

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

**Bulletin No. 2023-1**  
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These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

## ADMINISTRATIVE

### **Rev. Proc. 2023-1, page 1.**

This procedure contains revised procedures for letter rulings and information letters issued by the Associate Chief Counsel (Corporate), Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (International), Associate Chief Counsel (Passthroughs and Special Industries), and Associate Chief Counsel (Procedure and Administration). This procedure also contains revised procedures for determination letters issued by the Large Business and International Division, Small Business/Self Employed Division, Wage and Investment Division, and Tax Exempt and Government Entities Division. Rev. Proc. 2022-1 superseded.

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# Part III

26 CFR § 601.201 Rulings and determination letters

## Rev. Proc. 2023-1

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

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

**Description of terms used in  
this revenue procedure**

.01 For purposes of this revenue procedure—

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

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

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

(c) Wage and Investment Division (W&I), which generally serves individuals with wage and investment income only (and with no international tax returns) filing an individual Federal income tax return without accompanying Schedule C, E, or F, or Form 2106; and

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

(2) the term “Associate office” refers to the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of Associate Chief Counsel (Procedure and Administration), as appropriate.

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

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



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

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

### **Updated annually**

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

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

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

### **Letter ruling**

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

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

### **Closing agreement**

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

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

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

If, in a single case, a closing agreement is requested for each person or entity in a class of taxpayers, separate agreements are entered into only if the class consists of 25 or fewer taxpayers. If the issue and holding are identical for the class and there are more than 25 taxpayers in the class,

a “mass closing agreement” will be entered into with the taxpayer who is authorized by the others to represent the class.

#### **Determination letter**

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

#### **Information letter**

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

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

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

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

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

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

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

#### **Oral Advice**

.05

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

with taxpayers or their representatives inquiries about whether the Service will rule on particular issues and about procedural matters regarding the submission of requests for letter rulings or determination letters for a particular case.

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

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

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

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

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

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

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

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

Except as provided in section 6.14 of this revenue procedure, taxpayers also may request determination letters from the Director in the appropriate operating division. *See* sections 7 and 12 of this revenue procedure. For determination letters from TE/GE, *see* Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin.

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

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

For information on letter rulings under § 355 involving businesses in certain development (R&D) and other activities that have not collected income see IRS Statements issued on May 6, 2019 and September 25, 2018. For information on obtaining transactional rulings under § 355 see the IRS Statement issued on March 12, 2019 that indefinitely extends the pilot program in

Rev. Proc. 2017-52, 2017-41 I.R.B. 283 (amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667). See the IRS Statement issued on October 13, 2017 for information regarding letter rulings involving retention of stock, drop-spin liquidate transactions, and transfers of a portion of a subsidiary's assets to its corporate shareholder in transactions not qualifying under § 332 or § 355 but that are intended to qualify as tax-free. These IRS Statements are available at <https://www.irs.gov/newsroom/statements-from-office-of-the-chief-counsel>.

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

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

Note that certain issues involving exempt organizations, employee plans, and government entities fall under the jurisdiction of the Commissioner, TE/GE, of the Internal Revenue Service. See Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin.

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

.03 Issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) include those that involve income taxes and changes in method of accounting of banks, savings and loan associations, real estate investment trusts (REITs), regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), insurance companies and products, tax-exempt obligations, mortgage credit certificates, tax credit bonds (including specified tax credit bonds), build America bonds, and financial products.

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

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

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

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

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

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

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

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

.06 Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) include those that involve income taxes of S corporations (except accounting periods and methods) and certain noncorporate taxpayers (including partnerships, common trust funds, and trusts), entity classification, estate (excluding § 6166), gift, generation-skipping transfer, and certain excise taxes, depletion, and other engineering issues, cooperative housing corporations, farmers' cooperatives under § 521, the low-income housing credit under § 42, the New Markets Tax Credit under § 45D, the rehabilitation credit under § 47, disabled access credit, qualified electric vehicle credits, research and experimental expenditures, shipowners' protection and indemnity associations under § 526, and certain homeowners associations under § 528.

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

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

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

**Issues involving alcohol, tobacco, and firearms taxes**

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

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

.02 The procedures for obtaining certain letter rulings, closing agreements, determination letters, information letters, and oral advice on qualified retirement plans and IRAs that are under the jurisdiction of the Commissioner, TE/GE, are provided in Rev. Proc. 2023-4, this Bulletin. Rev. Proc. 2023-4 also includes the procedures for issuing determination letters on the qualified status of pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans under §§ 401, 403(a), 409, and 4975(e)(7), and the status for exemption of any related trusts or custodial accounts under § 501(a). *See also* Rev. Proc. 2023-5, this Bulletin, for the procedures for issuing determination letters on the tax-exempt status of organizations under § 501 and § 521, the foundation status of organizations described in § 501(c)(3) and the foundation status of nonexempt charitable trusts described in § 4947(a)(1).

For the user fee requirements applicable to requests under the jurisdiction of the Commissioner, TE/GE, *see* Section 30 of Rev. Proc. 2023-4, and Section 14 of Rev. Proc. 2023-5.

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

**In income and gift tax matters**

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

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

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

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

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

.03 An Associate office will consider a request for an extension of time for making an election or other application for relief under § 301.9100-3 of the Treasury Regulations, even if submitted after the return covering the issue presented in the § 301.9100 request has been filed, an examination of the return has begun, the issues in the return are being considered by Appeals or a Federal court, or the liability reflected on the return has been assessed and subject to collection. Except for certain requests pertaining to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE, a § 301.9100 request is a letter ruling request. Therefore, the § 301.9100 request should be submitted pursuant to this revenue procedure. However, a § 301.9100 request involving recharacterization of an IRA (*see* § 1.408A-5, Q&A-6) should be submitted pursuant to Rev. Proc. 2023-4, this Bulletin. An election made pursuant to § 301.9100-2 for an automatic extension of time is not a letter ruling request and does not require payment of any user fee. *See* § 301.9100-2(d) and section 15.03(1) of this revenue procedure.

(1) **Format of request.** A § 301.9100 request (other than an election made pursuant to § 301.9100-2 and certain requests pertaining to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE which are addressed in Rev. Proc. 2023-5) must be in the general form of, and meet the general requirements for, a letter ruling request. These requirements are given in section 7 of this revenue procedure. A § 301.9100 request must include an affidavit and declaration from the taxpayer and other parties having knowledge or information about the events that led to the failure to make a valid regulatory election and to the discovery of the failure. *See* § 301.9100-3(e)(2) and (e)(3). In addition, a § 301.9100 request must include the information required by § 301.9100-3(e)(4).

(2) **Period of limitation.** The filing of a request for relief under § 301.9100 does not suspend the running of any applicable period of limitation. *See* § 301.9100-3(d)(2). The Associate office ordinarily will not issue a § 301.9100 ruling if the period of limitation on assessment under § 6501(a) for the taxable year in which an election should have been made, or for any taxable years that would have been affected by the election had it been timely made, will expire before receipt of a § 301.9100 letter ruling. *See* § 301.9100-3(c)(1)(ii). If, however, the taxpayer consents to extend the period of limitation on assessment under § 6501(c)(4) for the taxable year in which the election should have been made and for any taxable years that would have been affected by the election had it been timely made, the Associate office may issue the letter ruling. *See* § 301.9100-3(d)(2). Note that the filing of a claim for refund under § 6511 does not extend the period of limitation on assessment. If § 301.9100-3 relief is granted, the Associate office may require the taxpayer to consent to an extension of the period of limitation on assessment. *See* § 301.9100-3(d)(2).

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

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

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

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

#### **Determinations under § 999(d)**

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

#### **In matters involving § 367**

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

in which the taxpayer inappropriately characterizes the transaction under the reorganization provisions.

**In estate tax matters**

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

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

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

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

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

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

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

**In matters involving qualified domestic trusts under § 2056A**

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

**In generation-skipping transfer tax matters**

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

**In employment and excise tax matters**

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



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

**In procedural and administrative matters**

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

**In Indian tribal government matters**

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

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

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

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

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

**In exempt organizations matters**

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

*See* Rev. Proc. 2023-5, this Bulletin, for the procedures for issuing determination letters on issues under the jurisdiction of the Director Exempt Organizations Rulings and Agreements, including determination letters on the tax-exempt status of organizations under § 501 and § 521, the foundation status of organizations described in § 501(c)(3), and the foundation status of nonexempt charitable trusts described in § 4947(a)(1).

**In qualified retirement plan and IRA matters**

.15 In qualified retirement plan and IRA matters (other than those listed in Rev. Proc. 2023-4, this Bulletin), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will generally issue letter rulings on proposed transactions and on completed transactions, if the letter ruling request is submitted before the return is filed for the year in which the transaction is completed, including those involving:

(1) §§ 72 (other than the computation of the exclusion ratio), 219, 381(c)(11), 402, 403(b) (except with respect to whether the form of a plan satisfies the requirements of § 403(b) as provided in Rev. Proc. 2023-4), 404, 408, 408A, 412, 414(e) and (h), 511 through 514, 4971(b) and (g), 4972, 4973, 4974 (other than requests for a waiver under § 4974(d)), 4978, 4979, and 4980;

(2) Waiver of the minimum funding standard (*see* Rev. Proc. 2004-15, 2004-1 C.B. 490, section 3.04 of which is modified by Rev. Proc. 2023-4);

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

(4) With respect to employee stock ownership plans and tax credit employee stock ownership plans, §§ 409, 1042, 4975(d)(3) and 4975(e)(7). Qualification issues arising under these sections (as well as under §§ 401-420 generally) are generally within the jurisdiction of Employee Plans Determinations. However, *see* Rev. Proc. 2023-3, this Bulletin, section 4.02(12);

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

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

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

**A request to revoke an election**

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

The procedures in this revenue procedure applicable to a § 301.9100 request (including the user fee requirements for such a request, *see generally* section 15 of this revenue procedure) apply to a letter ruling request to revoke the election.

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

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

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

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

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

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

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

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

(1) is being examined by a field office;

(2) is being considered by Appeals;

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

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

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

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

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

.02 The Service ordinarily does not issue letter rulings or determination letters in certain areas because of the factual nature of the matter involved or for other reasons. Rev. Proc. 2023-3 and Rev. Proc. 2023-7, this Bulletin, provide a list of these areas. This list is not all-inclusive because the Service may decline to issue a letter ruling or a determination letter when appropriate in the interest of sound tax administration, including due to resource constraints, or on other grounds whenever warranted by the facts or circumstances of a particular case.

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

If the Service determines that it is not in the interest of sound tax administration to issue a letter ruling or determination letter due to resource constraints, it will adopt a consistent approach with respect to taxpayers that request a ruling on the same issue. The Service will also consider adding the issue to the no rule list at the first opportunity. *See* sections 2.01 and 3.02 of Rev. Proc. 2023-3.

**Ordinarily not on part of an integrated transaction**

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

**Significant issue ruling.** (a) *No rule areas.* The Service will not rule on the qualification of any transaction under § 332, § 351, or § 1036, or (except as provided in paragraph (b) of this section 6.03(2)) on whether a transaction constitutes a reorganization within the meaning of § 368 (other than under either § 368(a)(1)(D) and § 355 or § 368(a)(1)(G) and § 355), regardless of whether such transaction is part of an integrated transaction (*see* section 3.01(60) of Rev. Proc. 2023-3, this Bulletin). Instead, the Associate Chief Counsel (Corporate) will only issue a letter ruling on significant issues (within the meaning of section 3.01(60) of Rev. Proc. 2023-3) presented in a transaction described in § 332, § 351, § 368 (other than under § 368(a)(1)(D) and § 355 or § 368(a)(1)(D) and § 355), or § 1036. For example, the Service may rule on significant issues under § 1.368-1(d) (continuity of business enterprise) and § 1.368-1(e) (continuity of interest). Letter rulings requested under this section 6.03(2)(a) are subject to the no-rule policies of Rev. Proc. 2023-3.

(b) *Section 355 distributions and related transactions.* Pursuant to section 4 of Rev. Proc. 2017-52, 2017-41 I.R.B. 283 (amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667), in lieu of requesting a Transactional Ruling regarding a Covered Transaction, a taxpayer may request a Significant Issue Ruling. Letter rulings requested under this section 6.03(2)(b) are subject to the policies of Rev. Proc. 2023-3. However, the Service will not rule on any aspect of a Covered Transaction, including any significant issue, if section 5.01(3) of Rev. Proc. 2023-3 applies, and the Service will ordinarily not rule on any aspect of a Covered Transaction, including any significant issue, if section 4.01(30) of Rev. Proc. 2023-3 applies.

**Submission requirements.** Before preparing a letter ruling request under section 6.03(2) of this revenue procedure involving significant issues presented in a transaction described in § 332, § 351, § 355, § 368, or § 1036, the taxpayer is encouraged to call the Office of Associate Chief Counsel (Corporate) at the telephone number provided in section 10.07(1)(a) of this revenue procedure to discuss whether the Service will entertain a letter ruling request under section 6.03(2). The Service reserves the right to rule on any other aspect of the transaction (including ruling adversely) to the extent the Service believes it is in the best interests of tax administration. *Cf.* section 2.01 of Rev. Proc. 2023-3.

The taxpayer may request rulings on one or more significant issues in a single letter ruling request. Letter ruling requests under section 6.03(2) must include the following for each significant issue:

(a) A narrative description of the transaction that puts the issue in context;

(b) A statement identifying the issue;

(c) An analysis of the relevant law, which should set forth the authorities most closely related to the issue and explain why these authorities do not resolve the issue, and an explanation concerning why the issue is significant within the meaning of section 3.01(60) of Rev. Proc. 2023-3; and

(d) The precise ruling(s) requested.

The taxpayer should consult other published authorities (*see*, for example, Appendix F of this revenue procedure, which identifies certain checklist and guideline revenue procedures including Rev. Proc. 2017-52, 2017-41 I.R.B. 283, and Rev. Proc. 2018-53, 2018-43 I.R.B. 667, to identify representations, information, and analysis that may be required.)

If the Service issues a letter ruling on a significant issue under section 6.03(2), then the letter ruling will state that no opinion is expressed as to any issue or step not specifically addressed by the letter. In addition, letter rulings issued under section 6.03(2) will contain the following (or similar) language:

**This letter is issued pursuant to section 6.03(2) of Rev. Proc. 2023-1, 2023-1 I.R.B. 1, regarding one or more significant issues under § 332, § 351, § 355, § 368, or § 1036. The ruling[s] contained in this letter only address[es] one or more significant issues involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the ruling[s] below.**

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

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

**Ordinarily not to business associations or groups**

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

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

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

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

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

**Ordinarily not to foreign governments**

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

**Ordinarily not on Federal tax consequences of proposed legislation**

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

**Ordinarily not before issuance of a regulation or other published guidance**

.09 Generally, the Service will not issue a letter ruling or a determination letter if the request presents an issue that cannot be readily resolved before a regulation or any other published guidance is issued. When the Service has closed a regulation project or any other published guidance project that might have answered the issue or decided not to open a regulation project or any other published guidance project, the Associate offices may consider all letter ruling requests unless the issue is covered by section 6 of this revenue procedure, Rev. Proc. 2023-3 or Rev. Proc. 2023-7, this Bulletin.

**Not on frivolous issues**

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

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

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

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

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

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

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

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

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

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

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

**No "comfort" letter rulings**

.11 Except with respect to a Covered Transaction within the meaning of Rev. Proc. 2017-52, 2017-41 I.R.B. 283 (amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667), a letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by a statute, regulation, or court decision; or revenue rulings, revenue procedures, notices, or other authorities published in the Internal Revenue Bulletin (Comfort Ruling). However, except with respect to issues under § 332, § 351, § 368, or § 1036 and the tax consequences resulting from the application of such Code sections (*see generally* section 6.03(2) of this revenue procedure), the Associate office may, in its discretion, decide to issue a Comfort Ruling if an Associate office is otherwise issuing a letter ruling to the taxpayer on another issue arising in the same transaction.

**Not on alternative plans or hypothetical situations**

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

**Not on property conversion after return filed**

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

**Circumstances under which determination letters are not issued by a Director**

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

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

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

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

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

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

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

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

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

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

**Documents and information required in all requests**

.01

**Facts**

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

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

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

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

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



- (e) a detailed description of the transaction; and
- (f) all other facts relating to the transaction or to the taxpayer's requested tax treatment thereof.

**Documents and foreign laws**

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

(a) **Documents.** True copies of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transactions must be submitted with the request. *But see* sections 3.02 and 4 of Rev. Proc. 2017-52, 2017-41 I.R.B. 283 (amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667), for requirements relating to ruling requests under § 355, and section 3.04 of Rev. Proc. 2018-53, 2018-43 I.R.B. 667, for requirements relating to ruling requests involving assumption or satisfaction of the distributing corporation's debt in connection with § 355 distributions.

If the request concerns a corporate distribution, reorganization, or similar transaction, the corporate balance sheet and profit and loss statement should also be submitted. *But see* sections 3.02 and 4 of Rev. Proc. 2017-52 for requirements relating to ruling requests under § 355. If the request relates to a prospective transaction, the most recent balance sheet and profit and loss statement should be submitted. *But see* sections 3.02 and 4 of Rev. Proc. 2017-52 (amplified and modified by Rev. Proc. 2018-53) for requirements relating to ruling requests under § 355.

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

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

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

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

(c) **Standards for acceptability of submissions of documents in a language other than English and certified English translations of documents and laws in a language other than English.** The taxpayer must submit with the request an accurate and complete certified English translation of the relevant parts of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transaction that are in a language other than English. If the taxpayer chooses to submit certified English translations of

foreign laws, those translations must be based on an official publication of the foreign government or another widely available and generally accepted publication. In either case, the translation must be that of a qualified translator and must be attested to by the translator. The attestation must contain: (i) a statement that the translation submitted is a true and accurate translation of the foreign language document or law; (ii) a statement as to the attestant's qualifications as a translator and as to that attestant's qualifications and knowledge regarding tax matters or foreign law if the law is not a tax law; and (iii) the attestant's name and address.

**Analysis of material facts**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Interpretation of a transaction involving a party in a foreign country**

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

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

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

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

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

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

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

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

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

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

**Statement of authorities supporting taxpayer's views**

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

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

**Statement of authorities contrary to taxpayer's views**

**(10) Statement of contrary authorities.** To avoid a delay in the ruling process, contrary authorities should be brought to the attention of the Service at the earliest possible opportunity. If there are significant contrary authorities, it is usually helpful to discuss them in a pre-submission conference prior to submitting the ruling request. *See* section 10.07 of this revenue procedure regarding pre-submission conferences. The taxpayer is strongly encouraged to inform the Service about, and discuss the implications of, any authority believed to be contrary to the position

advanced, such as statutes, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included. If the taxpayer does not furnish either contrary authorities or a statement that none exist, the Service in complex cases or those presenting difficult or novel issues may request submission of contrary authorities or a statement that none exist. Failure to comply with this request may result in the Service's refusal to issue a letter ruling or determination letter.

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

**Statement identifying pending legislation**

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

**Deletion statement required by § 6110**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) **Taxpayer may request delay of public inspection.** After receiving the notice of intention to disclose under § 6110(f)(1), but no later than 60 calendar days after the date of the notice, the taxpayer may send a written request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the notice of intention

to disclose. A request for delay under § 6110(g)(3) must contain the date on which it is expected that the underlying transaction will be completed. The request for delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine whether there are good reasons for the continued delay.

## Signature on request

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

(a) **Paper submissions.** The original of a request for a letter ruling or determination letter submitted on paper should generally include a wet-ink signature. If it is not possible to physically sign the request, the Service will accept an image of a signature or digital signature transmitted separately according to the electronic submission procedures for such a request.

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

*See* section 7.04 of this revenue procedure for submission procedures.

## Authorized representatives

(14) **Authorized representatives.**

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

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

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

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

(iv) An enrolled actuary (an individual currently enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. § 1242) who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an enrolled actuary and current authorization to represent the taxpayer. Practice before the Service as an enrolled actuary is limited to representation with

respect to issues involving §§ 401, 403(a), 404, 405, 412, 413, 414, 419, 419A, 420, 4971, 4972, 4976, 4980, 6057, 6058, 6059, 6652(d), 6652(e), 6692, and 7805(b); former § 405; and 29 U.S.C. § 1083;

(v) An enrolled retirement plan agent (an individual currently enrolled as a retirement plan agent) who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration as an enrolled retirement plan agent and current authorization to represent the taxpayer. Practice before the Service as an enrolled retirement plan agent is limited to representation with respect to issues involving the following programs: Employee Plans Determination Letter program; Employee Plans Compliance Resolution System; and Employee Plans Pre-approved program. Enrolled retirement plan agents also are generally permitted to represent taxpayers with respect to IRS forms under the 5300 and 5500 series, which are filed by retirement plans and plans sponsors, but not with respect to actuarial forms and schedules; or

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

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

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

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

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

#### **Power of Attorney and Declaration of Representative**

(15) **Power of Attorney and Declaration of Representative.** Form 2848, *Power of Attorney and Declaration of Representative*, should be used to provide the representative’s authority (Part I of Form 2848, *Power of Attorney*) and the representative’s qualification (Part II of Form 2848, *Declaration of Representative*). The name of the person signing Part I of Form 2848 should be typed or printed on this form. A Form 2848 executed for the purpose of a request for a letter ruling or determination letter should reflect that it is for a “specific use” that is not recorded on the



Centralized Authorization File (CAF) and should only be submitted in conjunction with such a request as provided in this revenue procedure (that is, it should not be submitted to the Service by any other method listed in the Instructions for Form 2848).

A Form 2848 must be signed by both the taxpayer (or the person signing on the taxpayer's behalf) and the representative in a manner consistent with section 7.01(13) of this revenue procedure. If the Form 2848 is remotely signed by the taxpayer (or the person signing on the taxpayer's behalf) using a permissible electronic or digital method, the representative should follow the necessary steps to verify the taxpayer's identity provided in the Electronic Signatures section of the Instructions for Form 2848, but are not required to provide a separate attestation unless requested by the Service. If the Form 2848 is signed by the taxpayer (or the person signing on the taxpayer's behalf) using a physical, wet-ink signature, a submission may include a copy or scanned version of the Form 2848 as long as its authenticity is not reasonably disputed.

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

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

## Penalties of perjury statement

### (16) Penalties of perjury statement.

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

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

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

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

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

**Sample format for a letter ruling request**

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

**Checklist**

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

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

Taxpayers can obtain copies of the checklists by accessing this revenue procedure in Internal Revenue Bulletin 2023-1, available at [www.irs.gov/irb](http://www.irs.gov/irb). A copy of this checklist may be used.

**Additional procedural information required with request**

.02

**Multiple issues**

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

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

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

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

At the taxpayer’s request, the Service will send one copy of the letter ruling or determination letter to up to two authorized representatives. At the discretion of the Service, the Service may provide a copy of the letter ruling or determination letter to up to two authorized representatives, even though the taxpayer did not request that the Service send a copy of notices and communications to the taxpayer’s representatives. Taxpayers that use Form 2848, *Power of Attorney and Declaration of Representative*, to designate representatives, may request that copies of notices and communications be sent to the representatives listed at Line 2 by checking the corresponding

box on Line 2. Taxpayers may use Line 5 of Form 2848 to advise the Service that a copy of the letter ruling or determination letter should not be sent to the taxpayer's representative(s). If no box is checked on Line 2 and the taxpayer does not indicate otherwise on Line 5, the Service may in its discretion provide a copy of the letter ruling or determination letter to up to two authorized representatives.

### **“Two-part” letter ruling requests**

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

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

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

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

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

### **Expedited handling**

(4) **To request expedited handling.** The Service ordinarily processes requests for letter rulings and determination letters in order of the date received. Expedited handling means that a request is processed ahead of requests received before it. Expedited handling is granted only in rare and unusual cases, both out of fairness to other taxpayers and because the Service seeks to process all requests as expeditiously as possible and to give appropriate deference to normal business exigencies in all cases not involving expedited handling.

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

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

Whether a request for expedited handling will be granted is within the Service's discretion. The Service may grant the request when a factor outside a taxpayer's control creates a real business need to obtain a letter ruling or determination letter before a certain date to avoid serious business

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

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

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

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

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

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

If the taxpayer requests documents by fax or electronic facsimile, the request must contain the fax number of the taxpayer or the taxpayer’s authorized representative to whom the document is to be provided. A document other than the letter ruling will be faxed by a branch representative. A copy of the letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division of the Office of Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DS). For purposes of § 301.6110-2(h), however, a letter ruling is not issued until the ruling is mailed.

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

## Requesting a conference

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

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

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

## Submitting request for letter ruling or determination letter

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

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

Requests for determination letters under the jurisdiction of SB/SE regarding income taxes (including requests from international taxpayers) may be submitted only by electronic facsimile. Requests for determination letters under the jurisdiction of SB/SE regarding estate and gift taxes, employment taxes, and excise taxes may be submitted only on paper.

Requests for determination letters under the jurisdiction of W&I may be submitted only on paper.

For requests for determination letters under the jurisdiction of TE/GE, *see* Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin.

## Submission by mail

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

However, if the taxpayer identifies multiple Associate offices in the request with jurisdiction over issues presented by the request, the taxpayer must submit an additional copy of the request for each additional Associate office. If the request is under the jurisdiction of a single Associate office but presents multiple issues likely to require review by multiple branches of that office, the taxpayer is encouraged, but not required to submit additional copies of the request.

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

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

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

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

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

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

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

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

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

(b) SB/SE taxpayers (with regards to estate and gift taxes, employment taxes, and excise taxes) and W&I taxpayers should send requests for determination letters to the following address:

**Director SB/SE Exam, Specialty Policy  
Internal Revenue Service  
SE:S:E:HQ:SEP  
c/o Specialty Exam Policy, Tech Advisor  
5000 Ellin Rd, Mail Stop C3-255  
Office C2-156  
Lanham, MD 20784**

**Submission by electronic  
facsimile**

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

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

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

For requests under the jurisdiction of an Associate office:

**(877) 773-4950**

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

**(844) 249-6231**

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

**(877) 477-9193**

### **Submission by encrypted email attachment**

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

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

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

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

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

When compiling the request package, provide clear titles for the documents and distinguish files containing administrative forms and receipts from files that contain the request itself and from supplemental materials. Encrypt the files or enable the encryption utility on the email system

before generating the email. If the submission is over 5 MB or over 50 pages, break it into smaller components that do not exceed 5 MB each, and number the components sequentially with the total number (such as “1 of 4”, “2 of 4”, “3 of 4”, and “4 of 4”).

Transmit the full package to the email addresses below.

For requests under the jurisdiction of an Associate office:

**Userfec@irs.counsel.treas.gov**

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

**lbi.irt.info@irs.gov**

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

**Pending letter ruling requests**

.05

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

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

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

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

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

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

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

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



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

(2) **Taxpayer must notify the Associate office if a return is filed and must attach the request to the return.** If the taxpayer files a return before a letter ruling is received from the Associate office concerning an issue in the return, the taxpayer must notify the Associate office that the return has been filed. The taxpayer must also attach a copy of the letter ruling request (Form 3115, if for a non-automatic change in method of accounting) to the return to alert the field office and avoid premature field action on the issue. Taxpayers filing their returns electronically may satisfy this requirement by attaching to their return a statement providing the date of the letter ruling request and the control number of the letter ruling.

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

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

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

**When to attach letter ruling or determination letter to return**

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

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

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

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

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

.08

**In general**

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

**Notification of appropriate Service official**

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

(a) **Letter ruling requests.** If a taxpayer withdraws a letter ruling request or if the Associate office declines to issue a letter ruling, the Associate office generally will notify, by memorandum, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return. For taxpayers under the jurisdiction of the Division Counsel (LB&I), the Associate office will also send a copy of the memorandum to the Assistant Deputy Commissioner, Compliance Integration. In doing so, the Associate office may give its views on the issues in the request for consideration in any later examination of the return.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This section 8.02 applies to all matters except for cases within the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) concerning insurance issues requiring actuarial computations.

**Determines if transaction can be modified to obtain favorable letter ruling**

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

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

**Not bound by informal opinion expressed**

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

**May request additional information**

.05

**Must be submitted within 21 calendar days**

(1) **Additional information must be submitted within 21 calendar days.** If the request lacks essential information, which may include additional information needed to satisfy the procedural requirements of this revenue procedure as well as substantive changes to transactions or documents needed from the taxpayer, the branch representative will request such information during the initial or subsequent contacts with the taxpayer or its authorized representative. The branch representative will inform the taxpayer or its authorized representative that the request will be closed if the Associate office does not receive the requested information within 21 calendar days from the date of the request unless an extension of time is granted. To facilitate prompt action on letter ruling requests, taxpayers may request that the Associate office request additional information by fax, electronic facsimile, or encrypted email attachment. *See* section 7.02(5) of this revenue procedure.

Material facts furnished to the Associate office by telephone or orally at a conference must be promptly confirmed in writing by mail, fax, or email to the Associate office. This confirmation, and any additional information requested by the Associate office that is not part of the information requested during the initial contact, must be furnished within 21 calendar days from the date the Associate office makes the request.

**Extension of reply period if justified and approved**

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

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

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

**Penalties of perjury statement for additional information**

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

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

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

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

**Submitting additional information by mail**

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

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

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

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

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

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

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

**Identifying information included in additional information**

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

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

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

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

.07 To accelerate the issuance of letter rulings, in appropriate cases near the completion of the ruling process, the Associate office representative may request that the taxpayer or the taxpayer's representative submit a proposed draft of the letter ruling. Such draft would be based on the discussions of the issues between the representative and the taxpayer or the taxpayer's representative. The taxpayer is not required to prepare a draft letter ruling to receive a letter ruling.

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

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

**Issues separate letter rulings for substantially identical letter rulings, but generally issues a single letter ruling for related § 301.9100 letter rulings**

.08

**Substantially identical letter rulings**

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

**Related § 301.9100 letter rulings**

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

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

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

**Sends a copy of the letter ruling to appropriate Service official**

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

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

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

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

**Automatic and non-automatic change in method of accounting requests**

.01

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

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

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

**Non-automatic change in method of accounting**

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

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

.02 Ordinarily, a taxpayer may request only one change in method of accounting on a Form 3115, *Application for Change in Accounting Method*. If the taxpayer wants to request a change in method of accounting for more than one unrelated item or submethod of accounting, the taxpayer must submit a separate Form 3115 for each unrelated item or submethod, except in certain situations in which the Service specifically permits certain unrelated changes to be included on a single Form 3115. For an example of such a situation, see section 15.01(3) of Rev. Proc. 2022-14, 2022-7 I.R.B. 502 (or its successor).

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

**Information required with a Form 3115**

.03

**Facts and other information**

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

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

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

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

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

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

**Statement of authorities  
contrary to taxpayer's  
views**

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

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

**Documents**

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

**Analysis of material facts**

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

**Same issue in an earlier  
return under examination**

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

**Issue previously submitted  
or currently pending**

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



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

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

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

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

#### **Statement identifying pending legislation**

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

#### **Authorized representatives**

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

#### **Power of Attorney and Declaration of Representative**

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

#### **Tax Information Authorization**

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

**Penalties of perjury statement**

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

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

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

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

**(c) Signature by preparer.** If a Form 3115 is prepared by an individual other than the taxpayer, the preparer must also sign the Form 3115 in a manner consistent with section 7.01(13) of this revenue procedure. A declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

**Additional procedural information required in certain circumstances**

.04

**Recipients of original and copy of correspondence**

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

**Expedited handling**

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

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

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

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

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

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

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

#### **Requesting a conference**

(4) **To request a conference.** The taxpayer must complete the appropriate line on the Form 3115 to request a conference, or must request a conference in a later written communication, if an adverse response is contemplated by the Associate office. *See* section 11.03(1) of Rev. Proc. 2015-13 (or any successor), and sections 10.01 and 10.02 of this revenue procedure.

#### **Submitting non-automatic Forms 3115**

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

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

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

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

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

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

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

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

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

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

**(877) 773-4950**

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

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

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

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

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

Transmit the Form 3115 to the following email address:

**Userfee@irs.counsel.treas.gov**

**Submitting automatic  
Forms 3115**

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

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

**Internal Revenue Service  
Ogden, UT 84201  
M/S 6111**

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

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

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

**(844) 249-8134**

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

Subject: "Form 3115"

Sender's name, title, phone number, and address

Taxpayer's name

Date

Number of pages faxed (inclusive of cover sheet)

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

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

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

**Additional information**

.08

**Reply period**

(1) **Reply period.**

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

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

**Extension of reply period**

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

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

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

**Penalties of perjury statement for additional information**

(3) **Penalties of perjury statement for additional information.** Additional information submitted to the Associate office must be accompanied by the following declaration: “**Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the**

relevant facts relating to the request for the information, and such facts are true, correct, and complete.” This declaration must be signed in accordance with the requirements in section 9.03(11)(b) of this revenue procedure.

**Identifying information included in additional information**

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

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

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

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

**Submitting additional information by mail**

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

(a) **Address if private delivery service is not used.** For a request for change in method of accounting under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting), if a private delivery service is not used, the additional information should be sent to:

**Internal Revenue Service  
ADDITIONAL INFORMATION  
Attn: [Name, office symbols, and room number  
of the Associate office representative who  
requested the information]  
P.O. Box 14095  
Benjamin Franklin Station  
Washington, DC 20044**

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

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

(b) **Address if private delivery service is used.** For a request for a change in method of accounting, if a private delivery service is used, the additional information should be sent to:

**Internal Revenue Service  
ADDITIONAL INFORMATION**

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

**Failure to timely submit  
additional information to  
the Associate office**

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

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

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

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

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

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

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

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

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

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

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

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

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

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



method of accounting letter ruling will be issued unless an extension is granted. *See* section 15.10 for information regarding refunds of user fees.

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

.12

**In general**

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

**Notification of appropriate  
Service official**

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

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

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

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

**Service is not bound by  
informal opinion**

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

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

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

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

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

**Consent Agreement**

.17 Ordinarily, for a non-automatic Form 3115, the Commissioner's permission to change a taxpayer's method of accounting is set forth in a letter ruling (original and a Consent Agreement copy). If transmitting electronically, the issuing office may sign the letter ruling and the Consent Agreement copy electronically. *See* section 9.04(3) of this revenue procedure. If the taxpayer agrees to the terms and conditions contained in the change in method of accounting letter ruling, the taxpayer must sign and date the Consent Agreement copy of the letter ruling in the appropriate space. The Consent Agreement copy must be signed in a manner consistent with section 7.01(13)

of this revenue procedure by an individual with authority to bind the taxpayer in such matters. The Consent Agreement copy must not be signed by the taxpayer's representative. The signed copy of the letter ruling will constitute an agreement (Consent Agreement) within the meaning of Treas. Reg. § 1.481-4(b). The signed Consent Agreement copy of the letter ruling must be returned to the Associate office within 45 calendar days of the date of the letter ruling. The signed Consent Agreement copy may be submitted under the procedures set forth above for submission of additional information. *See* section 9.04(3) and 9.08(5) of this revenue procedure.

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

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

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

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

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

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

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

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

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

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

**Associate office discretion to permit requested change in method of accounting**

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

**List of automatic change in method of accounting request procedures**

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

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

(1) Rev. Proc. 2015-13 (or any successor). Rev. Proc. 2015-13 applies to the changes in method of accounting described in Rev. Proc. 2022-14, 2022-7 I.R.B. 502, as modified by Rev. Proc. 2022-23, 2022-18 I.R.B. 1052 (or any successor).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (purpose of this revenue procedure);

2.01 (definition of "letter ruling");

2.02 (definition of "closing agreement");

2.05 (oral guidance);

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

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

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

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

- 3.05 (issues under the jurisdiction of the Associate Chief Counsel (International));
- 3.06 (issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries));
- 5.03(2) (period of limitation when filing a request for extensions of time for making an election or for other relief under § 301.9100);
- 6.02 (letter rulings ordinarily not issued in certain areas because of the factual nature of the problem);
- 6.05 (letter rulings ordinarily not issued to business associations or groups);
- 6.06 (letter rulings ordinarily not issued where the request does not address the tax status, liability, or reporting obligations of the requester);
- 6.08 (letter rulings ordinarily not issued on Federal tax consequences of proposed legislation);
- 6.10 (letter rulings not issued on frivolous issues);
- 6.12 (letter rulings not issued on alternative plans or hypothetical situation);
- 7.01(1) (statement of facts and other information);
- 7.01(10) (statement of supporting authorities);
- 7.01(14) (authorized representatives);
- 7.01(15) (Power of Attorney and Declaration of Representative);
- 7.02(2) (power of attorney used to indicate recipient of a copy or copies of a letter ruling or a determination letter);
- 7.02(4) (expedited handling);
- 7.05(2) (notify Associate office if a return, amended return, or claim for refund is filed while request is pending and attach request to the return);
- 8.01 (receipt and control of the request, and referral to the appropriate Associate office);
- 8.02 (contact taxpayer within 21 calendar days);
- 8.04 (not bound by informal opinion expressed);

10 (scheduling conferences);

15 (user fees);

16 (significant changes to prior revenue procedure);

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

18 (effective date of this revenue procedure);

Appendix A (schedule of user fees); and

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

## **SECTION 10. HOW ARE CONFERENCES FOR LETTER RULINGS SCHEDULED?**

### **Schedules a conference if requested by taxpayer**

.01 A taxpayer may request a conference regarding a letter ruling request. Normally, a conference is scheduled only when the Associate office considers it to be helpful in deciding the case or when an adverse decision is indicated. If conferences are being arranged for more than one request for a letter ruling involving the same taxpayer, they will be scheduled so as to cause the least inconvenience to the taxpayer. As stated in sections 7.02(6) and 9.04(4) of this revenue procedure, a taxpayer who wants to have a conference on the issue or issues involved should indicate this in writing when, or soon after, filing the request.

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

### **Permits taxpayer one conference of right**

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

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

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

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

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

**Disallows verbatim recording of conferences**

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

**Makes tentative recommendations on substantive issues**

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

**May offer additional conferences**

.05 The Associate office will offer the taxpayer an additional conference if, after the conference of right, an adverse holding is proposed on a new issue or on the same issue but on different grounds from those discussed at the first conference. There is no right to another conference when a proposed holding is reversed at a higher level with a result less favorable to the taxpayer, if the grounds or arguments on which the reversal is based were discussed at the conference of right.

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

**Requires written confirmation of information presented at conference**

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

## May schedule a pre-submission conference

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

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

The request must identify the taxpayer and briefly explain the primary issue so it can be assigned to the appropriate branch. If submitted in writing, the request should also identify the Associate office expected to have jurisdiction over the request for a letter ruling. A written request for a pre-submission conference should be sent to the appropriate address listed in section 7.04 of this revenue procedure.

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

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

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

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

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

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



(f) (202) 317-3100 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Passthroughs and Special Industries); or

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

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

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

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

**May schedule a conference to be held by telephone**

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

**SECTION 11. WHAT EFFECT WILL A LETTER RULING HAVE?**

**May be relied on subject to limitations**

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

**Will not apply to another taxpayer**

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

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

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

- (1) the conclusions stated in the letter ruling are properly reflected in the return;
- (2) the representations upon which the letter ruling was based reflect an accurate statement of the controlling facts;
- (3) the transaction was carried out substantially as proposed; and
- (4) there has been any change in the law that applies to the period during which the transaction or continuing series of transactions were consummated.

If, when determining the liability, the field office finds that a letter ruling should be revoked or modified, the findings and recommendations of the field office will be forwarded through the appropriate Director to the Associate office for consideration before further action is taken by the field office. Such a referral to the Associate office will be treated as a request for technical advice and the provisions of Rev. Proc. 2023-2, this Bulletin, relating to requests for technical advice will be followed. *See* section 13.02 of Rev. Proc. 2023-2. Otherwise, the field office should apply the letter ruling in determining the taxpayer's liability. If a field office having jurisdiction over a return or other matter proposes to reach a conclusion contrary to a letter ruling previously issued to the taxpayer, it should coordinate the matter with the Associate office.

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

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

A letter ruling may be revoked or modified by—

- (1) a letter giving notice of revocation or modification to the taxpayer to whom the letter ruling was issued;
- (2) the enactment of legislation or ratification of a tax treaty;
- (3) a decision of the United States Supreme Court;
- (4) the issuance of temporary or final regulations; or
- (5) the issuance of a revenue ruling, revenue procedure, notice, or other statement published in the Internal Revenue Bulletin.

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

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

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

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

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

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

- (1) there has been a misstatement or omission of controlling facts;
- (2) the facts at the time of the transaction are materially different from the controlling facts on which the letter ruling was based; or
- (3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction.

**Not otherwise generally revoked or modified retroactively**

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

- (1) there has been no change in the applicable law;
- (2) the letter ruling was originally issued for a proposed transaction; and
- (3) the taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking or modifying the letter ruling retroactively would be to the taxpayer's detriment. For example, the tax liability of each shareholder is directly involved in a letter ruling on the reorganization of a corporation. Depending on all facts and circumstances, the shareholders' reliance on the letter ruling may be in good faith. The tax liability of a member of an industry, however, is not directly involved in a letter ruling issued to another member of the same industry. Therefore, a nonretroactive revocation or modification of a letter ruling to one member of an industry will not extend to other members of the industry who have not received letter rulings. By the same reasoning, a tax practitioner may not extend to one client the non-retroactive application of a revocation or modification of a letter ruling previously issued to another client.

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

**Retroactive effect of revocation or modification applied to a particular transaction**

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

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

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

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

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

(3) An employer incurred liability under the Federal Insurance Contributions Act but, in relying on a letter ruling received, neither collected the employee tax nor paid the employee and employer taxes under the Federal Insurance Contributions Act. The retroactive effect would be limited for both the employer and employee tax. The limitation would be conditioned on the employer furnishing wage data, as may be required by § 31.6011(a)-1 of the Treasury Regulations.

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

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

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

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

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

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

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

For letter rulings governed by Rev. Proc. 2023-4, this Bulletin, a taxpayer to whom a letter ruling has been issued by the Commissioner, Tax Exempt and Government Entities, may request limiting the retroactive effect of any revocation or modification of the letter ruling pursuant to the procedures set forth in section 29 of Rev. Proc. 2023-4.

**Format of request**

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

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

(b) state the relief sought;

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

(d) include any documents bearing on the request.

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

When notice is given by the field office, during an examination of the taxpayer's return, or by Appeals, during consideration of the taxpayer's return before Appeals, a request to limit retroactive effect must be made in the form of a request for technical advice as explained in section 14.02 of Rev. Proc. 2023-2, this Bulletin.

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

#### **Request for conference**

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

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

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

Under no circumstances will a Director issue a determination letter unless it is clearly shown that the request concerns a return that has been filed or is required to be filed and over which the Director has, or will have, examination jurisdiction.

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

**In income and gift tax matters**

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

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

**In estate tax matters**

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

**In generation-skipping transfer tax matters**

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

**In employment and excise tax matters**

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

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

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

**In tax-exempt matters**

.05 In tax-exempt matters, Directors issue determination letters in response to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE as set forth in Rev. Proc. 2023-5.

**Requests concerning income, estate, or gift tax returns**

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

**Review of determination letters**

.07 Determination letters issued under sections 12.01 through 12.04 of this revenue procedure are not reviewed by the Associate offices before they are issued. If a taxpayer believes that a

determination letter of this type is in error, the taxpayer may ask the Director to reconsider the matter or to request technical advice from an Associate office as explained in Rev. Proc. 2023-2, this Bulletin.

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

### **SECTION 13. WHAT EFFECT WILL A DETERMINATION LETTER HAVE?**

#### **Has same effect as a letter ruling**

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

If a field office proposes to reach a conclusion contrary to that expressed in a determination letter, that office need not refer the matter to the Associate office as is required for a letter ruling found to be in error. The field office must, however, refer the matter to the Associate office through the appropriate Director if it desires to have the revocation or modification of the determination letter limited under § 7805(b), except if the determination letter has been issued by the Commissioner, Tax Exempt and Government Entities. *See* Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin.

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

.02 Under § 7805(b), the Service may prescribe the extent to which a revocation or modification of a determination letter will be applied without retroactive effect. For determination letters that are not issued by the Commissioner, Tax Exempt Government Entities, a Director does not have authority under § 7805(b) to limit the revocation or modification of the determination letter. Therefore, if the field office proposes to revoke or modify a determination letter, the taxpayer may request limitation of the retroactive effect of the revocation or modification by asking the Director that issued the determination letter to seek technical advice from the Associate office. *See* section 14.02 of Rev. Proc. 2023-2, this Bulletin.

A taxpayer to whom a determination letter has been issued by the Commissioner, Tax Exempt and Government Entities, may request limiting the retroactive effect of any revocation or modification of the determination letter pursuant to the procedures set forth in section 23 of Rev. Proc. 2023-4, or section 12.04 of Rev. Proc. 2023-5, this Bulletin.

#### **Format of request**

(1) **Request for relief under § 7805(b) must be made in required format.** A taxpayer's request to limit the retroactive effect of the revocation or modification of the determination letter must be in the form of, and meet the general requirements for, a technical advice request. *See* section 14.02 of Rev. Proc. 2023-2, this Bulletin. The request must also—

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

(b) state the relief sought;

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

(d) include any documents bearing on the request.

**Request for conference**

**(2) Taxpayer may request a conference on application of § 7805(b).** When technical advice is requested regarding the application of § 7805(b), the taxpayer has the right to a conference with the Associate office to the same extent as does any taxpayer who is the subject of a technical advice request. *See* section 14.04 of Rev. Proc. 2023-2, this Bulletin.

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

**Requests for determination  
letters**

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

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

**No-rule areas**

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

**Requests for letter rulings**

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

**Letter ruling request  
mistakenly sent to a  
Director**

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

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

**Legislation authorizing user  
fees**

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



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

**Requests to which a user fee applies**

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

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

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

(3) renewal of advance pricing agreements;

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

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

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

**Requests to which a user fee does not apply**

.03 User fees do not apply to—

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

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

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

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

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

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

(7) information letters; or

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

#### Exemptions from the user fee requirements

.04 The user fee requirements do not apply to—

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

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

#### Fee schedule

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

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

(2) requests for letter rulings, determination letters, etc., under the jurisdiction of the Commissioner, TE/GE (which no longer include changes in method of accounting), *see* Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin.

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

.06

(1) **Requests involving several offices.** If a request dealing with only one transaction involves more than one office within the Service (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) and another issue is under the jurisdiction of the Commissioner, TE/GE), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. *See* Rev. Proc. 2023-4 and Rev. Proc. 2023-5, this Bulletin, for the user fees applicable to issues under the jurisdiction of the Commissioner, TE/GE. However, if an additional request is submitted after the original ruling is issued, regardless of whether it relates to the same transaction or facts at issue in the earlier request, a new user fee applies.

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

(3) **Requests involving several issues.** If a request dealing with only one transaction involves several issues, a request for a change in method of accounting dealing with only one item or submethod of accounting involves several issues, or a request for a change in accounting period dealing with only one item involves several issues, the request is treated as one request. Therefore, only one fee applies, i.e., the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction, item, or submethod will not result

in an additional fee unless the issue places the transaction, item, or submethod in a higher fee category. So long as the issues all relate to a single transaction, a request that the Service address one or more of the issues in a separate ruling will not result in an additional fee.

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

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

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

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

.07

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

(a) except for non-automatic Forms 3115, include the following typed or printed language at the top of the letter ruling request: “REQUEST FOR USER FEE UNDER SECTION 15.07 OF REV. PROC. 2023-1”;

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

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

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

**(2) Substantially identical letter rulings and closing agreements.** The user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure applies to a taxpayer or taxpayers requesting substantially identical letter rulings (including accounting period, method of accounting, and earnings and profits requests other than those submitted on Form 1128, *Application to Adopt*,

*Change, or Retain a Tax Year, Form 2553, Election by a Small Business Corporation, Form 3115, Application for Change in Accounting Method, and Form 5452, Corporate Report of Nondividend Distributions*) in the following situations:

The taxpayers to whom the letter rulings will be issued are multiple entities with a common member, sponsor, or parent, or multiple members of a common entity or consolidated group; or

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

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

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

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

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

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

(a) entities of that common sponsor;

(b) members of that consolidated group;

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

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

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

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

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

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

#### **Method of payment**

.08 Each request to the Service that is subject to a user fee under this revenue procedure must be accompanied by full payment. The user fees for all requests must be paid through [www.pay.gov](http://www.pay.gov), except for requests for a determination letter from a Director (see paragraph (A)(1) of Appendix A), which are payable by check and mailed along with the request for determination letter. Additionally, foreign entities that wish to submit payment from a foreign bank may submit

their payment by check. To locate the appropriate form on [www.pay.gov](http://www.pay.gov), search for “Counsel Rulings User Fees” or navigate directly to <https://www.pay.gov/public/form/start/106105509> (as of November 9, 2022).

### **Effect of nonpayment or payment of incorrect amount**

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

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

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

### **Refunds of user fee**

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

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

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

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

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

### **Request for reconsideration of user fee**

.11 A taxpayer who believes the user fee charged by the Service for its request for a letter ruling, determination letter, advance pricing agreement, or closing agreement is either inapplicable or incorrect and wishes to receive a refund of all or part of the amount paid (*see* section 15.10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Service at the appropriate address given in section 7.04 in this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked “USER FEE RECONSIDERATION REQUEST.” No user fee is required for these requests. The request should be marked for the attention of:

*If the matter involves primarily:*

*Mark for the attention of:*

**Associate Chief Counsel (Corporate) letter ruling requests**

Associate Chief Counsel (Corporate)

**Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) letter ruling requests**

Deputy Associate Chief Counsel ( )  
(Complete parenthetical by using the applicable designation “Employee Benefits” or “Exempt Organizations and Employment Taxes”)

**Associate Chief Counsel (Financial Institutions and Products) letter ruling requests**

Associate Chief Counsel (Financial Institutions and Products)

**Associate Chief Counsel (Income Tax and Accounting) letter ruling requests**

Associate Chief Counsel (Income Tax and Accounting)

**Associate Chief Counsel (International) letter ruling requests**

Associate Chief Counsel (International)

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

Associate Chief Counsel (Passthroughs and Special Industries)

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

Associate Chief Counsel (Procedure and Administration)

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

Assistant Deputy Commissioner, Compliance Integration

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

Director, SB/SE Exam, Specialty Policy

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

Director, Employee Plans Examinations  
Director, Exempt Organizations Examinations  
Director, Government Entities  
(Add name of field office handling the request)

**SECTION 16. WHAT SIGNIFICANT CHANGES HAVE BEEN MADE TO REV. PROC. 2022-1?**

Section 5.01 has been amended to clarify that an Associate office will generally issue a letter ruling on a completed transaction as long as the letter ruling request is submitted before a return containing a tax position on the completed transaction is filed, even if a return has been filed for the year in which the transaction took place. Question 5 on the Letter Ruling Checklist in Appendix C has also been amended to reflect this clarification.

Section 9.05(1) has been amended to reflect that a taxpayer submitting a non-automatic Form 3115 on paper may not submit payment with the paper submission. Rather, the taxpayer must first submit the appropriate user fee payment through [www.pay.gov](http://www.pay.gov) and include a copy of the receipt for this payment with the request.

Section 9.22(2) has been amended to reflect that the method of accounting change procedures described in Treas. Reg. 1.448-1 (to an overall accrual method for the taxpayer's first taxable year it is subject to § 448) are no longer available because that regulation only applies to tax years beginning before January 1, 2018.

Section 12.05 was added to clarify that in tax-exempt matters, Directors issue determination letters in response to applications for recognition of tax exemption under the jurisdiction of the Commissioner, TE/GE as set forth in Rev. Proc. 2023-5.

Section 15.08 has been amended to reflect that foreign entities that wish to submit payment of a user fee from a foreign bank may submit their payment by check instead of by using [www.pay.gov](http://www.pay.gov).

Editorial and clarifying changes have been made throughout.

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

Rev. Proc. 2022-1, 2022-1 I.R.B. 1, is superseded.

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

This revenue procedure is effective for all requests received on or after January 3, 2023. Rev. Proc. 2022-1 governs requests received prior to January 3, 2023.

**SECTION 19. PAPERWORK REDUCTION ACT**

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



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

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

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

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

The estimated annual frequency of responses is on occasion.

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

**DRAFTING  
INFORMATION**

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

(1) the Associate Chief Counsel (Corporate), contact T. Ian Russell or Jean R. Broderick at (202) 317-3181 (not a toll-free call),

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

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

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

(5) the Associate Chief Counsel (International), contact Nancy Galib at (202) 317-3800 (not a toll-free call),

(6) the Associate Chief Counsel (Passthroughs and Special Industries), contact Jason Deirmenjian at (202) 317-4137 (not a toll-free call), or

(7) the Associate Chief Counsel (Procedure and Administration), contact Stephanie Chernoff at (202) 317-3400 (not a toll-free call).

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

For further information regarding determination letters:

LB&I taxpayers should contact Joanne Jewell in the Office of the Assistant Deputy Commissioner, Compliance Integration, LB&I, at (802) 859-1015 (not a toll-free call);

SB/SE taxpayers, for questions regarding determination letters involving estate and gift taxes, employment taxes, or excise taxes, should contact Jesse Walker in SB/SE Specialty Exam Policy at (240) 613-6460 (not a toll-free call);

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

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

TE/GE taxpayers should also refer to Revenue Procedures 2023-4 and 2023-5, this Bulletin.

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**APPENDIX A  
SCHEDULE OF USER FEES**

NOTE: Payment must be in U.S. dollars and made through [www.pay.gov](http://www.pay.gov) for all requests other than requests for a determination letter from a Director (see paragraph (A)(1) of this appendix), which are payable by check and mailed along with the request for determination letter. See sections 15.08 and 15.09 of this revenue procedure.

(A) *FEE SCHEDULE*

<i>CATEGORY</i>	<i>USER FEE FOR REQUESTS RECEIVED PRIOR TO FEBRUARY 3, 2023</i>	<i>USER FEE FOR REQUESTS RECEIVED AFTER FEBRUARY 2, 2023</i>
(1) <b>User fee for a request for a determination letter from a Director.</b> The user fee for each determination letter request governed by Rev. Proc. 2023-1, this revenue procedure.	\$275	\$275
(2) <b>User fee for a request for an advance pricing agreement or a renewal of an advance pricing agreement.</b>	See section 3.05 of Rev. Proc. 2015-41, 2015-35 I.R.B. 263.	See section 3.05 of Rev. Proc. 2015-41, 2015-35 I.R.B. 263.
(3) <b>User fee for a request for a letter ruling or closing agreement.</b> Except for the user fees for advance pricing agreements and renewals, the reduced fees provided in paragraph (A)(4) of this appendix, the user fees provided in paragraph (A)(5) of this appendix, and the exemptions provided in section 15.04 of this revenue procedure, the user fee for each request for a letter ruling or closing agreement under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), or the Associate Chief Counsel (Procedure and Administration) is as follows:		
(a) Accounting periods		
(i) Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , (except as provided in paragraph (A)(4)(a) of this appendix)	\$5,000	\$5,000
(ii) Requests made on Part II of Form 2553, <i>Election by a Small Business Corporation</i> , to use a fiscal year based on a business purpose (except as provided in paragraph (A)(4)(a) of this appendix)	\$5,000	\$5,000
(iii) Letter ruling requests for extensions of time to file Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , Form 8716, <i>Election To Have a Tax Year Other Than a Required Tax Year</i> , or Part II of Form 2553 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) of this appendix)	\$5,300	\$5,300
(b) Changes in Methods of Accounting		
(i) Non-automatic Form 3115, <i>Application for Change in Accounting Method</i> (except as provided in paragraph (A)(4)(a) or (b), or (5)(b) of this appendix)	\$11,500	\$11,500
(ii) Letter ruling requests for extensions of time to file Form 3115, <i>Application for Change in Accounting Method</i> , under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b), or (5)(d) of this appendix)	\$12,500	\$12,500

No user fee is required if the change in accounting period or method of accounting is permitted to be made pursuant to a published automatic change request procedure. See section 9.22 and Appendix F of this revenue procedure, for the list of automatic change request procedures published and/or in effect as of December 31, 2022.

(c) (i) Letter ruling requests for relief under § 301.9100-3 or § 1362(b)(5) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix)	\$12,600	\$12,600
(ii) All other letter ruling requests (including accounting period and method of accounting requests other than those properly submitted on Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , Part II of Form 2553, <i>Election by a Small Business Corporation</i> , or Form 3115, <i>Application for Change in Accounting Method</i> ) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix)	\$38,000	\$38,000
(d) Requests for closing agreements on a proposed transaction or on a completed transaction before a return for the transaction has been filed in which a letter ruling on that transaction is not requested or issued (except as provided in paragraph (A)(4)(a) or (b), and in paragraph (A)(5), of this appendix)	\$38,000	\$38,000
(e) A request for a Foreign Insurance Excise Tax Waiver Agreement	\$8,000	\$8,000

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

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

(a) Request involves a tax issue from a person with gross income (as determined under paragraphs (B)(2), (3), (4), and (5) of this appendix) of less than \$250,000	\$3,000	\$3,000
(b) Request involves a tax issue from a person with gross income (as determined under paragraphs (B)(2), (3), (4), and (5) of this appendix) of less than \$1 million and \$250,000 or more	\$8,500	\$8,500

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

(a) Substantially identical letter rulings and closing agreements requested (other than changes in methods of accounting requested on Form 3115) Requests for substantially identical letter rulings or closing agreements for multiple entities with a common member, sponsor, or parent, or for multiple members of a common entity or consolidated group, or for parties engaged together in the same transaction affecting all requesting taxpayers, for each additional letter ruling request after the general fee or reduced fee, as applicable, has been paid for the first letter ruling request. These requests may include, but are not limited to, requests for substantially identical letter rulings for two or more identical trusts, multiple beneficiaries of a trust, a trust divided into identical subtrusts, spouses making split gifts, or series funds within a single trust or series organization.	\$3,800	\$3,800
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NOTE: Each entity or member that is entitled to the user fee under paragraph (A)(5)(a) of this appendix that receives relief under § 301.9100-3 (for example, an extension of time to file an election) will be charged a separate user fee for the letter ruling request on the underlying issue.

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

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

(b) Identical change in method of accounting requested on a single Form 3115, <i>Application for Change in Accounting Method</i> , as provided in section 15.07(4) (fee for each additional applicant seeking the identical change in method of accounting on the same Form 3115 after the general fee or reduced fee, as applicable, has been paid for the first applicant)	\$245	\$245
(c) Substantially identical plans under § 25(c)(2)(B) (situations where an issuing authority under § 25 submits substantially identical plans for administering the 95-percent requirement of § 143(d)(1) following the submission of an initial plan that was approved)	\$1,500	\$1,500

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

(d) Extension of time requested to file Form 3115, <i>Application for Change in Accounting Method</i> , for an identical change in method of accounting as provided in section 15.07(4) (fee for each additional or each additional applicant seeking the identical extension of time under § 301.9100-3 to file a single Form 3115 for the identical change in method of accounting after the general fee or reduced fee, as applicable, has been paid for the first applicant)	\$245	\$245
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NOTE: When an extension of time to file Form 3115, *Application for Change in Accounting Method*, is granted under § 301.9100-3 for multiple applicants, a separate user fee will be charged for the change in method of accounting application, Form 3115.

<b>(6) User fee for information letter requests.</b>	\$0	\$0
<b>(7) User fee for pre-filing agreements.</b>	\$181,500	\$181,500
<b>(8) Tax treaty limitation of benefits.</b> <i>See</i> Rev. Proc. 2015-40, 2015-35 I.R.B. 236 for procedures for requesting competent authority assistance under tax treaties.	\$37,000	\$37,000
<b>(9) Statement of Value.</b> <i>See</i> Rev. Proc. 96-15 for procedures for requesting a statement of value.		
(A) User fee for a case with 1-3 items	\$7,500	\$7,500
(B) Cost per each additional item beyond 3	\$400	\$400



(B) *PROCEDURAL MATTERS*

(1) **Required certification.** A person seeking a reduced user fee under paragraph (A)(4) of this Appendix must provide the following certification in order to obtain the reduced user fee:

(a) If a person is seeking a reduced user fee under paragraph (A)(4)(a) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2), (3), (4), and (5) of this appendix, as applicable, is less than \$250,000 as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed.

(b) If a person is seeking a reduced user fee under paragraph (A)(4)(b) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2), (3), (4), and (5) of this appendix, as applicable, is less than \$1 million and more than \$250,000 as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed.

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

(2) **Gross income for a request involving a personal tax issue.** For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix for—

(a) **U.S. citizens and resident alien individuals, domestic trusts, and domestic estates,** “gross income” is equal to “total income” as reported on their last Federal income tax return (as amended) filed for a full (12-month) taxable year ending before the date the request is filed, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. “Total income” is a line item on Federal tax returns. For example, if the 2020 Form 1040, U.S. Individual Income Tax Return, is the most recent 12-month taxable year return filed by a U.S. citizen, “total income” on the Form 1040 is the amount entered on line 9.

In the case of a request for a letter ruling or closing agreement from a domestic estate or trust that, at the time the request is filed, has not filed a Federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) of this Appendix will apply if the decedent’s or (in the case of an individual grantor) the grantor’s total income as reported on the last Federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income described in paragraph (B)(2)(a), is less than \$250,000 (or less than \$1,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent’s estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(b) **Nonresident alien individuals, foreign trusts, and foreign estates,** “gross income” is equal to “total effectively connected income” as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any income for the period from United States or foreign sources that is not taxable by the United States, whether by reason of § 103, an income tax treaty, § 871(h) (regarding portfolio interest), or otherwise, plus the total amount of any fixed or determinable annual or periodical income from United States sources, the United States tax liability for which is satisfied by withholding at the source. “Total effectively connected income” is a line item on Federal tax returns. For example, if the 2020 Form 1040-NR, U.S. Nonresident Alien Income Tax Return, is the most recent 12-month taxable year return filed by a nonresident alien individual, “total effectively connected income” on the Form 1040-NR is the amount entered on line 9.

In the case of a request for a letter ruling or closing agreement from a foreign estate or trust that, at the time the request is filed, has not filed a Federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) of this Appendix will apply if the decedent’s or (in the case of an individual grantor) the grantor’s total income or total effectively connected income, as relevant, as reported on the last Federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income or total effectively connected income described respectively in paragraph (B)(2)(a) of this Appendix or in this paragraph (B)(2)(b), is less than \$250,000 (or less than \$1,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent’s estate or the grantor must provide the certification required under paragraph (B)(1) of this Appendix.

(3) **Gross income for a request involving a business-related tax issue.** For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix of—

(a) **U.S. citizens and resident alien individuals, domestic trusts, and domestic estates,** “gross income” is equal to gross income as defined under paragraph (B)(2)(a) of this Appendix, plus “cost of goods sold” as reported on the same Federal income tax return.

(b) **Nonresident alien individuals, foreign trusts, and foreign estates,** “gross income” is equal to gross income as defined under paragraph (B)(2)(b) of this Appendix, plus “cost of goods sold” as reported on the same Federal income tax return.

(c) **Partnerships with a Form 1065 filing requirement and corporations (foreign and domestic),** “gross income” is equal to “total income” as reported on their last Federal tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus “cost of goods sold” as reported on the same Federal tax return, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. Partnerships with a Form 1065 filing requirement should also include “gross rents” reported on Form 8825 at line 2, as well as the income amounts reported on Schedule K Form 1065 at lines 3a, 5, 6a, 7, 8, 9a, 10, and 11 from the same Federal tax return described in the preceding sentence to calculate “gross income” for the purpose of applying the reduced user fee in paragraph (A)(4) of this Appendix. S Corporations with a Form 1120S filing requirement should also include “gross rents” reported on Form 8825 at line 2, as well as the income amounts reported on Schedule K Form 1120S at

lines 3a, 4, 5a, 6, 7, 8a, 9, and 10 from the same Federal tax return described in the first sentence of this paragraph to calculate “gross income” for the purpose of applying the reduced user fee in paragraph (A)(4) of this Appendix. If a partnership or S Corporation is not required to file or a C corporation is not subject to tax, “total income” and “cost of goods sold” are the amounts that the partnership or corporation would have reported on the Federal tax return if the partnership or S Corporation had been required to file or the C corporation had been subject to tax.

“Cost of goods sold” and “total income” are line items on Federal tax returns. For example, if the 2020 Form 1065, *U.S. Return of Partnership Income*, is the most recent 12-month taxable year return filed by a partnership, “cost of goods sold” and “total income” on the Form 1065 are the amounts entered on lines 2 and 8, respectively; if the 2020 Form 1120, *U.S. Corporation Income Tax Return*, is the most recent 12-month taxable year return filed by a domestic corporation, “cost of goods sold” and “total income” on the Form 1120 are the amounts entered on lines 2 and 11, respectively; and if the 2020 Form 1120S, *U.S. Income Tax Return for an S Corporation*, is the most recent 12-month taxable year return filed by an S corporation, “cost of goods sold” and “total income” on the Form 1120S are the amounts entered on lines 2 and 6, respectively.

If, at the time the request is filed, a partnership or S corporation required to file or a C corporation subject to tax has not filed a Federal tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) or (b) of this Appendix will apply if, in the aggregate, the partners’ or the shareholders’ gross income (as defined in paragraph (B)(3)(a), (b), or (c), of this Appendix, as applicable) is less than \$250,000 for purposes of paragraph (A)(4)(a) or \$1 million for purposes of paragraph (A)(4)(b) for the last full (12 months) taxable year ending before the date the request is filed. In this case, the partners or the shareholders must provide the certification required under paragraph (B)(1) of this Appendix.

**(4) Gross income for a request involving an exempt organization or governmental entity.** For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this Appendix of—

(a) **Organizations exempt from income tax under “Subchapter F-Exempt Organizations” of the Code,** “gross income” is equal to the amount of gross receipts for the last full (12 months) taxable year ending before the date the request for a letter ruling or closing agreement is filed.

(b) **State, local, and Indian tribal government entities,** “gross income” is equal to the annual operating revenue of the government requesting the ruling for its last fiscal year ending before the date of the ruling request. The annual operating revenue is to be determined at the government level and not at the level of the government entity or agency making the request.

**(5) Special rules for determining gross income.** For purposes of paragraphs (B)(2), (3) and (4) of this Appendix, the following rules apply for determining gross income.

(a) **Gross income of individuals, trusts, and estates.**

(1) In the case of a request from a married individual, the gross incomes (as defined in paragraph (B)(2) or (3) of this Appendix, as applicable) of the applicant and the applicant’s spouse must be combined. This rule does not apply to an individual: (i) who is legally separated from his or her spouse and (ii) who did not file a joint income tax return; and

(2) If there are two or more applicants filing the request, the gross incomes (as defined in paragraph (B)(2) or (3) of this Appendix, as applicable) of the applicants must be combined.

(b) **Gross income of domestic partnerships and corporations.**

(1) In the case of a request from a domestic C corporation, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) all members of the applicant’s controlled group (as defined in § 1563(a)), and (ii) any taxpayer who is involved in the transaction on which the letter ruling or closing agreement is requested, must be combined; and

(2) In the case of a request from a domestic partnership, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) the partnership, and (ii) any partner who owns, directly or indirectly, 50 percent or more of the capital interest or profits interest in the partnership, must be combined.

(3) In the case of a request from an S corporation, the gross income (as defined in paragraph (B)(3) of this Appendix) of (i) the S corporation, and (ii) any shareholder who owns 50 percent or more of the S corporation, must be combined.

(c) **Gross income of exempt organizations.** If there are two or more organizations exempt from income tax under Subchapter F filing the request, the gross receipts (as defined in paragraph (B)(4)(a) of this Appendix) of the applicants must be combined.

**(6) When gross income depends on a favorable ruling.** If a taxpayer’s qualification for a reduced user fee under paragraphs (A)(4)(a) and (b) of this Appendix depends on the receipt of a favorable ruling, the taxpayer must pay the higher fee with the request and cannot assume that the Service will rule favorably. If a favorable ruling is issued, and as a result of the ruling the taxpayer’s gross income is reduced such that the taxpayer would qualify for a reduced user fee, the amount that the taxpayer paid in excess of the reduced user fee will be returned to the taxpayer. *See* section 15.09.

**APPENDIX B**  
**SAMPLE FORMAT FOR A LETTER RULING REQUEST**

**INSTRUCTIONS**

To assist you in preparing a letter ruling request, the Service is providing this sample format. You are not required to use this sample format. If your request is not identical or similar to the sample format, the different format will not affect consideration of your request.

*(Insert the date of request)*

Internal Revenue Service

*Insert either:* Associate Chief Counsel (insert one of the following: Corporate; Financial Institutions and Products; Income Tax and Accounting; International; Passthroughs and Special Industries; or Procedure and Administration) or Deputy Associate Chief Counsel (insert either Employee Benefits or Exempt Organizations and Employment Taxes)

Attn: CC:PA:LPD:TSS

P.O. Box 7604

Benjamin Franklin Station

Washington, DC 20044

Dear Sir or Madam:

*(Insert the name of the taxpayer)* requests a ruling on the proper treatment of *(insert the subject matter of the letter ruling request)* under section *(insert the number)* of the Internal Revenue Code.

[If the taxpayer is requesting expedited handling, a statement to that effect must be attached to, or contained in, the letter ruling request. The statement must explain the need for expedited handling. *See* section 7.02(4) of Rev. Proc. 2023-1, this revenue procedure. Hereafter, all references are to this revenue procedure unless otherwise noted.]

*A. STATEMENT OF FACTS*

1. Taxpayer Information

[Provide the statements required by sections 7.01(1)(a) and (b).]

2. Description of Taxpayer's Business Operations

[Provide the statement required by section 7.01(1)(c).]

3. Facts Relating to Transaction

[The ruling request must contain a complete statement of the facts relating to the transaction that is the subject of the letter ruling request. This statement must include a detailed description of the transaction, including material facts in any accompanying documents, and the business reasons for the transaction. *See* sections 7.01(1)(d), 7.01(1)(e), and 7.01(2).]

*B. RULING REQUESTED*

[The ruling request should contain a concise statement of the ruling requested by the taxpayer. The Service prefers that the language of the requested ruling be exactly the same as the language the taxpayer wishes to receive.]

*C. STATEMENT OF LAW*

[The ruling request must contain a statement of the law in support of the taxpayer's views or conclusion and identify any pending legislation that may affect the proposed transaction. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(6), 7.01(10), 7.01(10), and 7.01(11).]

*D. ANALYSIS*

[The ruling request must contain a discussion of the facts and an analysis of the law. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(3), 7.01(6), 7.01(9), 7.01(10), and 7.01(11).]

*E. CONCLUSION*

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

*F. PROCEDURAL MATTERS*

1. Revenue Procedure 2023-1 Statements
  - a. [Provide the statement required by section 7.01(4) regarding whether any return of the taxpayer, a related party within the meaning of § 267 or § 707(b)(1), or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or any predecessor would be affected by the requested letter ruling or determination letter, and whether any such return is currently under examination, before Appeals, or before a Federal court, or was previously under examination, before Appeals, or before a Federal court.]
  - b. [Provide the statement required by section 7.01(5)(a) regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related party, or a predecessor. Please further note that if a reduced user fee is being submitted, a certification of eligibility for the reduced fee must be included with the ruling request.]
  - c. [Provide the statement required by section 7.01(5)(b) regarding whether the taxpayer, a related party, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before a letter ruling or determination letter was issued.]
  - d. [Provide the statement required by section 7.01(5)(c) regarding whether the taxpayer, a related party, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or a similar issue that is currently pending with the Service.]
  - e. [Provide the statement required by section 7.01(5)(d) regarding whether, at the same time as this request, the taxpayer or a related party is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service.]
  - f. [Provide the statement required by section 7.01(5)(e) regarding whether the taxpayer or a related party had, or has scheduled, a pre-submission conference involving the same or a similar issue.]
  - g. [If the letter ruling request involves the interpretation of a substantive provision of an income or estate tax treaty, provide the statement required by section 7.01(6) regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related party, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction.]
  - h. [If the letter ruling request involves a transaction between a taxpayer and a related party and either the taxpayer or the related party is located in a foreign country, provide the statement required by section 7.01(7) regarding whether this letter ruling potentially relates to any one of these categories (include all that apply): Preferential Regime; Transfer Pricing; Downward Adjustment; Treaty Permanent Establishment; Related Party Conduit.]
  - i. [Provide the statement required by section 7.01(9) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
  - j. [If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included. *See* section 7.01(10).]
  - k. [If the taxpayer wants to have a conference on the issues involved in the letter ruling request, the ruling request should contain a statement to that effect. *See* section 7.02(6).]
  - l. [If the taxpayer is requesting a copy of any document related to the letter ruling request to be sent by fax, electronic facsimile, or encrypted email attachment, the ruling request should contain a statement to that effect. *See* section 7.02(5).]
  - m. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. *See* section 7.02(1).]
  - n. [If the taxpayer is seeking to obtain the user fee provided in paragraph (A)(5)(a) of Appendix A for substantially identical letter rulings, the letter ruling request must contain the statements required by section 15.07.]
2. Administrative
  - a. [The ruling request should state: “The deletion statement and checklist required by Rev. Proc. 2023-1 are enclosed.” *See* sections 7.01(12) and 7.01(18).]
  - b. [The ruling request should state: “The required user fee of \$ (*Insert the amount of the fee*) has been paid through [www.pay.gov](http://www.pay.gov)” *See* section 15.09 and Appendix A.]
  - c. [If the taxpayer’s authorized representative is to sign the letter ruling request or is to appear before the Service in connection with the request, the ruling request should state: “A Power of Attorney is enclosed.” *See* sections 7.01(14), 7.01(15), and 7.02(2).]

Sincerely yours,

*(Insert the name of the taxpayer or the taxpayer’s authorized representative)*

By:

Signature

Date

Typed or printed name of  
person signing request

*DECLARATION: [See section 7.01(16).]*

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

*(Insert the name of the taxpayer)*

By:

\_\_\_\_\_  
Signature

Title

Date

*(must be signed by taxpayer, not by taxpayer's representative, see section 7.01(16)(b) of this revenue procedure)*

Typed or printed name of  
person signing declaration

[If the taxpayer is a corporation that is a member of an affiliated group filing consolidated returns, the above declaration must also be signed and dated by an officer of the common parent of the group. *See* section 7.01(16).]

**APPENDIX C  
CHECKLIST  
IS YOUR LETTER RULING REQUEST COMPLETE?**

**INSTRUCTIONS**

The Service will be able to respond more quickly to your letter ruling request if it is carefully prepared and complete. Use this checklist to ensure that your request is in order. Complete the four items of information requested before the checklist. Answer each question by circling “Yes,” “No,” or “N/A.” When a question contains a place for a page number, insert the page number (or numbers) of the request that gives the information called for by a “Yes” answer to a question. **Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.**

If you are an authorized representative submitting a request for a taxpayer, you must include a completed checklist with the request or the request will either be returned to you or substantive consideration of it will be deferred until a completed checklist is submitted. **If you are a taxpayer preparing your own request without professional assistance, an incomplete checklist will not cause the return of your request or defer substantive consideration of your request.** You should still complete as much of the checklist as possible and submit it with your request.

**TAXPAYER’S NAME**

**TAXPAYER’S I.D. NO.**

**ATTORNEY/P.O.A.**

**PRIMARY CODE SECTION**

**CIRCLE ONE**

**ITEM**

Yes No 1. Does your request involve an issue under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), or the Associate Chief Counsel (Procedure and Administration)? *See* section 3 of Rev. Proc. 2023-1, this revenue procedure. For issues under the jurisdiction of other offices, *see* section 4 of this revenue procedure. (Hereafter, all references are to this revenue procedure unless otherwise noted.)

Yes No 2. Have you read Rev. Proc. 2023-1, Rev. Proc. 2023-3, and Rev. Proc. 2023-7, this Bulletin, to see if part or all of the request involves a matter on which letter rulings are not issued or are ordinarily not issued?

Yes No N/A 3. If your request involves a matter on which letter rulings are not ordinarily issued, have you given compelling reasons to justify the issuance of a letter ruling? Before preparing your request, you may want to call the branch in the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of Associate Chief Counsel (Procedure and Administration) responsible for substantive interpretations of the principal Internal Revenue Code section on which you are seeking a letter ruling to discuss the likelihood of an exception. For matters under the jurisdiction of—

(a) the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of the Associate Chief Counsel (Procedure and Administration), the appropriate branch to call may be obtained by calling (202) 317-5221 (not a toll-free call);

(b) the Office of the Associate Chief Counsel (International), the appropriate branch to call may be obtained by calling (202) 317-3800 (not a toll-free call).

- Yes No N/A  
Page
4. If the request involves a retirement plan qualification matter relating to § 401(a), § 409, or § 4975(e)(7), have you demonstrated that the request satisfies section 4.02(12) of Rev. Proc. 2023-3, this Bulletin, for a ruling?
- Yes No N/A  
Page
5. If the request deals with a completed transaction, have you filed a return containing a tax position on the completed transaction? *See* section 5.01.
- Yes No
6. Are you requesting the letter ruling on a hypothetical situation or question? *See* section 6.12.
- Yes No
7. Are you requesting the letter ruling on alternative plans of a proposed transaction? *See* section 6.12.
- Yes No
8. Are you requesting the letter ruling for only part of an integrated transaction?
- Yes No  
Page \_\_
9. Are you requesting a letter ruling under the jurisdiction of Associate Chief Counsel (Corporate) on a significant issue (within the meaning of section 3.01(60) of Rev. Proc. 2023-3, this Bulletin) with respect to a transaction described in § 332, § 351, § 355, or § 1036 or a reorganization within the meaning of § 368? *See* section 6.03(2).
- Yes No
10. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? *See* section 6.05.
- Yes No
11. Are you requesting the letter ruling for a foreign government or its political subdivision? *See* section 6.07.
- Yes No  
Page
12. Have you included a complete statement of all the facts relevant to the transaction? *See* section 7.01(1).
- Yes No N/A
13. Have you submitted with the request true copies of all wills, deeds, and other documents relevant to the transaction, and labeled and attached them in alphabetical sequence? *See* section 7.01(2).
- Yes No N/A
14. Have you submitted with the request a copy of all applicable foreign laws, and certified English translations of documents that are in a language other than English or of foreign laws in cases where English is not the official language of the foreign country involved? *See* section 7.01(2).
- Yes No
15. Have you included an analysis of facts and their bearing on the issues? Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? *See* section 7.01(3).
- Yes No  
Page
16. Have you included the required statement regarding whether any return of the taxpayer (or any related party within the meaning of § 267 or § 707(b)(1), or any member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or any predecessor) would be affected by the requested letter ruling or determination letter and whether any such return is currently or was previously under examination, before Appeals, or before a Federal court? *See* section 7.01(4).
- Yes No  
Page
17. Have you included the required statement regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related party, or a predecessor? *See* section 7.01(5)(a).
- Yes No  
Page
18. Have you included the required statement regarding whether the taxpayer, a related party, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before the letter ruling or determination letter was issued? *See* section 7.01(5)(b).
- Yes No  
Page
19. Have you included the required statement regarding whether the taxpayer, a related party, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or similar issue that is currently pending with the Service? *See* section 7.01(5)(c).
- Yes No  
Page
20. Have you included the required statement regarding whether, at the same time as this request, the taxpayer or a related party is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service? *See* section 7.01(5)(d).

- Yes No  
Page \_\_ 21. Have you included the required statement regarding whether the taxpayer or a related party had, or has scheduled, a pre-submission conference involving the same or a similar issue? *See* section 7.01(5)(e).
- Yes No N/A  
Page 22. If your request involves the interpretation of a substantive provision of an income or estate tax treaty, have you included the required statement regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related party, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction? *See* section 7.01(6).
- Yes No N/A  
Page \_\_ 23. If your request involves a transaction between a taxpayer and a related party and either the taxpayer or the related party is located in a foreign country, have you included the required statement regarding whether the letter ruling relates to any one of these categories (include all that apply: Preferential Regime; Transfer Pricing; Downward Adjustment; Treaty Permanent Establishment; Related Party Conduit? *See* section 7.01(7).
- Yes No N/A  
Page 24. If your request is for recognition of Indian tribal government status or status as a political subdivision of an Indian tribal government, does your request contain a letter from the Bureau of Indian Affairs regarding the tribe's status? *See* section 7.01(8), which states that taxpayers are encouraged to submit this letter with the request and provides the address for the Bureau of Indian Affairs.
- Yes No  
Page 25. Have you included the required statement of relevant authorities in support of your views? *See* section 7.01(9).
- Yes No  
Page 26. Have you included the required statement regarding whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities? *See* section 7.01(9).
- Yes No  
Pages 27. Does your request discuss the implications of any legislation, tax treaties, court decisions, regulations, notices, revenue rulings, or revenue procedures that you determined to be contrary to the position advanced? *See* section 7.01(10), which states that taxpayers are encouraged to inform the Service of such authorities.
- Yes No N/A  
Page 28. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? *See* section 7.01(10).
- Yes No N/A  
Page 29. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? *See* section 7.01(11).
- Yes No 30. Have you included the deletion statement required by § 6110 and placed it on the top of the letter ruling request as required by section 7.01(12)(b)?
- Yes No  
Page 31. Have you (or your authorized representative) signed and dated the request or separately transmitted a signature in an acceptable electronic form? *See* section 7.01(13).
- Yes No N/A 32. If the request is signed by your representative or if your representative will appear before the Service in connection with the request, is the request accompanied by a properly prepared and signed power of attorney with the signatory's name typed or printed? *See* section 7.01(15).
- Yes No  
Page 33. Have you signed, dated, and included the penalties of perjury statement in the format required by section 7.01(16)?
- Yes No N/A  
Page 34. If you are requesting separate letter rulings on different issues involving one factual situation, have you included a statement to that effect in each request? *See* section 7.02(1).
- Yes No N/A 35. If you want copies of the letter ruling sent to a representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).
- Yes No N/A 36. If you do not want a copy of the letter ruling to be sent to any representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).



- Yes No N/A 37. If you are making a two-part letter ruling request, have you included a summary statement of the facts you believe to be controlling? *See* section 7.02(3).
- Yes No N/A 38. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the manner required by section 7.02(4) and stated a compelling need for such action in the request? *See* section 7.02(4).
- Page
- Yes No N/A 39. If you are requesting a copy of any document related to the letter ruling request to be sent by fax or electronic facsimile, have you included a statement to that effect? *See* section 7.02(5).
- Page
- Yes No N/A 40. If you are requesting a copy of any document related to the letter ruling request to be sent by encrypted email attachment, have you specified an acceptable encryption method to be used and included the appropriate MOUs from Appendices G and H, signed and dated by the taxpayer? *See* section 7.02(5) and 7.04(3).
- Yes No N/A 41. If you want to have a conference on the issues involved in the request, have you included a request for conference in the letter ruling request? *See* section 7.02(6).
- Page
- Yes No N/A 42. If you are submitting your request on paper, are you submitting additional copies if necessary? *See* section 7.04(1).
- Yes No N/A 43. If you are submitting your request by electronic facsimile or encrypted email attachment, have you provided clear titles for documents and files, and broken up the request into smaller components for transmission if necessary? *See* section 7.04(2) and (3).
- Yes No N/A 44. If you are submitting your request by encrypted email attachment, have you used an acceptable file format and included the appropriate MOUs from Appendices G and H, signed and dated by the taxpayer? *See* section 7.04(3).
- Yes No 45. Have you paid the correct user fee through [www.pay.gov](http://www.pay.gov)? *See* section 15 and Appendix A to determine the correct amount.
- Yes No N/A 46. If you qualify for a reduced user fee because your gross income is less than \$250,000, have you included the required certification? *See* paragraphs (A)(4)(a) and (B)(1) of Appendix A.
- Page \_\_
- Yes No N/A 47. If you qualify for a reduced user fee because your gross income is less than \$1 million, have you included the required certification? *See* paragraphs (A)(4)(b) and (B)(1) of Appendix A.
- Page \_\_
- Yes No N/A 48. If you qualify for the user fee for substantially identical letter rulings, have you included the required information? *See* section 15.07(2) and paragraph (A)(5)(a) of Appendix A.
- Page
- Yes No N/A 49. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical change in method of accounting on a single Form 3115, *Application for Change in Accounting Method*, have you included the required information? *See* section 15.07(4) and paragraph (A)(5)(d) of Appendix A.
- Page
- Yes No N/A 50. If your request is covered by any of the checklists, guideline revenue procedures, notices, safe harbor revenue procedures, or other special requirements listed in Appendix F, have you complied with all of the requirements of the applicable revenue procedure or notice?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 List other applicable revenue procedures or notices, including checklists, used or relied upon in the preparation of this letter ruling request (Cumulative Bulletin or Internal Revenue Bulletin citation not required).
- Yes No N/A 51. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 11.11?
- Page
- Yes No N/A 52. If you are requesting relief under § 301.9100 for a late entity classification election, have you included a statement that complies with section 4.04 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439? *See* section 5.03(5) of this revenue procedure.
- Page \_\_

Yes No N/A  
Page \_\_\_ 53. If you are requesting relief under § 301.9100, and your request involves a year that is currently under examination or with Appeals, have you included the required notification, which also provides the name and telephone number of the examining agent or Appeals officer? *See* section 7.01(4).

Yes No 54. If you are requesting relief under § 301.9100, have you included the affidavit(s) and declaration(s) required by § 301.9100-3(e)? *See* section 5.03(1).

Yes No N/A 55. If you are requesting relief under § 301.9100-3, and the period of limitations on assessment under § 6501(a) will expire for any year affected by the requested relief before the anticipated receipt of a letter ruling, have you secured consent under § 6501(c)(4) to extend the period of limitations on assessment for the year(s) at issue? *See* section 5.03(2).

Yes No 56. Have you addressed your request to the attention of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), the Deputy Associate Chief Counsel (Employee Benefits), or the Deputy Associate Chief Counsel (Exempt Organizations and Employment Taxes), as appropriate? The mailing address for packages submitted on paper is:

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

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

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

Packages submitted on paper should be marked RULING REQUEST SUBMISSION. Improperly addressed requests may be delayed (sometimes for over a week) in reaching CC:PA:LPD:TSS for initial processing.

\_\_\_\_\_  
Signature

Title or Authority

Date

Typed or printed name of  
person signing checklist

**APPENDIX D**  
**ADDITIONAL CHECKLIST FOR GOVERNMENT PICK-UP PLAN RULING REQUESTS**

In order to assist Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) in processing a ruling request involving government pick-up plans, in addition to the items in Appendix C please check the following list.

- |                         |   |
|-------------------------|---|
| Yes No N/A<br>Page ____ | 1. Is the plan qualified under § 401(a) of the Code? (Evidence of qualification or representation that the plan is qualified.)  |
| Yes No N/A<br>Page ____ | 2. Is the organization that established the plan a State or political subdivision thereof, or any agency or instrumentality of the foregoing? An example of this would be a representation that the organization that has established the plan is a political subdivision or municipality of the State.   |
| Yes No N/A<br>Page ____ | 3. Is there specific information regarding who are the eligible participants?   |
| Yes No N/A<br>Page ____ | 4. Are the contributions that are the subject of the ruling request mandatory employee contributions? These contributions must be for a specified dollar amount or a specific percentage of the participant's compensation and the dollar amount or percentage of compensation cannot be subject to change.   |
| Yes No N/A<br>Page ____ | 5. Does the plan provide that the participants do not have the election to opt in and/or out of the plan?   |
| Yes No N/A<br>Page ____ | 6. Are copies of the enacting legislation providing that the contributions although designated as employee contributions are being paid by the employer in lieu of contributions by the employee included?  |
| Yes No N/A<br>Page ____ | 7. Are copies of the specific enabling authorization that provides the employee must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the plan included? For example, a resolution, ordinance, plan provision, or collective bargaining agreement could specify this information. |

**APPENDIX E**  
**ADDITIONAL CHECKLIST FOR CHURCH PLAN RULING REQUESTS**

In order to assist Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) in processing a church plan ruling request, in addition to the items in Appendix C, please check the following list.

- Yes No N/A  
Page \_\_\_\_
1. Is there specific information showing that the submission is on behalf of a plan established by a named church or convention or association of churches? The information must show how the sponsoring organization, if not a church or convention or association of churches, is controlled by, or associated with, the named church or convention or association of churches. For example, the board of directors of the sponsoring organization may be made up of members of the named church, or the sponsoring organization might be listed in the church's official directory of related organizations whose mission is to further the objectives of the church. In order to be considered associated with a church or convention or association of churches, the organization must share common religious bonds and convictions with that church or convention or association of churches.
- Yes No N/A  
Page \_\_\_\_
2. Is there specific information showing that the organization that has established the plan is a tax-exempt organization as described in § 501 of the Code?
- Yes No N/A  
Page \_\_\_\_
3. Is there a representation that the plan for which the ruling is being requested is qualified under § 401(a) of the Code or meets the requirements of § 403(b) of the Code?
- Yes No N/A  
Page \_\_\_\_
4. Does the ruling request clearly state who are the eligible participants and the name of the employer of these eligible participants?
- Yes No N/A  
Page \_\_\_\_
5. Is there a representation that none of the eligible participants are or can be considered employed in connection with one or more unrelated trades or businesses within the meaning of § 513 of the Code?
- Yes No N/A  
Page \_\_\_\_
6. Is there a representation that all of the eligible participants are or will be employed by the named church or convention or association of churches, and will not include employees of for-profit entities? An example of an eligible employee includes a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry.
- Yes No N/A  
Page \_\_\_\_
7. Is there specific information showing an existing plan committee whose principal purpose or function is the administration or funding of the plan? This committee must be controlled by or associated with the named church or convention or association of churches.
- Yes No N/A  
Page \_\_\_\_
8. Is the composition of the committee stated?
- Yes No N/A  
Page \_\_\_\_
9. Did the plan sponsor provide a written notice to interested persons that a letter ruling under § 414(e) of the Code on behalf of a church plan will be submitted to the IRS? (*see* Rev. Proc. 2011-44).
- Yes No N/A  
Page \_\_\_\_
10. Does the ruling request include a copy of the notice?
- Yes No N/A  
Page \_\_\_\_
11. Is there a representation as to whether an election has ever been made under § 1.410(d)-1 of the Federal Income Tax Regulations to apply certain provisions of the Code and ERISA to the plan?

## APPENDIX F

### CHECKLISTS, GUIDELINE REVENUE PROCEDURES, NOTICES, SAFE HARBOR REVENUE PROCEDURES, AND AUTOMATIC CHANGE REVENUE PROCEDURES

Specific revenue procedures and notices supplement the general instructions for requests explained in section 7 of this revenue procedure and apply to requests for letter rulings or determination letters regarding the Code sections and matters listed in this section.

#### Checklists, guideline revenue procedures, and notices

##### CODE OR REGULATION SECTION

103, 141 - 150, 1394, 1400L(d), 1400N(a), 1400U-1, 1400U-3, 7478, and 7871  
Issuance of state or local obligations

1.166-2(d)(3)  
Uniform express determination letter for making election

Subchapter C-Corporate Distributions, Adjustments, Transfers, and Reorganizations

301  
Nonapplicability on sales of stock of employer to defined contribution plan

302, 311  
Checklist questionnaire

302(b)(4)  
Checklist questionnaire

311  
Checklist questionnaire

332  
Checklist questionnaire

.01 For requests relating to the following Code sections and subject matters, refer to the following checklists, guideline revenue procedures, and notices.

##### REVENUE PROCEDURE AND NOTICE

Rev. Proc. 96-16, 1996-1 C.B. 630 (for a reviewable ruling under § 7478 and a nonreviewable ruling); Rev. Proc. 88-31, 1988-1 C.B. 832 (for approval of areas of chronic economic distress); and Rev. Proc. 82-26, 1982-1 C.B. 476 (for “on behalf of” and similar issuers). For approval of areas of chronic economic distress, Rev. Proc. 88-31 explains how this request for approval must be submitted to the Assistant Secretary for Housing/Federal Housing Commissioner of the Department of Housing and Urban Development.

Rev. Proc. 92-84, 1992-2 C.B. 489.

Rev. Proc. 77-37, 1977-2 C.B. 568, as amplified by Rev. Proc. 77-41, 1977-2 C.B. 574, Rev. Proc. 83-81, 1983-2 C.B. 598, and as modified by Rev. Proc. 89-30, 1989-1 C.B. 895 (*see also* Rev. Proc. 2023-3, this Bulletin); Rev. Proc. 84-42, 1984-1 C.B. 521 (superseded, in part, as to no-rule areas by Rev. Proc. 2023-3); Rev. Proc. 86-42, 1986-2 C.B. 722; Rev. Proc. 89-50, 1989-2 C.B. 631; Rev. Proc. 2017-52, 2017-41 I.R.B. 283 (relating to Transactional Rulings for Covered Transactions); and Rev. Proc. 2018-53, 2018-43 I.R.B. 667. *But see* section 3.01(60) of Rev. Proc. 2023-3, which states that the Service will not issue a letter ruling as to whether a transaction constitutes a reorganization within the meaning of § 368 (except as provided in section 6.03(2)(b) of this revenue procedure). However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01(60) of Rev. Proc. 2023-3) presented in a reorganization within the meaning of § 368. *See* section 6.03(2) of this revenue procedure. In addition, the Service will issue a Transactional ruling for a Covered Transaction, as described in Rev. Proc. 2017-52 (amplified and modified by Rev. Proc. 2018-53).

Rev. Proc. 87-22, 1987-1 C.B. 718.

Rev. Proc. 86-18, 1986-1 C.B. 551; and Rev. Proc. 77-41, 1977-2 C.B. 574.

Rev. Proc. 81-42, 1981-2 C.B. 611.

Rev. Proc. 86-16, 1986-1 C.B. 546.

*See* section 3.01 of Rev. Proc. 2023-3, this Bulletin, which states that the Service will not issue a letter ruling on whether a corporate distribution qualifies for nonrecognition treatment under § 332. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2023-3) presented in a transaction described in § 332. The information and representations described in Rev. Proc. 90-52, 1990-2 C.B. 626, should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. *See* section 6.03(3) of this revenue procedure.

338 Extension of time to make elections	Rev. Proc. 2003-33, 2003-1 C.B. 803, provides guidance as to how an automatic extension of time under § 301.9100-3 of the Treasury Regulations may be obtained to file elections under § 338. Rev. Proc. 2003-33 also informs taxpayers who do not qualify for the automatic extension of the information necessary to obtain a letter ruling.
351 Checklist questionnaire	<i>See</i> section 3.01 of Rev. Proc. 2023-3, this Bulletin, which states that the Service will not issue a letter ruling on whether certain transfers to controlled corporations qualify for nonrecognition treatment under § 351. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2023-3) presented in a transaction described in § 351. The information and representations described in Rev. Proc. 83-59, 1983-2 C.B. 575, should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. <i>See</i> section 6.03(3) of this revenue procedure.
355 Checklist questionnaire	Rev. Proc. 2017-52, 2017-41 I.R.B. 283, and Rev. Proc. 2018-53, 2018-43 I.R.B. 667. <i>See also</i> section 6.03(2) of this revenue procedure.
368(a)(1)(E) Checklist questionnaire	<i>See</i> section 3.01 of Rev. Proc. 2023-3, this Bulletin, which states that the Service will not issue a letter ruling as to whether a transaction constitutes a reorganization, including a recapitalization within the meaning of § 368(a)(1)(E) (or a transaction that qualifies under § 1036). However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2023-3) presented in a transaction described in § 368(a)(1)(E) (or in a transaction described in § 1036). The information and representations described in Rev. Proc. 81-60, 1981-2 C.B. 680, should be included in a letter ruling request only to the extent that they relate to the significant issues. <i>See</i> section 6.03(3) of this revenue procedure.
412, 4971(b) Additional tax (on failure to meet minimum funding standards)	Rev. Proc. 81-44, 1981-2 C.B. 618, provides guidance for requesting a waiver of the 100 percent tax imposed under § 4971(b) on a pension plan that fails to meet the minimum funding standards of § 412.
412(c) Minimum funding standards	Rev. Proc. 2004-15, 2004-1 C.B. 490, provides guidance for requesting a waiver of the minimum funding standards.
412(c)(7)(B) Minimum funding standards - restrictions on plan amendments	Rev. Proc. 79-62, 1979-2 C.B. 576 provides guidance for requesting a determination that a plan amendment is reasonable and provides for only de minimis increases in plan liabilities in accordance with former § 412(f)(2)(A) (now § 412(c)(7)(B)(i)).
412(d)(2) Minimum funding standards - certain retroactive plan amendments	Rev. Proc. 94-42, 1994-1 C.B. 717, as modified by Rev. Proc. 2023-4, this Bulletin, sets forth procedures under which a plan sponsor may file notice with and obtain approval for a retroactive amendment described in § 412(d)(2) (formerly § 412(c)(8)) and § 302(d)(2) of the Employee Retirement Income Security Act of 1974 (ERISA) that reduces prior accrued benefits.
414(e) Church plans	Rev. Proc. 2011-44, 2011-39 I.R.B. 445 provides supplemental procedures for requesting a ruling relating to church plans under section 414(e). Rev. Proc. 2011-44 provides that plan participants and other interested persons must receive a notice when a letter ruling is requested and a copy of the notice must be submitted as part of the ruling request. Rev. Proc. 2011-44 also provides procedures for the Service to receive and consider comments about the ruling request from interested persons. <i>See</i> Appendix E of this revenue procedure.
414(r) Qualified separate lines of business – administrative scrutiny	Rev. Proc. 93-41, 1993-2 C.B. 536, sets forth procedures relating to the issuance of an administrative scrutiny determination, which is a determination by the Service as to whether a separate line of business satisfies the requirement of administrative scrutiny, within the meaning of § 1.414(r)-6, for the testing year.

461(h) Alternative method for the inclusion of common improvement costs in basis	Rev. Proc. 92-29, 1992-1 C.B. 748.
482 Advance pricing agreements	Rev. Proc. 2015-40, 2015-35 I.R.B. 236, and Rev. Proc. 2015-41, 2015-35 I.R.B. 263.
521 Appeal procedure with regard to adverse determination letters and revocation or modification of exemption letter rulings and determination letters	Rev. Proc. 2023-5, this Bulletin.
817(h) Closing agreement for inadvertent failures of variable contracts	Rev. Proc. 2008-41, 2008-2 C.B. 155.
860 Self Determination of Deficiency Dividend	Rev. Proc. 2009-28, 2009-20 I.R.B. 1011.
877, 2107, and 2501(a)(3) Individuals who lose U.S. citizenship or cease to be taxed as long-term U.S. residents with a principal purpose to avoid U.S. taxes	Notice 97-19, 1997-1 C.B. 394, as modified by Notice 98-34, 1998-2 C.B. 29, and as obsoleted in part by Notice 2005-36, 2005-1 C.B. 1007.
1059(c)(4) Fair market value of stock for purposes of election	Rev. Proc. 86-33, 1987-29 C.B. 402, provides guidance to corporate taxpayers on how to make the election under section 1059(c)(4) and establish the fair market value of stock for purposes of that election. It provides an automatic procedure to value publicly traded stock and valuation procedures for other stock.
1362(b)(5) and 1362(f) Relief for late S corporation and related elections under certain circumstances	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
1362(b)(5) and 301.7701-3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
1.1502-13(e)(3) Consent to treat intercompany transactions on a separate entity basis and revocation of this consent	Rev. Proc. 2009-31, 2009-27 I.R.B. 107.
1.1502-75(b) Consent to Be Included in a Consolidated Income Tax Return	Rev. Proc. 2014-24, 2014-13 I.R.B. 879, provides a determination that certain subsidiary corporations are treated as if they had filed a Form 1122, <i>Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return</i> , even though they failed to do so. Rev. Proc. 2014-24 also informs taxpayers who do not qualify for the automatic determination of the procedure for requesting such determination.

1.1502-76(a)(1) Consent to file a consolidated return where member(s) of the affiliated group use a 52-53 week taxable year	Rev. Proc. 89-56, 1989-2 C.B. 643, as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
1504(a)(3)(A) and (B) Waiver of application of § 1504(a)(3)(A) for certain corporations	Rev. Proc. 2002-32, 2002-1 C.B. 959, as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
1552 Consent to elect or change method of allocating affiliated group's consolidated Federal income tax liability	Rev. Proc. 90-39, 1990-2 C.B. 365, as clarified by Rev. Proc. 90-39A, 1990-2 C.B. 367, and as modified by Rev. Proc. 2006-21, 2006-1 C.B. 1050.
2642 Allocations of generation-skipping transfer tax exemption	Rev. Proc. 2004-46, 2004-2 C.B. 142, provides an alternative method for requesting relief to make a late allocation of the generation-skipping transfer tax exemption. Rev. Proc. 2004-46 also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary for obtaining a letter ruling.
2652(a)(3) Reverse qualified terminable interest property elections	Rev. Proc. 2004-47, 2004-2, C.B. 169, provides an alternative method for certain taxpayers to obtain an extension of time to make a late reverse qualified terminable interest property election under § 2652(a)(3). Rev. Proc. 2004-47 also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary to obtain a letter ruling.
4980B Failure to satisfy continuation coverage requirements of group health plans	Rev. Proc. 87-28, 1987-1 C.B. 770 (treating references to former § 162(k) as if they were references to § 4980B).
7701 Relief for a late classification election for a newly formed entity	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.
7701(a)(40) and 7871(d) Indian tribal governments and subdivision of Indian tribal governments	Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, and this revenue procedure (provides guidelines for obtaining letter rulings recognizing Indian tribal government or tribal government subdivision status; also provides for inclusion in list of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, or in list of recognized subdivisions of Indian tribal governments in revised versions of Rev. Proc. 84-36, 1984-1 C.B. 510, as modified and made permanent by Rev. Proc. 86-17).
301.7701-2(a) Classification of undivided fractional interests in rental real estate	Rev. Proc. 2002-22, 2002-1 C.B. 733 (specifies the conditions under which the Service will consider a letter ruling request that an undivided fractional interest in rental real property (other than a mineral property as defined in § 614) is not an interest in a business entity).
301.7701-3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
301.9100-3 Extension of time to make entity classification election	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.



7702 Closing agreement for failure to account for charges for qualified additional benefits	Rev. Proc. 2008-38, 2008-2 C.B. 139.
7702 Closing agreement for failed life insurance contracts	Rev. Proc. 2008-40, 2008-2 C.B. 151.
7702A Closing agreement for inadvertent non-egregious failure to comply with modified endowment contract rules	Rev. Proc. 2008-39, 2008-2 C.B. 143.
7704(g) Revocation of election	Notice 98-3, 1998-1 C.B. 333.
<i>SUBJECT MATTERS</i>	<i>REVENUE PROCEDURE</i>
Accounting periods; changes in period	Rev. Proc. 2002-39, 2002-1 C.B. 1046, as clarified and modified by Notice 2002-72, 2002-2 C.B. 843, as modified by Rev. Proc. 2003-34, 2003-1 C.B. 856, and modified by Rev. Proc. 2003-79, 2003-2 C.B. 1036; and this revenue procedure, for which sections 1, 2.01, 2.02, 2.05, 3.04, 5.02, 6.03, 6.05, 6.07, 6.11, 7.01(1), 7.01(2), 7.01(3), 7.01(4), 7.01(5), 7.01(6), 7.01(9), 7.01(10), 7.01(11), 7.01(14), 7.01(15), 7.01(16), 7.02(2), 7.02(4), 7.02(5), 7.02(6), 7.04, 7.05, 7.06, 7.08, 8.01, 8.03, 8.04, 8.05, 8.06, 10, 11, 15, 17, 18, Appendix A, and Appendix F are applicable.
Classification of liquidating trusts	Rev. Proc. 82-58, 1982-2 C.B. 847, as modified and amplified by Rev. Proc. 94-45, 1994-2 C.B. 684, and as amplified by Rev. Proc. 91-15, 1991-1 C.B. 484 (checklist questionnaire), as modified and amplified by Rev. Proc. 94-45.
Earnings and profits determinations	Rev. Proc. 75-17, 1975-1 C.B. 677; this revenue procedure, sections 2.05, 3.04, 7, 8, and 10.05; and Rev. Proc. 2023-3, this Bulletin, section 3.01.
Estate, gift, and generation-skipping transfer tax issues	Rev. Proc. 91-14, 1991-1 C.B. 482 (checklist questionnaire).
Intercompany transactions; election not to defer gain or loss	Rev. Proc. 2009-31, 2009-27 I.R.B. 107.
Leveraged leasing	Rev. Proc. 2001-28, 2001-1 C.B. 1156, and Rev. Proc. 2001-29, 2001-1 C.B. 1160.
Rate orders; regulatory agency; normalization	<p>A letter ruling request that involves a question of whether a rate order that is proposed or issued by a regulatory agency will meet the normalization requirements of § 168(f)(2) (pre-Tax Reform Act of 1986, § 168(e)(3)) and former §§ 46(f) and 167(l) ordinarily will not be considered unless the taxpayer states in the letter ruling request whether—</p> <p>(1)the regulatory authority responsible for establishing or approving the taxpayer’s rates has reviewed the request and believes that the request is adequate and complete; and</p> <p>(2)the taxpayer will permit the regulatory authority to participate in any Associate office conference concerning the request.</p> <p>If the taxpayer or the regulatory authority informs a consumer advocate of the request for a letter ruling and the advocate wishes to communicate with the Service regarding the request, any such communication should be sent to: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:TSS, P.O. Box 7604, Benjamin Franklin Station, Washington, DC 20044 (or, if a private delivery service is used: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:TSS, Room 5336, 1111 Constitution Ave., NW, Washington, DC 20224). These communications will be treated as third party contacts for purposes of § 6110.</p>

Unfunded deferred compensation	Rev. Proc. 71-19, 1971-1 C.B. 698, as amplified by Rev. Proc. 92-65, 1992-2 C.B. 428. <i>See</i> Rev. Proc. 92-64, 1992-2 C.B. 422, as modified by Notice 2000-56, 2000-2 C.B. 393, for the model trust for use in Rabbi Trust Arrangements.
<b>Safe harbor revenue procedures</b>	.02 For requests relating to the following Code sections and subject matters, refer to the following safe harbor revenue procedures.
<i>CODE OR REGULATION SECTION</i>	<i>REVENUE PROCEDURE</i>
23 and 36C Adoption credit for foreign adoptions	Rev. Proc. 2010-31, 2010-40 I.R.B. 413.
103 and 141-150 Issuance of state or local obligations	Rev. Proc. 2017-13, 2017-6 I.R.B. 787 (management contracts); and Rev. Proc. 2007-47, 2007-2 C.B. 108 (research agreements).
137 Exclusion for Employer Reimbursements	Rev. Proc. 2010-31, 2010-40 I.R.B. 413.
162 Restaurant Small Wares Costs	Rev. Proc. 2002-12, 2002-1 C.B. 374.
165 Losses from corrosive dry-wall	Rev. Proc. 2010-36, 2010-42 I.R.B. 439.
165 Theft losses from fraudulent investment arrangements	Rev. Proc. 2009-20, 2009-14 I.R.B. 749, as modified by Rev. Proc. 2011-58, 2011-50 I.R.B. 849.
167 and 168 Primary use of certain cable network assets described in asset class 48.42 of Rev. Proc. 87-56, 1987-2 C.B. 674	Section 9 of Rev. Proc. 2015-12, 2015-2 I.R.B. 266.
168 Depreciation of original and replacement tires for certain vehicles	Rev. Proc. 2002-27, 2002-1 C.B. 802.
168 Depreciation of fiber optic node and trunk line of a cable system operator	Section 8 of Rev. Proc. 2015-12, 2015-2 I.R.B. 266.
168 Recovery periods of certain tangible assets used by wireless telecommunication carriers	Rev. Proc. 2011-22, 2011-18 I.R.B. 737
263, 471 Treatment of rotatable spare parts as inventory or depreciable property	Rev. Proc. 2007-48, 2007-2 C.B. 110

263 Safe harbor methods for track structure expenditures	Rev. Proc. 2002-65, 2002-2 C.B. 700; Rev. Proc. 2001-46, 2001-2 C.B. 263.
263 Determination whether expenditures to maintain, replace or improve wireline network assets must be capitalized	Rev. Proc. 2011-27, 2011-18 I.R.B. 740.
263 Determination whether expenditures to maintain, replace or improve wireless network assets must be capitalized	Rev. Proc. 2011-28, 2011-18 I.R.B. 743.
263 Allocating success-based fees paid in business acquisitions or reorganizations	Rev. Proc. 2011-29, 2011-18 I.R.B. 746.
263 Electric trade and distribution property assets	Rev. Proc. 2011-43, 2011-37 I.R.B. 326.
263A Safe harbor methods for certain motor vehicle dealerships	Rev. Proc. 2010-44, 2010-49 I.R.B. 811.
280A Safe harbor method to determine the amount of deductible expenses attributable to certain business use of a residence	Rev. Proc. 2013-13, 2013-6 I.R.B. 478.
280B Certain structural modifications to a building not treated as a demolition	Rev. Proc. 95-27, 1995-1 C.B. 704.
446 Film producer's treatment of certain creative property costs	Rev. Proc. 2004-36, 2004-1 C.B. 1063.
446 Bank's treatment of uncollected interest	Rev. Proc. 2007-33, 2007-1 C.B. 1289.
448 Nonaccrual-experience method - book safe harbor method	Rev. Proc. 2011-46, 2011-42 I.R.B. 518.
451 Safe harbor for capital cost reduction payments	Rev. Proc. 2002-36, 2002-1 C.B. 993.

451 Treatment of gift cards issued to customers in exchange for returned merchandise	Rev. Proc. 2011-17, 2011-5 I.R.B. 441.
451 Safe harbor for certain minors' trusts established under the Indian Gaming Regulatory Act (U.S.C. §§ 2701-2721)	Rev. Proc. 2011-56, 2011-49 I.R.B. 834.
461 Safe harbor method for payroll tax liabilities for compensation	Rev. Proc. 2008-25, 2008-1 C.B. 686.
471 Estimating inventory shrinkage	Rev. Proc. 98-29, 1998-1 C.B. 857.
471 Valuation of automobile dealer vehicle parts inventory	Rev. Proc. 2002-17, 2002-1 C.B. 676.
471 Valuation of remanufactured cores	Rev. Proc. 2003-20, 2003-1 C.B. 445.
471 Valuation of heavy equipment dealer parts inventory	Rev. Proc. 2006-14, 2006-1 C.B. 350.
471 Rolling-average method of accounting for inventories	Rev. Proc. 2008-43, 2008-2 C.B. 186.
475 Eligible positions	Rev. Proc. 2007-41, 2007-1 C.B. 1492.
584(a) Qualification of a proposed common trust fund plan	Rev. Proc. 92-51, 1992-1 C.B. 988.
642(c)(5) Qualification of trusts as pooled income funds	Rev. Proc. 88-53, 1988-2 C.B. 712.
664 Charitable remainder trusts	Rev. Proc. 2005-24, 2005-1 C.B. 909, as modified by Notice 2006-15, 2006-1 C.B. 501.
664(d)(1) Qualification of trusts as charitable remainder annuity trusts	Rev. Proc. 2003-53, 2003-2 C.B. 230; Rev. Proc. 2003-54, 2003-2 C.B. 236; Rev. Proc. 2003-55, 2003-2 C.B. 242; Rev. Proc. 2003-56, 2003-2 C.B. 249; Rev. Proc. 2003-57, 2003-2 C.B. 257; Rev. Proc. 2003-58, 2003-2 C.B. 262; Rev. Proc. 2003-59, 2003-2 C.B. 268; Rev. Proc. 2003-60, 2003-2 C.B. 274.
664(d)(2) and (3) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 2005-52, 2005-2 C.B. 326; Rev. Proc. 2005-53, 2005-2 C.B. 339; Rev. Proc. 2005-54, 2005-2 C.B. 353; Rev. Proc. 2005-55, 2005-2 C.B. 367; Rev. Proc. 2005-56, 2005-2 C.B. 383; Rev. Proc. 2005-57, 2005-2 C.B. 392; Rev. Proc. 2005-58, 2005-2 C.B. 402; Rev. Proc. 2005-59, 2005-2 C.B. 412.

832 Insurance company premium acquisition expenses	Rev. Proc. 2002-46, 2002-2 C.B. 105.
856(c) Certain loans treated as real estate assets	Rev. Proc. 2003-65, 2003-2 C.B. 336.
1031(a) Qualification as a qualified exchange accommodation arrangement	Rev. Proc. 2000-37, 2000-2 C.B. 308, as modified by Rev. Proc. 2004-51, 2004-2 C.B. 294.
1031 Safe harbor with respect to exchanges of residential real property	Rev. Proc. 2008-16, 2008-1 C.B. 547.
1031 Safe harbor for reporting gain or loss on failed exchanges	Rev. Proc. 2010-14, 2010-12 I.R.B. 456.
1272(a)(6) Proportional method of accounting for original issue discount on pools of credit card receivables	Rev. Proc. 2013-26, 2013-22 I.R.B. 1160.
1286 Determination of reasonable compensation under mort- gage servicing contracts	Rev. Proc. 91-50, 1991-2 C.B. 778.
1362(f) Automatic inadvertent termination relief to certain corporations	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
2056A Qualified Domestic Trust	Rev. Proc. 96-54, 1996-2 C.B. 386.
2702(a)(3)(A) and 25.2702- 5(c) Qualified Personal Residence Trust	Rev. Proc. 2003-42, 2003-1 C.B. 993.
4051(a)(2) Imposition of tax on heavy trucks and trailers sold at retail	Rev. Proc. 2005-19, 2005-1 C.B. 832.
1.7704-2(d) New business activity of existing partnership is closely related to pre-existing busi- ness	Rev. Proc. 92-101, 1992-2 C.B. 579.
<i>SUBJECT MATTERS</i>	<i>REVENUE PROCEDURE</i>
Certain rent-to-own contracts treated as leases	Rev. Proc. 95-38, 1995-2 C.B. 397.

**Automatic change in  
accounting period revenue  
procedures**

.03 For requests for an automatic change in accounting period, refer to the following automatic change revenue procedures.

Rev. Proc. 2006-45, 2006-2 C.B. 851, as clarified and modified by Rev. Proc. 2007-64, 2007-2 C.B. 818 (certain corporations); Rev. Proc. 2006-46, 2006-2 C.B. 859 (certain partnerships, subchapter S corporations, personal service corporations, and trusts); and Rev. Proc. 2003-62, 2003-2 C.B. 299 (individuals seeking a calendar year).

The Commissioner's consent to an otherwise qualifying automatic change in accounting period is granted only if the taxpayer timely complies with the applicable automatic change revenue procedure.

**APPENDIX G**  
**MEMORANDUM OF UNDERSTANDING ACKNOWLEDGING RISK WITH EMAIL**

I acknowledge that there are risks associated with email, such as the possibility that sensitive taxpayer information could be intercepted and viewed by unauthorized persons. I understand the importance of securing email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. I understand that encryption programs only encrypt the email attachment and not the subject line or the body of the email itself, and that confidential information should not be included in the subject line, the body of the email itself, or the file name of the attachment. By signing this agreement, I understand that sensitive or confidential information should be sent only by encrypted email attachments in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. I acknowledge that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

(Name of Taxpayer)  
(Title of Individual Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**APPENDIX H**  
**MEMORANDUMS OF UNDERSTANDING AGREEING TO USE ENCRYPTED EMAIL ATTACHMENTS**

**Agreement to use encrypted email attachments  
(compressed Zip format)**

**.01** For requesters choosing to use encrypted email attachments in compressed Zip format, submit the following MOU:

*Agreement to Use Encrypted Email Attachments (Compressed Zip format)*

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses SecureZIP®, a commercial program, to compress and encrypt email attachments that contain sensitive information. The recipient of encrypted email attachments created using this utility may decrypt and view them by entering a password. The recipient must first install a compatible “zip” software utility. In addition to SecureZIP®, compatible utilities include PKZIP®, and ZIP Reader® by PKWARE®, which is a free Windows utility that enables users to process compressed and/or AES passphrase-encrypted files created by SecureZIP®, PKZIP® and other products that support these capabilities. SecureZIP and compatible utilities only encrypt the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS. Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the



addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice. In the event of a security incident, Chief Counsel may immediately terminate the agreement.

#### 6 Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way, the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)  
(Title of Individual Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Office of Chief Counsel, Internal Revenue Service, United States of America  
(Name of Counsel Employee)  
(Title of Counsel Employee Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Addendum: Individuals and Email Addresses Authorized  
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number

**Agreement to use encrypted email attachments  
(Adobe Acrobat Pro password encryption)**

**.02** For requesters choosing to use encrypted email attachments with Adobe Acrobat Pro password encryption, submit the following MOU:

*Agreement to Use Encrypted Email Attachments (Adobe Acrobat Pro Password Encryption)*

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses Adobe Acrobat Pro®, a commercial program, to compress and encrypt email attachments in Adobe Portable Document Format (.pdf) that contain sensitive information. The recipient of encrypted email attachments created using this utility may decrypt and view them by entering a password. The recipient must first install a compatible .pdf software reader with password decryption capability. In addition to Adobe Acrobat Pro®, the Adobe Acrobat DC Reader® is a free Windows utility that enables users to decrypt and open AES passphrase-encrypted files created by Adobe Acrobat Pro. Other compatible .pdf decryption utilities may exist.

Acrobat Pro® only encrypts the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

Further information about how to encrypt email attachments with Adobe Acrobat products may be found on Adobe's web site or at this link: <https://home.treasury.gov/how-to-encryptpassword-protect-microsoft-office-and-adobe-acrobat-pdf-documents>.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice.

In the event of a security incident, Chief Counsel may immediately terminate the agreement.

6 Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way, the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)  
(Title of Individual Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Office of Chief Counsel, Internal Revenue Service, United States of America  
(Name of Counsel Employee)  
(Title of Counsel Employee Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Addendum: Individuals and Email Addresses Authorized  
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number

**Agreement to use encrypted email attachments (Microsoft Office 2016/365 password encryption)**

.03 For requesters choosing to use encrypted email attachments with Microsoft Office 2016/365 password encryption, submit the following MOU:

*Agreement to Use Encrypted Email Attachments (Microsoft Office 2016/365 Password Encryption)*

Generally, the Office of Chief Counsel, Internal Revenue Service (Chief Counsel) communicates with taxpayers or their representatives by sending documents through the mail or via facsimile, or by telephone. In many cases communication by email is more convenient for both the taxpayer and Chief Counsel. There are risks associated with email, such as the possibility sensitive taxpayer information could be intercepted. If an email is intercepted, any personal information in the email could be viewed by unauthorized persons. It is important to secure email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. This agreement is intended to enhance the process of securely exchanging taxpayer data and other tax-related information and increase efficiency of interaction between Chief Counsel and taxpayers or their representatives.

1. Communications

In order to communicate in a formal, efficient manner for tax issues, written communication is essential. Email is one form of written communication; however, in order to protect sensitive information, additional safeguards are necessary for email communications which are not generally required for paper documents. Chief Counsel and the taxpayer, by this agreement, consent to written communications being transmitted via encrypted email attachments. In order to limit access to this information, Chief Counsel and the taxpayer agree to designate participants and provide the list of participants in an addendum to this agreement. Only individuals designated as participants by Chief Counsel and the taxpayer on that list will be included in these communications. The taxpayer will be responsible for providing an updated list when there are changes to their designated participants.

2. Encrypted Email Attachments

Chief Counsel uses Microsoft Office 365®, a commercial program, to compress and encrypt email attachments in Microsoft Office formats, including Word, Excel or PowerPoint, that contain sensitive information. The recipient of encrypted email attachments created using this program may decrypt and view them by entering a password. The recipient should use Microsoft 2016® or Microsoft Office 365® to decrypt and open encrypted Office files sent by Chief Counsel as email attachments. Older versions of Microsoft Office may not successfully decrypt these attachments.

Microsoft Office 365 only encrypts the email attachment and not the subject line nor the body of the email itself. To prevent interception and viewing of sensitive or other confidential tax-related information by unauthorized persons, such information must not be included in the email body or subject line.

Further information about how to encrypt email attachments with Microsoft Office products may be found on Microsoft's web site or at this link: <https://home.treasury.gov/how-to-encryptpassword-protect-microsoft-office-and-adobe-acrobat-pdf-documents>.

3. Security

Both parties agree to work together to ensure the joint security of the information contained in the encrypted email attachment. Pursuant to this MOU, Chief Counsel certifies that its system used to transmit, store, or process data is designed, managed, and operated in a secure manner in compliance with relevant laws, regulations, and policies. The taxpayer should also undertake steps to ensure proper security protections are employed to transmit, receive, and store this information. By signing this agreement, the taxpayer understands that sensitive or confidential information should be sent only by encrypted email attachment in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. By signing this agreement, the taxpayer acknowledges that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

4. Costs

Both parties agree to bear all of their own costs on a nonreimbursable basis in complying with this agreement.

## 5. Timeline

This agreement is effective upon the signatures of both parties and will remain in effect for the duration of the matter in Chief Counsel, including, but not limited to such time as the matter is on appeal or pending before other United States Government agencies such as the Department of the Treasury or Department of Justice. As a new participant is added to the MOU, they are added to the addendum and both the MOU and the addendum remain part of the case or administrative file. If either the taxpayer or Chief Counsel wishes to terminate this agreement before it expires, it may be done upon thirty (30) days' advance notice.

In the event of a security incident, Chief Counsel may immediately terminate the agreement.

## 6 Additional Terms

Nothing in this agreement shall be construed as a waiver of any sovereign immunity of the United States Government. This agreement is not intended to contravene in any way, the precedence or applicability of Federal law and shall be governed by and construed under Federal law of the United States of America.

(Name of Taxpayer)  
(Title of Individual Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Office of Chief Counsel, Internal Revenue Service, United States of America  
(Name of Counsel Employee)  
(Title of Counsel Employee Signing Agreement)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

Addendum: Individuals and Email Addresses Authorized  
Pursuant to this Memorandum of Understanding

Authorized Person Name	Authorized Email Address	Phone Number