

Revenue Procedure 98-1

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Procedures for Issuing Rulings, Determination Letters, and Information Letters, and for Entering Into Closing Agreements on Specific Issues Under the Jurisdiction of the Associate Chief Counsels (Domestic), (Employee Benefits and Exempt Organizations), (International), and (Enforcement Litigation)

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

This revenue procedure explains how the Internal Revenue Service gives guidance to taxpayers on issues under the jurisdiction of the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), and the Associate Chief Counsel (International). It explains the kinds of guidance and the manner in which guidance is requested by taxpayers and provided by the Service. A sample format of a request for a letter ruling is provided in Appendix B.

Description of terms used in this revenue procedure

For purposes of this revenue procedure—

- (1) any reference to district director or district office includes their respective offices or, when appropriate, the Assistant Commissioner (International);
- (2) the term “taxpayer” includes all persons subject to any provision of the Internal Revenue Code (including issuers of § 103 obligations) and, when appropriate, their representatives; and
- (3) the term “national office” refers to the Office of Associate Chief Counsel (Domestic), the Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Office of Associate Chief Counsel (Enforcement Litigation), or the Office of Associate Chief Counsel (International), as appropriate.

Updated annually

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

SECTION 2. IN WHAT FORM IS GUIDANCE PROVIDED BY THE OFFICES OF ASSOCIATE CHIEF COUNSEL (DOMESTIC), ASSOCIATE CHIEF COUNSEL EMPLOYEE BENEFITS AND EXEMPT ORGANIZATIONS), ASSOCIATE CHIEF COUNSEL (ENFORCEMENT LITIGATION), AND ASSOCIATE CHIEF COUNSEL (INTERNATIONAL)?

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

Letter ruling

.01 A “letter ruling” is a written statement issued to a taxpayer by the national office that interprets and applies the tax laws to the taxpayer’s specific set of facts. A letter ruling includes the written permission or denial of permission by the national office to a request for a change in a taxpayer’s accounting method or accounting period. Once issued, a letter ruling may be revoked or modified for any number of reasons, as explained in section 12 of this revenue procedure, unless it is accompanied by a “closing agreement.”

Closing agreement

.02 A closing agreement is a final agreement between the Service and a taxpayer on a specific issue or liability. It is entered into under the authority in § 7121 and is final unless fraud, malfeasance, or misrepresentation of a material fact can be shown.

A closing agreement may be entered into when it is advantageous to have the matter permanently and conclusively closed or when a taxpayer can show that there are good reasons for an agreement and that making the agreement will not prejudice the interests of the Government. In appropriate cases, a taxpayer may be asked to enter into a closing agreement as a condition to the issuance of a letter ruling.

If, in a single case, a closing agreement is requested for each person in a class of taxpayers, separate agreements are entered into only if the class consists of 25 or fewer taxpayers. However, 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 statement issued by a district director that applies the principles and precedents previously announced by the national office to a specific set of facts. It is issued only when a determination can be made based on clearly established rules in the statute, a tax treaty, or the regulations, or based on a conclusion in a revenue ruling, opinion, or court decision published in the Internal Revenue Bulletin that specifically answers the questions presented.

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. 96–13, 1996–1 C.B. 616.

Information letter

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

Revenue ruling

.05 A “revenue ruling” is an interpretation by the Service that has been published in the Internal Revenue Bulletin. It is the conclusion of the Service on how the law is applied to a specific set of facts. Revenue rulings are issued only by the national office and are published for the information and guidance of taxpayers, Service personnel, and other interested parties.

Because each revenue ruling represents the conclusion of the Service regarding the application of law to the entire statement of facts involved, taxpayers, Service personnel, and other concerned parties are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. They should consider the effect of subsequent legislation, regulations, court decisions, revenue rulings, notices, and announcements. See Rev. Proc. 89–14, 1989–G1 C.B. 814, which states the objectives of, and standards for, the publication of revenue rulings and revenue procedures in the Internal Revenue Bulletin.

(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. However, Service employees ordinarily will discuss with taxpayers or their representatives inquiries regarding whether the Service will rule on particular issues and questions relating to procedural matters about submitting requests for letter rulings or determination letters for a particular case.

(2) Discussion possible on substantive issues.

At the discretion of the Service and as time permits, substantive issues also may be discussed. However, such a discussion will not be binding on the Service in general or on the Office of Chief Counsel in particular and cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b).

Substantive tax issues involving the taxpayer that are under examination, in appeals, or in litigation will not be discussed by Service employees not directly involved in the examination, appeal, or litigation of the issues unless the discussion is coordinated with those Service employees who are directly involved in the examination, appeal, or litigation of the issues. The taxpayer or the taxpayer’s representative ordinarily will be asked whether the oral request for guidance or information relates to a matter pending before another office of the Service.

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 district office or service center when preparing a return or report. Oral guidance is advisory only, and the Service is not bound to recognize it, for example, in the examination of the taxpayer’s return.

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

SECTION 3. ON WHAT ISSUES MAY TAXPAYERS REQUEST WRITTEN GUIDANCE UNDER THIS PROCEDURE?

Taxpayers may request letter rulings, information letters, and closing agreements under this revenue procedure on issues within the jurisdiction of the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), and the Associate Chief Counsel (International). The national office issues letter rulings to answer written inquiries of individuals and organizations about their status for tax purposes and the tax effects of their acts or transactions when appropriate in the interest of sound tax administration.

Taxpayers also may request determination letters within the jurisdiction of the appropriate district director offices that relate to the Code sections under the jurisdiction of the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International).

.01 Issues under the jurisdiction of the Associate Chief Counsel (Domestic) include all issues under the jurisdiction of the various Assistant Chief Counsels as explained below.

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

Issues under the Assistant Chief Counsel (Corporate)

(1) Issues under the Assistant Chief Counsel (Corporate) include those that involve consolidated returns, corporate acquisitions, reorganizations, liquidations, redemptions, spinoffs, transfers to controlled corporations, distributions to shareholders, corporate

bankruptcies, the effect of certain ownership changes on net operating loss carryovers and other tax attributes, debt vs. equity determinations, allocation of income and deductions among taxpayers, acquisitions made to evade or avoid income tax, and certain earnings and profits questions.

Issues under the Assistant Chief Counsel (Financial Institutions and Products)

(2) Issues under the Assistant Chief Counsel (Financial Institutions and Products) include those that involve income taxes and accounting method changes of banks, savings and loan associations, real estate investment trusts (REITs), regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), tax-exempt obligations, mortgage credit certificates (MCCs), insurance companies and products, and financial products.

Issues under the Assistant Chief Counsel (Income Tax and Accounting)

(3) Issues under the Assistant 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, inventories, the alternative minimum tax, accounting method changes for these and other miscellaneous issues, various administrative provisions, and accounting periods.

Issues under the Assistant Chief Counsel (Passthroughs and Special Industries)

(4) Issues under the Assistant Chief Counsel (Passthroughs and Special Industries) include those that involve income taxes of S corporations (except accounting periods and methods) and certain noncorporate taxpayers (including partnerships, common trust funds, and trusts); entity classification; estate, gift, generation-skipping transfer, and certain excise taxes; amortization, depreciation, depletion, and other engineering issues; accounting method changes for depreciation and amortization; cooperative housing corporations; farmers' cooperatives (under § 521); the low-income housing, disabled access, and qualified electric vehicle credits; research and experimental expenditures; shipowners' protection and indemnity associations (under § 526); and certain homeowners associations (under § 528).

Issues under the jurisdiction of the Associate Chief Counsel (Employee Benefits and Exempt Organizations)

.02 Issues under the jurisdiction of the Associate Chief Counsel (Employee Benefits and Exempt Organizations) include those that involve income tax and other tax aspects of executive compensation and employee benefit programs (other than those within the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations)), employment taxes, and taxes on self-employment income.

Issues under the jurisdiction of the Associate Chief Counsel (Enforcement Litigation)

.03 Issues under the jurisdiction of the Associate Chief Counsel (Enforcement Litigation) include issues only under the jurisdiction of the Assistant Chief Counsel (General Litigation). Issues under the Assistant Chief Counsel (General Litigation) include those that involve collection.

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

.04 Issues under the jurisdiction of the Associate Chief Counsel (International) include the tax treatment of nonresident aliens and foreign corporations; withholding of tax on nonresident aliens and foreign corporations; foreign tax credit; determination of sources of income; income from sources without the United States; subpart F questions; domestic international sales corporations (DISCs); foreign sales corporations (FSCs); international boycott determinations; treatment of certain passive foreign investment companies; and income affected by treaty.

For the procedures to obtain advance pricing agreements under § 482, see Rev. Proc. 96-53, 1996-2 C.B. 375.

For the procedures concerning competent authority relief arising under the application and interpretation of tax treaties between the United States and other countries, see Rev. Proc. 96-13. However, competent authority consideration for an advance pricing agreement should be requested under Rev. Proc. 96-53.

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

Alcohol, tobacco, and firearms taxes

.01 The procedures for obtaining letter rulings, etc., that apply to federal alcohol, tobacco, and firearms taxes under subtitle E of the Code are under the jurisdiction of the Bureau of Alcohol, Tobacco and Firearms.

Employee plans and exempt organizations

.02 The procedures for obtaining letter rulings, determination letters, etc., on employee plans and exempt organizations are under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations). *See* Rev. Proc. 98-4, this Bulletin. *See* also Rev. Proc. 98-6, this Bulletin, for the procedures for issuing determination letters on the qualified status of pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans under §§ 401, 403(a), 409, and 4975(e)(7), and the status for exemption of any related trusts or custodial accounts under § 501(a).

For the user fee requirements applicable to requests for letter rulings, determination letters, etc., under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations), *see* Rev. Proc. 98-8.

SECTION 5. UNDER WHAT CIRCUMSTANCES DOES THE NATIONAL OFFICE ISSUE LETTER RULINGS?

In income and gift tax matters

.01 In income and gift tax matters, the national office generally issues a letter ruling on a proposed transaction and on a completed transaction if the letter ruling request is submitted before the return is filed for the year in which the transaction that is the subject of the request was completed.

(1) Circumstances under which a letter ruling is not ordinarily issued. The national office ordinarily does not issue a letter ruling if, at the time the letter ruling is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue—

(a) is being examined by a district director;

(b) is being considered by an appeals office;

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

(d) has been examined by a district director or considered by an appeals office and the statutory period of limitations has not expired for assessment or for filing a claim for refund or credit of tax; or

(e) has been examined by a district director or considered by an appeals office and a closing agreement covering the issue or liability has not been entered into by a district director or by an appeals office.

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, the national 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 district director. *See* section 8.04 of this revenue procedure. However, even if an examination has begun, the national office ordinarily will issue the letter ruling if the district director agrees, by memorandum, to the issuance of the letter ruling.

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

(2) No letter ruling on a property conversion after return filed. The national office does not issue a letter ruling on the replacement of involuntarily converted property, whether or not the property has been replaced, if the taxpayer has already filed a return for the taxable year in which the property was converted. However, the district director may issue a determination letter in this case. *See* section 6.01 of this revenue procedure.

(3) Certain late S corporation elections. In lieu of requesting a letter ruling under this revenue procedure, a taxpayer may obtain relief under § 1362(b)(5) for certain late S corporation elections by following the procedures in Rev. Proc. 97-40, 1997-33 I.R.B. 50, or Rev. Proc. 97-48, 1997-43 I.R.B. 19. A request made pursuant to Rev. Proc. 97-40 or Rev. Proc. 97-48 does not require payment of any user fee. *See* section 3 of Rev. Proc. 97-40 or Rev. Proc. 97-48 and section 15.03(2) of this revenue procedure.

.02 The national 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 Procedure and Administration Regulations. Even if submitted after the return covering the issue presented in the § 301.9100 request has been filed and even if submitted after an examination of the return has begun or after the issues in the return are being considered by an appeals office or a federal court, a § 301.9100 request is a letter ruling request. Therefore, the § 301.9100 request should be submitted pursuant to this revenue procedure.

However, an election made pursuant to § 301.9100-2 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. Such an election pertains to an automatic extension of time.

(1) Format of request. A § 301.9100 request (other than an election made pursuant to § 301.9100-2) must be in the general form of, and meet the general requirements for, a letter ruling request. These requirements are given in section 8 of this revenue procedure. In addition, the § 301.9100 request must include the information required by § 301.9100-3(e).

(2) Statute of limitations. The running of any applicable period of limitations is not suspended for the period during which a § 301.9100 request has been filed. *See* § 301.9100-3(d)(2). If the period of limitations on assessment under § 6501(a) for the taxable year in which an election should have been made or any taxable year that would have been affected by the election had it been timely made will expire before receipt of a § 301.9100 letter ruling, the Service ordinarily will not issue a § 301.9100 ruling. *See* § 301.9100-3(c)(1)(ii). Therefore, the taxpayer must secure a consent under § 6501(c)(4) to extend the period of limitations on assessment. Note that the filing of a claim for refund under § 6511 does not extend the period of limitations on assessment. If § 301.9100 relief is granted, the Service may require the taxpayer to consent to an extension of the period of limitations on assessment. *See* § 301.9100-3(d)(2).

(3) Taxpayer must notify national office if examination of return begins while request is pending. If the Service starts an examination of the taxpayer's return for the taxable year in which an election should have been made or any taxable year that would have been affected by the election had it been timely made while a § 301.9100 request is pending, the taxpayer must notify the national office. *See* § 301.9100-3(e)(4)(i) and section 8.04(1)(b) of this revenue procedure.

(4) National office will notify district director, appeals officer, or government counsel of a § 301.9100 request if return is being examined 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 any taxable year that would have been affected by the election had it been timely made is being examined by a district office or considered by an appeals office or a federal court, the national office will notify the appropriate district director, appeals officer, or government counsel that a § 301.9100 request has been submitted to the national office. The examining officer, appeals officer, or government counsel is

not authorized to deny consideration of a § 301.9100 request. The letter ruling will be mailed to the taxpayer and a copy will be sent to the appropriate district director, appeals officer, or government counsel.

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

.03 Under Rev. Proc. 77-9, 1977-1 C.B. 542, the Office of Associate Chief Counsel (International) issues determinations under § 999(d) that may deny certain benefits of the foreign tax credit, deferral of earnings of foreign subsidiaries and domestic international sales corporations (DISCs), and tax exemption for foreign trade income of a foreign sales corporation or a small foreign sales corporation (FSC or small FSC) to a person, if that person, a member of a controlled group (within the meaning of § 993(a)(3)) that includes the person, or a foreign corporation of which a member of the controlled group is a United States shareholder, agrees to participate in, or cooperate with, an international boycott. Requests for determinations under Rev. Proc. 77-9 are letter ruling requests and, therefore, should be submitted to the Associate Chief Counsel (International) pursuant to this revenue procedure.

In matters involving § 367

.04 Unless the issue is covered by section 7 of this revenue procedure, the Office of 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 Office of Associate Chief Counsel (International) will determine the § 367 consequences of a transaction based on the taxpayer's characterization of the transaction but will indicate in the letter ruling that it expresses no opinion as to the characterization of the transaction under the reorganization. However, the Office of Associate Chief Counsel (International) 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

.05 In general, the national office issues prospective letter rulings on transactions affecting the estate tax on the prospective estate of a living person and affecting the estate tax on the estate of a decedent before the decedent's estate tax return is filed. The national office will not issue letter rulings for prospective estates on computations of tax, actuarial factors, and factual matters.

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 national 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 national 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 national office that the return has been filed. See section 8.04 of this revenue procedure. The national office will make every effort to issue the letter ruling within 3 months of the date the return was filed.

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

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

.06 In matters involving additional estate tax under § 2032A(c), the national office 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

.07 In matters involving qualified domestic trusts under § 2056A, the national office issues letter rulings on proposed transactions and on completed transactions that occurred before the return is filed.

In generation-skipping transfer tax matters

.08 In general, the national office 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

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established. The national office will issue letter rulings on the application of the effective date rules for generation-skipping transfer tax (§ 1433 of the Tax Reform Act of 1986, 1986-3 (Vol. 1) C.B. 1, 648) to wills, trusts, and trust equivalents in existence on October 22, 1986, and to generation-skipping transfers taking place on or before October 22, 1986.

In employment and excise tax matters

.09 In employment and excise tax matters, the national office issues letter rulings on proposed transactions and on completed transactions either before or after the return is filed for those transactions.

Requests regarding employment status (employer/employee relationship) from federal agencies and instrumentalities should be submitted directly to the national office. Requests regarding employment status from other taxpayers must first be submitted to the appropriate Service office listed on the current Form SS-8 (Rev. June 1997). See section 6.04 of this revenue procedure. Generally, the employer is the taxpayer and requests the letter ruling. However, if the worker asks for the letter ruling, both the worker and the employer are considered to be the taxpayer and both are entitled to the letter ruling.

The national office usually will not issue a letter ruling if, at the time the letter ruling is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue—

- (1) is being examined by a district director;
- (2) is being considered by an appeals office;
- (3) is pending in litigation in a case involving the taxpayer or a related taxpayer;
- (4) has been examined by a district director or considered by an appeals office and the statutory period of limitations has not expired for assessment or for filing a claim for refund or credit of tax; or
- (5) has been examined by a district director or considered by an appeals office and a closing agreement covering the issue or liability has not been entered into by a district director or by an appeals office.

If a return involving an issue for a particular year is filed while a request for a letter ruling on that issue is pending, the national office will issue the letter ruling unless it is notified by the taxpayer or otherwise learns that an examination of that issue or an examination of the identical issue on an earlier year's return has been started by a district director. See section 8.04 of this revenue procedure. However, even if an examination has begun, the national office ordinarily will issue the letter ruling if the district director agrees, by memorandum, to the issuance of the letter ruling.

In administrative provisions matters

.10

(1) In general. The national office issues letter rulings on matters arising under the Code and related statutes and regulations that involve—

- (a) the time, place, manner, and procedures for reporting and paying taxes;
- (b) the assessment and collection of taxes (including interest and penalties);
- (c) the abatement, credit, or refund of an overassessment or overpayment of tax; or
- (d) the filing of information returns.

(2) Circumstances under which a letter ruling is not ordinarily issued. The national office ordinarily does not issue a letter ruling if, at the time the letter ruling is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue—

- (a) is being examined by a district director;

(b) is being considered by an appeals office;

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

(d) has been examined by a district director or considered by an appeals office and the statutory period of limitations has not expired for assessment or for filing a claim for refund or credit of tax; or

(e) has been examined by a district director or considered by an appeals office and a closing agreement covering the issue or liability has not been entered into by a district director or appeals office.

If a return involving an issue for a particular year is filed while a request for a letter ruling on that issue is pending, the national office will issue the letter ruling unless it is notified by the taxpayer or otherwise learns that an examination of that issue or an examination of the identical issue on an earlier year's return has been started by a district director. *See* section 8.04 of this revenue procedure. But, even if an examination has begun, the national office ordinarily will issue the letter ruling if the district director agrees, by memorandum, to the issuance of the letter ruling.

**Generally not to
business associations
or groups**

.11 The national office does not issue letter rulings to business, trade, or industrial associations or to similar groups concerning the application of the tax laws to members of the group. But groups and associations may submit suggestions of generic issues that would be appropriately addressed in revenue rulings. *See* Rev. Proc. 89-14, which states the objectives of, and standards for, the publication of revenue rulings and revenue procedures in the Internal Revenue Bulletin.

The national office, however, may issue letter rulings to groups or associations on their own tax status or liability if the request meets the requirements of this revenue procedure.

**Generally not to
foreign governments**

.12 The national office does not issue letter rulings to foreign governments or their political subdivisions about the U.S. tax effects of their laws. The national office also does 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. 96-13, 1996-1 C.B. at 626. However, the national office will continue to exchange correspondence with treaty partners pursuant to the consultation provisions in tax treaties. In addition, the national office 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.

**Generally not on
federal tax
consequences of
proposed legislation**

.13 The national office does not issue letter rulings on a matter involving the federal tax consequences of any proposed federal, state, local, municipal, or foreign legislation. The national office, however, may provide general information in response to an inquiry.

**Issuance of a letter
ruling before the
issuance of a
regulation or other
published guidance**

.14 Unless the issue is covered by section 7 of this revenue procedure, Rev. Proc. 98-3, this Bulletin, or Rev. Proc. 98-7, this Bulletin, a letter ruling may be issued before the issuance of a temporary or final regulation or other published guidance that interprets the provisions of any act under the following conditions:

(1) Answer is clear or is reasonably certain. If the letter ruling request presents an issue for which the answer seems clear by applying the statute to the facts or for which the answer seems reasonably certain but not entirely free from doubt, a letter ruling will be issued.

(2) Answer is not reasonably certain. The Service will consider all letter ruling requests and use its best efforts to issue a letter ruling even if the answer does not seem reasonably certain where the issuance of a letter ruling is in the best interests of tax administration.

(3) Issue cannot be readily resolved before a regulation or any other published guidance is issued. A letter ruling will not be issued if the letter ruling request presents an issue that cannot be readily resolved before a regulation or any other published guidance is issued. However, when the Service has closed a regulation project or any other published guidance project that might have answered the issue or decides not to open a regulation project or any other published guidance project, the appropriate branch will consider all letter ruling requests unless the issue is covered by section 7 of this revenue procedure, Rev. Proc. 98-3, or Rev. Proc. 98-7.

SECTION 6. UNDER WHAT CIRCUMSTANCES DO DISTRICT DIRECTORS ISSUE DETERMINATION LETTERS?

In income and gift tax matters

District directors issue determination letters only if the question presented is specifically answered by a statute, tax treaty, or regulation, or by a conclusion stated in a revenue ruling, opinion, or court decision published in the Internal Revenue Bulletin.

.01 In income and gift tax matters, district 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, district directors do not issue determination letters on the tax consequences of proposed transactions. However, a district director may issue a determination letter on the replacement, even though not yet made, of involuntarily converted property under § 1033, if the taxpayer has filed an income tax return for the year in which the property was involuntarily converted.

In estate tax matters

.02 In estate tax matters, district directors issue determination letters in response to written requests affecting the estate tax returns over which the district directors 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, district directors issue determination letters in response to written requests affecting the generation-skipping transfer tax returns over which the district directors 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, district directors issue determination letters in response to written requests from taxpayers on completed transactions over which they have examination jurisdiction.

Requests for a determination of employment status (Form SS-8) from taxpayers (other than federal agencies and instrumentalities) must be submitted to the appropriate Service office listed on the current Form SS-8 (Rev. June 1997) and not directly to the national office. *See also* section 5.09 of this revenue procedure.

Circumstances under which determination letters are not issued by district director

.05 A district director will not issue a determination letter in response to any request if—

- (1) it appears that the taxpayer has directed a similar inquiry to the national office;
- (2) the same issue involving the same taxpayer or a related taxpayer is pending in a case in litigation or before an appeals office;
- (3) the determination letter is requested by an industry, trade association, or similar group; or
- (4) the request involves an industry-wide problem.

Under no circumstances will a district 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 district director has, or will have, examination jurisdiction.

A district director will not issue a determination letter on an employment tax question if the specific question for the same taxpayer or a related taxpayer has been, or is being, considered by the Central Office of the Social Security Administration or the Railroad Retirement Board.

A district director also will not issue a determination letter on determining constructive sales price under § 4216(b) or § 4218(c), which deal with special provisions applicable to the manufacturer's excise tax. The national office, however, will issue letter rulings in this area. *See* section 7.04 of this revenue procedure.

Requests concerning income, estate, or gift tax returns

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

Attach a copy of determination letter to taxpayer's return

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

Review of determination letters

.08 Determination letters issued under sections 6.01 through 6.04 of this revenue procedure are not reviewed by the national office before they are issued. If a taxpayer believes that a determination letter of this type is in error, the taxpayer may ask the district director to reconsider the matter or to request technical advice from the national office as explained in Rev. Proc. 98-2, this Bulletin.

SECTION 7. UNDER WHAT CIRCUMSTANCES DOES THE SERVICE HAVE DISCRETION TO ISSUE LETTER RULINGS AND DETERMINATION LETTERS?

Ordinarily not in certain areas because of factual nature of the problem

.01 The Service ordinarily will not issue letter rulings or determination letters in certain areas because of the factual nature of the problem involved or because of other reasons. Rev. Proc. 98-3 and Rev. Proc. 98-7 provide a list of these areas. This list is not all-inclusive because the Service may decline to issue a letter ruling or a determination letter when appropriate in the interest of sound tax administration or on other grounds whenever warranted by the facts or circumstances of a particular case.

Instead of issuing a letter ruling or determination letter, the national office or a district director may, when it is considered appropriate and in the best interests of the Service, issue an information letter calling attention to well-established principles of tax law.

Not on alternative plans or hypothetical situations

.02 A letter ruling or a determination letter will not be issued on alternative plans of proposed transactions or on hypothetical situations.

Ordinarily not on part of an integrated transaction

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

If two or more items or sub-methods of accounting are interrelated, the national office ordinarily will not issue a letter ruling on a change in accounting method involving only one of the items or sub-methods.

Ordinarily not on questions involving the validity of the federal income tax or similar matters

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

SECTION 8. WHAT ARE THE GENERAL INSTRUCTIONS FOR REQUESTING LETTER RULINGS AND DETERMINATION LETTERS?

Certain information required in all requests

Facts

Documents and foreign laws

.04 A letter ruling or determination letter ordinarily will not be issued on questions involving the validity of the federal income tax and other taxes set forth in the Code, questions on the authority or jurisdiction of the Service to enforce the Code or collect information, or similar matters.

.05 The national office will issue letter rulings in all cases on the determination of a constructive sales price under § 4216(b) or § 4218(c) and in all other cases on prospective transactions if the law or regulations require a determination of the effect of a proposed transaction for tax purposes.

This section explains the general instructions for requesting letter rulings and determination letters on all matters. Requests for letter rulings and determination letters require the payment of the applicable user fee listed in Appendix A 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 section 9 of this revenue procedure followed by a reference (usually to another revenue procedure) where more information can be obtained.

.01

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

(a) names, addresses, telephone numbers, and taxpayer identification numbers of all interested parties. (The term “all interested parties” does not mean all shareholders of a widely held corporation requesting a letter ruling relating to a reorganization or all employees where a large number may be involved.);

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

(c) the location of the district office that has or will have examination jurisdiction over the return (not the service center where the return is filed);

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

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

(f) a detailed description of the transaction.

The Service will usually not rule on only one step of a larger integrated transaction. See section 7.03 of this revenue procedure. However, if such a letter ruling is requested, the facts, circumstances, true copies of relevant documents, etc., relating to the entire transaction must be submitted.

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

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

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

If any document, including any balance sheet and profit and loss statement, is in a language other than English, the taxpayer must also submit a certified English translation of the document, along with a true copy of the document. For guidelines on the acceptability of such documents, see paragraph (c) of this section 8.01(2).

Each document, other than the request, should be labelled 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 also submit with the request a copy of all applicable foreign laws and, if English is not the official language of the foreign country involved, certified English translations of all applicable foreign laws. For guidelines on the acceptability of such documents, see paragraph (c) of this section 8.01(2).

(c) Standards for acceptability of submissions of foreign laws and documents in a language other than English. The following standards govern the acceptability of submissions of foreign laws and documents in a language other than English for purposes of this section 8.01(2).

(i) Foreign laws in cases where English is the official language of the foreign country involved. In cases involving foreign law where English is the official language of the foreign country involved, the document submitted must be in the English language and must be: (A) an official publication of the foreign government involved or of its designated official printer that contains, verbatim, the pertinent provisions of the foreign law as enacted; (B) a copy or reproduction of this official publication, or pertinent excerpts therefrom, properly attested to; (C) an accurate and complete reprint of the law as enacted, or pertinent excerpts therefrom, properly attested to; (D) a copy or reproduction of the reprint, or pertinent excerpts therefrom, properly attested to with respect to the copy or reproduction; (E) verbatim excerpts of the pertinent provisions of the foreign law as enacted, properly attested to by an official of the department or office of the foreign government that administers the law; (F) verbatim excerpts of the pertinent provisions of the foreign law as enacted, properly attested to by an accredited diplomatic representative of the foreign country involved; or (G) such other official documents, properly attested to, originating in the foreign country involved and containing matters that, in the opinion of the Service, are of sufficient scope and quality to enable it to make the determination in question.

Attestations referred to in this section 8.01(2)(c)(i) must: (H) establish that the material offered is an exact copy of the material as it appears in the document from which it was obtained; (I) contain a statement as to the period covered by the law presented; (J) contain the name and address of the person attesting; (K) contain the official title, if any, of the person attesting and a statement as to that person's qualifications and knowledge regarding income tax matters; and (L) contain a statement as to whether or not the attestant has been admitted to practice before the Treasury Department of the United States Government.

In addition, the taxpayer or the taxpayer's representative must represent that, to the best of the taxpayer's or the representative's knowledge, the document submitted is accurate and complete with respect to the pertinent provisions of the relevant foreign law or laws and that the taxpayer or the taxpayer's representative knows of no judicial interpretation of the statutory provisions adverse to the letter ruling request.

(ii) Foreign laws in cases where English is not the official language of the foreign country involved. In cases involving foreign law where English is not the official language of the foreign country involved, the foreign laws submitted must be in the official language

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of the country involved and must be of the same scope and quality as listed in paragraphs (c)(i)(A) through (G) of this section 8.01(2). Attestation thereto, in the official language of the country involved, must contain the same information listed in paragraphs (c)(i)(H) through (L) of this section 8.01(2). All submissions of foreign laws in cases where English is not the official language of the country involved, as well as the attestations thereto, must be accompanied by certified English translations, as described in section 8.01(2)(c)(iii) below.

In addition, the taxpayer or the taxpayer's representative must make the same representation stated in the last paragraph of section 8.01(2)(c)(i) of this revenue procedure.

(iii) Certified English translations. In cases involving contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, or other documents in a language other than English, or in cases involving foreign law where English is not the official language of the foreign country involved, an accurate and complete translation, in the English language, of the document or law submitted and the attestation thereto is required. This translation must be that of a qualified translator and must be attested to by the translator. The attestation must contain: (A) a statement that the translation submitted is a true and accurate translation of the document or law submitted in the foreign language; (B) a statement as to the attestant's qualifications as a translator and as to that attestant's qualifications and knowledge regarding income tax matters; (C) the attestant's name and address; and (D) a statement as to whether or not the attestant has been admitted to practice before the Treasury Department of the United States Government.

(iv) Penalties of perjury statement is required. The taxpayer must make the same representation regarding the accuracy and completeness of the material submitted as is required for any letter ruling request. See section 8.01(13) of this revenue procedure.

Analysis of material facts

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

Same issue in an earlier return

(4) Statement regarding whether same issue is in an earlier return. The request must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, the same issue is in an earlier return of the taxpayer (or in a return for any year of a related taxpayer within the meaning of § 267 or of a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504).

If the statement is affirmative, it must specify whether the issue—

- (a) is being examined by a district director;
- (b) has been examined, but the statutory period of limitations has not expired for either assessing tax or filing a claim for refund or credit of tax;
- (c) has been examined, but a closing agreement covering the issue or liability has not been entered into by a district director;
- (d) is being considered by an appeals office in connection with a return from an earlier period;
- (e) has been considered by an appeals office in connection with a return from an earlier period, but the statutory period of limitations has not expired for either assessing tax or filing a claim for refund or credit of tax;
- (f) has been considered by an appeals office in connection with a return from an earlier period, but a closing agreement covering the issue or liability has not been entered into by an appeals office; or
- (g) is pending in litigation in a case involving the taxpayer or a related taxpayer.

Same or similar issue previously submitted or currently pending

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

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

(b) the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in accounting method) involving the same or a similar issue to the Service but withdrew the request before a letter ruling or determination letter was issued;

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

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

If the statement is affirmative for (a), (b), (c), or (d) of this section 8.01(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.

Statement of authorities supporting taxpayer's views

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

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

Statement of authorities contrary to taxpayer's views

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

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

Statement identifying pending legislation

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

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**Deletions statement
required by § 6110**

(9) Statement identifying information to be deleted from copy of letter ruling or determination letter for public inspection. The text of letter rulings and determination letters is open to public inspection under § 6110. The Service makes deletions from the text before it is made available for inspection. To help the Service make the deletions required by § 6110(c), a request for a letter ruling or determination letter must be accompanied by a statement indicating the deletions desired (“deletions statement”). If the deletions statement is not submitted with the request, a Service representative will tell the taxpayer that the request will be closed if the Service does not receive the deletions statement within 21 calendar days. *See* section 10.06 of this revenue procedure.

(a) Format of deletions statement. A taxpayer who wants only names, addresses, and identifying numbers to be deleted should state this in the deletions statement. If the taxpayer wants more information deleted, the deletions 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 deletions statement must indicate the statutory basis under § 6110(c) for each proposed deletion.

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

(b) Location of deletions statement. The deletions statement must not appear in the request, but instead must be made in a separate document and placed on top of the request for a letter ruling or determination letter.

(c) Signature. The deletions statement must be signed and dated by the taxpayer or the taxpayer’s authorized representative. A stamped signature is not permitted.

(d) Additional information. The taxpayer should follow the same procedures above to propose deletions from any additional information submitted after the initial request. An additional deletions statement, however, is not required with each submission of additional information if the taxpayer’s initial deletions 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 within 20 calendar days to the Service office indicated on the notice of intention to disclose. The statement must identify those deletions that the Service has not made and that the taxpayer believes should have been made. The taxpayer must also submit a copy of the version of the letter ruling or determination letter and bracket the deletions proposed that have not been made by the Service. Generally, the Service will not consider deleting any material that the taxpayer did not propose to be deleted before the letter ruling or determination letter was issued.

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

(f) Taxpayer may request delay of public inspection. After receiving the notice under § 6110(f)(1) of intention to disclose, but within 60 calendar days after the date of notice, the taxpayer may send a 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 in-

tention 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 that there are good reasons for the delay.

Signature on request

(10) Signature by taxpayer or authorized representative. The request for a letter ruling or determination letter must be signed and dated by the taxpayer or the taxpayer's authorized representative. A stamped signature is not permitted.

Authorized representatives

(11) Authorized representatives. To sign the request or to appear before the Service in connection with the request, the representative must be:

Attorney

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

Certified public accountant

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

Enrolled agent

(c) An enrolled agent who is a person, other than an attorney or certified public accountant, that is currently enrolled to practice before the Service and is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current enrollment and authorization to represent the taxpayer. Either the enrollment number or the expiration date of the enrollment card must be included in the declaration. For the rules on who may practice before the Service, see Treasury Department Circular No. 230 (31 C.F.R. part 10 (1997));

Enrolled actuary

(d) An enrolled actuary who is a person, other than an attorney or certified public accountant, that is currently enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. § 1242 and who is not currently under suspension or disbarment from practice before the Service. He or she must file a written declaration with the Service showing current qualification as an enrolled actuary and current authorization to represent the taxpayer. Practice before the Service as an enrolled actuary is limited to representation with respect to issues involving §§ 401, 403(a), 404, 412, 413, 414, 4971, 6057, 6058, 6059, 6652(e), 6652(f), 6692, and 7805(b); former § 405; and 29 U.S.C. § 1083; or

**A person with a
"Letter of Authorization"**

(e) Any other person, including a foreign representative, who has received a "Letter of Authorization" from the Director of Practice 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 Director of Practice, HR:DP, Internal Revenue Service, 1111 Constitution Avenue, N.W., 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.

**Employee, general partner,
bona fide officer,
administrator, trustee, etc.**

(f) The above requirements do not apply to a regular full-time employee representing his or her employer; to a general partner representing his or her partnership; to a bona fide officer representing his or her corporation, association, or organized group; to a trustee, receiver, guardian, personal representative, administrator, or executor representing a trust, receivership, guardianship, or estate; or to an individual representing his or her immediate family. A preparer of a return (other than a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 8.01(11)) who is not a full-time employee, general partner, bona fide officer, an administrator, a trustee, etc., or an individual representing his or her immediate family may not represent a taxpayer in connection with a letter ruling or a determination letter. See section 10.7(c) of Treasury Department Circular No. 230.

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Foreign representative

(g) A foreign representative (other than a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 8.01(11)) is not authorized to practice before the Service and, therefore, must withdraw from representing a taxpayer in a request for a letter ruling or a determination letter. In this situation, the nonresident alien or foreign entity must submit the request for a letter ruling or a determination letter on the individual's or the entity's own behalf or through a person referred to in paragraph (a), (b), (c), (d), or (e) of this section 8.01(11).

Power of attorney and declaration of representative

(12) Power of attorney and declaration of representative. Any authorized representative, whether or not enrolled to practice, must also comply with the conference and practice requirements of the Statement of Procedural Rules (26 C.F.R. § 601.501–601.509 (1997)), which provide the rules for representing a taxpayer before the Service. It is preferred that Form 2848, Power of Attorney and Declaration of Representative, be used to provide the representative's authorization (Part I of Form 2848, Power of Attorney) and the representative's qualification (Part II of Form 2848, Declaration of Representative). The name of the person signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted. For additional information regarding the power of attorney form, see section 8.02(2) of this revenue procedure.

For the requirement regarding compliance with Treasury Department Circular No. 230, see section 8.08 of this revenue procedure.

Penalties of perjury statement

(13) 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 10.07(1) of this revenue procedure for the penalties of perjury statement applicable for submissions of additional information.

(b) Signature by taxpayer. The declaration must be signed and dated by the taxpayer, not the taxpayer's representative. A stamped signature is not permitted.

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

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

Number of copies of request to be submitted

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

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

(a) the taxpayer is requesting separate letter rulings or determination letters on different issues as explained later under section 8.02(1) of this revenue procedure;

(b) the taxpayer is requesting deletions other than names, addresses, and identifying numbers, as explained in section 8.01(9)(a) of this revenue procedure. (One copy is the re-

quest for the letter ruling or determination letter and the second copy is the deleted version of such request.); or

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

Sample of a letter ruling request

(15) 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. This format is not required to be used by the taxpayer or the taxpayer's representative. If the letter ruling request is not identical or similar to the format in Appendix B, the different format will not defer consideration of the letter ruling request.

Checklist

(16) Checklist for letter ruling requests. The Service 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, which may delay action on the letter ruling request.

For letter ruling requests on certain matters, specific checklists supplement the checklist in Appendix C. These checklists are listed in section 9.01 of this revenue procedure and must also be completed and placed on top of the letter ruling request along with the checklist in Appendix C.

Copies of the checklist in Appendix C can be obtained by calling (202) 622-7560 (not a toll-free call). A photocopy of this checklist may be used.

Additional information required in certain circumstances

.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 Service generally will issue a single letter ruling covering all the issues. However, if the taxpayer requests separate letter rulings on any of the issues (because, for example, one letter ruling is needed sooner than another), the Service will usually comply with the request unless it is not feasible or not in the best interests of the Service to do so. A taxpayer who wants separate letter rulings on multiple issues should make this clear in the request and submit two copies of the request.

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

Power of attorney

(2) To designate recipient of original or copy of letter ruling or determination letter. Unless the power of attorney provides otherwise, the Service will send the original of the letter ruling or determination letter to the taxpayer and a copy of the letter ruling or determination letter to the taxpayer's representative. In this case, the letter ruling or determination letter is addressed to the taxpayer. It is preferred that Form 2848, Power of Attorney and Declaration of Representative, be used to provide the representative's authorization. See section 8.01(12) of this revenue procedure.

Copies of letter ruling or determination letter sent to multiple representatives

(a) To have copies sent to multiple representatives. When a taxpayer has more than one representative, the Service will send the copy of the letter ruling or determination letter to the first representative named on the most recent power of attorney. If the taxpayer wants an additional copy of the letter ruling or determination letter sent to the

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second representative listed in the power of attorney, the taxpayer must check the appropriate box on Form 2848. If this form is not used, the taxpayer must state in the power of attorney that a copy of the letter ruling or determination letter is to be sent to the second representative listed in the power of attorney. Copies of the letter ruling or determination letter, however, will be sent to no more than two representatives.

Original of letter ruling or determination letter sent to taxpayer's representative

(b) To have original sent to taxpayer's representative. A taxpayer may request that the original of the letter ruling or determination letter be sent to the taxpayer's representative. In this case, a copy of the letter ruling or determination letter will be sent to the taxpayer. The letter ruling or determination letter is addressed to the taxpayer's representative to whom the original is sent.

If the taxpayer wants the original of the letter ruling or determination letter sent to the taxpayer's representative, the taxpayer must check the appropriate box on Form 2848. If this form is not used, the taxpayer must state in the power of attorney that the original of the letter ruling or determination letter is to be sent to the taxpayer's representative. When a taxpayer has more than one representative, the Service will send the original of the letter ruling or determination letter to the first representative named in the most recent power of attorney.

No copy of letter ruling or determination letter sent to taxpayer's representative

(c) To have no copy sent to taxpayer's representative. If a taxpayer does not want a copy of the letter ruling or determination letter sent to any representative, the taxpayer must check the appropriate box on Form 2848. If this form is not used, the taxpayer must state in the power of attorney that a copy of the letter ruling or determination letter is not to be sent to any representative.

"Two-Part" letter ruling requests

(3) To request a particular conclusion on a proposed transaction. A taxpayer who is requesting a particular conclusion on a proposed transaction may make the request for a letter ruling in two parts. This type of request is referred to as a "two-part" letter ruling request. The first part must include the complete statement of facts and related documents described in section 8.01 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 Service 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. However, the Service reserves the right to rule on the basis of a more complete statement of the facts and to seek more information in developing the facts and restating them.

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

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

After the Service has resolved the issues presented by a letter ruling request, the Service representative may request that the taxpayer submit a proposed draft of the letter ruling to expedite the issuance of the ruling. See section 10.09 of this revenue procedure.

Expeditious handling

(4) To request expeditious handling. The Service processes requests for letter rulings and determination letters in order of the date received and as expeditiously as possible. A taxpayer who has a compelling need to have a request processed ahead of the regular order must request expeditious handling. This request must explain the need for expeditious handling.

The request for expeditious handling must be made in writing, preferably in a separate letter with, or soon after filing, the request for the letter ruling or determination letter. If the request for expeditious handling is not made in a separate letter, then the letter in which

the letter ruling or determination letter request is made should say, at the top of the first page: **“Expeditious Handling Is Requested. See page ___ of this letter.”**

A request for expeditious handling will not be forwarded to a rulings branch for action until the check for the user fee is received.

The Service cannot give assurance that any letter ruling or determination letter will be processed by the time requested. For example, 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. Accordingly, the Service urges taxpayers to submit their requests well in advance of the contemplated transaction.

**Facsimile
transmission (fax)**

(5) To receive a letter ruling or submit a request for a letter ruling by facsimile transmission (fax).

(a) To receive a letter ruling by fax. A letter ruling ordinarily is not sent by fax. However, if the taxpayer requests, a copy of a letter ruling may be faxed to the taxpayer or the taxpayer’s authorized representative. A letter ruling, however, is not issued until the ruling is mailed. *See* § 301.6110–2(h).

A request to fax a copy of the letter ruling to the taxpayer or the taxpayer’s authorized representative must be made in writing, either as part of the original letter ruling request or prior to the approval of the letter ruling. The request must contain the fax number of the taxpayer or the taxpayer’s authorized representative to whom the letter ruling is to be faxed.

In addition, because of the nature of a fax transmission, a statement containing a waiver of any disclosure violations resulting from the fax transmission must accompany the request. Nevertheless, the national office will take certain precautions to protect confidential information. For example, the national office will use a cover sheet that identifies the intended recipient of the fax and the number of pages transmitted and that contains a statement prohibiting unauthorized disclosure of the letter ruling if a recipient of the faxed letter ruling is not the intended recipient of the fax. The letter ruling will be faxed by the Communications Unit of the Technical Services Staff (CC:DOM:CORP:T:C).

(b) To submit a request for a letter ruling by fax. Original letter ruling requests by fax are discouraged because such requests must be treated in the same manner as requests by letter. For example, the faxed letter ruling request will not be forwarded to the rulings branch for action until the check for the user fee is received.

Requests for a change in accounting method or a change in accounting period must not be submitted by fax.

Requesting a conference

(6) To request a conference. A taxpayer who wants to have a conference on the issues involved should indicate this in writing when, or soon after, filing the request. *See also* sections 11.01, 11.02, and 12.11(2) of this revenue procedure.

**Substantially identical
letter rulings or identical
accounting method changes**

(7) To obtain the applicable user fee for substantially identical letter rulings or identical accounting method changes. A taxpayer seeking the user fee provided in paragraph (A)(5) of Appendix A of this revenue procedure for substantially identical letter rulings or identical accounting method changes must provide the information required in section 15.07 of this revenue procedure.

Address to send the request

.03

Requests for letter rulings

(1) Requests for letter rulings should be sent to the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the As-

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sociate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International), as appropriate. The package should be marked: RULING REQUEST SUBMISSION.

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

Internal Revenue Service
Attn: CC:DOM:CORP:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

However, if a private delivery service is used, the address is:

Internal Revenue Service
Attn: CC:DOM:CORP:T
1111 Constitution Avenue, N.W.
Washington, DC 20224

(b) Requests for letter rulings may also be hand delivered:

(i) To the drop box at the 12th Street entrance of 1111 Constitution Avenue, N.W., Washington, DC. No receipt will be given at the drop box; or

(ii) Between the hours of 8:15 a.m. and 5:00 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:DOM:CORP:T
1111 Constitution Avenue, N.W.
Washington, DC

A receipt will be given at the courier's desk.

**Requests for
determination letters**

(2) **Requests for determination letters** should be sent to the district director whose office has or will have examination jurisdiction over the taxpayer's return. For fees required with determination letter requests, see section 15 and Appendix A of this revenue procedure.

Pending letter ruling requests

.04

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

(a) an examination of the issue or the identical issue on an earlier year's return has been started by a district director;

(b) in the case of a § 301.9100 request, an examination of the return for the taxable year in which an election should have been made or any taxable year that would have been affected by the election had it been timely made has been started by a district director. *See* § 301.9100-3(e)(4)(i) and section 5.02(3) of this revenue procedure;

(c) legislation that may affect the transaction has been introduced. *See* section 8.01(8) of this revenue procedure; or

(d) another letter ruling request (including an application for change in accounting method) has been submitted by the taxpayer (or a related party within the meaning of § 267

or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504) involving the same or similar issue that is currently pending with the Service.

(2) Taxpayer must notify national office if return is filed and must attach request to return. If the taxpayer files a return before a letter ruling is received from the national office concerning the issue, the taxpayer must notify the national office that the return has been filed. The taxpayer must also attach a copy of the letter ruling request to the return to alert the district office and thereby avoid premature district action on the issue.

This section 8.04 also applies to pending requests for a closing agreement on a transaction for which a letter ruling is not requested or issued, and for an advance pricing agreement.

When to attach letter ruling to return

.05

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

How to check on status of request

.06

The taxpayer or the taxpayer's authorized representative may obtain information regarding the status of a request by calling the person whose name and telephone number are shown on the acknowledgement of receipt of the request or the appropriate branch representative who contacts the taxpayer as explained in section 10.02 of this revenue procedure.

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

.07

(1) In general. A taxpayer may withdraw a request for a letter ruling or determination letter at any time before the letter ruling or determination letter is signed by the Service. Correspondence and exhibits related to a request that is withdrawn or related to a letter ruling request for which the national office declines to issue a letter ruling will not be returned to the taxpayer. *See* section 8.01(2) of this revenue procedure. In appropriate cases, the Service may publish its conclusions in a revenue ruling or revenue procedure.

(2) Notification of district director.

(a) Request to change an accounting method. If a taxpayer withdraws or the national office declines to grant (for any reason) a request to change from or to adopt an improper method of accounting, the national office will notify the appropriate district director and the Change in Method Issue Specialist, and may give its views on the issues in the request to the appropriate district director to consider in any later examination of the return.

(b) All other letter ruling requests. If a taxpayer withdraws a letter ruling request (other than a request to change from or to adopt an improper method of accounting) or if the national office declines to issue a letter ruling (other than a letter ruling pertaining to a request to change from or to adopt an improper method of accounting), the national office generally will notify the appropriate district director and may give its views on the issues in the request to the appropriate district director to consider in any later examination of the return. This section 8.07(2)(b) 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 national office has not formed an adverse opinion.

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

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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 those situations when the national office believes that the taxpayer's representative is not in compliance with Circular No. 230, the national office will bring the matter to the attention of the Director of Practice.

For the requirement regarding compliance with the conference and practice requirements, see section 8.01(12) of this revenue procedure.

Specific revenue procedures and notices supplement the general instructions for requests explained in section 8 of this revenue procedure and apply to requests for letter rulings or determination letters regarding the Code sections and matters listed in this section.

**SECTION 9. WHAT OTHER
CHECKLISTS, GUIDELINE
REVENUE PROCEDURES,
NOTICES, SAFE HARBOR
REVENUE PROCEDURES,
AND AUTOMATIC CHANGE
REVENUE PROCEDURES
APPLY TO CERTAIN
REQUESTS?**

**Checklists and
guideline revenue
procedures and notices**

.01 For requests relating to the following Code sections and subject matters, see the following checklists and guideline revenue procedures and notices.

CODE OR REGULATION SECTION

REVENUE PROCEDURE AND NOTICE

103, 141-150, 7478, and 7871
Issuance of state or local obligations

Rev. Proc. 96-16, 1996-1 C.B. 630 (for a reviewable ruling under § 7478 and a nonreviewable ruling); Rev. Proc. 88-31, 1988-1 C.B. 832 (for approval of areas of chronic economic distress); and Rev. Proc. 82-26, 1982-1 C.B. 476 (for "on behalf of" and similar issuers). For approval of areas of chronic economic distress, Rev. Proc. 88-31 explains how this approval must be submitted to the Assistant Secretary for Housing/Federal Housing Commissioner of the Department of Housing and Urban Development.

1.166-2(d)(3)
Uniform express determination
letter for making election

Rev. Proc. 92-84, 1992-2 C.B. 489.

Subchapter C—
Corporate Distributions and
Adjustments

Rev. Proc. 77-37, 1977-2 C.B. 568, as modified by Rev. Proc. 89-30, 1989-1 C.B. 895, and as amplified by Rev. Proc. 77-41, 1977-2 C.B. 574, Rev. Proc. 83-81, 1983-2 C.B. 598 (see also Rev. Proc. 98-3), Rev. Proc. 84-42, 1984-1 C.B. 521 (superseded as to no-rule areas by Rev. Proc. 85-22, 1985-1 C.B. 550), Rev. Proc. 86-42, 1986-2 C.B. 722, and Rev. Proc. 89-50, 1989-2 C.B. 631. But see Rev. Proc. 98-3, section 3.01(23) (certain combining reorganizations under § 368), section 3.01(24) (mergers or consolidations under § 368(a)(1)(A)), section 3.01(25) (stock acquisitions under § 368(a)(1)(B)), and section 3.01(28) (corporate changes under § 368(a)(1)(F)), which describe certain corporate reorganizations where the Service will not issue advance letter rulings or determination letters.

301
Nonapplicability on sales of
stock of employer to defined
contribution plan

Rev. Proc. 87-22, 1987-1 C.B. 718.

302, 311
Checklist questionnaire

Rev. Proc. 86-18, 1986-1 C.B. 551; and Rev. Proc. 77-41, 1977-2 C.B. 574.

302(b)(4)
Checklist questionnaire

Rev. Proc. 81-42, 1981-2 C.B. 611.

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331 Checklist questionnaire	Rev. Proc. 86–16, 1986–1 C.B. 546.
332 Checklist questionnaire	Rev. Proc. 90–52, 1990–2 C.B. 626.
351 Checklist questionnaire	Rev. Proc. 83–59, 1983–2 C.B. 575. But see section 3.01(22) of Rev. Proc. 98–3, which describes certain transfers to controlled corporations where the Service will not issue advance letter rulings or determination letters.
355 Checklist questionnaire	Rev. Proc. 96–30, 1996–1 C.B. 696.
368(a)(1)(E) Checklist questionnaire	Rev. Proc. 81–60, 1981–2 C.B. 680. But see section 3.01(27) of Rev. Proc. 98–3, which describes circumstances under which the Service will not issue advance letter rulings or determination letters as to whether a transaction constitutes a corporate recapitalization within the meaning of § 368(a)(1)(E) (or a transaction that also qualifies under § 1036).
461(h) Alternative method for the inclusion of common improvement costs in basis	Rev. Proc. 92–29, 1992–1 C.B. 748.
482 Advance pricing agreements	Rev. Proc. 96–53, 1996–2 C.B. 375
521 Appeal procedure with regard to adverse determination letters and revocation or modification of exemption letter rulings and determination letters	Rev. Proc. 90–27, 1990–1 C.B. 514.
1.817-5(a)(2) Issuer of a variable contract requesting relief	Rev. Proc. 92–25, 1992–1 C.B. 741
877, 2107, and 2501(a)(3) Individuals who lose U.S. citizenship or cease to be taxed as long-term U.S. residents with a principal purpose to avoid U.S. taxes	Notice 97–19, 1997–1 C.B. 394.
1362(b)(5) Relief for late S corporation election under certain circumstances	Rev. Proc. 97–48, 1997–43 I.R.B. 19; Rev. Proc. 97–40, 1997–33 I.R.B. 50.
1.1502-13(e)(3) Consent to treat intercompany transactions on a separate entity basis and revocation of this consent	Rev. Proc. 97–49, 1997–43 I.R.B. 22.
1.1502-76(a)(1) Consent to file a consolidated return where member(s) of the affiliated group use a 52-53 week taxable year	Rev. Proc. 89-56, 1989-2 C.B. 643.

1504(a)(3)(A) and (B) Waiver of application of § 1504(a)(3)(A) for certain corporations	Rev. Proc. 91–71, 1991–2 C.B. 900.
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.
4980B	Rev. Proc. 87–28, 1987–1 C.B. 770 (treating references to former § 162(k) as if they were references to § 4980B).
<i>SUBJECT MATTERS</i>	<i>REVENUE PROCEDURE</i>
Accounting methods	Rev. Proc. 97–27, 1997–1 C.B. 680; and Rev. Proc. 98–1 (this revenue procedure) for which sections 1, 2.01, 2.02, 2.06, 3.01(2), 3.01(3), 3.01(4), 5.02, 5.12, 5.14, 7.01, 7.02, 7.03, 8.01(1), 8.01(2), 8.01(3), 8.01(4), 8.01(5), 8.01(6), 8.01(7), 8.01(8), 8.01(11), 8.01(12), 8.01(13), 8.01(14), 8.02(2), 8.02(4), 8.02(5)(a), 8.02(6), 8.02(7), 8.03(1), 8.04, 8.05, 8.06, 8.07, 8.08, 9, 10.01, 10.04, 10.05, 10.07, 10.08, 10.10(2), 10.11, 11, 12.01, 12.02, 12.06–12.11, 15, and Appendix A are applicable.
Accounting periods; adopt, retain or change for partnership, S corporation, and personal service corporation	Rev. Proc. 87–32, 1987–2 C.B. 396, as modified by T.D. 8680, 1996–2 C.B. 194; and Rev. Proc. 98-1 (this revenue procedure) for which sections 1, 2.01, 2.02, 2.06, 3.01(3), 5.02, 5.12, 5.14, 7.01, 7.02, 7.03, 8.01(1), 8.01(2), 8.01(3), 8.01(4), 8.01(5), 8.01(6), 8.01(7), 8.01(8), 8.01(11), 8.01(12), 8.01(13), 8.01(14), 8.02(2), 8.02(4), 8.02(5)(a), 8.02(6), 8.03(1) (only for Forms 1128 filed under section 6.01 of Rev. Proc. 87-32), 8.04, 8.05, 8.06, 8.07, 8.08, 9, 10.01, 10.04, 10.05, 10.07, 10.08, 11, 12, 15, and Appendix A are applicable.
Accounting periods; changes in period	Rev. Proc. 92–13, 1992–1 C.B. 665, as modified and amplified by Rev. Proc. 92–13A, 1992–1 C.B. 668, and as modified by Rev. Proc. 94–12, 1994–1 C.B. 565; and Rev. Proc. 98–1 (this revenue procedure) for which sections 1, 2.01, 2.02, 2.06, 3.01(3), 5.02, 5.12, 5.14, 7.01, 7.02, 7.03, 8.01(1), 8.01(2), 8.01(3), 8.01(4), 8.01(5), 8.01(6), 8.01(7), 8.01(8), 8.01(11), 8.01(12), 8.01(13), 8.01(14), 8.02(2), 8.02(4), 8.02(5)(a), 8.02(6), 8.03(1), 8.04, 8.05, 8.06, 8.07, 8.08, 9, 10.01, 10.04, 10.05, 10.07, 10.08, 11, 12, 15, and Appendix A 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; and Rev. Proc. 98–1 (this revenue procedure) for which sections 2.06, 3.01(3), 8, 10.04, 10.06, and 11.05 are applicable.
Estate, gift, and generation- skipping transfer tax issues	Rev. Proc. 91–14, 1991–1 C.B. 482 (checklist questionnaire).
Deferred intercompany transactions; election not to defer gain or loss	Rev. Proc. 82–36, 1982–1 C.B. 490.
Leveraged leasing	Rev. Proc. 75–21, 1975–1 C.B. 715, as modified by Rev. Proc. 76–30, 1976–2 C.B. 647, Rev. Proc. 79–48, 1979–2 C.B. 529, and Rev. Proc. 81–71, 1981–2 C.B. 731; and Rev. Proc. 75–28, 1975–1 C.B. 752, as modified by Rev. Proc. 79–48 and Rev. Proc. 81–71.
Rate orders; regulatory agency; normalization Sec. 9.01	A letter ruling request that involves a question of whether a rate order that is proposed or issued by a regulatory agency will meet the normalization requirements of § 168(f)(2) (pre-

Tax Reform Act of 1986, § 168(e)(3)) and former §§ 46(f) and 167(l) ordinarily will not be considered unless the taxpayer states in the letter ruling request whether—

(1) the regulatory authority responsible for establishing or approving the taxpayer's rates has reviewed the request and believes that the request is adequate and complete; and

(2) the taxpayer will permit the regulatory authority to participate in any national office conference concerning the request.

If the taxpayer or the regulatory authority informs a consumer advocate of the request for a letter ruling and the advocate wishes to communicate with the Service regarding the request, any such communication should be sent to: Internal Revenue Service, Associate Chief Counsel (Domestic), Attention CC:DOM:CORP:T, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (or, if a private delivery service is used: Internal Revenue Service, Associate Chief Counsel (Domestic), Attention CC:DOM:CORP:T, 1111 Constitution Avenue, N.W., Washington, DC 20224). These communications will be treated as third party contacts for purposes of § 6110.

Unfunded deferred compensation Rev. Proc. 71-19, 1971-1 C.B. 698, as amplified by Rev. Proc. 92-65, 1992-2 C.B. 428. See Rev. Proc. 92-64, 1992-2 C.B. 422, for the model trust for use in Rabbi Trust Arrangements.

Safe harbor revenue procedures .02 For requests relating to the following Code sections and subject matters, see the following safe harbor revenue procedures.

<i>CODE OR REGULATION SECTION</i>	<i>REVENUE PROCEDURE</i>
103 and 141-150 Issuance of state or local obligations	Rev. Proc. 93-17, 1993-1 C.B. 507 (changes of use of proceeds); and Rev. Proc. 93-19, 1993-1 C.B. 526 (management contracts).
280B Certain structural modifications to a building not treated as a demolition	Rev. Proc. 95-27, 1995-1 C.B. 704.
355(a)(1)(B) Transaction not violating the device test	Section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1 C.B. at 705.
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(d)(1) Qualification of trusts as charitable remainder annuity trusts	Rev. Proc. 89-21, 1989-1 C.B. 842, as amplified by Rev. Proc. 90-32, 1990-1 C.B. 546.
664(d)(2) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 89-20, 1989-1 C.B. 841, as amplified by Rev. Proc. 90-30, 1990-1 C.B. 534.
664(d)(2) and (3) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 90-31, 1990-1 C.B. 539.

1286
Determination of reasonable
compensation under mortgage
service contracts

Rev. Proc. 91–50, 1991–2 C.B. 778.

1362(f)
Automatic inadvertent
termination relief to
certain corporations

Rev. Proc. 94–23, 1994–1 C.B. 609.

20.2056A–2(d)(1)(i) and (d)(1)(ii)
Sample trust language

Rev. Proc. 96–54, 1996–2 C.B. 386.

1.7704–2(d)
New business activity of existing
partnership is closely related to
pre-existing business

Rev. Proc. 92–101, 1992–2 C.B. 579.

SUBJECT MATTERS

Certain rent-to-own
contracts treated as leases

REVENUE PROCEDURE

Rev. Proc. 95–38, 1995–2 C.B. 397.

**Automatic change
revenue procedures**

.03 For requests to change an accounting period or accounting method, see the following automatic change revenue procedures published and in effect as of December 31, 1997. A taxpayer complying timely with an automatic change revenue procedure will be deemed to have obtained the consent of the Commissioner to change the taxpayer’s accounting period or accounting method, as applicable.

CODE SECTION

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Changes in accounting periods

REVENUE PROCEDURE

The automatic change revenue procedures for obtaining a change in annual accounting period include: Rev. Proc. 92–13, 1992–1 C.B. 665, as modified by Rev. Proc. 94–12, 1994–1 C.B. 565, and as modified and amplified by Rev. Proc. 92–13A, 1992–1 C.B. 668 (certain corporations that have not changed their accounting period within the prior 6 calendar years or other specified time); Rev. Proc. 87–32, 1987–2 C.B. 396, as modified by T.D. 8680, 1996–33 I.R.B. 5 (partnership, S corporation, or personal service corporation seeking a natural business year or an ownership taxable year); Rev. Proc. 68–41, 1968–2 C.B. 943, as modified by Rev. Proc. 81–40, 1981–2 C.B. 605 (trusts held by certain fiduciaries needing a workload spread); and Rev. Proc. 66–50, 1966–2 C.B. 1260, as modified by Rev. Proc. 81–40 (individual seeking a calendar year).

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Changes in accounting methods

The automatic change revenue procedures for obtaining a change in method of accounting include: Rev. Proc. 97–37, 1997–33 I.R.B. 18 (applies to the changes in methods of accounting that are described in the Appendix of Rev. Proc. 97–37 involving §§ 162, 167, 168, 197, 263, 263A, 446, 454, 455, 461, 471, 472, 585, 1273, and 1281); Rev. Proc. 97–50, 1997–45 I.R.B. 8 (taxpayers seeking to change their method of accounting for costs incurred to ensure that computer systems are year 2000 compliant); Rev. Proc. 97–43, 1997–39 I.R.B. 12 (certain taxpayers required to change their methods of accounting to comply with elections out of certain exemptions from dealer status for purposes of § 475); Rev. Proc. 97–30, 1997–1 C.B. 702 (taxpayers seeking to elect general asset accounts under § 168(i)(4) for depreciable property placed in service after December 31, 1986, in any taxable year ending before October 11, 1994; election available only for a taxpayer’s taxable year ending in 1996 or 1997); Rev. Proc. 97–18, 1997–1 C.B. 642 (certain banks seeking to change from the § 585 reserve method to the § 166 specific charge-off method for bad debts so that they may elect S corporation status for the first taxable year beginning after December 31, 1996); Rev. Proc. 97–10, 1997–1 C.B. 628 (taxpayers seeking to elect 15-year property treatment under § 168 for a retail motor fuels outlet placed in service before August 20, 1996; procedure available only for a taxpayer’s taxable year that includes August 20, 1996); Rev. Proc. 95–25, 1995–1 C.B. 701 (certain taxpayers seeking to elect a

historic absorption ratio under § 263A for their first, second, or third taxable year beginning on or after January 1, 1994); Rev. Proc. 92-67, 1992-2 C.B. 429 (certain taxpayers with one or more market discount bonds seeking to make a § 1278(b) election or a constant interest rate election); Rev. Proc. 92-29, 1992-1 C.B. 748 (certain taxpayers seeking to use an alternative method under § 461(h) for including common improvement costs in basis); and Rev. Proc. 91-51, 1991-2 C.B. 779 (certain taxpayers under examination that sell mortgages and retain rights to service the mortgages).

SECTION 10. HOW DOES THE NATIONAL OFFICE HANDLE LETTER RULING REQUESTS?

Controls request and refers it to appropriate Assistant Chief Counsel or to the Office of Associate Chief Counsel (International)

The national office 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.

.01 All requests for letter rulings will be controlled by the Technical Services Staff of the Assistant Chief Counsel (Corporate) (CC:DOM:CORP:T). That office will examine the incoming documents for completeness, process the user fee, and forward the file to the appropriate Assistant Chief Counsel or, for letter ruling requests under the jurisdiction of the Associate Chief Counsel (International), to the Office of Associate Chief Counsel (International). The Assistant Chief Counsel's office or the Office of Associate Chief Counsel (International), as appropriate, will assign the letter ruling request to one of its branches.

Branch representative contacts taxpayer within 21 days

.02 Within 21 calendar days after a letter ruling request has been received in the branch having jurisdiction, a representative of the branch will discuss the procedural issues in the letter ruling request with the taxpayer or, if the request includes a properly executed power of attorney, with the authorized representative unless the power of attorney provides otherwise. If the case is complex or a number of issues are involved, it may not be possible for the branch representative to discuss the substantive issues during this initial contact. However, 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 Service rule as the taxpayer requested, rule adversely on the matter, or not rule;

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

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

Except for cases involving a request for change in accounting method or accounting period, the 21 calendar day procedure applies to: all matters within the jurisdiction of the Assistant Chief Counsel (Corporate), the Assistant Chief Counsel (Income Tax and Accounting), the Assistant Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), and the Associate Chief Counsel (International); and all matters within the jurisdiction of the Assistant Chief Counsel (Financial Institutions and Products), except cases concerning insurance issues requiring actuarial computations.

Notifies taxpayer if any issues have been referred to another branch or office

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

(1) that the matters within the jurisdiction of another branch or office have been referred to that branch or office for consideration; and

(2) that a representative of that branch or 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.

Sec. 10.03

Determines if transaction can be modified to obtain favorable letter ruling

.04 If a less than fully favorable letter ruling is indicated, the branch representative will tell the taxpayer whether minor changes in the transaction or adherence to certain published positions would bring about a favorable ruling. The branch representative may also tell the taxpayer the facts that must be furnished in a document to comply with Service requirements. However, 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 method or accounting period.

If, at the end of this discussion, the branch representative determines that a meeting in the national 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 11.02 of this revenue procedure.

Is not bound by informal opinion expressed

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

Tells taxpayer if request lacks essential information during initial contact

.06 If a request for a letter ruling or determination letter does not comply with all the provisions of this revenue procedure, the branch representative will tell the taxpayer during the initial contact which requirements have not been met.

Information must be submitted within 21 calendar days

(1) If the request lacks essential information, which may include additional information needed to satisfy the procedural requirements of this revenue procedure, as well as substantive changes to transactions or documents needed from the taxpayer, the branch representative will tell the taxpayer during the initial contact that the request will be closed if the Service does not receive the information within 21 calendar days unless an extension of time is granted. See sections 10.07(1), (2), and (3) of this revenue procedure for instructions on submissions of additional information.

21-day period will be extended if justified and approved

(2) An extension of the 21-day period will be granted only if justified in writing by the taxpayer and approved by the branch chief, senior technician reviewer (or senior technical reviewer), or assistant to the branch chief (or assistant branch chief) of the branch to which the case is assigned. A request for extension should be submitted before the end of the 21-day period. If unusual circumstances close to the end of the 21-day period make a written request impractical, the taxpayer should notify the national office within the 21-day period that there is a problem and that the written request for extension will be coming soon. The taxpayer will be told promptly, 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.

Letter ruling request closed if the taxpayer does not submit information

(3) If the taxpayer does not submit the information requested during the initial contact 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. However, the taxpayer must pay another user fee before the case can be reopened.**

Letter ruling request mistakenly sent to district director

(4) A request for a letter ruling sent to the district director that does not comply with the provisions of this revenue procedure will be returned by the district director so that the taxpayer can make corrections before sending it to the national office.

Requires prompt submission of additional information requested after initial contact

.07

(1) Material facts furnished to the Service by telephone or fax, or orally at a conference, must be promptly confirmed by letter to the Service. This confirmation and any additional information requested by the Service that is not part of the information requested during the initial contact must be furnished within 21 calendar days to be considered part of the request.

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 8.01(13)(b) of this revenue procedure. A taxpayer who submits additional factual information on several occasions may provide one declaration subsequent to all submissions that refers to all submissions.

To facilitate prompt action on letter ruling requests, taxpayers are encouraged to submit additional information by fax as soon as the information is available. The Service representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of this information and a signed perjury statement, however, must be mailed or delivered to the Service.

**Address to send
additional information**

(2)(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 Service
representative who requested
the information]
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044**

However, for cases involving a request for change in accounting method or period under the jurisdiction of the Assistant Chief Counsel (Income Tax and Accounting), and a § 301.9100 request for an extension of time on such cases, the additional information should be sent to:

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

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

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

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

Number of copies of additional information to be submitted

(3) Generally, a taxpayer needs only to submit one copy of the additional information. However, in appropriate cases, the national office may request additional copies of the information.

21-day period will be extended if justified and approved

(4) An extension of the 21-day period will be granted only if justified in writing by the taxpayer and approved by the branch chief, senior technician reviewer (or senior technical reviewer), or assistant to the branch chief (or assistant branch chief) of the branch to which the case is assigned. A request for extension should be submitted before the end of the 21-day period. If unusual circumstances close to the end of the 21-day period make a written request impractical, the taxpayer should notify the national office within the 21-day period that there is a problem and that the written request for extension will be coming soon. The taxpayer will be told promptly, 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.

If taxpayer does not submit additional information

(5) If the taxpayer does not follow the instructions for submitting additional information or requesting an extension within the time provided, a letter ruling will be issued on the basis of the information on hand or, if appropriate, no letter ruling will be issued.

When the Service decides not to issue a letter ruling because additional information was not timely submitted, the case will be closed and the taxpayer notified in writing. **If the Service receives the information after the letter ruling request is closed, the request may be reopened and treated as a new request. However, the taxpayer must pay another user fee before the case can be reopened.**

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

.08 Generally, after the conference of right is held but before the letter ruling is issued, the branch representative will inform the taxpayer or the taxpayer's representative of the Service's conclusions. If the Service is going to rule adversely, the taxpayer will be offered the opportunity to withdraw the letter ruling request. If the taxpayer or the taxpayer's representative does not promptly notify the branch representative of a decision to withdraw the ruling request, the adverse letter ruling will be issued. The user fee will not be refunded for a letter ruling request that is withdrawn. *See* section 8.07 of this revenue procedure.

May request draft of proposed letter ruling near the completion of the ruling process

.09 To accelerate issuance of letter rulings, in appropriate cases near the completion of the ruling process, the Service representative may request that the taxpayer or the taxpayer's representative submit a proposed draft of the letter ruling on the basis of discussions of the issues. The taxpayer, however, is not required to prepare a draft letter ruling to receive a letter ruling.

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

Taxpayer may also submit draft on a word processing disk

In addition to a typed draft, taxpayers are encouraged to submit this draft on a disk in a word processing format. The typed draft will become part of the permanent files of the national office, and the word processing disk will not be returned. If the Service representative requesting the draft letter ruling cannot answer specific questions about the format of the word processing disk, the questions can be directed to Wayne Thomas at 202-622-7560 or Roberta Hardaker at 202-622-4015 (not toll-free calls).

The proposed letter ruling (both typed draft and word processing disk) should be sent to the same address as any additional information and contain in the transmittal the information that should be included with any additional information (for example, a penalties of perjury statement is required). *See* section 10.07 of this revenue procedure.

Issues separate letter rulings for substantially identical letter rulings and generally issues single letter ruling for
Sec. 10.07

.10
(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 sub-

identical accounting method changes

stantially identical letter rulings, a separate letter ruling will be issued for each entity with a common member or sponsor, or for each member of a common entity.

(2) Identical accounting method changes and related § 301.9100 letter rulings. For letter ruling requests qualifying for the user fee provided in paragraphs (A)(5)(b) and (c) of Appendix A of this revenue procedure for identical accounting method changes and related § 301.9100 letter rulings, a single letter ruling generally will be issued on behalf of all members of a consolidated group that file a Form 3115, Application for Change in Accounting Method, or that file a § 301.9100 request for an extension of time to file a Form 3115. If, however, different spread periods for the § 481(a) adjustment or different terms and conditions are required, separate letter rulings may be issued for certain members or groups of members within a consolidated group. Each letter ruling will include an attachment listing the § 481(a) adjustment for each member to which the letter ruling applies.

Sends copy of letter ruling to district director

.11 The national office will send a copy of the letter ruling, whether favorable or adverse, to the district director who has examination jurisdiction of the taxpayer's tax return.

SECTION 11. HOW ARE CONFERENCES 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 national 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 section 8.02(6) 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 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 Service's approval or denial of the request for extension are the same as those explained in section 10.07(4) 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 national office, except as explained under section 11.05 of this revenue procedure. This conference normally will be held at the branch level and will be attended by a person who, at the time of the conference, 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. However, 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 assistant chief counsel or to any other official of the Service. But see section 11.05 of this revenue procedure for situations in which the Service may offer additional conferences.

In employment tax matters, only the party entitled to the letter ruling is entitled to a conference. See section 5.09 of this revenue procedure.

Sec. 11.02

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

May offer additional conferences

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

The limit on the number of conferences to which a taxpayer is entitled does not prevent the Service from offering additional conferences, including conferences with an official higher than the branch level, if the Service decides they are needed. Such 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 Service 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 national 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. See section 10.07 of this revenue procedure for instructions on submission of additional information. 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.

Procedures for requesting an extension of the 21-day period and notifying the taxpayer or the taxpayer's representative of the Service's approval or denial of the requested extension are the same as those stated in section 10.07(4) of this revenue procedure regarding submitting additional information.

May schedule a pre-submission conference

.07 Sometimes it will be advantageous to both the Service 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. Such conferences are held 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 on a time-available basis. 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 district director. See section 5.01(1) of this revenue procedure.

Generally, the taxpayer will be asked to provide before the pre-submission conference 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 of the proposed transaction, issue, and legal analysis. If the taxpayer's authorized representative will attend the pre-submission conference, a power of attorney form is required. It is preferred that Form 2848, Power of Attorney and Declaration of Representative, be used to provide the representative's authorization.

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). A letter ruling request submitted following a pre-submission conference will not necessarily be assigned to the branch that held the pre-submission conference.

Under limited circumstances, may schedule a conference to be held by telephone

.08 Infrequently, taxpayers request that their conference of right be held by telephone. This request 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. If a taxpayer makes such a request, the branch chief, senior technician reviewer (or senior technical reviewer), or assistant to the branch chief (or assistant branch chief) of the branch to which the case is assigned will decide if it is appropriate in the particular case to hold the conference of right by telephone. If the request is approved, the taxpayer will be advised when to call the Service representatives (not a toll-free call).

SECTION 12. 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 Service 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(j)(3).

Will be used by a district director in examining the taxpayer's return

.03 When determining a taxpayer's liability, the district director must ascertain whether—

- (1) the conclusions stated in the letter ruling are properly reflected in the return;
- (2) the representations upon which the letter ruling was based reflected an accurate statement of the material 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 district director finds that a letter ruling should be revoked or modified, the findings and recommendations of the district director will be forwarded to the national office for consideration before further action is taken by the district director. Such a referral to the national office will be treated as a request for technical advice and the provisions of Rev. Proc. 98-2 will be followed. Otherwise, the letter ruling is to be applied by the district director in the determination of the taxpayer's liability. Appropriate coordination with the national office will be undertaken if any field official having jurisdiction over a return or other matter proposes to reach a conclusion contrary to a letter ruling previously issued to the taxpayer.

May be revoked or modified if found to be in error

.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 statute of limitations unless the Service uses its discretionary authority under § 7805(b) to limit the retroactive effect of the revocation or modification.

A letter ruling may be revoked or modified due to—

- (1) a notice to the taxpayer to whom the letter ruling was issued;
- (2) the enactment of legislation or ratification of a tax treaty;
- (3) a decision of the United States Supreme Court;

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

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

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

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

Not generally revoked or modified retroactively

.05 Except in rare or unusual circumstances, the revocation or modification of a letter ruling will 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 misstatement or omission of material facts;

(2) the facts at the time of the transaction are not materially different from the facts on which the letter ruling was based;

(3) there has been no change in the applicable law;

(4) the letter ruling was originally issued for a proposed transaction; and

(5) 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. However, the tax liability of a member of an industry is not directly involved in a letter ruling issued to another member and, therefore, the holding in a revocation or modification of a letter ruling to one member of an industry may be retroactively applied to other members of the industry. 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 letter with retroactive effect, the letter will, except in fraud cases, state the grounds on which the letter ruling is being revoked or modified and explain the reasons why it is being revoked or modified retroactively.

Retroactive effect of revocation or modification applied to a particular transaction

.06 A letter ruling issued on a particular transaction represents a holding of the Service on that transaction only. It will not apply to a similar transaction in the same year or any other year. And, except in unusual circumstances, the application of that letter ruling to the transaction will not be affected by the later issuance of regulations (either temporary or final) if conditions (1) through (5) in section 12.05 of this revenue procedure are met.

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

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

.07 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 Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International), as appropriate, 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. However, the taxpayer ordinarily would be protected only for the payment received after the letter ruling was issued and before the revocation or modification of the letter ruling.

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

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

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

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

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

.09 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.

May be retroactively revoked or modified when transaction is entered into after a change in material facts

.10 If a letter ruling is issued covering a particular transaction and the material facts on which the letter ruling is based are later changed, a taxpayer is not protected against retroactive revocation or modification of the letter ruling when the transaction is completed after the change in the material facts. Similarly, a taxpayer is not protected against retroactive revocation or modification of a letter ruling involving a continuing action or a series of actions occurring after the material facts on which the letter ruling is based have changed.

Taxpayer may request that retroactivity be limited

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

A taxpayer to whom a letter ruling or determination letter has been issued may request that the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International), as appropriate, limit the retroactive effect of any revocation or modification of the letter ruling or determination letter.

Format of request

(1) Request for relief under § 7805(b) must be made in required format.

A request to limit the retroactive effect of the revocation or modification of a letter ruling must be in the general form of, and meet the general requirements for, a letter ruling request. These requirements are given in section 8 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 the five items listed in section 12.05 of this revenue procedure and any other factors as they relate to the taxpayer's particular situation); and

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(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. However, when notice is given by the district director during an examination of the taxpayer's return or by the chief, appeals office, during consideration of the taxpayer's return before an appeals office, a request to limit retroactive effect must be made in the form of a request for technical advice as explained in section 18.03 of Rev. Proc. 98-2.

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 national office as explained in sections 11.02, 11.04, and 11.05 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 11.02 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 Service 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 13. WHAT EFFECT WILL A DETERMINATION LETTER HAVE?

Has same effect as a letter ruling

.01 A determination letter issued by a district director has the same effect as a letter ruling issued to taxpayer under section 12 of this revenue procedure.

If a district director proposes to reach a conclusion contrary to that expressed in a determination letter, he or she need not refer the matter to the national office as is required for a letter ruling found to be in error. However, the district director must refer the matter to the national office if the district director desires to have the revocation or modification of the determination letter limited under § 7805(b).

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

.02 A district director does not have authority under § 7805(b) to limit the revocation or modification of the determination letter. Therefore, if a district director 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 district director who issued the determination letter to seek technical advice from the national office. *See* section 18.03 of Rev. Proc. 98-2.

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 18.03 of Rev. Proc. 98-2. 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 the five items listed in section 12.05 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 in the national office to the same extent as does any taxpayer who is the subject of a technical advice request. *See* sections 13 and 18.04 of Rev. Proc. 98-2.

**SECTION 14. UNDER
WHAT CIRCUMSTANCES
ARE MATTERS REFERRED
BETWEEN A DISTRICT
OFFICE AND THE
NATIONAL OFFICE?**

**Requests for
determination letters**

.01 Requests for determination letters received by district directors that, under the provisions of this revenue procedure, may not be issued by a district office, will be forwarded to the national office for reply. The district office will notify the taxpayer that the matter has been referred.

District directors will also refer to the national office any request for a determination letter that in their judgment should have the attention of the national office.

No-rule areas

.02 If the request involves an issue on which the Service will not issue a letter ruling or determination letter, the request will not be forwarded to the national office. The district office will notify the taxpayer that the Service will not issue a letter ruling or a determination letter on the issue. *See* section 7 of this revenue procedure for a description of no-rule areas.

Requests for letter rulings

.03 Requests for letter rulings received by the national office that, under section 5 of this revenue procedure, may not be acted upon by the national office will be forwarded to the district 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 7 of this revenue procedure and the Service decides not to issue a letter ruling or an information letter, the national office will notify the taxpayer and will then forward the request to the appropriate district office for association with the related return.

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

**Legislation
authorizing user fees**

.01 Section 10511 of the Revenue Act of 1987, 1987-3 C.B. 1, 166, enacted December 22, 1987, as amended by § 11319 of the Omnibus Budget Reconciliation Act of 1990, 1991-2 C.B. 481, 511, enacted November 5, 1990, by § 743 of the Uruguay Round Agreements Act, 1995-1 C.B. 230, 239, enacted December 8, 1994, and by § 2 of the Tax

Relief to Operation Joint Endeavor Participants Act, Pub. L. No. 104–117, 110 Stat. 827, 828, enacted March 20, 1996 (hereafter the four laws are referred to together as the “Act”), provides that the Secretary of the Treasury or delegate (the “Secretary”) shall establish a program requiring the payment of user fees for requests to the Service for letter rulings, opinion letters, determination letters, and similar requests. The fees apply to requests made on or after February 1, 1988, and before October 1, 2003. The fees charged under the program are to: (1) vary according to categories or subcategories established by the Secretary; (2) be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) be payable in advance. The Secretary is to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category must not be less than the amount specified in the Act.

Requests to which a user fee applies

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

- (1) letter rulings, determination letters, and advance pricing agreements;
- (2) closing agreements described in paragraph (A)(3)(d) of Appendix A of this revenue procedure;
- (3) renewal of advance pricing agreements; and
- (4) reconsideration of letter rulings or determination letters.

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

Requests to which a user fee does not apply

.03 User fees do not apply to—

- (1) elections made pursuant to § 301.9100–2, pertaining to automatic extensions of time (see section 5.02 of this revenue procedure);
- (2) late S corporation elections made pursuant to Rev. Proc. 97–40 or Rev. Proc. 97–48 (see section 5.01(3) of this revenue procedure);
- (3) requests for information letters; or
- (4) requests for a change in accounting period or accounting method permitted to be made by a published automatic change revenue procedure (see section 9.03 of this revenue procedure).

Exemptions from the user fee requirements

.04 The user fee requirements do not apply to—

- (1) departments, agencies, or instrumentalities of the United States that 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 (chapters 21, 22, 23, and 24 of subtitle C of the Code) submitted on Form SS–8, Information for Use in Determining Whether a Worker Is an Employee for Federal Employment Taxes and Income Tax Withholding, or its equivalent.

Fee schedule

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

(1) requests for advance pricing agreements or renewals of advance pricing agreements, see section 5.14 of Rev. Proc. 96-53, 1996-2 C.B. at 379; or

(2) requests for letter rulings, determination letters, etc., under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations), see Rev. Proc. 98-8.

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

.06

(1) Requests involving several offices. If a request dealing with only one transaction involves more than one of the offices within the Service (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Domestic) and another issue is under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations)), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. See Rev. Proc. 98-8 for the user fees applicable to issues under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations).

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

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

(4) Requests involving several unrelated transactions. If a request involves several unrelated transactions, a request for a change in accounting method involves several unrelated items or sub-methods 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 or item. An additional fee will apply if the request is changed by the addition of an unrelated transaction or item not contained in the initial request.

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

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

.07

(1) In general. The user fees provided in paragraph (A)(5) of Appendix A of this revenue procedure apply to the situations described in sections 15.07(2) and 15.07(3) 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) Type or print at the top of the letter ruling request: “REQUEST FOR USER FEE UNDER SECTION 15.07 OF REV. PROC. 98-1”;

(b) List on the first page of the submission all taxpayers and entities requesting a letter ruling (including the taxpayer identification number, and the amount of user fee submitted, for each taxpayer or entity); and

(c) Submit one check to cover all user fees.

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

(2) Substantially identical letter rulings. The user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure applies to a taxpayer that requests substantially identical letter rulings (including accounting period, accounting method, and earnings and profits requests other than those submitted on Forms 1128, 2553, 3115, and 5452) for either multiple entities with a common member or sponsor, or multiple members of a common entity. To qualify for this user fee, all information and underlying documents must be substantially identical and all letter ruling requests must be submitted at the same time. In addition, the letter ruling requests must—

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

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

(3) Identical accounting method changes and related § 301.9100 letter rulings. The user fees provided in paragraphs (A)(5)(b) and (c) of Appendix A of this revenue procedure apply to a parent corporation that requests either the identical accounting method change on a single Form 3115 on behalf of more than one member of a consolidated group or an extension of time to file Form 3115 under § 301.9100–3 for the identical accounting method change on behalf of more than one member of a consolidated group. To qualify for this user fee, the taxpayers in the consolidated group must be members of the same affiliated group under § 1504(a) that join in the filing of a consolidated tax return and must be requesting to change from the identical present method of accounting to the identical proposed method of accounting. All aspects of the requested accounting method change, including the present and proposed methods, the underlying facts and the authority for the request, must be identical, except for the § 481(a) adjustment for the year of change and the preceding year, and the number of years the present method has been used.

In addition, a parent corporation must file a single Form 3115. Besides including all the information required on the Form 3115, the parent corporation must, for each member of a consolidated group for which the accounting method change is being requested, attach to the Form 3115 a schedule providing its name, employer identification number, § 481(a) adjustment for the year of change and the preceding year, and the number of years the present method has been used. The Form 3115 must be signed by a duly authorized officer of the parent corporation.

In the case of a § 301.9100 request for an extension of time to file Form 3115, a parent corporation must submit the information required in the above paragraph in addition to the information required by section 5.02 of this revenue procedure.

Method of payment

.08 Each request to the Service for a letter ruling, determination letter, advance pricing agreement, closing agreement described in paragraph (A)(3)(d) of Appendix A of this revenue procedure, or reconsideration of a letter ruling or determination letter must be accompanied by a check or money order, payable to the Internal Revenue Service, in the appropriate amount. (However, the user fee check or money order should not be attached to the Form 2553, Election by a Small Business Corporation, when it is filed at the Service Center. If on the Form 2553 the corporation requests a ruling that it be permitted to use a fiscal year under section 6.03 of Rev. Proc. 87–32, the Service Center will forward the request to the national office. When the national office receives the Form 2553 from the Service Center, it will notify the taxpayer that the fee is due.) Taxpayers should not send cash.

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

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

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

Refunds of user fee

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

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

(a) The request for a letter ruling, determination letter, etc., is withdrawn at any time subsequent to its receipt by the Service, unless the only reason for withdrawal is that the Service has advised the taxpayer that a higher user fee than was sent with the request is applicable and the taxpayer is unwilling to pay the higher fee.

(b) The request is procedurally deficient, although accompanied by the proper fee or an overpayment, and is not timely perfected by the requester. When there is a failure to perfect timely the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure. *See* section 10.06(3) of this revenue procedure.

(c) The Service notifies the taxpayer that the Service will not issue the letter ruling and has closed the case as a result of the taxpayer's failure to submit timely the additional information requested by the Service. The failure to submit the additional information will be treated as a withdrawal for purposes of this revenue procedure. *See* section 10.07(5) of this revenue procedure.

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

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

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

(g) The situation is the same as described in paragraph (e) of this section 15.10(1) except that the letter ruling covered several unrelated transactions. The Service, upon reconsideration, does not agree with the taxpayer that the letter ruling is erroneous or is not responsive for all of the transactions, but does agree that it is erroneous as to one transaction. The

fee accompanying the request for reconsideration will not be refunded except to the extent applicable to the transaction for which the Service agrees the letter ruling was in error.

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

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

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

(a) In a situation to which section 15.10(1)(h) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Service declined to rule) and requests reconsideration. The Service agrees, upon reconsideration, that the letter ruling is erroneous or is not responsive. The fee accompanying the taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 15.10(1)(h) of this revenue procedure does not apply, the taxpayer requests a supplemental letter ruling, determination letter, etc., to correct a mistake that the Service agrees it made in the original letter ruling, determination letter, etc., such as a mistake in the statement of facts or in the citation of a Code section. Once the Service agrees that it made a mistake, the fee accompanying the request for the supplemental letter ruling, determination letter, etc., will be refunded.

(c) The taxpayer requests and is granted relief under § 7805(b) in connection with the revocation in whole or in part, of a previously issued letter ruling, determination letter, etc. The fee accompanying the request for relief will be refunded.

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

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

Request for reconsideration of user fee

.11 A taxpayer that believes the user fee charged by the Service for its request for a letter ruling, determination letter, advance pricing agreement, or closing agreement is either inapplicable or incorrect and wishes to receive a refund of all or part of the amount paid (see section 15.10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Service at the address given in section 8.03 in this revenue procedure. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of:

If the matter involves primarily:
Associate Chief Counsel
(Domestic) letter ruling requests

Mark for the attention of:
Assistant Chief Counsel ()
(Complete by using whichever of the following designations applies.)

- (Corporate)
- (Financial Institutions and Products)
- (Income Tax and Accounting)
- (Passthroughs and Special Industries)

Associate Chief Counsel
(Employee Benefits & Exempt
Organizations) letter ruling requests

Associate Chief Counsel
(Enforcement Litigation)
letter ruling requests

Associate Chief Counsel
(International) letter ruling and
advance pricing agreement requests

Determination letter
requests submitted pursuant
to this revenue procedure

Assistant Chief Counsel (Employee Benefits & Exempt Organizations)

Assistant Chief Counsel (General Litigation)

Assistant Chief Counsel (International)

Chief, Examination Division,

District Office

(Add name of district office handling the request.)

**SECTION 16. WHAT
SIGNIFICANT CHANGES
HAVE BEEN MADE TO
REV. PROC. 97-1?**

.01 Sections 5.01 and 15.03 are amended to reflect the special procedures in Rev. Proc. 97-40 and Rev. Proc. 97-48 for requesting relief for late S corporation elections.

.02 Section 7.04 of Rev. Proc. 97-1 is redesignated as section 7.05 in this revenue procedure. New section 7.04 is added to provide that a letter ruling or determination letter ordinarily will not be issued on questions involving the validity of the federal income tax and other taxes set forth in the Code, questions on the authority or jurisdiction of the Service to enforce the Code or collect information, or similar matters.

.03 Section 8.01(2) is amended to require the submission of a certified English translation of any document that is in a language other than English, along with a true copy of the document.

.04 Section 8.01(2) also is expanded to include the standards in Rev. Rul. 67-308, 1967-2 C.B. 254, governing the acceptability of submissions of foreign laws and documents in a language other than English.

.05 Section 8.01(5) is amended to clarify that a letter ruling request includes an application for change in accounting method for purposes of the statement required regarding whether the same or a similar issue was previously submitted or currently pending.

.06 Section 8.01(11)(f) is amended to conform to section 10.7(c) of Treasury Department Circular No. 230.

.07 Section 8.01(13) is amended to clarify that a member-manager of a limited liability company who has personal knowledge of the facts must sign the penalties of perjury statement.

.08 Section 8.03, section 10.07(2), and Appendix C (Checklist) are amended to reflect the address to send letter ruling requests if a private delivery service is used.

.09 Section 8.03 also is amended to reflect the national office's existing practice of allowing the hand-delivery of letter ruling requests to the courier's desk of the Service.

.10 Section 8.04 is amended to provide that the taxpayer must notify the national office if, after the letter ruling request is filed but before a letter ruling is issued, the taxpayer knows that the taxpayer or a related party submitted another letter ruling request (including a request to change an accounting method) involving the same or similar issue that is currently pending with the Service.

.11 Section 8.07(2) is amended to reflect the national office's existing practice of notifying the district director and the Change in Method Issue Specialist if a taxpayer withdraws

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or the national office declines to grant (for any reason) a request to change from or to adopt an improper accounting method.

.12 Section 9 is updated to reflect the revenue procedures and notices effective as of January 1, 1998.

.13 Section 10.07(1) is amended to provide the language of the penalties of perjury statement applicable for the submission of additional information.

.14 Sections 10.07(5) and 15.10(1) are amended to clarify that the user fee is not refunded if the Service notifies the taxpayer that the Service will not issue the letter ruling and has closed the case as a result of the taxpayer's failure to submit timely additional information requested by the Service.

.15 Section 11.07 is amended to provide general procedures for requesting a pre-submission conference and to provide that a pre-submission conference will not be held on matters on which letter rulings are not ordinarily issued.

.16 Section 15.10(2) is amended to provide another situation in which the user fee may be refunded.

.17 Appendix A is amended to clarify that the user fee of \$250 for Form 2553 applies only to an accounting period request made on Part II of Form 2553 to use a fiscal year based on a business purpose.

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

.01 Rev. Proc. 97-1, 1997-1 C.B. 433, is superseded.

.02 Notice 97-19, 1997-1 C.B. 394, is modified by deleting all references to Rev. Proc. 97-1 and replacing them with references to this revenue procedure.

.03 Rev. Proc. 96-13, 1996-1 C.B. 616, is modified by deleting all references to Rev. Proc. 96-1 and replacing them with references to this revenue procedure.

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

This revenue procedure is effective January 12, 1998.

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 5.05, 6.07, 8.01, 8.02, 8.03, 8.04, 8.05, 8.07, 9.01 (subject matter—rate orders; regulatory agency; normalization), 10.06, 10.07, 10.09, 11.01, 11.06, 11.07, 12.11, 13.02, 15.02, 15.07, 15.08, 15.09, and 15.11, paragraph (B)(1) of Appendix A, and Appendix C. This information is required to evaluate and process the request for a letter ruling or determination letter. In addition, this information will be used to help the Service delete certain information from the text of the letter ruling or determination letter before it is made available for public inspection, as required by § 6110. The collections of information are required to obtain a letter ruling or determination letter. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 304,900 hours.

The estimated annual burden per respondent/recordkeeper varies from 1 to 200 hours, depending on individual circumstances, with an estimated average burden of 80.2 hours. The estimated number of respondents and/or recordkeepers is 3,800.

The estimated annual frequency of responses is on occasion.

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

DRAFTING INFORMATION

The principal author of this revenue procedure is David Selig of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure for matters under the jurisdiction of—

(1) the Associate Chief Counsel (Domestic) or the Associate Chief Counsel (Employee Benefits and Exempt Organizations), contact Mr. Selig on (202) 622-3040 (not a toll-free call);

(2) the Associate Chief Counsel (International), contact Gerard Traficanti on (202) 874-4360 (not a toll-free call); or

(3) the Associate Chief Counsel (Enforcement Litigation), contact Alan C. Levine on (202) 622-3610 (not a toll-free call).

For further information regarding user fees, contact Wayne Thomas on (202) 622-7560 (not a toll-free call).

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APPENDIX A
SCHEDULE OF USER FEES

(A) *FEE SCHEDULE*

<i>CATEGORY</i>	<i>FEE</i>
(1) User fee for a determination letter request. The user fee for each determination letter request governed by Rev. Proc. 98-1 (this revenue procedure).	\$275
(2) User fee for a request for an advance pricing agreement or a renewal of an advance pricing agreement.	See Rev. Proc. 96-53
(3) User fee for a request for a letter ruling or closing agreement. Except for the user fees for advance pricing agreements and renewals, the reduced fees provided in paragraph (A)(4) of this appendix, the user fees provided in paragraph (A)(5) of this appendix, and the exemptions provided in section 15.04 of Rev. Proc. 98-1 (this revenue procedure), the user fee for each request for a letter ruling or closing agreement under the jurisdiction of the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International) is as follows:	
(a) Accounting periods	
(i) Form 1128	\$250
(ii) Requests made on Part II of Form 2553 to use a fiscal year based on a business purpose	\$250
(iii) Letter ruling requests for extensions of time to file Form 1128 under § 301.9100-3	\$250
(b) Changes in Accounting Methods	
(i) Form 3115 (except as provided in paragraph (A)(4)(a), (b), (c), or (d), or (5)(b) of this appendix)	\$900
(ii) Except as provided in paragraph (A)(5)(c) of this appendix, letter ruling requests for extensions of time to file Form 3115 under § 301.9100-3	\$250
NOTE: A taxpayer that receives an extension of time under § 301.9100-3 will be charged a separate user fee for the accounting period or accounting method application. No user fee is required if the change in accounting period or accounting method is permitted to be made pursuant to a published automatic change revenue procedure. See section 9.03 of this revenue procedure for the list of automatic change revenue procedures published and in effect as of December 31, 1997.	
(c) All other letter ruling requests (which includes accounting period and accounting method requests other than those properly submitted on Form 1128, Part II of Form 2553, or Form 3115) (except as provided in paragraph (A)(4)(a), (b), (c), or (d), or (5)(a) of this appendix)	\$3,650
(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), (b), (c), or (d) of this appendix)	\$3,650
(4) Reduced user fee for a request for a letter ruling or closing agreement. A reduced user fee is provided in the following situations if the person provides the certification described in paragraph (B)(1) of this appendix:	
(a) U.S. citizens and resident alien individuals, domestic trusts, and domestic estates with gross income (as determined under paragraph (B)(2) and (4) of this appendix) of less than \$150,000	\$500
(b) Nonresident alien individuals, foreign trusts, and foreign estates with gross income (as determined under paragraph (B)(3) and (4) of this appendix) of less than \$150,000	\$500

- (c) Domestic partnerships and corporations with gross income (as determined under paragraph (B)(5) of this appendix) of less than \$150,000 \$500
- (d) Organizations exempt from income tax under “Subchapter F-Exempt Organizations” of the Code with gross receipts (as determined under paragraph (B)(6) of this appendix) of less than \$150,000 \$500

(5) User fee for substantially identical letter ruling requests or identical accounting method changes.

If the requirements of section 15.07 of Rev. Proc. 98–1 (this revenue procedure) are satisfied, the user fee for the following situations is as follows:

- (a) Substantially identical letter rulings requested
Situations in which a taxpayer requests substantially identical letter rulings for multiple entities with a common member or sponsor, or for multiple members of a common entity, for each additional letter ruling request after the \$3,650 fee or \$500 reduced fee, as applicable, has been paid for the first letter ruling request \$150
- (b) Identical accounting method change requested on a single Form 3115
Situations in which a parent corporation requests the identical accounting method change on a single Form 3115 on behalf of more than one member of a consolidated group, for each additional member of the group seeking the identical accounting method change on the same Form 3115 after the \$900 fee or \$500 reduced fee, as applicable, has been paid for the first member of the group \$25
- (c) Extension of time requested to file Form 3115 for an identical accounting method change
Situations in which a parent corporation requests an extension of time to file Form 3115 under § 301.9100-3 for the identical accounting method change on behalf of more than one member of a consolidated group, for each additional member of the group seeking the identical accounting method change on the same application after the \$250 fee has been paid for the first member of the group \$25

NOTE: A parent corporation and each member of a consolidated group that is entitled to the user fee under paragraph (A)(5)(b) of this appendix, that receives an extension of time to file Form 3115 under § 301.9100-3 will be charged a separate user fee for the accounting method application.

(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), (b), or (c) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraph (B)(2), (3), or (5) of this appendix, as applicable, is less than \$150,000 for the last full (12 months) taxable year ending before the date the request is filed.

(b) If an organization exempt from income tax under Subchapter F of the Code is seeking a reduced user fee under paragraph (A)(4)(d) of this appendix, the organization must certify in its request that its gross receipts are less than \$150,000 for the last full (12 months) taxable year ending before the date the request is filed.

(2) Gross income of U.S. citizens and resident alien individuals, domestic trusts, and domestic estates. For purposes of the reduced user fee provided in paragraph (A)(4)(a) of this appendix for U.S. citizens and resident alien individuals, domestic trusts, and domestic estates, “gross income” is equal to “total income” as reported on their last federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. “Total income” is a line item on federal tax returns. For example, if the 1996 Form 1040, U.S. Individual Income Tax Return, is the most recent 12-month taxable year return filed by a U.S. citizen, “total income” on the Form 1040 is the amount entered on line 22.

In the case of a request for a letter ruling or closing agreement from a domestic estate or trust that, at the time the request is filed, has not filed a federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) of this appendix will apply if the decedent’s or (in the case of an individual grantor) the grantor’s total income as reported on the last federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions

required to be made to total income described in this paragraph (B)(2), is less than \$150,000. In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(3) Gross income of nonresident alien individuals, foreign trusts, and foreign estates. For purposes of the reduced user fee provided in paragraph (A)(4)(b) of this appendix for 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 1996 Form 1040NR, U.S. Nonresident Alien Income Tax Return, is the most recent 12-month taxable year return filed by a nonresident alien individual, "total effectively connected income" on the Form 1040NR is the amount entered on line 23.

In the case of a request for a letter ruling or closing agreement from a foreign estate or trust that, at the time the request is filed, has not filed a federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(b) 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) of this appendix or in this paragraph (B)(3), is less than \$150,000. In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(4) Special rules for determining gross income of individuals, trusts, and estates. For purposes of paragraph (B)(2) and (3) of this appendix, the following rules apply for determining whether gross income is less than \$150,000:

(a) In the case of a request from a married individual, the gross incomes (as defined in paragraph (B)(2) or (3) of this appendix, as applicable) of the applicant and the applicant's spouse must be combined. This rule does not apply to an individual who is legally separated from his or her spouse if the spouses do not file a joint income tax return with each other; and

(b) 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.

(5) Gross income of domestic partnerships and corporations. For purposes of the reduced user fee provided in paragraph (A)(4)(c) of this appendix for domestic partnerships and corporations, "gross income" is equal to "total income" as reported on their last federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus "cost of goods sold" as reported on the same federal income tax return, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period. If a domestic partnership or corporation is not subject to tax, "total income" and "cost of goods sold" are the amounts that the domestic partnership or corporation would have reported on the federal income tax return if the domestic partnership or corporation were subject to tax.

"Cost of goods sold" and "total income" are line items on federal tax returns. For example, if the 1996 Form 1065, U.S. Partnership Return of Income, is the most recent 12-month taxable year return filed by a domestic partnership, "cost of goods sold" and "total income" on the Form 1065 are the amounts entered on lines 2 and 8, respectively, and if the 1996 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.

The following rules apply in determining whether gross income is less than \$150,000:

(a) In the case of a request for a letter ruling or closing agreement from a domestic corporation, the gross income (as defined in this paragraph (B)(5)) of (i) all members of the applicant's controlled group (as defined in § 1563(a)), and (ii) any related taxpayer that is involved in the transaction on which the letter ruling or closing agreement is requested, must be combined; and

(b) In the case of a request for a letter ruling or closing agreement from a domestic partnership, the gross income (as defined in this paragraph (B)(5)) 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.

If, at the time the request is filed, a domestic partnership or corporation subject to tax has not filed a federal income tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(c) of this appendix will apply if, in the aggregate, the partners' or the

shareholders' gross income (as defined in paragraph (B)(2), (3), or (5) of this appendix, as applicable) is less than \$150,000 for the last full 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.

(6) Gross receipts of an exempt organization. For purposes of the reduced user fee provided in paragraph (A)(4)(d) of this appendix for organizations exempt from income tax under "Subchapter F-Exempt Organizations" of the Code, "gross receipts" is 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. If there are two or more organizations exempt from income tax under Subchapter F filing the request, the gross receipts of the applicants must be combined in determining whether gross receipts are less than \$150,000.

APPENDIX B

SAMPLE FORMAT FOR A LETTER RULING REQUEST

INSTRUCTIONS

To assist you in preparing a letter ruling request, the Service is providing this sample format. You are not required to use this sample format. If your request is not identical or similar to the sample format, the different format will not defer consideration of your request.

(Insert the date of request)

Internal Revenue Service
Associate Chief Counsel *(Insert one of
the following: Domestic, Employee Benefits
and Exempt Organizations, Enforcement
Litigation, or International)*
Attn: CC:DOM:CORP:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Dear Sir or Madam:

(Insert the name of the taxpayer) requests a ruling on the proper treatment of *(insert the subject matter of the letter ruling request)* under section *(insert the number)* of the Internal Revenue Code.

[If the taxpayer is requesting expeditious handling, a statement to that effect must be attached to, or contained in, the letter ruling request. The statement must explain the need for expeditious handling. See section 8.02(4) of Rev. Proc. 98-1, 1998-1 I.R.B. 32. Hereafter, all references are to Rev. Proc. 98-1 unless otherwise noted.]

A. STATEMENT OF FACTS

1. Taxpayer Information

[Provide the statements required by sections 8.01(1)(a), (b), and (c).]

2. Description of Taxpayer's Business Operations

[Provide the statement required by section 8.01(1)(d).]

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 8.01(1)(e), 8.01(1)(f), and 8.01(2).]

B. RULING REQUESTED

[The ruling request should contain a concise statement of the ruling requested by the taxpayer. It is preferred that the language of the requested ruling be exactly the same that the taxpayer wishes to receive.]

C. STATEMENT OF LAW

[The ruling request must contain a statement of the law in support of the taxpayer's views or conclusion and identify any pending legislation that may affect the proposed transaction. The taxpayer also is encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. See sections 8.01(6), 8.01(7), and 8.01(8).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. The taxpayer also is encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. See sections 8.01(3), 8.01(6), 8.01(7), and 8.01(8).]

E. CONCLUSION

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

F. PROCEDURAL MATTERS

1. Revenue Procedure 98-1 Statements

a. [Provide the statement required by section 8.01(4) regarding whether the same issue in the letter ruling request is in an earlier return of the taxpayer or in a return for any year of a related taxpayer.]

b. [Provide the statement required by section 8.01(5)(a) regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor.]

c. [Provide the statement required by section 8.01(5)(b) regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in accounting method) involving the same or similar issue but withdrew the request before a letter ruling or determination letter was issued.]

d. [Provide the statement required by section 8.01(5)(c) regarding whether the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or a similar issue that is currently pending with the Service.]

e. [Provide the statement required by section 8.01(5)(d) regarding whether, at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in accounting method) involving the same or similar issue to the Service.]

f. [Provide the statement required by section 8.01(6) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]

g. [If the taxpayer determines that there are no contrary authorities, a statement to that effect would be helpful. See section 8.01(7).]

h. [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 8.02(6).]

i. [If the taxpayer is requesting a copy of the letter ruling to be sent by facsimile (fax) transmission, the ruling request should contain a statement to that effect. This statement must also contain a waiver of any disclosure violations resulting from the fax transmission. See section 8.02(5).]

j. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. See section 8.02(1).]

k. [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 deletions statement and checklist required by Rev. Proc. 98-1 are enclosed." See sections 8.01(9) and 8.01(16).]

b. [The ruling request should state: "The required user fee of \$(*Insert the amount of the fee*) is enclosed." See section 15 and Appendix A.]

c. [If the taxpayer's authorized representative is to sign the letter ruling request or is to appear before the Service in connection with the request, the ruling request should state: "A Power of Attorney is enclosed." See sections 8.01(11), 8.01(12), and 8.02(2).]

Very truly 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 8.01(13).]

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

(Insert the name of the taxpayer)

By:

Signature	Title	Date

Typed or printed name of
person signing declaration

[If the taxpayer is a corporation that is a member of an affiliated group filing consolidated returns, the above declaration must also be signed and dated by an officer of the common parent of the group. See section 8.01(13).]

APPENDIX C
CHECKLIST
IS YOUR LETTER RULING REQUEST COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your letter ruling request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. Complete the five items of information requested before the checklist. Answer each question by circling "Yes," "No," or "N/A." When a question contains a place for a page number, insert the page number (or numbers) of the request that gives the information called for by a yes answer to a question. **Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.**

If you are an authorized representative submitting a request for a taxpayer, you must include a completed checklist with the request, or the request will either be returned to you or substantive consideration of it will be deferred until a completed checklist is submitted. **If you are a taxpayer preparing your own request without professional assistance, an incomplete checklist will not either cause the return of your request or defer substantive consideration of your request.** However, 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. _____

DISTRICT HAVING AUDIT JURISDICTION _____

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 (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International)? See section 3 of Rev. Proc. 98-1, 1998-1 I.R.B. 15. For issues under the jurisdiction of other offices, see section 4 of Rev. Proc. 98-1. (Hereafter, all references are to Rev. Proc. 98-1 unless otherwise noted.)

Yes No 2. Have you read Rev. Proc. 98-3, 1998-1 I.R.B. 100, and Rev. Proc. 98-7, 1998-1 I.R.B. 222, 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 the Associate Chief Counsel (Domestic), the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Office of the Associate Chief Counsel (Enforcement Litigation), or the Office of the Associate Chief Counsel (International) 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 (Domestic) and the Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations), the appropriate branch to call may be obtained by calling (202) 622-7560 (not a toll-free call);

(b) the Office of the Associate Chief Counsel (International), the appropriate branch to call may be obtained by calling (202) 622-3800 (not a toll-free call); or

(c) the Office of the Associate Chief Counsel (Enforcement Litigation), the appropriate branch to call may be obtained by calling (202) 622-3600 (not a toll-free call).

- Yes No N/A
Page — 4. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? See sections 5.01, 5.05, 5.06, 5.07, 5.08, and 5.09.
- Yes No 5. Are you requesting a letter ruling on a hypothetical situation or question? See section 7.02.
- Yes No 6. Are you requesting a letter ruling on alternative plans of a proposed transaction? See section 7.02.
- Yes No 7. Are you requesting the letter ruling for only part of an integrated transaction? See sections 7.03 and 8.01(1).
- Yes No 8. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? See section 5.11.
- Yes No 9. Are you requesting the letter ruling for a foreign government or its political subdivision? See section 5.12.
- Yes No
Pages — 10. Have you included a complete statement of all the facts relevant to the transaction? See section 8.01(1).
- Yes No N/A 11. Have you submitted with the request true copies of all wills, deeds, and other documents relevant to the transaction, and labelled and attached them in alphabetical sequence? See section 8.01(2).
- Yes No N/A 12. Have you submitted with the request a copy of all applicable foreign laws, and certified English translations of documents that are in a language other than English or of foreign laws in cases where English is not the official language of the foreign country involved? See section 8.01(2).
- Yes No
Pages — 13. Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? Are they accompanied by an analysis of their bearing on the issues that specifies the document provisions that apply? See section 8.01(3).
- Yes No
Page — 14. Have you included the required statement regarding whether the same issue in the letter ruling request is in an earlier return of the taxpayer or in a return for any year of a related taxpayer? See section 8.01(4).
- Yes No
Page — 15. Have you included the required statement regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor? See section 8.01(5)(a).
- Yes No
Page — 16. Have you included the required statement regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in accounting method) involving the same or similar issue but withdrew the request before the letter ruling or determination letter was issued? See section 8.01(5)(b).
- Yes No
Page — 17. Have you included the required statement regarding whether the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or similar issue that is currently pending with the Service? See section 8.01(5)(c).
- Yes No
Page — 18. Have you included the required statement regarding whether, at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in accounting method) involving the same or similar issue to the Service? See section 8.01(5)(d).
- Yes No
Pages — 19. Have you included the required statement of relevant authorities in support of your views? See section 8.01(6).
- Yes No
Page — 20. 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 8.01(6).
- Yes No
Pages — 21. 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 8.01(7), which states that taxpayers are encouraged to inform the Service of such authorities.

- Yes No N/A
Page — 22. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? See section 8.01(7).
- Yes No N/A
Page — 23. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? See section 8.01(8).
- Yes No
Page — 24. Is the request accompanied by the deletions statement required by § 6110? See section 8.01(9).
- Yes No
Page — 25. Have you (or your authorized representative) signed and dated the request? See section 8.01(10).
- Yes No N/A
Page — 26. 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 8.01(12).
- Yes No
Page — 27. Have you included, signed, and dated the penalties of perjury statement in the form required by section 8.01(13)?
- Yes No N/A
Page — 28. Are you submitting your request in duplicate if necessary? See section 8.01(14).
- Yes No N/A
Pages — 29. 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 8.02(1).
- Yes No N/A
Page — 30. If you want copies of the letter ruling sent to more than one representative, does the power of attorney contain a statement to that effect? See section 8.02(2)(a).
- Yes No N/A
Page — 31. If you want the original of the letter ruling to be sent to a representative, does the power of attorney contain a statement to that effect? See section 8.02(2)(b).
- Yes No N/A
Page — 32. 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 8.02(2)(c).
- Yes No N/A
Page — 33. 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 8.02(3).
- Yes No N/A
Page — 34. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expeditious handling in the manner required by section 8.02(4) and stated a compelling need for such action in the request?
- Yes No N/A
Page — 35. If you are requesting a copy of the letter ruling to be sent by facsimile (fax) transmission, have you included a statement containing a waiver of any disclosure violations resulting from the fax transmission? See section 8.02(5).
- Yes No N/A
Page — 36. 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 8.02(6).
- Yes No
Page — 37. Have you included the correct user fee with the request and made your check or money order payable to the Internal Revenue Service? See section 15 and Appendix A to determine the correct amount.
- Yes No N/A
Page — 38. If you qualify for the reduced user fee when gross income or gross receipts, as applicable, is less than \$150,000, have you included the required certification? See paragraphs (A)(4) and (B)(1) of Appendix A.
- Yes No N/A
Page — 39. If you qualify for the user fee for substantially identical letter rulings, have you included the required information? See section 15.07(2) and paragraph (A)(5)(a) of Appendix A.
- Yes No N/A
Page — 40. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical accounting method change on a single Form 3115, have you included the required information? See section 15.07(3) and paragraph (A)(5)(c) of Appendix A.

Yes No N/A 41. If your request is covered by any of the guideline revenue procedures or notices, safe harbor revenue procedures, or other special requirements listed in section 9, have you complied with all of the requirements of the applicable revenue procedure or notice?

Rev. Proc. List other applicable revenue procedures or notices, including checklists, used or relied upon in the preparation of this letter ruling request (Cumulative Bulletin citation not required).

Yes No N/A 42. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 12.11?
Page —

Yes No 43. Have you addressed your request to the attention of Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International), as appropriate? The mailing address is:

**Internal Revenue Service
Attn: CC:DOM:CORP:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044**

However, if a private delivery service is used, the address is:

**Internal Revenue Service
Attn: CC:DOM:CORP:T
1111 Constitution Avenue, N.W.
Washington, DC 20224**

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

Signature Title or Authority Date

Typed or printed name of person signing checklist
