized group, a trustee, receiver, guardian, personal representative, administrator, or executor representing a trust, receivership, guardianship, or estate, or an individual representing his or her immediate family. He or she may be required to file a written declaration with the Service on Form 2848 showing authorization to represent the taxpayer. *See* Form 2848 for more information. A preparer of a return (other than a person referred to in paragraph (a), (b), or (c) of this Appendix B) who is not a full-time employee, general partner, a bona fide officer, an administrator, trustee, etc., or an individual representing his or her immediate family may not represent a taxpayer in connection with a determination letter or a technical advice request. *See* section 10.7(c) of Treasury Department Circular No. 230.
- Foreign representative** (f) A foreign representative (other than a person referred to in paragraph (a), (b), or (c) of this Appendix B) is not authorized to practice before the Service and, therefore, must withdraw from representing a taxpayer in a request for a determination letter. In this situation, the nonresident alien or foreign entity must submit the request for a determination letter on the individual’s or entity’s own behalf or through a person referred to in paragraph (a), (b), or (c) of this Appendix B.