

August 12, 2014

BY HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Docket 4483 – In Re: Petition of Wind Energy Development, LLC and
ACP Land, LLC Relating to Interconnection
National Grid’s Response to Petitioners’ Settlement Proposal**

Dear Ms. Massaro:

In their August 4, 2014 letter filing in this docket, Petitioners¹ state that their settlement offer is as follows:

Petitioners’ settlement offer is that they will prepare a request to the Internal Revenue Service (IRS) for a private letter ruling (PLR) applicable to their projects and to be filed by National Grid² and intended for general application to its customers’ similarly situated projects. Petitioners will provide a draft of the letter request for the Public Utilities Commission’s (PUC) review and comment prior to filing. If the PLR resolves that the tax is not owed by such projects, National Grid will refund to Petitioners’ any interconnection tax they paid and the full cost of obtaining the PLR.

National Grid responds to this proposal as follows:

As specified in Rev. Proc. 2014-1, Section 5.01 (*see Attachment A*), the IRS issues PLRs for either proposed or completed transactions only if the taxpayer (i.e., National Grid) submits the ruling request prior to filing its tax return for the year in which the transaction is completed. National Grid’s earliest unfiled tax year is for the 12-month period ending March 31, 2014, for which it will file a tax return on December 15, 2014. The next unfiled tax year is for its current tax year ending March 31, 2015, for which National Grid will file a tax return on December 15, 2015. Under these Rev. Proc. 2014-1 limitations, National Grid cannot file a PLR request to determine the taxability of Petitioners’ interconnection cost payments made to National Grid before April 1, 2013. Additionally, given the time required to prepare a PLR request, it is not likely that a PLR request can be filed for such payments made before April 1, 2014.

¹ Wind Energy Development, LLC and ACP Land, LLC.

² The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

Subject to these limitations and conditions, National Grid is willing to file a PLR request for one of Petitioners' eligible projects (i.e., one for which National Grid can still file a PLR request under Rev. Proc. 2014-1) (Eligible Projects) and will pay any attorney fees associated with the PLR request. Petitioners will be responsible for paying the IRS filing fees associated with the PLR request. If the IRS determines that no tax is owed for the Eligible Project that is the subject of the PLR (the PLR Project), National Grid is willing to refund the tax gross-up adder charged for the PLR Project. Depending upon the legal analysis in the PLR ruling, National Grid would also consider waiving the tax gross-up adder for any of Petitioners' other Eligible Projects that share the same legally significant facts with the PLR Project.

National Grid reserves the right to choose legal counsel to prepare the PLR request. National Grid will require the Petitioners' cooperation and assistance in drafting the PLR request. Petitioners will have an opportunity to review the draft PLR request and submit comments to National Grid for consideration before National Grid submits it to the IRS. As the taxpayer and signatory, National Grid will determine the final contents of the PLR request.

Before and after the PLR request is filed, Petitioner must cooperate with National Grid in documenting that the PLR Project and the other Eligible Projects satisfy all the requirements for tax-free treatment listed in the IRS Notices 88-129 and 2001-82 (*see Attachment B*), including but not limited to show that:

1. The projects are stand-alone generators, as contemplated in IRS Notice 2001-82;
2. The generator and the National Grid have entered into an interconnection service agreement;
3. The primary purpose of the intertie(s) is the delivery of electricity by the projects for sale to third parties, as evidenced by a long-term power purchase agreement (PPA);
4. The cost of the intertie(s) is not included in the National Grid's rate base;
5. National Grid will not claim depreciation deductions on the intertie(s);
6. Based on available estimates, no more than 5% of the projected power flows from the utility over the intertie(s) during the first ten years beginning when the intertie is placed in service;
7. Ownership of the electricity is transferred to the third-party purchaser prior to its delivery to the taxpayer's electric grid, as evidenced by the PPA; and
8. The cost of the intertie will be capitalized by the generator as intangible plant and amortized over 20 years.

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Even if no tax gross-up adder is ultimately owed or charged on the interconnection funds, Petitioners must provide a bond for the PLR Project and the other Eligible Projects in the amount of the tax gross-up adder in the event that during the 10-year window following the completion of a project, National Grid determines that a project no longer satisfies the requirements for tax exempt treatment. In such a case, the project would become taxable from its inception, and the Company would cash the bond to cover the resulting tax liability. Once the initial 10-year window has elapsed, the bond will be returned to the Petitioner.

Thank you for your attention to matter. If you have any questions, please contact me at (781) 907-2121.

Sincerely,



Raquel J. Webster

cc: Docket 4483 Service List
Leo Wold, Esq.
Steve Scialabba, Division

Part III. Administrative, Procedural, and Miscellaneous

26 CFR § 601.201: Rulings and determination letters.

Rev. Proc. 2014-1

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

This revenue procedure explains how the Service provides advice to taxpayers on issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). It explains the forms of advice and the manner in which advice is requested by taxpayers and provided by the Service. A sample format for a letter ruling request is provided in Appendix B. See section 4 of this revenue procedure for instructions on how to obtain advice on issues outside the scope of this revenue procedure.

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

.01 For purposes of this revenue procedure—

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

(a) Large Business & International Division (LB&I), which generally serves corporations, including S corporations, and partnerships, with assets in excess of \$10 million;

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

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

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

(2) the term “Associate office” refers to the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs and Special Industries), the Office of Associate Chief Counsel (Procedure and Administration), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), as appropriate.

(3) the term “Director” refers to the Director, Field Operations, LB&I Area Director, Field Examination, SB/SE; Chief, Estate & Gift Tax Operations, SB/SE; Chief, Employment Tax Operations, SB/SE; Chief, Excise Tax Operations, SB/SE; Director, Compliance, W&I; Director, Employee Plans Examinations; Director, Exempt Organizations Examinations; Director, Federal, State & Local Governments; Director, Tax Exempt Bonds; or Director, Indian Tribal Governments, as appropriate.

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

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

Updated annually

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

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

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

Letter ruling

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

Closing agreement

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

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

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 for the issuance of a letter ruling.

If, in a single case, a closing agreement is requested for each person or entity in a class of taxpayers, separate agreements are entered into only if the class consists of 25 or fewer taxpayers. If the issue and holding are identical for the class and there are more than 25 taxpayers in the class, a "mass closing agreement" will be entered into with the taxpayer who is authorized by the others to represent the class.

Determination letter

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

Information letter

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

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

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

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

- (1) transmittal letters in which the Service furnishes publications or other publicly available material to taxpayers, without any significant legal discussion;
- (2) responses to taxpayer or third party contacts that are inquiries with respect to a pending request for a letter ruling, technical advice memorandum, or Chief Counsel Advice (which are subject to public inspection under § 6110 after their issuance); and
- (3) responses to taxpayer or third party communications with respect to any investigation, audit, litigation, or other enforcement action.

Oral Advice

.05

(1) No oral rulings and no written rulings in response to oral requests. The Service does not orally issue letter rulings or determination letters, nor does it issue letter rulings or determination letters in response to oral requests from taxpayers. Service employees ordinarily will discuss with taxpayers or their representatives inquiries about whether the Service will rule on particular issues and about procedural matters regarding the submission of requests for letter rulings or determination letters for a particular case.

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

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

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

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

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

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

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

Sec. 3
January 2, 2014

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

Except as provided in section 6.14 of this revenue procedure, taxpayers also may request determination letters from the Director in the appropriate operating division. *See* sections 7 and 12 of this revenue procedure. For determinations related to code sections under the jurisdiction of TE/GE. *See* Rev. Proc. 2014–4, this Bulletin, and Rev. Proc. 2014–6, this Bulletin.

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

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

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

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

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

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

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

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 outside the United States, subpart F questions, domestic international sales corporations (DISCs), foreign sales corporations (FSCs), exclusions under § 114 for extraterritorial income (ETI), international boycott determinations, treatment of certain passive foreign investment companies, income affected by treaty, U.S. possessions, and other matters relating to the activities of non-U.S. persons within the United States or U.S.-related persons outside the United States, and changes in method of accounting for these persons.

For the procedures to obtain advance pricing agreements under § 482, *see* Rev. Proc. 2006–9, 2006–1 C.B. 278, as modified by Rev. Proc. 2008–31, 2008–1 C.B. 1133.

For competent authority procedures related to bilateral and multilateral advance pricing agreements, *see* Rev. Proc. 2006–54, 2006–2 C.B. 1035.

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

.05 Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) include those that involve income taxes of S corporations (except accounting periods and methods) and certain noncorporate taxpayers (including partnerships, common trust funds, and trusts), entity classification, estate (excluding § 6166), gift, generation-skipping transfer, and certain excise taxes, depletion, and other engineering issues, cooperative housing corporations, farmers' cooperatives under § 521, the low-income housing, 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 (Procedure and Administration)

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

Issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)

.07 Issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) include the application of employment taxes and taxes on self-employment income, and the tax treatment of tax-exempt organizations (including federal, state, local, and Indian tribal governments), executive compensation and employee benefit programs (including changes in method of accounting), § 457 deferred compensation plans, and the sale of stock to employee stock ownership plans or eligible worker-owned cooperatives under § 1042. Note that certain issues involving exempt organizations, employee plans, and government entities fall under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division of the Internal Revenue Service; *see* Rev. Proc. 2014-4 and Rev. Proc. 2014-6, this Bulletin.

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

Issues involving alcohol, tobacco, and firearms taxes

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

Issues involving employee plans, individual retirement accounts (IRAs), and exempt organizations

.02 The procedures for obtaining letter rulings, closing agreements, determination letters, information letters, and oral advice on employee plans, IRAs, and exempt organizations are under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division. *See* Rev. Proc. 2014-4, this Bulletin. *See also* Rev. Proc. 2014-6, 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 under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2014-8, this Bulletin.

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

In income and gift tax matters

.01 In income and gift tax matters, an Associate office generally issues a letter ruling on a proposed transaction or on a completed transaction if the letter ruling request is submitted before the return is filed for the year in which the transaction is completed. An Associate office will not ordinarily issue a letter ruling on a completed transaction if the letter ruling request is submitted after the return is filed for the year in which the transaction is completed. "Not ordinarily" means that unique and compelling reasons must be demonstrated to justify the issuance of a letter ruling submitted after the return is filed for the year in which the transaction is completed. The taxpayer must contact the Field office having audit jurisdiction over their return and obtain the Field's consent to the issuance of such a letter ruling.

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

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

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

.03 An Associate office will consider a request for an extension of time for making an election or other application for relief under § 301.9100–3 of the Treasury Regulations, even if submitted after the return covering the issue presented in the § 301.9100 request has been filed, an examination of the return has begun, or the issues in the return are being considered by Appeals 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. An election made pursuant to § 301.9100–2 for an automatic extension of time is not a letter ruling request and does not require payment of any user fee. *See* § 301.9100–2(d) and section 15.03(1) of this revenue procedure.

(1) Format of request. A § 301.9100 request (other than an election made pursuant to § 301.9100–2) must be in the general form of, and meet the general requirements for, a letter ruling request. These requirements are given in section 7 of this revenue procedure. In addition, a § 301.9100 request must include the information required by § 301.9100–3(e).

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

(3) Taxpayer must notify the Associate office if examination of its return begins while the request is pending. The taxpayer must notify the Associate office if the Service begins an examination of the taxpayer's return for the taxable year in which an election should have been made, or for any taxable years that would have been affected by the election had it been timely made, while a § 301.9100–3 request is pending. This notification must include the name and telephone number of the examining agent. *See* § 301.9100–3(e)(4)(i) and section 7.04(1)(b) of this revenue procedure.

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

(5) Inclusion of statement required by section 4.04 of Rev. Proc. 2009–41. Eligible entities requesting a letter ruling because they do not meet all of the eligibility requirements of section 4.01 of Rev. Proc. 2009–41, 2009–39 I.R.B. 439, must include either the following representation as part of the entity's request for a letter ruling or an explanation regarding why they do not

qualify to do so: "All required U.S. tax and information returns of the entity (or, if the entity was not required to file any such returns under the desired classification, then all required U.S. tax and information returns of each affected person as defined in Section 4.02 of Rev. Proc. 2009-41) were filed timely or within 6 months of the due date of the respective return (excluding extensions) as if the entity classification election had been in effect on the requested date. No U.S. tax or information returns were filed inconsistently with those described in the prior sentence."

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

**Determinations under
§ 999(d)**

.04 As provided in Rev. Proc. 77-9, 1977-1 C.B. 542, the Associate Chief Counsel (International) issues determinations under § 999(d) that may deny certain benefits of the foreign tax credit and the deferral of earnings of foreign subsidiaries and domestic international sales corporations (DISCs) to a person if that person is 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, that agrees to participate in, or cooperate with, an international boycott. The same principles shall apply with respect to exclusions under § 114 for extritorial income (ETI). Requests for determinations under Rev. Proc. 77-9 are letter ruling requests and should be submitted to the Associate office pursuant to this revenue procedure.

In matters involving § 367

.05 Unless the issue is covered by section 6 of this revenue procedure, the Associate Chief Counsel (International) may issue a letter ruling under § 367 even if the taxpayer does not request a letter ruling as to the characterization of the transaction under the reorganization provisions of the Code. The Associate office will determine the § 367 consequences of a transaction 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. The Associate office may decline to issue a § 367 ruling in situations in which the taxpayer inappropriately characterizes the transaction under the reorganization provisions.

In estate tax matters

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

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

If the return is filed before the letter ruling is received from the Associate office, the taxpayer must disclose on the return that a letter ruling has been requested, attach a copy of the pending letter ruling request to the return, and notify the Associate office that the return has been filed. *See* section 7.04(2) of this revenue procedure. The Associate office will make every effort to issue the letter ruling within 3 months of the date the return was filed.

If the taxpayer requests a letter ruling after the return is filed, but before the return is examined, the taxpayer must notify the Field office having jurisdiction over the return that a letter ruling has been requested, attach a copy of the pending letter ruling request, and notify the Associate office that a return has been filed. *See* section 7.04(2) of this revenue procedure. The Associate office will make every effort to issue the letter ruling within 3 months of the date the return has been filed.

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

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

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

In matters involving qualified domestic trusts under § 2056A

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

In generation-skipping transfer tax matters

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

In employment and excise tax matters

.10 In employment and excise tax matters, the Associate offices issue letter rulings on proposed transactions and on completed transactions either before or after the return is filed for those transactions.

Requests regarding employment status (employer/employee relationship) from Federal agencies and instrumentalities or their workers must be submitted directly to the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). Requests regarding employment status from other taxpayers must first be submitted to the appropriate Service office listed on the current Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*. See section 12.04 of this revenue procedure. If the service recipient (the firm) requests the letter ruling, the firm will receive any issued letter ruling. A copy will also be sent to any identified workers. If the worker requests the letter ruling and the firm has been contacted for information, both the worker and the firm will receive any issued letter ruling. The letter ruling will apply to any individuals engaged by the firm under substantially similar circumstances.

In procedural and administrative matters

.11 The Associate Chief Counsel (Procedure and Administration) issues letter rulings on matters arising under the Code and related statutes and regulations that involve—

- (1) the time, place, manner, and procedures for reporting and paying taxes; or
- (2) the filing of information returns.

In Indian tribal government matters

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

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

delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

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

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

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

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

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

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

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

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

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

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

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

(1) is being examined by a Field office;

(2) is being considered by Appeals;

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

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

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

If a return dealing with an issue for a particular year is filed while a request for a letter ruling on that issue is pending, an Associate office will issue the letter ruling unless it is notified by the taxpayer or otherwise learns that an examination of that issue or the identical issue on an earlier year's return has been started by a Field office. *See* section 7.04 of this revenue procedure. In income and gift tax matters, even if an examination has begun, an Associate office ordinarily will issue the letter ruling if the Field office agrees by memorandum to the issuance of the letter ruling.

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

.02 The Service ordinarily does not issue letter rulings or determination letters in certain areas because of the factual nature of the matter involved or for other reasons. Rev. Proc. 2014-3, this Bulletin, and Rev. Proc. 2014-7, this Bulletin, provide a list of these areas. This list is not all-inclusive because the Service may decline to issue a letter ruling or a determination letter when appropriate in the interest of sound tax administration, including due to resource constraints, or on other grounds whenever warranted by the facts or circumstances of a particular case.

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

If the Service determines that it is not in the interest of sound tax administration to issue a letter ruling or determination letter due to resource constraints, it will adopt a consistent approach with respect to taxpayers that request a ruling on the same issue. The Service will also consider adding the issue to the no rule list at the first opportunity. *See* sections 2.01 and 3.02 of Rev. Proc. 2014-3, this Bulletin.

Ordinarily not on part of an integrated transaction

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

In addition, the Service will not rule on the qualification of any transaction under § 332, 351, 355, or 1036, or on whether a transaction constitutes a reorganization within the meaning of § 368, regardless of whether such transaction is part of an integrated transaction (*see* section 3.01(45) of Rev. Proc. 2014-3, this Bulletin). Instead, the Associate Chief Counsel (Corporate) will only issue a letter ruling on significant issues (within the meaning of section 3.01(45) of Rev. Proc. 2014-3) presented in a transaction described in § 332, 351, 355, 368, or 1036. For example, the Service may rule on significant issues under § 1.368-1(d) (continuity of business enterprise) and § 1.368-1(e) (continuity of interest). Letter rulings requested under this section 6.03 are subject to the no-rule policies of Rev. Proc. 2014-3. In addition, the Service will not rule on the tax consequences that result from the application of § 332, 351, 355, 368, or 1036 (including nonrecognition and basis) except to the extent of a significant issue and only to the extent consistent with the no-rule policies of Rev. Proc. 2014-3.

Before preparing a letter ruling request under this section involving significant issues presented in a transaction described in § 332, 351, 355, 368, or 1036, a taxpayer is encouraged to call the Office of Associate Chief Counsel (Corporate) at the telephone number provided in section 10.07(1)(a) of this revenue procedure to discuss whether the Service will entertain a letter ruling request under this section 6.03. The Service reserves the right to rule on any other aspect of the transaction (including ruling adversely) to the extent the Service believes it is in the best interests of tax administration. *Cf.* section 2.01 of Rev. Proc. 2014-3.

Taxpayers may request rulings on one or more significant issues in a single letter ruling request. Letter ruling requests under this section 6.03 must include for each significant issue:

- (1) A narrative description of the transaction that puts the issue in context;
- (2) A statement identifying the issue;

(3) An analysis of the relevant law, which should set forth the authorities most closely related to the issue and explain why these authorities do not resolve the issue, and an explanation concerning why the issue is significant within the meaning of section 3.01(45) of Rev. Proc. 2014-3;

(4) Information and representations relevant to the issue. Taxpayers should consult other published authorities (*see*, for example, Appendix E of this revenue procedure, which identifies certain checklist and guideline revenue procedures), including those modified by Rev. Proc. 2013-32, 2013-28 I.R.B. 55 (*e.g.*, Rev. Proc. 96-30, 1996-1 C.B. 696), and other authorities (*e.g.*, Rev. Rul. 73-234, 1973-1 C.B. 180 (applying § 355(b) to the activities performed by employees of a corporation engaged in a farming business)), to identify information or representations but only to the extent that they relate to the issue; and

(5) The precise ruling(s) requested.

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

This Office expresses no opinion as to the overall tax consequences of the transaction(s) described in this letter, including qualification of the transaction under [section 332, 351, 355, 368, or 1036, as appropriate].

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

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

Ordinarily not to business associations or groups

.05 The Service ordinarily does not issue letter rulings or determination letters to business, trade, or industrial associations or to similar groups concerning the application of the tax laws to members of the group. Groups and associations, however, may submit suggestions of generic issues that could be appropriately addressed in revenue rulings. *See* Rev. Proc. 89-14, 1989-1 C.B. 814, which states the objectives of, and standards for, the publication of revenue rulings and revenue procedures in the Internal Revenue Bulletin.

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

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

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

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

Ordinarily not to foreign governments

.07 The Service ordinarily does not issue letter rulings or determination letters to foreign governments or their political subdivisions about the U.S. tax effects of their laws. The Associate offices also do not issue letter rulings on the effect of a tax treaty on the tax laws of a treaty country for purposes of determining the tax of the treaty country. *See* section 13.02 of Rev. Proc. 2006-54, 2006-2 C.B. 1035. Treaty partners can continue to address matters such as these under the provisions of the applicable tax treaty. In addition, the Associate offices may issue letter rulings to foreign governments or their political subdivisions on their own tax

status or liability under U.S. law if the request meets the requirements of this revenue procedure.

Ordinarily not on Federal tax consequences of proposed legislation

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

Ordinarily not before issuance of a regulation or other published guidance

.09 Generally, the Service will not issue a letter ruling or a determination letter if the request presents an issue that cannot be readily resolved before a regulation or any other published guidance is issued. When the Service has closed a regulation project or any other published guidance project that might have answered the issue or decided not to open a regulation project or any other published guidance project, the Associate offices may consider all letter ruling requests unless the issue is covered by section 6 of this revenue procedure, Rev. Proc. 2014-3, this Bulletin, or Rev. Proc. 2014-7, this Bulletin.

Not on frivolous issues

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

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

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

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

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

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

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

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

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

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

Additional examples of frivolous or groundless issues may be found in IRS publications and other guidance (including, but not limited to, Notice 2010-33, Frivolous Positions, and I.R.M. 4.10.12.1.1, Frivolous Arguments).

No "comfort" letter rulings

.11 A letter ruling will not be issued with respect to an issue that is clearly and adequately addressed by statute, regulations, decision of a court, revenue rulings, revenue procedures, notices, or other authority published in the Internal Revenue Bulletin (Comfort Ruling). However, except with respect to issues under § 332, 351, 355, 368, or 1036 and the tax consequences resulting from the application of such Code sections (*see generally* section 6.03), the Associate office may, in its discretion, decide to issue a Comfort Ruling if the Associate office is otherwise issuing a letter ruling to the taxpayer on another issue arising in the same transaction.

Not on alternative plans or hypothetical situations

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

Not on property conversion after return filed

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

Circumstances under which determination letters are not issued by a Director

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

- (1) the taxpayer has directed a similar inquiry to an Associate office;
- (2) the same issue, involving the same taxpayer or a related taxpayer, is pending in a case in litigation or before Appeals;
- (3) the request involves an industry-wide problem;
- (4) the specific employment tax question at issue in the request has been, or is being, considered by the Central Office of the Social Security Administration or the Railroad Retirement Board for the same taxpayer or a related taxpayer; or
- (5) the request is for a determination of constructive sales price under § 4216(b) or § 4218(c), which deal with special provisions applicable to the manufacturers excise tax. The Associate Chief Counsel (Passthroughs and Special Industries) will, in certain circumstances, issue letter rulings in this area. *See* section 5.13 of this revenue procedure.

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

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

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

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

Documents and information required in all requests

.01

Facts

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

- (a) names, 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) a description of the taxpayer's business operations;

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

(e) a detailed description of the transaction; and

(f) all other facts relating to the transaction or to the taxpayer's requested tax treatment thereof.

Documents and foreign laws

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

(a) Documents. True copies of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the 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 7.01(2).

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

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

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

(c) Standards for acceptability of submissions of documents in a language other than English and certified English translations of laws in a language other than English. The taxpayer must submit with the request an accurate and complete certified English translation of the relevant parts of all contracts, wills, deeds, agreements, instruments, trust documents, proposed disclaimers, and other documents pertinent to the transaction that are in a language other than English. If the taxpayer chooses to submit certified English translations of foreign laws, those translations must be based on an official publication of the foreign government or another widely available and generally accepted publication. In either case, the translation must be that of a qualified translator and must be attested to by the translator. The attestation must contain: (i) a

statement that the translation submitted is a true and accurate translation of the foreign language document or law; (ii) a statement as to the attestant's qualifications as a translator and as to that attestant's qualifications and knowledge regarding tax matters or foreign law if the law is not a tax law; and (iii) the attestant's name and address.

Analysis of material facts

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

Same issue in an earlier return under Examination, before Appeals, or before a Federal Court

(4) Statement regarding whether same issue is in an earlier return and additional information required for § 301.9100 requests. The request must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, the same issue is addressed in any return of the taxpayer, 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, or any predecessor that—

- (a) is currently under examination, before Appeals, or before a Federal court; or
- (b) was previously under examination, before Appeals, or before a Federal court.

The Service will not ordinarily issue a letter ruling or determination letter if, at the time of the request, the identical issue is under examination or consideration or in litigation. *See* section 6.01 in this revenue procedure. A limited exception to the above rule is made for a § 301.9100 request. *See* section 5.03 in this revenue procedure.

If a § 301.9100 request involves a tax year that is currently under examination, before Appeals, or before a Federal court, the taxpayer must notify the Service, as outlined above. This notification must include the name and telephone number of the examining agent or appeals officer.

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

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

- (a) the Service previously ruled on the same or a similar issue for the taxpayer, a related 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 of their representatives previously submitted a request (including an application for change in method of accounting) involving the same or a similar issue but no letter ruling or determination letter was issued;
- (c) the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or a similar issue that is currently pending with the Service; 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 method of accounting) involving the same or a similar issue.

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

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

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

(a) the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related 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 any predecessor;

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

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

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

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

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

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

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

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

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

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

(9) Statement of contrary authorities. To avoid a delay in the ruling process, contrary authorities should be brought to the attention of the Service at the earliest possible opportunity. If there are significant contrary authorities, it is usually helpful to discuss them in a pre-submission conference prior to submitting the ruling request. *See* section 10.07 of this revenue procedure regarding pre-submission conferences. The taxpayer is strongly encouraged to inform the Service about, and discuss the implications of, any authority believed to be contrary to the position advanced, such as 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 should be included. If the taxpayer does not furnish either contrary authorities or a statement that none exist, the Service in complex cases or those presenting difficult or novel issues may request submission of contrary authorities or a statement that none exist. Failure to comply with this request may result in the Service's refusal to issue a letter ruling or determination letter.

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

**Statement identifying
pending legislation**

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

**Deletion statement
required by § 6110**

(11) Statement identifying information to be deleted from public inspection copy of letter ruling or determination letter. The text of letter rulings and determination letters is open to public inspection under § 6110. The Service makes deletions from the text before it is made available for inspection. To help the Service make the deletions required by § 6110(c), a request for a letter ruling or determination letter must be accompanied by a statement indicating the deletions desired. If the deletion 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 deletion statement within 21 calendar days. *See* section 8.05 of this revenue procedure.

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

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

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

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

(d) Additional information. The taxpayer should follow the same procedures of this section 7.01(11) to propose deletions from any additional information submitted after the initial request. An additional deletion statement is not required with each submission of additional information if the taxpayer's initial deletion statement requests that only names, addresses, and identifying numbers are to be deleted and the taxpayer wants only the same information deleted from the additional information.

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

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

(f) Taxpayer may request delay of public inspection. After receiving the notice of intention to disclose under § 6110(f)(1), but no later than 60 calendar days after the date of the notice, the taxpayer may send a written request for delay of public inspection under either § 6110(g)(3) or (4). The request for delay must be sent to the Service office indicated on the notice of intention to disclose. A request for delay under § 6110(g)(3) must contain the date on which it is expected that the underlying transaction will be completed. The request for delay under § 6110(g)(4) must contain a statement from which the Commissioner of Internal Revenue may determine whether there are good reasons for the continued delay.

Signature on request

(12) 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 or faxed signature is not permitted.

Authorized representatives

(13)

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

(1) 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;

(2) 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;

(3) An enrolled agent is a person who is currently enrolled as an agent to practice before the Service 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 enrollment and authorization to represent the taxpayer. The enrollment number must be included in the declaration;

(4) An enrolled actuary is an individual 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, 419, 419A, 420, 430, 431, 432, 436, 4971, 4972, 4976, 4980, 6057, 6058, 6059, 6652(e), 6652(f), 6692, and 7805(b); former § 405; and 29 U.S.C. § 1083;

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

(6) Any other person, including a foreign representative, who has received a "Letter of Authorization" from the Director of the Office of Professional Responsibility under section

10.7(d) of Treasury Department Circular No. 230. A person may make a written request for a "Letter of Authorization" to: Office of Professional Responsibility, SE:OPR, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224. Section 10.7(d) of Circular No. 230 authorizes the Commissioner to allow an individual who is not otherwise eligible to practice before the Service to represent another person in a particular matter.

(b) A regular full-time employee representing his or her employer; a general partner representing his or her partnership; a bona fide officer representing his or her corporation, association, or organized group; a regular full-time employee representing a trust, receivership, guardianship, or estate; or an individual representing an immediate family member may sign the request or appear before the Service in connection with the request.

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

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

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

**Power of attorney and
declaration of
representative**

(14) Power of attorney and declaration of representative. Form 2848, *Power of Attorney and Declaration of Representative*, should be used to provide the representative's authority (Part I of Form 2848, *Power of Attorney*) and the representative's qualification (Part II of Form 2848, *Declaration of Representative*). The name of the person signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted. An original, a copy, or fax of the power of attorney is acceptable so long as its authenticity is not reasonably disputed. For additional information regarding the power of attorney form, *see* section 7.02(2) of this revenue procedure.

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

**Penalties of perjury
statement**

(15) Penalties of perjury statement.

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

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

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

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

Further, the original and 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 multiple issues as explained later under section 7.02(1) of this revenue procedure;

(b) the taxpayer is requesting deletions other than names, addresses, and identifying numbers, as explained in section 7.01(11)(a) of this revenue procedure (one copy is the request for the letter ruling or determination letter and the second copy is the deleted version of such request); or

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

Sample format for a letter ruling request

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

Checklist

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

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

Taxpayers can obtain copies of the checklist in Appendix C by calling (202) 317-5221 (not a toll-free call) or by accessing this revenue procedure in Internal Revenue Bulletin 2014-1 on the IRS web site at www.irs.gov. Taxpayers can access this revenue procedure on the website by following the "News" link, the "IRS Guidance" link, and the "Internal Revenue Bulletins (after June 2003)" link to obtain Internal Revenue Bulletin 2014-1. A copy of this checklist may be used.

Additional procedural information required with request

.02

Multiple issues

(1) To request separate letter rulings for multiple issues in a single situation. If more than one issue is presented in a request for a letter ruling, the Associate office generally will issue a

single letter ruling covering all the issues. If the taxpayer requests separate letter rulings on any of the issues (because, for example, one letter ruling is needed sooner than another), the Associate office usually will comply with the request unless doing so is not feasible or not in the best interest of the Service. A taxpayer who wants separate letter rulings on multiple issues should make this clear in the request and submit the original and two copies of the request. *See* section 15.06(3) regarding whether a single user fee will be charged.

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

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

(2) Power of attorney used to indicate recipient or recipients of a copy or copies of a letter ruling or a determination letter. Once the Service signs the letter ruling or determination letter, it will send the original to the taxpayer. The Service will not send the original letter ruling or determination letter to the taxpayer's representative.

At the taxpayer's request, the Service will send one copy of the letter ruling or determination letter to up to two authorized representatives. At the discretion of the Service, the Service may provide a copy of the letter ruling or determination letter to up to two authorized representatives, even though the taxpayer did not request that the Service send a copy of notices and communications to the taxpayer's representatives. Taxpayers that use Form 2848, *Power of Attorney and Declaration of Representative*, to designate representatives, may request that copies of notices and communications be sent to the representatives listed at Line 2 by checking the corresponding box on Line 2. Taxpayers may use Line 5 of Form 2848 to advise the Service that a copy of the letter ruling or determination letter should not be sent to the taxpayer's representative(s). If no box is checked on Line 2 and the taxpayer does not indicate otherwise on Line 5, the Service may in its discretion provide a copy of the letter ruling or determination letter to up to two authorized representatives.

"Two-part" letter ruling requests

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

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

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

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

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

Expedited handling

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

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

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

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

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

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

Fax to taxpayer or taxpayer's authorized representative of any document related to letter ruling request

(5) To request the receipt of any document related to letter ruling request by fax. If the taxpayer so requests, the Associate office may fax to the taxpayer or the taxpayer's authorized representative a copy of any document related to the letter ruling request (for example, the letter ruling itself or a request for additional information).

A request to fax to the taxpayer or the taxpayer's authorized representative a copy of any document related to the letter ruling request must be made in writing, preferably as part of the original request for the letter ruling. The request may be submitted at a later date, but it must be received prior to the mailing of correspondence other than the letter ruling and prior to the signing of the letter ruling. The request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the document is to be faxed.

A document other than the letter ruling will be faxed by a branch representative. The copy of the letter ruling may be faxed by either a branch representative or the Disclosure and Litigation Support Branch of the Legal Processing Division of the Office of Associate Chief Counsel

(Procedure and Administration) (CC:PA:LPD:DLS). For purposes of § 301.6110-2(h), however, a letter ruling is not issued until the ruling is mailed.

Requesting a conference

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

**Address to which to send
request for letter ruling or
determination letter**

.03

(1) Request for letter ruling. Original letter ruling requests must be sent to the appropriate Associate office. The packages should be marked RULING REQUEST SUBMISSION.

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

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

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

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

(b) Requests for letter rulings may also be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. to the courier's desk at the loading dock (behind the 12th Street security station) of 1111 Constitution Avenue, NW, Washington, DC. A receipt will be given at the courier's desk. The package should be addressed to:

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

(c) Requests for letter rulings must not be submitted by fax.

(2) Request for determination letter.

(a) Taxpayers under the jurisdiction of LB&I should send a request for a determination letter to the following address:

**Internal Revenue Service
Large Business and International Division
PreFiling and Technical Guidance
SE:LB:PFTG, Mint Building
1111 Constitution Ave., NW
Washington, DC 20224**

(b) SB/SE and W&I taxpayers should send requests for determination letters to the appropriate SB/SE office listed in Appendix D of this revenue procedure.

(c) For a determination letter under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2014-4 and Rev. Proc. 2014-6, this Bulletin.

Pending letter ruling requests

.04

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

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

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

(c) legislation that may affect the transaction has been introduced. *See* section 7.01(10) of this revenue procedure; or

(d) another letter ruling request (including an application for change in method of accounting), involving the same or similar issue as that pending with the Service, has been submitted by the taxpayer 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.

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

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

This section 7.04 also applies to pending requests for a closing agreement on a transaction for which a letter ruling is not requested or issued.

For purposes of this section 7.04, the term “return” includes an original return, amended return, or claim for refund.

When to attach letter ruling or determination letter to return

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

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

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

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

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

.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 an Associate office declines to issue a letter ruling will not be returned to the taxpayer. *See* section 7.01(2)(a) of this revenue procedure. In appropriate cases, an Associate office may publish its conclusions in a revenue ruling or revenue procedure.

(2) Notification of appropriate Service official.

(a) Letter ruling requests. If a taxpayer withdraws a letter ruling request or if the Associate office declines to issue a letter ruling, the Associate office generally will notify, by memorandum, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return. For taxpayers under the jurisdiction of the Division Counsel/Associate Chief Counsel (Large Business & International), the Associate office will also send a copy of the memorandum to the Director of Pre-Filing & Technical Guidance. In doing so, the Associate office may give the Service official its views on the issues in the request for consideration in any later examination of the return. This section 7.07(2)(a) generally does not apply if the taxpayer withdraws the letter ruling request and submits a written statement that the transaction has been, or is being, abandoned and if the Associate office has not already formed an adverse opinion. *See* section 7.07(1) of this revenue procedure.

(b) Notification of Service official may constitute Chief Counsel Advice. If the memorandum to the Service official referred to in paragraph (a) of this section 7.07(2) provides more than the fact that the request was withdrawn and that the Associate office was tentatively adverse, or more than the fact that the Associate office declines to issue a letter ruling, the memorandum may constitute Chief Counsel Advice, as defined in § 6110(i)(1), and may be subject to disclosure under § 6110.

(3) Refund of user fee. Ordinarily, the user fee will not be returned for a letter ruling request that is withdrawn. If the Associate office declines to issue a letter ruling on all of the issues in the request, the user fee will be returned. If the Associate office 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 the refund of user fees.

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

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

Docket, Records, and User Fee Branch receives, initially controls, and refers the request to the appropriate Associate office

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

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

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

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

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

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

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

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

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

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

This section 8.02 applies to all matters except for cases involving a request for change in method of accounting or accounting period and cases within the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products) concerning insurance issues requiring actuarial computations.

Determines if transaction can be modified to obtain favorable letter ruling

.03 If less than a fully favorable letter ruling is 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. The branch representative will not suggest precise changes that would materially alter the form of the proposed transaction or materially alter a taxpayer's proposed accounting period.

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

Not bound by informal opinion expressed

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

**May request additional information
Must be submitted within 21 calendar days**

.05
(1) Additional information must be submitted within 21 calendar days. If the request lacks essential information, which may include additional information needed to satisfy the procedural requirements of this revenue procedure as well as substantive changes to transactions or documents needed from the taxpayer, the branch representative will request such information during the initial or subsequent contacts with the taxpayer or its authorized representative. The representative will inform the taxpayer or its authorized representative that the request will be closed if the Associate office does not receive the requested information within 21 calendar days from the date of the request unless an extension of time is granted. To facilitate prompt action on letter ruling requests, taxpayers may request that the Associate office request additional information by fax. *See* section 7.02(5) of this revenue procedure.

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

Extension of reply period if justified and approved

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

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

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

Penalties of perjury statement for additional information

(4) Penalties of perjury statement. Additional information submitted to the Service must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete."** This declaration must be signed in accordance with the requirements in section 7.01(15)(b) of this revenue procedure.

Faxing request and additional information

(5) Faxing request and additional information. To facilitate prompt action on letter ruling requests, taxpayers may request that the Associate office request additional information by fax. *See* section 7.02(5) of this revenue procedure. Taxpayers may also submit additional information by fax as soon as the information is available. The Associate office representative who requests additional information can provide a fax number to which the information can be faxed. The original of the faxed material and a signed penalties of perjury statement must be mailed or delivered to the Associate office.

Address to which to send additional information

(6) Address to which to send additional information

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

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

For cases involving a request for change in method of accounting or period, *see* section 9.05 of this revenue procedure for the address to which to send additional information.

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

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

Identifying information included in additional information

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

Number of copies of additional information to be submitted

(8) Number of copies. A taxpayer only needs to submit one copy of the additional information unless the Associate office requests additional copies.

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

.06 Generally, after the conference of right is held but before the letter ruling is issued, the branch representative will orally notify the taxpayer or the taxpayer's representative of the Associate office's conclusions. *See* section 10 of this revenue procedure for a discussion of conferences of right. If the Associate office is going to rule adversely, the taxpayer will be offered the opportunity to withdraw the letter ruling request. If, within ten calendar days of the notification by the branch representative, the taxpayer or the taxpayer's representative does not notify the branch representative that the taxpayer wishes to withdraw the ruling request, the adverse letter ruling will be issued unless an extension is granted. The user fee will not be refunded for a letter ruling request that is withdrawn. *See* section 15.10(1)(a) of this revenue procedure.

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

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

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

Taxpayers are encouraged to submit this draft in a printed copy that is in a computer scannable format. The printed copy will become part of the permanent files of the Associate office. The printed copy should be sent to the same address as any additional information and should 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 8.05(4) of this revenue procedure.

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

.08

(1) Substantially identical letter rulings. For letter ruling requests qualifying for the user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure for substantially identical letter rulings, a separate letter ruling generally will be issued for each entity with a common member or sponsor, or for each member of a common entity.

(2) Related § 301.9100 letter rulings.

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

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

Sends a copy of the letter ruling to appropriate Service official

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

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

This section provides the specific and additional procedures applicable to a request for a change in method of accounting under Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (or any successor), other automatic change request procedures, or Rev. Proc. 97-27, 1997-1 C.B. 680, as amplified and modified by Rev. Proc. 2002-19, 2002-1 C.B. 696; as amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432; as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, and 2011-14, 2011-4 I.R.B. 330; and as clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371.

A request for a change in method of accounting under Rev. Proc. 2011-14, other automatic change request procedures, or Rev. Proc. 97-27 is a type of request for a letter ruling. *See* section 2.01 of this revenue procedure.

Automatic and advance consent change in method of accounting requests

.01

Automatic change in method of accounting under Rev. Proc. 2011-14 (or any successor), or other automatic change request procedures

(1) Automatic change in method of accounting. Certain changes in methods of accounting may be made under automatic change request procedures. A change in method of accounting provided for in an automatic change request procedure must be made using that procedure if the taxpayer requesting the change is within the scope of the procedure and the change is an automatic change for the requested year of the change. The Commissioner's consent to an otherwise qualifying automatic change in method of accounting is granted only if the taxpayer timely complies with the applicable automatic change request procedures. *But see* section 9.19 of this revenue procedure concerning review by an Associate office and a Field office.

An application filed under Rev. Proc. 2011-14, 2011-4 I.R.B. 330, (or any successor) or other automatic change request procedure and this revenue procedure is hereinafter referred to as an "automatic change request." *See* section 9.22 of this revenue procedure for a list of automatic change request procedures. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to an automatic change request. No user fee is required for a change made under an automatic change request procedure.

Advance consent change in method of accounting

(2) Advance consent change in method of accounting. If a change in method of accounting may not be made under an automatic change request procedure, the taxpayer may request an advance consent letter ruling by filing a current Form 3115, *Application for Change in Accounting Method*, under Rev. Proc. 97-27, 1997-1 C.B. 680, as amplified and modified by Rev. Proc. 2002-19, 2002-1 C.B. 696; as amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432; as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, and Rev. Proc. 2011-14, 2011-4 I.R.B. 330; and as clarified and modified by Rev. Proc. 2009-39, 2009-38 I.R.B. 371 (or any successor); and this revenue procedure. A Form 3115 filed under Rev. Proc. 97-27 (or any successor) and this revenue procedure is hereinafter referred to as an "advance consent Form 3115." A taxpayer filing an advance consent Form 3115 must submit the required user fee with the completed Form 3115. *See* section 15 and Appendix A of this revenue procedure for information about user fees. *See* section 9.23 for a list of the sections and Appendices of this revenue procedure in addition to this section 9 that apply to an advance consent Form 3115.

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

.02

Ordinarily, a taxpayer may request only one change in method of accounting on a Form 3115, *Application for Change in Accounting Method*. If the taxpayer wants to request a change in method of accounting for more than one unrelated item or submethod of accounting, the taxpayer must submit a separate Form 3115 for each unrelated item or submethod, except in certain situations in which the Service specifically permits certain unrelated changes to be included on a single Form 3115. For an example of such a situation, *see* section 14.03 in the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330 or its successor.

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

**Information required with
a Form 3115**

.03

Facts and other information

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

To be eligible for approval of the requested change in method of accounting, the taxpayer must provide all information requested on the Form 3115 and in its instructions and in either Rev. Proc. 97-27 (or any successor), or the applicable automatic change request procedure. In addition, the taxpayer must provide all information requested in the applicable sections of this revenue procedure, including a detailed and complete description of the item being changed, the taxpayer's present and proposed method for the item being changed, information regarding whether the taxpayer is under examination, or before Appeals or a Federal court, and a summary of the computation of the net § 481(a) adjustment, along with an explanation of the methodology used to determine the adjustment, sufficient to demonstrate that the (net) § 481(a) adjustment is computed correctly.

For an advance consent Form 3115, the taxpayer must also include a full explanation of the legal basis and relevant authorities supporting the proposed method, a detailed and complete description of the facts and explanation of how the law applies to the taxpayer's situation, a discussion of whether the law related to the request is uncertain or inadequately addresses the issue, a statement of the applicant's reasons for the proposed change, and copies of all documents related to the proposed change.

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

See also sections 7.01(1) and 7.01(8) of this revenue procedure.

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

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

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

Documents

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

Analysis of material facts

(4) Analysis of material facts. When submitting any document with a Form 3115 or in a supplemental letter, the taxpayer must explain and provide an analysis of all material facts in the document. The taxpayer may not merely incorporate the document by reference. The analysis of

the facts must include their bearing on the requested change in method of accounting and must specify the provisions that apply.

Same issue in an earlier return

(5) Information regarding whether same issue is in an earlier return. A Form 3115 must state whether, to the best of the knowledge of both the taxpayer and the taxpayer's representatives, any return of the taxpayer (or any return of a current or former consolidated group in which the taxpayer is or was a member) in which the taxpayer used the method of accounting being changed is under examination, before Appeals, or before a Federal court. *See* Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (or any successor), and Rev. Proc. 97-27, 1997-1 C.B. 680, as amplified and modified by Rev. Proc. 2002-19, 2002-1 C.B. 696; as amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432; as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, and 2011-14, 2011-4 I.R.B. 330; and as clarified and modified by Rev. Proc. 2009-39.

Issue previously submitted or currently pending

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

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

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

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

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

Statement identifying pending legislation

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

Authorized representatives

(8) Authorized representatives. To appear before the Service in connection with a request for a change in method of accounting, the taxpayer's authorized representative must be an attorney, a certified public accountant, an enrolled agent, an enrolled actuary, a person with a "Letter of Authorization," an employee, general partner, *bona fide* officer, administrator, trustee, etc., as described in section 7.01(13) of this revenue procedure.

Power of attorney and declaration of representative

(9) Power of attorney and declaration of representative. Any authorized representative, whether or not enrolled to practice, must comply with Treasury Department Circular No. 230, which provides the rules for practice before the Service, and the conference and practice requirements of the Statement of Procedural Rules, which provide the rules for representing a taxpayer before the Service. *See* section 7.01(14) of this revenue procedure. A taxpayer should use Form 2848, *Power of Attorney and Declaration of Representative*, to provide the representative's authority.

Tax Information Authorization

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

Penalties of perjury statement

(11) Penalties of perjury statement

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

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

(b) Signature by taxpayer. A Form 3115 must be signed by, or on behalf of, the taxpayer requesting the change by an individual with authority to bind the taxpayer in such matters. For example, an officer must sign on behalf of a corporation, a general partner on behalf of a state law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or an individual taxpayer on behalf of a sole proprietorship. If the taxpayer is a member of a consolidated group, a Form 3115 should be submitted on behalf of the taxpayer by the common parent and must be signed by a duly authorized officer of the common parent. Refer to the signature requirements set forth in the instructions for the current Form 3115 regarding those who are to sign. *See* also section 8.08 of Rev. Proc. 97-27 and section 6.02(5) of Rev. Proc. 2011-14. A stamped signature or faxed signature is not permitted.

(c) Signature by preparer. A declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

Additional procedural information required in certain circumstances

.04

Recipients of original and copy of correspondence

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

Expedited handling

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

Fax of any document to the taxpayer or taxpayer's authorized representative

(3) To receive the change in method of accounting letter ruling or any other correspondence related to a Form 3115 by fax. If the taxpayer wants a copy of the change in method of accounting letter ruling or any other correspondence related to a Form 3115, such as a request for additional information, faxed to the taxpayer or the taxpayer's authorized representative, the taxpayer must submit a written request to fax the letter ruling or related correspondence, preferably as part of the Form 3115. The request may be submitted at a later date, but it must be received prior to the mailing of correspondence other than the letter ruling and prior to the signing of the change in method of accounting letter ruling.

The request to have correspondence relating to the Form 3115 faxed to the taxpayer or taxpayer's authorized representative must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the correspondence is to be faxed.

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

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

Requesting a conference

(4) To request a conference. The taxpayer must complete the appropriate line on the Form 3115 to request a conference, or must request a conference in a later written communication, if an adverse response is contemplated by the Associate office. *See* section 8.10 of Rev. Proc. 97-27, section 10.03(1) of Rev. Proc. 2011-14, and sections 10.01, 10.02 of this revenue procedure.

**Addresses to which to send
Forms 3115**

.05 Addresses to which to send Forms 3115. Submit the original Form 3115, in the case of an advance consent Form 3115, or the copy of the Form 3115, in the case of an automatic change request, as follows:

(a) Associate office mailing address if private delivery service is not used. If a private delivery service is not used, a taxpayer other than an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request for which the copy is required to be filed with the national office) to:

**Internal Revenue Service
Attn: [insert either "CC:PA:LPD:DRU"
for an advance consent
Form 3115 or "Automatic Change"
for an automatic change request]
P.O. Box 7604
Benjamin Franklin Station
Washington, DC 20044**

An exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request Form 3115 required to be filed with the national office) to:

**Internal Revenue Service
Tax Exempt & Government Entities
P.O. Box 2508
Cincinnati, OH 45201**

See Rev. Proc. 2014-8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

(b) Mailing address if private delivery service is used. If a private delivery service is used, a taxpayer other than an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request for which the copy is required to be filed with the national office) to:

**Internal Revenue Service
Attn: [insert either "CC:PA:LPD:DRU"
for an advance consent Form 3115
or "Automatic Change" for
an automatic change request]
1111 Constitution Ave., NW
Washington, DC 20224
Room 5336**

If a private delivery service is used, an exempt organization must send the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request required to be filed with the national office) to:

**Internal Revenue Service
Tax Exempt & Government Entities
Attn: TEGE:EO
550 Main Street
Room 4024
Cincinnati, OH 45202**

See Rev. Proc. 2014–8, this Bulletin, for the applicable user fee for exempt organization Forms 3115.

(c) Address if hand-delivered to the IRS Courier's desk. For taxpayers other than an exempt organization, the original completed Form 3115 and the required user fee (in the case of an advance consent Form 3115) or the national office copy of the completed Form 3115 (in the case of an automatic change request required to be filed with the national office), may be hand delivered between the hours of 8:00 a.m. and 4:00 p.m. to the courier's desk at the loading dock (located behind the 12th Street security station) of 1111 Constitution Ave., NW, Washington, DC. A receipt will be given at the courier's desk. The package should be addressed to:

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

(d) Ogden office mailing address if copy of Form 3115 for automatic request is required to be filed with the Ogden office. If Rev. Proc. 2011–14, 2011–4 I.R.B. 330, or other published guidance, requires a taxpayer to file a copy of the completed Form 3115 with the Ogden office, send the Ogden copy of the automatic Form 3115 to:

**Internal Revenue Service
1973 North Rulon White Blvd.
Mail Stop 4917
Ogden, UT 84404**

A Form 3115 must not be submitted by fax

.06 A completed Form 3115 must not be submitted by fax.

Docket, Records, and User Fee Branch receives, initially controls, and refers the Form 3115 to the appropriate Associate office

.07 An advance consent Form 3115, is received and controlled by the Docket, Records, and User Fee Branch, Legal Processing Division of the Associate Chief Counsel (Procedure and Administration) (CC:PA:LPD:DRU) if the required user fee is submitted with the Form 3115. Once controlled, the Form 3115 is forwarded to the appropriate Associate office for assignment and processing.

Additional information

.08

Reply period

(1) Reply period.

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

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

Extension of reply period

(2) Request for extension of reply period.

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

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

Penalties of perjury statement for additional information

(3) Penalties of perjury statement. Additional information submitted to the Associate office must be accompanied by the following declaration: **“Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.”** This declaration must be signed in accordance with the requirements in section 9.03(11)(b) of this revenue procedure.

Identifying information included in additional information

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

Faxing information request and additional information

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

Taxpayers may also submit additional information by fax as soon as the information is available. The Associate office representative who requests additional information can provide a telephone number to which the information can be faxed. A copy of the requested information and an original signed penalties of perjury statement also must be mailed or delivered to the Associate office.

Address to which to send additional information to an Associate office

(6) Address to which to send additional information to an Associate office.

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

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

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

**Internal Revenue Service
Tax Exempt & Government Entities
O. Box 2508
McPherson Station
Washington, DC 20038**

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

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

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

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

For a request for change in method of accounting for an exempt organization, if a private delivery service is used the additional information should be sent to:

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

Failure to timely submit additional information to an Associate office

(7) If taxpayer does not timely submit additional information.

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

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

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

Circumstances in which the taxpayer must notify the Associate office

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

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

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

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

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

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

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

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

.11 Generally, after the conference is held (or offered, in the event no conference is held) and before issuing any change in method of accounting letter ruling that is adverse to the requested change in method of accounting, the taxpayer will be offered the opportunity to withdraw the Form 3115. *See* section 9.12 of this revenue procedure. If, within 10 calendar days of the notification by the branch representative, the taxpayer or the taxpayer's representative does not notify the branch representative of a decision to withdraw the Form 3115, the adverse change in method of accounting letter ruling will be issued unless an extension is granted. Ordinarily, the user fee required for an advance consent Form 3115 will not be refunded for a Form 3115 that is withdrawn.

Advance consent Form 3115 may be withdrawn or Associate office may decline to issue a change in method of accounting letter ruling

.12

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

(2) Notification of appropriate Service official. If a taxpayer withdraws, or the Associate office declines to grant (for any reason), a request to change from or to an improper method of

accounting, the Associate office will notify, in writing, the appropriate Service official in the operating division that has examination jurisdiction of the taxpayer's tax return and the Change in Method of Accounting Technical Advisor, and may give its views on the issues in the request to the Service official to consider in any later examination of the return.

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

(3) Refund of user fee. Ordinarily, the user fee will not be returned for an advance consent Form 3115 that is withdrawn. *See* section 15.10 of this revenue procedure for information regarding refunds of user fees.

How to check status of a pending advance consent Form 3115

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

Service is not bound by informal opinion

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

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

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

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

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

Consent Agreement

.17 Ordinarily, for an advance consent Form 3115, the Commissioner's permission to change a taxpayer's method of accounting is set forth in a letter ruling (original and a Consent Agreement copy). If the taxpayer agrees to the terms and conditions contained in the change in method of accounting letter ruling, the taxpayer must sign and date the Consent Agreement copy of the letter ruling in the appropriate space. The Consent Agreement must be signed by an individual with authority to bind the taxpayer in such matters. The Consent Agreement copy must not be signed by the taxpayer's representative. The signed copy of the letter ruling will constitute an agreement (Consent Agreement) within the meaning of § 1.481-4(b) of the regulations. The signed Consent Agreement copy of the letter ruling must be returned to the Associate office within 45 calendar days. In addition, a copy of the signed Consent Agreement must be attached to the taxpayer's income tax return for the year of change. *See* section 8.11 of Rev. Proc. 97-27. A taxpayer filing its return electronically should attach the Consent Agreement as a PDF file named "Form3115Consent." If the taxpayer has filed its income tax return for the year of change before the ruling has been received and the Consent Agreement has been signed and returned, the copy of the signed Consent Agreement should be attached to the amended return for the year of change that the taxpayer files to implement the change in method of accounting.

A taxpayer must secure the consent of the Commissioner before changing a method of accounting for Federal income tax purposes. *See* Treas. Reg. § 1.446-1(e)(2)(i). For a change in method of accounting requested on an advance consent Form 3115, a taxpayer has secured the consent of the Commissioner when the taxpayer timely signs and returns the Consent Agreement copy of the letter ruling from the Associate office granting permission to make the change in method of accounting. A taxpayer who timely files an advance consent Form 3115 and takes the requested change into account in the taxpayer's Federal income tax return for the year of change

(and any subsequent tax year), prior to receiving the letter ruling granting permission for the requested change, may nevertheless rely on the letter ruling received from the Associate office after it is received, as provided in section 9.19 of this revenue procedure. If, however, the requested change is modified or is withdrawn, denied, or similarly closed without the Associate office having granted consent, taxpayers are not relieved of any interest, penalties, or other adjustments resulting from improper implementation of the change.

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

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

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

.19 A taxpayer may rely on a change in method of accounting letter ruling received from the Associate office, subject to certain conditions and limitations. *See* sections 9, 10, and 11 of Rev. Proc. 97-27, 1997-1 C.B. 680.

A qualifying taxpayer complying timely with an automatic change request procedure may rely on the consent of the Commissioner as provided in the automatic change request procedure to change the taxpayer's method of accounting, subject to certain conditions and limitations. *See generally* sections 6.01, 7, and 8 of Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (or its successor). An Associate office may review a Form 3115 filed under an automatic change request procedure and will notify the taxpayer if additional information is needed or if consent is not granted to the taxpayer for the requested change. *See* section 10 of Rev. Proc. 2011-14 (or its successor). Further, the Field office that has jurisdiction over the taxpayer's return may review the Form 3115. *See* section 9 of Rev. Proc. 2011-14.

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

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

Associate office discretion to permit requested change in method of accounting

.21 The Associate office reserves the right to decline to process any advance consent Form 3115 in situations in which it would not be in the best interest of sound tax administration to permit the requested change. In this regard, the Associate office will consider whether the change in method of accounting would clearly and directly frustrate compliance efforts of the Service in administering the income tax laws. *See* section 8.01 of Rev. Proc. 97-27.

List of automatic change in method of accounting request procedures

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

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

(1) Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (or any successor). Rev. Proc. 2011-14 applies to the changes in method of accounting described in the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330.

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

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

Treas. Reg. § 1.448-1 (to an overall accrual method for the taxpayer's first taxable year it is subject to § 448) (this change may also be subject to the procedures of Rev. Proc. 2011-14, 2011-4 I.R.B. 330 (or any successor));

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

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

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

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

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

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

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

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

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

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

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

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

.23 In addition to this section 9, the following sections of this revenue procedure apply to automatic change requests and advance consent Forms 3115:

1 (purpose of Rev. Proc. 2014-1);

2.01 (definition of "letter ruling");

2.02 (definition of "closing agreement");

2.05 (oral guidance);

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

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

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

3.04 (issues under the jurisdiction of the Associate Chief Counsel (International));

3.05 (issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries));

3.07 (issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities));

- 5.03(2) (period of limitation when filing a request for extensions of time for making an election or for other relief under § 301.9100);
- 6.02 (letter rulings ordinarily not issued in certain areas because of the factual nature of the problem);
- 6.05 (letter rulings ordinarily not issued to business associations or groups);
- 6.06 (letter rulings ordinarily not issued where the request does not address the tax status, liability, or reporting obligations of the requester);
- 6.08 (letter rulings ordinarily not issued on Federal tax consequences of proposed legislation);
- 6.10 (letter rulings not issued on frivolous issues);
- 6.12 (letter rulings not issued on alternative plans or hypothetical situation);
- 7.01(1) (statement of facts and other information);
- 7.01(8) (statement of supporting authorities);
- 7.01(13) (authorized representatives);
- 7.01(14) (power of attorney and declaration of representative);
- 7.02(2) (power of attorney used to indicate recipient of a copy or copies of a letter ruling or a determination letter);
- 7.02(4) (expedited handling);
- 7.04(2) (notify Associate office if a return, amended return, or claim for refund is filed while request is pending and attach request to the return);
- 7.05 (attach letter ruling to the return, amended return or claim for refund);
- 8.01 (receipt and control of the request, and referral to the appropriate Associate office);
- 8.04 (not bound by informal opinion expressed);
- 10 (scheduling conferences);
- 15 (user fees);
- 16 (significant changes to Rev. Proc. 2013-1);
- 17 (effect of Rev. Proc. 2014-1 on other documents);
- 18 (effective date of this revenue procedure);
- Appendix A (schedule of user fees); and
- Appendix E (revenue procedures and notices regarding letter ruling requests relating to specific Code sections and subject matters).

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

**Schedules a conference if
requested by taxpayer**

.01 A taxpayer may request a conference regarding a letter ruling request. Normally, a conference is scheduled only when the Associate office considers it to be helpful in deciding the case or when an adverse decision is indicated. If conferences are being arranged for more than one

request for a letter ruling involving the same taxpayer, they will be scheduled so as to cause the least inconvenience to the taxpayer. As stated in sections 7.02(6) and 9.04(4) of this revenue procedure, a taxpayer who wants to have a conference on the issue or issues involved should indicate this in writing when, or soon after, filing the request.

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

Permits taxpayer one conference of right

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

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

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

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

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

Disallows verbatim recording of conferences

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

Makes tentative recommendations on substantive issues

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

May offer additional conferences

.05 The Associate office will offer the taxpayer an additional conference if, after the conference of right, an adverse holding is proposed, 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 Associate office from offering additional conferences, including conferences with an official higher than the branch level, if the Associate office decides they are needed. These conferences are not offered as a matter of course simply because the branch has reached an adverse decision. In general, conferences with higher level officials are offered only if the Associate office

determines that the case presents significant issues of tax policy or tax administration and that the consideration of these issues would be enhanced by additional conferences with the taxpayer.

Requires written confirmation of information presented at conference

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

May schedule a pre-submission conference

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

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

The request should identify the taxpayer and briefly explain the primary issue so it can be assigned to the appropriate branch. If submitted in writing, the request should also identify the Associate office expected to have jurisdiction over the request for a letter ruling. A written request for a pre-submission conference should be sent to the appropriate address listed in section 7.03 of this revenue procedure.

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

(a) (202) 317-7700 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Corporate);

(b) (202) 317-4443 (not a toll-free call) for matters under the jurisdiction of the Office of Associate Chief Counsel (Financial Institutions and Products);

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

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

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

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

(g) (202) 317-6000 (not a toll-free call) for matters under the jurisdiction of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities).

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

(3) Certain information required to be submitted to the Associate office prior to the pre-submission conference. Generally, the taxpayer will be asked to provide, at least three business days before the scheduled pre-submission conference, a statement of whether the issue is an issue on which a letter ruling is ordinarily issued, 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 or participate in the pre-submission conference, a power of attorney is required.

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

May schedule a conference to be held by telephone

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

SECTION 11. WHAT EFFECT WILL A LETTER RULING HAVE?

May be relied on subject to limitations

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

Will not apply to another taxpayer

.02 A taxpayer may not rely on a letter ruling issued to another taxpayer. *See* § 6110(k)(3).

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

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

(1) the conclusions stated in the letter ruling are properly reflected in the return;

(2) the representations upon which the letter ruling was based reflect an accurate statement of the controlling facts;

(3) the transaction was carried out substantially as proposed; and

(4) there has been any change in the law that applies to the period during which the transaction or continuing series of transactions were consummated.

If, when determining the liability, the Field office finds that a letter ruling should be revoked or modified, the findings and recommendations of the Field office will be forwarded through the appropriate Director to the Associate office for consideration before further action is taken by the Field office. Such a referral to the Associate office will be treated as a request for technical advice and the provisions of Rev. Proc. 2014-2, this Bulletin, relating to requests for technical advice will be followed. *See* section 13.02 of Rev. Proc. 2014-2, this Bulletin. Otherwise, the Field office should apply the letter ruling in determining the taxpayer's liability. If a Field office having jurisdiction over a return or other matter proposes to reach a conclusion contrary to a letter ruling previously issued to the taxpayer, it should coordinate the matter with the Associate office.

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

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

A letter ruling may be revoked or modified by—

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

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

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

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

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

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

**Not otherwise generally
revoked or modified retro-
actively**

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

- (1) there has been no change in the applicable law;
- (2) the letter ruling was originally issued for a proposed transaction; and

(3) the taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking or modifying the letter ruling retroactively would be to the taxpayer's detriment. For example, the tax liability of each shareholder is directly involved in a letter ruling on the reorganization of a corporation. Depending on all facts and circumstances, the shareholders' reliance on the letter ruling may be in good faith. The tax liability of a member of an industry, however, is not directly involved in a letter ruling issued to another member of the same industry. Therefore, a nonretroactive revocation or modification of a letter ruling to one member of an industry will not extend to other members of the industry who have not received letter rulings. By the same reasoning, a tax practitioner may not extend to one client the non-retroactive application of a revocation or modification of a letter ruling previously issued to another client.

If a letter ruling is revoked or modified by a letter 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 revo-
cation or modification ap-
plied to a particular trans-
action**

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

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 revo-
cation or modification ap-
plied to a continuing action
or series of actions**

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

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

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

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

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

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

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

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

Taxpayer may request that retroactivity be limited

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

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

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 7 of this revenue procedure. Specifically, the request must also

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

(b) state the relief sought;

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

(d) include any documents bearing on the request.

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

When notice is given by the Field office during an examination of the taxpayer's return or by Appeals, during consideration of the taxpayer's return before Appeals, a request to limit retroactive effect must be made in the form of a request for technical advice as explained in section 14.02 of Rev. Proc. 2014-2, this Bulletin.

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

Request for conference

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

ruling request after a conference has been held on the substantive issue and the Associate office determines that there is justification for having delayed the request, the taxpayer is entitled to one conference of right concerning the application of § 7805(b), with the conference limited to discussion of this issue only.

**SECTION 12. UNDER
WHAT CIRCUM-
STANCES DO DIREC-
TORS ISSUE DETERMI-
NATION LETTERS?**

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

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

A determination letter does not include assistance provided by the U.S. competent authority pursuant to the mutual agreement procedure in tax treaties as set forth in Rev. Proc. 2006-54, 2006-2 C.B. 1035.

**In income and gift tax
matters**

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

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

In estate tax matters

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

**In generation-skipping
transfer tax matters**

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

**In employment and excise
tax matters**

.04 In employment and excise tax matters, Directors issue determination letters in response to taxpayers' written requests on completed transactions over which they have examination jurisdiction. *See* also section 5.10 of this revenue procedure.

**Requests concerning in-
come, estate, or gift tax
returns**

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

**Review of determination
letters**

.06 Determination letters issued under sections 12.01 through 12.04 of this revenue procedure are not reviewed by the Associate offices before they are issued. If a taxpayer believes that a determination letter of this type is in error, the taxpayer may ask the Director to reconsider the matter or to request technical advice from an Associate office as explained in Rev. Proc. 2014-2, this Bulletin.

**SECTION 13. WHAT EF-
FECT WILL A DETER-
MINATION LETTER
HAVE?**

**Has same effect as a letter
ruling**

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

If a Field office proposes to reach a conclusion contrary to that expressed in a determination letter, that office need not refer the matter to the Associate office as is required for a letter ruling found to be in error. The Field office must, however, refer the matter to the Associate office through the appropriate Director if it desires to have the revocation or modification of the determination letter limited under § 7805(b).

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

.02 Under § 7805(b), the Service may prescribe the extent to which a revocation or modification of a determination letter will be applied without retroactive effect. A Director does not have authority under § 7805(b) to limit the revocation or modification of the determination letter. Therefore, if the Field office proposes to revoke or modify a determination letter, the taxpayer may request limitation of the retroactive effect of the revocation or modification by asking the Director that issued the determination letter to seek technical advice from the Associate office. *See* section 14.02 of Rev. Proc. 2014-2, this Bulletin.

Format of request

(1) **Request for relief under § 7805(b) must be made in required format.** A taxpayer's request to limit the retroactive effect of the revocation or modification of the determination letter must be in the form of, and meet the general requirements for, a technical advice request. *See* section 14.02 of Rev. Proc. 2014-2, this Bulletin. The request must also—

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

(b) state the relief sought;

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

(d) include any documents bearing on the request.

Request for conference

(2) **Taxpayer may request a conference on application of § 7805(b).** When technical advice is requested regarding the application of § 7805(b), the taxpayer has the right to a conference with the Associate office to the same extent as does any taxpayer who is the subject of a technical advice request. *See* section 14.04 of Rev. Proc. 2014-2, this Bulletin.

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

Requests for determination letters

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

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

No-rule areas

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

Requests for letter rulings

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

letter, the Associate office will notify the taxpayer and will then forward the request to the appropriate Field office for association with the related return.

Letter ruling request mistakenly sent to a Director

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

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

Legislation authorizing user fees

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

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

Requests to which a user fee applies

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

- (1) letter rulings (including advance consent Forms 3115, *Application for Change in Accounting Method*), determination letters, and advance pricing agreements;
- (2) closing agreements described in paragraph (A)(3)(d) of Appendix A of this revenue procedure and pre-filing agreements described in Rev. Proc. 2009–14, 2009–3 I.R.B. 324 (or its successor);
- (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 5.03 of this revenue procedure);
- (2) late initial classification elections made pursuant to Rev. Proc. 2009–41, 2009–2 C.B. 439 (*see* section 5.03(6) of this revenue procedure);
- (3) late S corporation and related elections made pursuant to Rev. Proc. 2013–30, 2013–36 I.R.B. 173 (*see* section 5.02 of this revenue procedure);

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

(5) information letters; or

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

Exemptions from the user fee requirements

.04 The user fee requirements do not apply to—

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

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

Fee schedule

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

(1) requests for advance pricing agreements or renewals of advance pricing agreements, *see* section 4.12 of Rev. Proc. 2006–9, 2006–1 C.B. 278; or section 5.14 of Rev. Proc. 96–53, 1996–2 C.B. 375; or

(2) requests for letter rulings, determination letters, etc. under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, *see* Rev. Proc. 2014–8, this Bulletin.

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

.06

(1) Requests involving several offices. If a request dealing with only one transaction involves more than one office within the Service (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries) and another issue is under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. *See* Rev. Proc. 2014–8, this Bulletin, for the user fees applicable to issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

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

(3) Requests involving several issues. If a request dealing with only one transaction involves several issues, a request for a change in method of accounting dealing with only one item or submethod of accounting involves several issues, or a request for a change in accounting period dealing with only one item involves several issues, the request is treated as one request. Therefore, only one fee applies, i.e., the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction, item, or submethod will not result in an additional fee unless the issue places the transaction, item, or submethod in a higher fee category. So long as the issues all relate to a single transaction, a request that the Service address one or more of the issues in a separate ruling will not result in an additional fee.

(4) Requests involving several unrelated transactions. If a request involves several unrelated transactions, a request for a change in method of accounting involves several unrelated items or submethods of accounting, or a request for a change in accounting period involves several

unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction, item, or submethod. An additional fee will apply if the request is changed by the addition of an unrelated transaction, item, or submethod not contained in the initial request. An example of a request involving unrelated transactions is a request involving relief under § 301.9100-3 and the underlying issue.

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

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

.07

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

(a) except for advance consent Forms 3115, include the following typed or printed language at the top of the letter ruling request: “REQUEST FOR USER FEE UNDER SECTION 15.07 OF REV. PROC. 2014-1”;

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

(c) 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 who requests substantially identical letter rulings (including accounting period, method of accounting, and earnings and profits requests other than those submitted on Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, Form 2553, *Election by a Small Business Corporation*, Form 3115, *Application for Change in Accounting Method*, and Form 5452, *Corporate Report of Nondividend Distributions*) 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.

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

(3) Substantially identical plans under § 25(c)(2)(B). The user fee provided in paragraph (A)(5)(b) of Appendix A of this revenue procedure shall apply to a taxpayer who submits substantially identical plans for administering the 95-percent requirement of § 143(d)(1) following the submission and approval of an initial plan for administering the requirement. The request

for subsequent approvals of substantially identical plans must (1) state that a prior plan was submitted and approved and include a copy of the prior plan and approval; (2) state that the subsequent plan is substantially identical to the approved plan; and (3) describe any differences between the approved plan and the subsequent plan.

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

(a) members of that consolidated group;

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

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

(d) controlled foreign corporations (CFCs) and noncontrolled § 902 corporations (10/50 corporations) that do not engage in a trade or business within the United States where (i) all controlling U.S. shareholders of the CFCs and all majority domestic corporate shareholders of the 10/50 corporations, as applicable, are members of that consolidated group; or (ii) the taxpayer is the sole controlling U.S. shareholder of the CFCs or the sole domestic corporate shareholder of that 10/50 corporation.

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

The taxpayer or common parent must, for each applicant for which the change in method of accounting is being requested, attach to the Form 3115 a schedule providing the name, employer identification number (where applicable), and § 481(a) adjustment. If the request is on behalf of eligible CFCs or 10/50 corporations, the taxpayer or common parent must attach a statement that “[a]ll controlling U.S. shareholders (as defined in § 1.964-1(c)(5)(i)) of all the CFCs to which the request relates are members of the common parent’s consolidated group,” “[a]ll majority domestic corporate shareholders (as defined in § 1.964-1(c)(5)(ii)) of all the 10/50 corporations to which the request relates are members of the common parent’s consolidated group,” that “[t]he taxpayer filing the request is the sole controlling U.S. shareholder (as defined in § 1.964-1(c)(5)) of the CFCs to which the request relates,” or “[t]he taxpayer filing the request is the sole domestic corporate shareholder (as defined in § 1.964-1(c)(5)) of the 10/50 corporations to which the request relates,” as applicable. If the request is on behalf of eligible partnerships, the common parent must attach a statement that “[a]ll partnerships to which the request relates are wholly-owned by members of the common parent’s consolidated group.”

In the case of a § 301.9100 request for an extension of time to file a Form 3115 requesting an identical change in method of accounting for multiple members of a consolidated group and/or multiple separate and distinct trades or businesses of a taxpayer or member(s) of the consolidated group, or multiple eligible CFCs or 10/50 corporations (applicants), the taxpayer or common parent must submit the information required in the preceding paragraph in addition to the information required by section 5.03 of this revenue procedure.

Method of payment

.08 Each request to the Service 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 in U.S. dollars, payable to the Internal Revenue Service, in the appropriate amount. 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, an electing S corporation requests a ruling to use a fiscal year under section 6.03 of Rev. Proc. 2002-39, 2002-1 C.B. 1046, the Service Center will forward the request to the Associate office. When the Associate office receives the Form 2553 from the Service Center, it will notify the taxpayer that the fee is due. Taxpayers must 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 office within the Service that is responsible for issuing the letter ruling, determination letter, information letter, advance pricing agreement, closing agreement, or reconsideration of a letter ruling or determination letter generally will exercise discretion in deciding whether to immediately return the request. If a request is not immediately returned, the taxpayer will be contacted and given a reasonable amount of time to submit the proper fee. If the proper fee is not received within a reasonable amount of time, the entire request will then be returned. The Service will usually defer substantive consideration of a request until proper payment has been received. The return of a request to the taxpayer may adversely affect substantive rights if the request is not perfected and resubmitted to the Service within 30 calendar days of the date of the cover letter returning the request.

If a 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. When there is a failure to timely perfect the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure. *See* section 8.05(3) of this revenue procedure.

(c) The Associate office notifies the taxpayer that the Associate office 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 Associate office. The failure to submit the additional information will be treated as a withdrawal for purposes of this revenue procedure. *See* section 8.05(3) of this revenue procedure (section 9.08(7) for a request for a change in method of accounting).

(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 Associate office has declined to rule) and requests reconsideration. The Associate office, 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 (f) of this section 15.10(1) except that the letter ruling covered several unrelated transactions. The Associate office, 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 Associate office 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)(i) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Associate office declined to rule) and requests reconsideration. Upon reconsideration, the Associate office agrees that the letter ruling is erroneous or is not responsive. The fee accompanying the taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 15.10(1)(i) 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)(e) of this revenue procedure applies, 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 responsible Associate Chief Counsel determines a refund is appropriate. This determination is at the sole discretion of the Associate Chief Counsel.

(f) Refunds based on grounds listed in section 15.10(2)(a) through (d) of this revenue procedure are approved at the branch level by a reviewer or branch chief. Refunds based on the ground listed in section 15.10(2)(e) of this revenue procedure must be approved by the Associate Chief Counsel.

**Request for reconsideration
of user fee**

.11 A taxpayer who believes the user fee charged by the Service for its request for a letter ruling, determination letter, advance pricing agreement, or closing agreement is either inapplicable or incorrect and wishes to receive a refund of all or part of the amount paid (*see* section 15.10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Service at the appropriate address given in section 7.03 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:

Mark for the attention of:

Associate Chief Counsel (Corporate) letter ruling requests

Associate Chief Counsel (Corporate)

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

Associate Chief Counsel (Financial Institutions and Products)

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

Associate Chief Counsel (Income Tax and Accounting)

Associate Chief Counsel (International) letter ruling requests

Associate Chief Counsel (International)

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

Associate Chief Counsel (Passthroughs and Special Industries)

Associate Chief Counsel (Procedure and Administration) letter ruling requests

Associate Chief Counsel (Procedure and Administration)

Division Counsel/ Associate Chief Counsel (Tax Exempt and Government Entities) letter ruling requests

Deputy Division Counsel/Deputy Associate Chief Counsel ()
(Complete parenthetical by using the applicable designation "Employee Benefits" or "Exempt Organizations/Employment Tax/Government Entities")

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

Manager, Office of Pre-Filing and Technical Services

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

The appropriate SB/SE official listed in Appendix D

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

Director, Employee Plans Examinations
Director, Exempt Organizations Examinations
Director, Federal, State & Local Governments
Director, Tax Exempt Bonds
Director, Indian Tribal Governments

(Add name of Field office handling the request)

SECTION 16. WHAT SIGNIFICANT CHANGES HAVE BEEN MADE TO REV. PROC. 2013-1?

Sections 6.03, 6.11, Appendix C, and Appendix E were updated, primarily to incorporate changes to the no rule items made by Rev. Proc. 2013-32. Section 15.07(4), relating to consolidating applications for identical changes in method of accounting and related § 301.9100 letter rulings, was updated and corresponding updates were made to sections 8.08(2)(a) and 9.15. A new schedule of user fees, effective February 5, 2014, is provided in Appendix A.

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

Rev. Proc. 2013-1, 2013-1 I.R.B. 1 is superseded. Rev. Proc. 2013-32, 2013-28 I.R.B. 55 is superseded in part.

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

This revenue procedure is effective January 2, 2014.

**SECTION 19.
PAPERWORK
REDUCTION ACT**

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

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

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

The estimated total annual reporting and/or recordkeeping burden is 305,540 hours.

The estimated annual burden per respondent/recordkeeper varies from 1 to 200 hours, depending on individual circumstances, with an estimated average burden of 80 hours. The estimated number of respondents and/or recordkeepers is 3,825.

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 Larry Pounders of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue procedure for matters under the jurisdiction of—

(1) the Associate Chief Counsel (Corporate), contact Ken Cohen or Amie Colwell Breslow at (202) 317-7700 (not a toll-free call),

(2) the Associate Chief Counsel (Financial Institutions and Products), contact Arturo Estrada at (202) 317-4443 (not a toll-free call),

(3) the Associate Chief Counsel (Income Tax and Accounting), contact Brenda Wilson at (202) 317-7002 (not a toll-free call),

(4) the Associate Chief Counsel (Passthroughs and Special Industries), contact Kevin Babitz at (202) 317-3100 (not a toll-free call),

(5) the Associate Chief Counsel (Procedure and Administration), contact Mark Cottrell at (202) 317-3400 (not a toll-free call),

(6) the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), contact Shoshanna Tanner at (202) 317-5500 (not a toll-free call), or

(7) the Associate Chief Counsel (International), contact Jeffrey Vinnik at (202) 317-3800 (not a toll-free call).

For further information regarding user fees, contact the Docket, Records, and User Fee Branch at (202) 317-5221 (not a toll-free call).

For further information regarding determination letters:

SBSE and WI taxpayers should contact the offices listed in Appendix D of this Revenue Procedure;

LB&I taxpayers should contact the Office of Pre-Filing and Technical Services, LB&I;

TEGE taxpayers should refer to Revenue Procedures 2014-4 and 2014-6, this bulletin.

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APPENDIX A

SCHEDULE OF USER FEES

NOTE: Checks or money orders must be in U.S. dollars.

(A) *FEE SCHEDULE*

<i>CATEGORY</i>	<i>USER FEE FOR REQUESTS RE- CEIVED PRIOR TO FEBRUARY 5, 2014</i>	<i>USER FEE FOR REQUESTS RE- CEIVED AFTER FEBRUARY 4, 2014</i>
(1) User fee for a request for a determination letter from a Director. The user fee for each determination letter request governed by Rev. Proc. 2014-1, this revenue procedure.	\$275	\$275
(2) User fee for a request for an advance pricing agreement or a renewal of an advance pricing agreement.		<i>See section 4.12 of Rev. Proc. 2006-9, 2006-1 C.B. 278</i>
(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. 2014-1, this revenue procedure, the user fee for each request for a letter ruling or closing agreement under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) is as follows:		
(a) Accounting periods		
(i) Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , (except as provided in paragraph (A)(4)(a) of this appendix)	\$2,700	\$2,700
(ii) Requests made on Part II of Form 2553, <i>Election by a Small Business Corporation</i> , to use a fiscal year based on a business purpose (except as provided in paragraph (A)(4)(a) of this appendix)	\$2,700	\$2,700
(iii) Letter ruling requests for extensions of time to file Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , Form 8716, <i>Election To Have a Tax Year Other Than a Required Tax Year</i> , or Part II of Form 2553 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) of this appendix)	\$2,700	\$2,000
(b) Changes in Methods of Accounting		
(i) Advance consent Form 3115, <i>Application for Change in Accounting Method</i> (except as provided in paragraph (A)(4)(a) or (b), or (5)(b) of this appendix)	\$7,000	\$7,000
(ii) Letter ruling requests for extensions of time to file Form 3115, <i>Application for Change in Accounting Method</i> , under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b), or (5)(c) of this appendix)	\$8,000	\$9,000

NOTE: No user fee is required if the change in accounting period or method of accounting is permitted to be made pursuant to a published automatic change request procedure. *See* section 9.22 and Appendix E of Rev. Proc. 2014-1, this revenue procedure, for the list of automatic change request procedures published and/or in effect as of December 31, 2013.

CATEGORY	USER FEE FOR REQUESTS RE- CEIVED PRIOR TO FEBRUARY 5, 2014	USER FEE FOR REQUESTS RE- CEIVED AFTER FEBRUARY 4, 2014
(c) (i) Letter ruling request for relief under § 301.9100-3	\$10,000	\$6,900
(ii) All other letter ruling requests (including accounting period and method of accounting requests other than those properly submitted on Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , Part II of Form 2553, <i>Election by a Small Business Corporation</i> , or Form 3115, <i>Application for Change in Accounting Method</i>) (except as provided in paragraph (A)(4)(a) or (b), or (5)(a) of this appendix)	\$18,000	\$19,000
(d) Requests for closing agreements on a proposed transaction or on a completed transaction before a return for the transaction has been filed in which a letter ruling on that transaction is not requested or issued (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$18,000	\$18,000
(e) A request for a Foreign Insurance Excise Tax Waiver Agreement	\$8,000	\$8,000
NOTE: A taxpayer who receives relief under § 301.9100-3 (for example, an extension of time to file Form 3115, <i>Application for Change in Accounting Method</i>) will be charged a separate user fee for the letter ruling request on the underlying issue (for example, the accounting period or method of accounting application).		
(4) Reduced user fee for a request for a letter ruling, method or period change, or closing agreement. A reduced user fee is provided in the following situations if the person provides the certification described in paragraph (B)(1) of this appendix:		
(a) Request involves a personal or business tax issue from a person with gross income (as determined under paragraphs (B)(2), (3) and (4) of this appendix) of less than \$250,000	\$2,000	\$2,000
(b) Request involves a personal or business tax issue from a person with gross income (as determined under paragraphs (B)(2), (3), and (4) of this appendix) of less than \$1 million and \$250,000 or more.	\$4,000	\$5,000
(5) User fee for substantially identical letter ruling requests, identical changes in method of accounting, or plans from issuing authorities under § 25(c)(2)(B). If the requirements of section 15.07 of Rev. Proc. 2014-1, this revenue procedure, are satisfied, the user fee for the following situations is as follows:		
(a) Substantially identical letter rulings requested (other than changes in methods of accounting requested on Form 3115) 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, or for two or more identical trusts or for multiple beneficiaries of a trust or a trust divided into identical subtrusts or for husband and wife making split gifts, for each additional letter ruling request after the \$19,000 fee or reduced fee, as applicable, has been paid for the first letter ruling request	\$1,800	\$1,800
NOTE: Each entity or member that is entitled to the user fee under paragraph (A)(5)(a) of this appendix, that receives relief under § 301.9100-3 (for example, an extension of time to file an election) will be charged a separate user fee for the letter ruling request on the underlying issue.		
NOTE: The fee charged for the first letter ruling is the highest fee applicable to any of the entities.		
(b) Identical change in method of accounting requested on a single Form 3115, <i>Application for Change in Accounting Method</i> , as provided in section 15.07(4). Fee for each additional applicant seeking the identical change in method of accounting on the same Form 3115 after the \$7,000 fee or reduced fee, as applicable, has been paid for the first applicant.	\$150	\$150

<i>CATEGORY</i>	<i>USER FEE FOR REQUESTS RE- CEIVED PRIOR TO FEBRUARY 5, 2014</i>	<i>USER FEE FOR REQUESTS RE- CEIVED AFTER FEBRUARY 4, 2014</i>
(c) Substantially identical plans under § 25(c)(2)(B) Situations where an issuing authority under § 25 submits substantially identical plans for administering the 95-percent requirement of § 143(d)(1) following the submission of an initial plan that was approved. NOTE: The fee charged for the first letter ruling is the highest fee applicable to any of the entities.	\$1,500	\$1,500
(d) Extension of time requested to file Form 3115, <i>Application for Change in Accounting Method</i> , for an identical change in method of accounting as provided in section 15.07(4). or each additional applicant seeking the identical extension of time under § 301.9100-3 to file a single Form 3115 for the identical change in method of accounting after the \$9,000 fee or reduced fee, as applicable, has been paid for the first applicant. NOTE: When an extension of time to file Form 3115, <i>Application for Change in Accounting Method</i> , is granted under § 301.9100-3 for multiple applicants, a separate user fee will be charged for the change in method of accounting application, Form 3115.	\$150	\$150
(6) User fee for information letter requests.	\$0	\$0
(7) User fee for pre-filing agreements	\$50,000	\$50,000
(8) Tax treaty limitation of benefits. See Rev. Proc. 2006-54 for procedures for requesting competent authority assistance under tax treaties.	\$27,500	\$27,500
(9) Statement of Value. See Rev. Proc. 96-15 for procedures for requesting a statement of value.		
(a) Effective February 1, 2014:		
(i) User fee for a case with 1-3 items	\$5,400	\$5,400
(ii) Cost per each additional item beyond 3	\$270	\$270

(1) Required certification. A person seeking a reduced user fee under paragraph (A)(4) of this appendix must provide the following certification in order to obtain the reduced user fee:

(a) If a person is seeking a reduced user fee under paragraph (A)(4)(a) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2) and (4) of this appendix, is less than \$250,000 as reported on their last federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed.

(b) If a person is seeking a reduced user fee under paragraph (A)(4)(b) of this appendix, the person must certify in the request that his, her, or its gross income, as defined under paragraphs (B)(2), (3), and (4) of this appendix, is less than \$1 million and more than \$250,000 for the last full (12 months) taxable year ending before the date the request is filed.

The certification must be attached as part of the ruling request.

(2) Gross income for a request involving a personal tax issue. For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this appendix of—

(a) In the Case of **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 2010 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)(a), is less than \$250,000 (or less than \$1,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(b) Nonresident alien individuals, foreign trusts, and foreign estates, "gross income" is equal to "total effectively connected income" as reported on their last Federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any income for the period from United States or foreign sources that is not taxable by the United States, whether by reason of § 103, an income tax treaty, § 871(h) (regarding portfolio interest), or otherwise, plus the total amount of any fixed or determinable annual or periodical income from United States sources, the United States tax liability for which is satisfied by withholding at the source. "Total effectively connected income" is a line item on Federal tax returns. For example, if the 2010 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)(a) of this appendix will apply if the decedent's or (in the case of an individual grantor) the grantor's total income or total effectively connected income, as reported on the last Federal income tax return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income or total effectively connected income described respectively in paragraph (B)(2)(a) of this appendix or in this paragraph (B)(2)(b), is less than \$250,000 (or less than \$1,000,000 for the paragraph (A)(4)(b) fee to apply). In this case, the executor or administrator of the decedent's estate or the grantor must provide the certification required under paragraph (B)(1) of this appendix.

(3) Gross income for a request involving a business-related tax issue. For purposes of the reduced user fees provided in paragraphs (A)(4)(a) and (b) of this appendix of—

(a) U.S. citizens and resident alien individuals, domestic trusts, and domestic estates, "gross income" is equal to gross income as defined under paragraph (B)(2)(a) of this appendix, plus "cost of goods sold" as reported on the same Federal income tax return.

(b) Nonresident alien individuals, foreign trusts, and foreign estates, "gross income" is equal to gross income as defined under paragraph (B)(2)(b) of this appendix, plus "cost of goods sold" as reported on the same Federal income tax return.

(c) Domestic partnerships and corporations (foreign and domestic), "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. Domestic partnerships should also include "gross rents" reported on Form 8825 at line 2, as well as the income amounts reported on Schedule K Form 1065 at lines 3a, 5, 6a, 7, 8, 9a, 10, and 11 from the same Federal income tax return described in the preceding sentence to calculate "gross income" for the purpose of applying the reduced user fee in paragraph (A)(4) of this Appendix. If a domestic partnership is not required to file or a 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 was required to file or the corporation was subject to tax.

"Cost of goods sold" and "total income" are line items on Federal tax returns. For example, if the 2010 Form 1065, *U.S. Return of Partnership 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 2010 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.

If, at the time the request is filed, a domestic partnership or corporation subject to tax has not filed a Federal tax return for a full taxable year, the reduced user fee in paragraph (A)(4)(a) or (b) of this appendix will apply if, in the aggregate, the partners' or the shareholders' gross income (as defined in paragraph (B)(3)(a), (b), (c), or (d) of this appendix, as applicable) is less than \$250,000 for purposes of paragraph (A)(4)(a) or \$1 million for purposes of paragraph (A)(4)(b) for the last full (12 months) taxable year ending before the date the request is filed. In this case, the partners or the shareholders must provide the certification required under paragraph (B)(1) of this appendix.

(d) Organizations exempt from income tax under “Subchapter F-Exempt Organizations” of the Code, “gross income” is equal to the amount of gross receipts for the last full (12 months) taxable year ending before the date the request for a letter ruling or closing agreement is filed.

(e) Gross income of state, local, and Indian tribal government entities, “gross income” is equal to the annual operating revenue of the government requesting the ruling for its last fiscal year ending before the date of the ruling request. The annual operating revenue is to be determined at the government level and not at the level of the government entity or agency making the request.

(4) Special rules for determining gross income. For purposes of paragraphs (B)(2) and (3) of this appendix, the following rules apply for determining gross income.

(a) Gross income of individuals, trusts, and estates.

(1) In the case of a request from a married individual, the gross incomes (as defined in paragraph (B)(2) or (3) of this appendix, as applicable) of the applicant and the applicant’s spouse must be combined. This rule does not apply to an individual: (1) who is legally separated from his or her spouse and (2) who did not file a joint income tax return; and

(2) If there are two or more applicants filing the request, the gross incomes (as defined in paragraph (B)(2) or (3) of this appendix, as applicable) of the applicants must be combined.

(b) Gross income of domestic partnerships and corporations.

(1) In the case of a request from a domestic corporation, the gross income (as defined in paragraph (B)(3) of this appendix) of (i) all members of the applicant’s controlled group (as defined in § 1563(a)), and (ii) any taxpayer who is involved in the transaction on which the letter ruling or closing agreement is requested, must be combined; and

(2) In the case of a request from a domestic partnership, the gross income (as defined in paragraph (B)(3) of this appendix) of (i) the partnership, and (ii) any partner who owns, directly or indirectly, 50 percent or more of the capital interest or profits interest in the partnership, must be combined.

(c) Gross income of exempt organizations. If there are two or more organizations exempt from income tax under Subchapter F filing the request, the gross receipts (as defined in paragraph (B)(3)(d) of this appendix) of the applicants must be combined.

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

Insert either: Associate Chief Counsel (Insert one of the following: Corporate, Financial Institutions and Products, Income Tax and Accounting, International, Passthroughs and Special Industries, or Procedure and Administration) *or* Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)

Attn: CC:PA:LPD:DRU

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 expedited handling, a statement to that effect must be attached to, or contained in, the letter ruling request. The statement must explain the need for expedited handling. *See* section 7.02(4) of Rev. Proc. 2014-1, this revenue procedure. Hereafter, all references are to Rev. Proc. 2014-1 unless otherwise noted.]

A. STATEMENT OF FACTS

1. Taxpayer Information

[Provide the statements required by sections 7.01(1)(a) and (b).]

2. Description of Taxpayer's Business Operations

[Provide the statement required by section 7.01(1)(c).]

3. Facts Relating to Transaction

[The ruling request must contain a complete statement of the facts relating to the transaction that is the subject of the letter ruling request. This statement must include a detailed description of the transaction, including material facts in any accompanying documents, and the business reasons for the transaction. *See* sections 7.01(1)(d), 7.01(1)(e), and 7.01(2).]

B. RULING REQUESTED

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

C. STATEMENT OF LAW

[The ruling request must contain a statement of the law in support of the taxpayer's views or conclusion and identify any pending legislation that may affect the proposed transaction. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(6), 7.01(8), 7.01(9), and 7.01(10).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. The taxpayer also is strongly encouraged to identify and discuss any authorities believed to be contrary to the position advanced in the ruling request. *See* sections 7.01(3), 7.01(6), 7.01(8), 7.01(9), and 7.01(10).]

E. CONCLUSION

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

F. PROCEDURAL MATTERS

1. Revenue Procedure 2014–1 Statements

- a. [Provide the statement required by section 7.01(4) regarding whether any return of the taxpayer, 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 which would be affected by the requested letter ruling or determination letter, is currently under examination, before Appeals, or before a Federal court, or was previously under examination, before Appeals, or before a Federal court.]
- b. [Provide the statement required by section 7.01(5)(a) regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor. Please further note that if a reduced user fee is being submitted, a certification of eligibility for the reduced fee must be included with the ruling request.]
- c. [Provide the statement required by section 7.01(5)(b) regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before a letter ruling or determination letter was issued.]
- d. [Provide the statement required by section 7.01(5)(c) regarding whether the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in method of accounting) involving the same or a similar issue that is currently pending with the Service.]
- e. [Provide the statement required by section 7.01(5)(d) regarding whether, at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service.]
- f. [If the letter ruling request involves the interpretation of a substantive provision of an income or estate tax treaty, provide the statement required by section 7.01(6) regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction.]
- g. [Provide the statement required by section 7.01(8) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
- h. [If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included. *See* section 7.01(9).]
- i. [If the taxpayer wants to have a conference on the issues involved in the letter ruling request, the ruling request should contain a statement to that effect. *See* section 7.02(6).]
- j. [If the taxpayer is requesting a copy of any document related to the letter ruling request to be sent by facsimile (fax) transmission, the ruling request should contain a statement to that effect. *See* section 7.02(5).]
- k. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. *See* section 7.02(1).]
- l. [If the taxpayer is seeking to obtain the user fee provided in paragraph (A)(5)(a) of Appendix A for substantially identical letter rulings, the letter ruling request must contain the statements required by section 15.07.]

2. Administrative

- a. [The ruling request should state: "The deletion statement and checklist required by Rev. Proc. 2014-1 are enclosed." See sections 7.01(11) and 7.01(18).]
- b. [The ruling request should state: "The required user fee of \$ (*Insert the amount of the fee*) is enclosed." Please note that the check or money order must be in U.S. dollars and made payable to the Internal Revenue Service. 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 7.01(13), 7.01(14), and 7.02(2).]

Sincerely yours,

(Insert the name of the taxpayer or the taxpayer's authorized representative)

By:

Signature Date

Typed or printed name of
person signing request

DECLARATION: [*See* section 7.01(15).]

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

(Insert the name of the taxpayer)

By:

Signature

Title

Date

(must be signed by taxpayer, not by taxpayer's representative, see section 7.01(15)(b) of this revenue procedure)

Typed or printed name of
person signing declaration

[If the taxpayer is a corporation that is a member of an affiliated group filing consolidated returns, the above declaration must also be signed and dated by an officer of the common parent of the group. See section 7.01(15).]

**APPENDIX C
CHECKLIST**

IS YOUR LETTER RULING REQUEST COMPLETE?

INSTRUCTIONS

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

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

TAXPAYER'S NAME

TAXPAYER'S I.D. NO.

ATTORNEY/P.O.A.

PRIMARY CODE SECTION

CIRCLE ONE

ITEM

Yes No 1. Does your request involve an issue under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)? *See* section 3 of Rev. Proc. 2014-1, this revenue procedure. For issues under the jurisdiction of other offices, *see* section 4 of Rev. Proc. 2014-1. (Hereafter, all references are to Rev. Proc. 2014-1 unless otherwise noted.)

Yes No 2. Have you read Rev. Proc. 2014-3, 2014-1 and Rev. Proc. 2014-7, 2014-1, this bulletin, to see if part or all of the request involves a matter on which letter rulings are not issued or are ordinarily not issued?

Yes No N/A 3. If your request involves a matter on which letter rulings are not ordinarily issued, have you given compelling reasons to justify the issuance of a letter ruling? Before preparing your request, you may want to call the branch in the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs and Special Industries), the Office of Associate Chief Counsel (Procedure and Administration), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) responsible for substantive interpretations of the principal Internal Revenue Code section on which you are seeking a letter ruling to discuss the likelihood of an exception. For matters under the jurisdiction of—

(a) the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), the Office of the Associate Chief Counsel (Procedure and Administration), the appropriate branch to call may be obtained by calling (202) 317-5221 (not a toll-free call);

(b) the Office of the Associate Chief Counsel (International), the appropriate branch to call may be obtained by calling (202) 317-6888 (not a toll-free call).

Yes No N/A 4. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? *See* section 5.01.
Page__

Yes No 5. Are you requesting the letter ruling on a hypothetical situation or question? *See* section 6.12.

- Yes No 6. Are you requesting the letter ruling on alternative plans of a proposed transaction? *See* section 6.12.
- Yes No 7. Are you requesting the letter ruling for only part of an integrated transaction?
- Yes No
Page 8. Are you requesting a letter ruling under the jurisdiction of Associate Chief Counsel (Corporate) on a significant issue (within the meaning of section 3.01 (45) of Rev. Proc. 2014-3, this Bulletin) with respect to a transaction described in § 332, 351, 355, or 1036 or a reorganization within the meaning of § 368? *See* section 6.03.
- Yes No 9. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? *See* section 6.05.
- Yes No 10. Are you requesting the letter ruling for a foreign government or its political subdivision? *See* section 6.07.
- Yes No
Page 11. Have you included a complete statement of all the facts relevant to the transaction? *See* section 7.01(1).
- Yes No N/A 12. Have you submitted with the request true copies of all wills, deeds, and other documents relevant to the transaction, and labeled and attached them in alphabetical sequence? *See* section 7.01(2).
- Yes No N/A 13. Have you submitted with the request a copy of all applicable foreign laws, and certified English translations of documents that are in a language other than English or of foreign laws in cases where English is not the official language of the foreign country involved? *See* section 7.01(2).
- Yes No 14. Have you included an analysis of facts and their bearing on the issues? Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? *See* section 7.01(3).
- Yes No
Page 15. Have you included the required statement regarding whether any return of the taxpayer (or any return 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) who would be affected by the requested letter ruling or determination letter is currently or was previously under examination, before Appeals, or before a Federal court? *See* section 7.01(4).
- Yes No
Page 16. 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 7.01(5)(a).
- Yes No
Page 17. 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 method of accounting) involving the same or similar issue but withdrew the request before the letter ruling or determination letter was issued? *See* section 7.01(5)(b).
- Yes No
Page 18. 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 method of accounting) involving the same or similar issue that is currently pending with the Service? *See* section 7.01(5)(c).
- Yes No
Page 19. 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 method of accounting) involving the same or similar issue to the Service? *See* section 7.01(5)(d).
- Yes No
Page 20. If your request involves the interpretation of a substantive provision of an income or estate tax treaty, have you included the required statement regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction? *See* section 7.01(6).
- Yes No
Page 21. If your request is for recognition of Indian tribal government status or status as a political subdivision of an Indian tribal government, does your request contain a letter from the Bureau of Indian Affairs regarding the tribe's status? *See* section 7.01(7), which states that taxpayers are encouraged to submit this letter with the request and provides the address for the Bureau of Indian Affairs.
- Yes No
Page 22. Have you included the required statement of relevant authorities in support of your views? *See* section 7.01(8).

- Yes No
Page__ 23. Have you included the required statement regarding whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities? *See* section 7.01(8).
- Yes No
Pages__ 24. Does your request discuss the implications of any legislation, tax treaties, court decisions, regulations, notices, revenue rulings, or revenue procedures that you determined to be contrary to the position advanced? *See* section 7.01(9), which states that taxpayers are encouraged to inform the Service of such authorities.
- Yes No N/A
Page__ 25. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? *See* section 7.01(9).
- Yes No N/A
Page__ 26. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? *See* section 7.01(10).
- Yes No
27. Have you included the deletion statement required by § 6110 and placed it on the top of the letter ruling request as required by section 7.01(11)(b).
- Yes No
Page__ 28. Have you (or your authorized representative) signed and dated the request? *See* section 7.01(12).
- Yes No N/A
29. If the request is signed by your representative or if your representative will appear before the Service in connection with the request, is the request accompanied by a properly prepared and signed power of attorney with the signatory's name typed or printed? *See* section 7.01(14).
- Yes No
Page__ 30. Have you signed, dated, and included the penalties of perjury statement in the format required by section 7.01(15)?
- Yes No N/A
31. Are you submitting your request in duplicate if necessary? *See* section 7.01(16).
- Yes No N/A
Page__ 32. If you are requesting separate letter rulings on different issues involving one factual situation, have you included a statement to that effect in each request? *See* section 7.02(1).
- Yes No N/A
33. If you want copies of the letter ruling sent to a representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).
- Yes No N/A
34. If you do not want a copy of the letter ruling to be sent to any representative, does the power of attorney contain a statement to that effect? *See* section 7.02(2).
- Yes No N/A
35. If you are making a two-part letter ruling request, have you included a summary statement of the facts you believe to be controlling? *See* section 7.02(3).
- Yes No N/A
Page__ 36. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the manner required by section 7.02(4) and stated a compelling need for such action in the request? *See* section 7.02(4) of this revenue procedure.
- Yes No N/A
Page__ 37. If you are requesting a copy of any document related to the letter ruling request to be sent by facsimile (fax) transmission, have you included a statement to that effect? *See* section 7.02(5).
- Yes No N/A
Page__ 38. If you want to have a conference on the issues involved in the request, have you included a request for conference in the letter ruling request? *See* section 7.02(6).
- Yes No
39. Have you included the correct user fee with the request and is your check or money order in U.S. dollars and payable to the Internal Revenue Service? *See* section 15 and Appendix A to determine the correct amount.
- Yes No N/A
Page__ 40. If your request involves a personal or business-related tax issue and you qualify for the reduced user fee because your gross income is less than \$250,000, have you included the required certification? *See* paragraphs (A)(4)(a) and (B)(1) of Appendix A.
- Yes No N/A
Page__ 41. If your request involves a personal or business-related tax issue and you qualify for the reduced user fee because your gross income is less than \$1 million, have you included the required certification? *See* paragraphs (A)(4)(b) and (B)(1) of Appendix A.
- Yes No N/A
Page__ 42. 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 ___ 43. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical change in method of accounting on a single Form 3115, *Application for Change in Accounting Method*, have you included the required information? See section 15.07(4) and paragraph (A)(5)(d) of Appendix A.
- Yes No N/A
44. If your request is covered by any of the checklists, guideline revenue procedures, notices, safe harbor revenue procedures, or other special requirements listed in Appendix E, 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 or Internal Revenue Bulletin citation not required).

- Yes No N/A
Page ___ 45. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 11.11?
- Yes No N/A
Page ___ 46. If you are requesting relief under § 301.9100 for a late entity classification election, have you included a statement that complies with section 4.04 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439? See section 5.03(5) of this revenue procedure.
- Yes No N/A
Page ___ 47. If you are requesting relief under § 301.9100, and your request involves a year that is currently under examination or with appeals, have you included the required notification, which also provides the name and telephone number of the examining agent or appeals officer? See section 7.01(4) of this revenue procedure.
- Yes No
48. Have you addressed your request to the attention of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), as appropriate? The mailing address is:

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

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

**Internal Revenue Service
Attn: CC:PA:LPD:DRU, Room 5336
1111 Constitution Ave., NW
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:PA:LPD:DRU for initial processing.

Signature

Title or Authority

Date

Typed or printed name of
person signing checklist

APPENDIX D

LIST OF SMALL BUSINESS/SELF-EMPLOYED OPERATING DIVISION (SB/SE) OFFICES TO WHICH TO SEND REQUESTS FOR DETERMINATION LETTERS

SB/SE and W&I taxpayers should send requests for determination letters under this Rev. Proc. 2014-1 to the appropriate SB/SE office listed below. Both the request and its envelope should be marked "DETERMINATION LETTER REQUEST."

INCOME TAX

Requests for determination letters regarding income tax (including requests from international taxpayers) should be sent to:

**Office of the Director, Technical Services
Internal Revenue Service
Attn: SE:S:E:TS
Mail Stop 5000
24000 Avila Road
Laguna Niguel, CA 92677**

ESTATE AND GIFT TAXES

Requests for determination letters regarding estate and gift tax should be sent to:

**Estate & Gift Tax
Internal Revenue Service
SE:S:SP:E&G
6340 Variel
Woodland Hills, CA 91367**

EMPLOYMENT TAXES

Requests for determination letters regarding employment tax (except for requests for determination of worker status, which should be sent to the appropriate office listed in the instructions to Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*) should be sent to:

**Chief, Employment Tax Operations
Internal Revenue Service
Attn: SE:S:SP:ET
5000 Ellin Road
Room C9-202
Lanham, MD 20706**

EXCISE TAXES

Requests for determination letters regarding excise taxes should be sent to:

**Chief, Excise Tax Operations
Internal Revenue Service
Attn: SE:S:SP:EX
80 Daniel Street
PO Box 9502
Portsmouth, NH 03802**

APPENDIX E

CHECKLISTS, GUIDELINE REVENUE PROCEDURES, NOTICES, SAFE HARBOR REVENUE PROCEDURES, AND AUTOMATIC CHANGE REVENUE PROCEDURES

Specific revenue procedures and notices supplement the general instructions for requests explained in section 7 of this revenue procedure and apply to requests for letter rulings or determination letters regarding the Code sections and matters listed in this section.

Checklists, guideline revenue procedures, and notices

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

CODE OR REGULATION SECTION

REVENUE PROCEDURE AND NOTICE

103, 141 – 150, 1394, 1400L(d), 1400N(a), 1400U-1, 1400U-3, 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 request for 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, Adjustments, Transfers, and Reorganizations

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. 2013-3, 2013-1 I.R.B. 113), Rev. Proc. 84-42, 1984-1 C.B. 521 (superseded, in part, as to no-rule areas by Rev. Proc. 2013-3, 2013-1 I.R.B. 113), Rev. Proc. 86-42, 1986-2 C.B. 722, and Rev. Proc. 89-50, 1989-2 C.B. 631. *But see* section 3.01 of Rev. Proc. 2014-3, which states that the Service will not issue a letter ruling as to whether a transaction constitutes a reorganization within the meaning of § 368. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2014-3) presented in a reorganization within the meaning of § 368. The information and representations described in these revenue procedures should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. *See* section 6.03(4).

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.

311
Checklist questionnaire

Rev. Proc. 86-16, 1986-1 C.B. 546.

332
Checklist questionnaire

See section 3.01 of Rev. Proc. 2014-3, this Bulletin, which states that the Service will not issue a letter ruling on whether a corporate distribution qualifies for nonrecognition treatment under section 332. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2014-3) presented in a transaction described in § 332.

	The information and representations described in Rev. Proc. 90-52, 1990-2 C.B. 626, should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. <i>See</i> section 6.03(4).
338 Extension of time to make elections	Rev. Proc. 2003-33, 2003-1 C.B. 803, provides guidance as to how an automatic extension of time under § 301.9100-3 of the Treasury Regulations may be obtained to file elections under § 338. This revenue procedure also informs taxpayers who do not qualify for the automatic extension of the information necessary to obtain a letter ruling.
351 Checklist questionnaire	<i>See</i> section 3.01 of Rev. Proc. 2014-3, this Bulletin, which states that the Service will not issue a letter ruling on whether certain transfers to controlled corporations qualify for nonrecognition treatment under § 351. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2014-3) presented in a transaction described in § 351. The information and representations described in Rev. Proc. 83-59, 1983-2 C.B. 575, should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. <i>See</i> section 6.03(4).
355 Checklist questionnaire	<i>See</i> section 3.01 of Rev. Proc. 2014-3, this Bulletin, which states that the Service will not issue a letter ruling on whether certain distributions of controlled corporation stock qualify for nonrecognition treatment under § 355. However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2014-3) presented in a transaction described in § 355. The information and representations described in Rev. Proc. 96-30, 1996-1 C.B. 696, should be included in a letter ruling request only to the extent that they relate to the significant issues with respect to which the letter ruling is requested. <i>See</i> section 6.03(4).
368(a)(1)(E) Checklist questionnaire	<i>See</i> section 3.01 of Rev. Proc. 2014-3, this Bulletin, which states that the Service will not issue a letter ruling as to whether a transaction constitutes a reorganization, including a recapitalization within the meaning of § 368(a)(1)(E) (or a transaction that qualifies under § 1036). However, the Service will issue a letter ruling addressing significant issues (within the meaning of section 3.01 of Rev. Proc. 2014-3) presented in a transaction described in § 368(a)(1)(E) (or in a transaction described in § 1036). The information and representations described in Rev. Proc. 81-60, 1981-2 C.B. 680, should be included in a letter ruling request only to the extent that they relate to the significant issues. <i>See</i> section 6.03(4).
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. 2006-9, 2006-1 C.B. 278, as amplified by Rev. Proc. 2006-54, 2006-2 C.B. 1035, and modified by Rev. Proc. 2008-31, 2008-1 C.B. 1133.
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.
817(h) Closing agreement for inadvertent failures of variable contracts	Rev. Proc. 2008-41, 2008-2 C.B. 155.

860 Self Determination of Deficiency Dividend	Rev. Proc. 2009–28, 2009–20 I.R.B. 1011.
877, 2107, and 2501(a)(3) Individuals who lose U.S. citizenship or cease to be taxed as long-term U.S. residents with a principal purpose to avoid U.S. taxes	Notice 97–19, 1997–1 C.B. 394, as modified by Notice 98–34, 1998–2 C.B. 29, and as obsoleted in part by Notice 2005–36, 2005–1 C.B. 1007.
1362(b)(5) and 1362(f) Relief for late S corporation and related elections under certain circumstances	Rev. Proc. 2013–30, 2013–36 I.R.B. 173.
1362(b)(5) and 301.7701–3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013–30, 2013–36 I.R.B. 173.
1.1502–13(e)(3) Consent to treat intercompany transactions on a separate entity basis and revocation of this consent	Rev. Proc. 2009–31, 2009–27 I.R.B. 107.
1.1502–76(a)(1) Consent to file a consolidated return where member(s) of the affiliated group use a 52–53 week taxable year	Rev. Proc. 89–56, 1989–2 C.B. 643, as modified by Rev. Proc. 2006–21, 2006–1 C.B. 1050.
1504(a)(3)(A) and (B) Waiver of application of § 1504(a)(3)(A) for certain corporations	Rev. Proc. 2002–32, 2002–1 C.B. 959, as modified by Rev. Proc. 2006–21, 2006–1 C.B. 1050.
1552 Consent to elect or change method of allocating affiliated group's consolidated federal income tax liability	Rev. Proc. 90–39, 1990–2 C.B. 365, as clarified by Rev. Proc. 90–39A, 1990–2 C.B. 367, and as modified by Rev. Proc. 2006–21, 2006–1 C.B. 1050.
2642 Allocations of generation-skipping transfer tax exemption	Rev. Proc. 2004–46, 2004–2 C.B. 142, provides an alternative method for requesting relief to make a late allocation of the generation-skipping transfer tax exemption. This revenue procedure also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary for obtaining a letter ruling.

2652(a)(3) Reverse qualified terminable interest property elections	Rev. Proc. 2004-47, 2004-2, C.B. 169, provides an alternative method for certain taxpayers to obtain an extension of time to make a late reverse qualified terminable interest property election under § 2652(a)(3). This revenue procedure also informs taxpayers who are denied relief or who are outside the scope of the revenue procedure of the information necessary to obtain a letter ruling.
4980B Failure to satisfy continuation coverage requirements of group health plans	Rev. Proc. 87-28, 1987-1 C.B. 770 (treating references to former § 162(k) as if they were references to § 4980B).
7701 Relief for a late initial classification election for a newly formed entity	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.
7701(a)(40) and 7871(d) Indian tribal governments and subdivision of Indian tribal governments	Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, and Rev. Proc. 2014-1, this revenue procedure, (provides guidelines for obtaining letter rulings recognizing Indian tribal government or tribal government subdivision status; also provides for inclusion in list of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, or in list of recognized subdivisions of Indian tribal governments in revised versions of Rev. Proc. 84-36, 1984-1 C.B. 510, as modified and made permanent by Rev. Proc. 86-17).
301.7701-2(a) Classification of undivided fractional interests in rental real estate	Rev. Proc. 2002-22, 2002-1 C.B. 733 (specifies the conditions under which the Service will consider a letter ruling request that an undivided fractional interest in rental real property (other than a mineral property as defined in § 614) is not an interest in a business entity).
301.7701-3 Automatic extensions of time for late S corporation election and late corporate entity classification	Rev. Proc. 2013-30, 2013-36 I.R.B. 173.
301.9100-3 Extension of time to make entity classification election	Rev. Proc. 2009-41, 2009-39 I.R.B. 439.
7702 Closing agreement for failure to account for charges for qualified additional benefits	Rev. Proc. 2010-26, 2010-30 I.R.B. 91.
7702 Closing agreement for failed life insurance contracts	Rev. Proc. 2008-40, 2008-2 C.B. 151.
7702A Closing agreement for inadvertent non-egregious failure to comply with modified endowment contract rules	Rev. Proc. 2008-39, 2008-2 C.B. 143.
7704(g) Revocation of election	Notice 98-3, 1998-1 C.B. 333.

SUBJECT MATTERS

REVENUE PROCEDURE

Accounting periods; changes in period	Rev. Proc. 2002–39, 2002–1 C.B. 1046, as clarified and modified by Notice 2002–72, 2002–2 C.B. 843, as modified by Rev. Proc. 2003–34, 2003–1 C.B. 856, and modified by Rev. Proc. 2003–79, 2003–2 C.B. 1036; and Rev. Proc. 2014–1, this revenue procedure, for which sections 1, 2.01, 2.02, 2.05, 3.03, 5.02, 6.03, 6.05, 6.07, 6.11, 7.01(1), 7.01(2), 7.01(3), 7.01(4), 7.01(5), 7.01(6), 7.01(8), 7.01(9), 7.01(10), 7.01(13), 7.01(14), 7.01(15), 7.02(2), 7.02(4), 7.02(5), 7.02(6), 7.03, 7.04, 7.05, 7.07, 8.01, 8.03, 8.04, 8.05, 8.06, 10, 11, 15, 17, 18, Appendix A, and Appendix E 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; Rev. Proc. 2014–1, this revenue procedure, sections 2.05, 3.03, 7, 8, and 10.05; and Rev. Proc. 2014–3, this Bulletin, section 3.01.
Estate, gift, and generation-skipping transfer tax issues	Rev. Proc. 91–14, 1991–1 C.B. 482 (checklist questionnaire).
Intercompany transactions; election not to defer gain or loss	Rev. Proc. 2009–31, 2009–27 I.R.B. 107.
Leveraged leasing	Rev. Proc. 2001–28, 2001–1 C.B. 1156, and Rev. Proc. 2001–29, 2001–1 C.B. 1160.
Rate orders; regulatory agency; normalization	<p>A letter ruling request that involves a question of whether a rate order that is proposed or issued by a regulatory agency will meet the normalization requirements of § 168(f)(2) (pre-Tax Reform Act of 1986, § 168(e)(3)) and former §§ 46(f) and 167(l) ordinarily will not be considered unless the taxpayer states in the letter ruling request whether—</p> <p>(1) the regulatory authority responsible for establishing or approving the taxpayer's rates has reviewed the request and believes that the request is adequate and complete; and</p> <p>(2) the taxpayer will permit the regulatory authority to participate in any Associate office conference concerning the request.</p> <p>If the taxpayer or the regulatory authority informs a consumer advocate of the request for a letter ruling and the advocate wishes to communicate with the Service regarding the request, any such communication should be sent to: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:DRU, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (or, if a private delivery service is used: Internal Revenue Service, Associate Chief Counsel (Procedure and Administration), Attn: CC:PA:LPD:DRU, Room 5336, 1111 Constitution Ave., NW, Washington, DC 20224). These communications will be treated as third party contacts for purposes of § 6110.</p>
Unfunded deferred compensation	Rev. Proc. 71–19, 1971–1 C.B. 698, as amplified by Rev. Proc. 92–65, 1992–2 C.B. 428. <i>See</i> Rev. Proc. 92–64, 1992–2 C.B. 422, as modified by Notice 2000–56, 2000–2 C.B. 393, for the model trust for use in Rabbi Trust Arrangements.
Safe harbor revenue procedures	.02 For requests relating to the following Code sections and subject matters, refer to the following safe harbor revenue procedures.

*CODE OR
REGULATION
SECTION*

REVENUE PROCEDURE

23 and 36C Adoption credit for foreign adoptions	Rev. Proc. 2010–31, 2010–40 I.R.B. 413.
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103 and 141–150 Issuance of state or local obligations	Rev. Proc. 93–17, 1993–1 C.B. 507 (change of use of proceeds); Rev. Proc. 97–13, 1997–1 C.B. 632, as modified by Rev. Proc. 2001–39, 2001–2 C.B. 38 (management contracts); and Rev. Proc. 2007–47, 2007–2 C.B. 108 (research agreements).
61 Utility Cost Recovery Securitization Transactions	Rev. Proc. 2005–62, 2005–2 C.B. 507.
137 Exclusion for Employer Reimbursements	Rev. Proc. 2010–31, 2010–40 I.R.B. 413.
162 Restaurant Small Wares Costs	Rev. Proc. 2002–12, 2002–1 C.B. 374.
165 Losses from corrosive drywall	Rev. Proc. 2010–36, 2010–42 I.R.B. 439.
165 Theft losses from fraudulent investment arrangements	Rev. Proc. 2009–20, 2009–14 I.R.B. 749; Rev. Proc. 2011–58, 2011–50 I.R.B. 849 (modifies Rev. Proc. 2009–20).
168 Depreciation of original and replacement tires for certain vehicles	Rev. Proc. 2002–27, 2002–1 C.B. 802.
168 Depreciation of fiber optic node and trunk line of a cable television distribution system	Rev. Proc. 2003–63, 2003–2 C.B. 304.
168 Recovery periods of certain tangible assets used by wireless telecommunication carriers	Rev. Proc. 2011–22, 2011–18 I.R.B. 737
263 Determination whether expenditures to maintain, replace or improve wireline network assets must be capitalized	Rev. Proc. 2011–27, 2011–18 I.R.B. 740.
263 Determination whether expenditures to maintain, replace or improve wireless network assets must be capitalized	Rev. Proc. 2011–28, 2011–18 I.R.B. 743.

263 Allocating success-based fees paid in business acquisitions or reorganizations	Rev. Proc. 2011–29, 2011–18 I.R.B. 746.
263 Electric trade and distribution property assets	Rev. Proc. 2011–43, 2011–37 I.R.B. 326.
263A Safe harbor methods for certain motor vehicle dealerships	Rev. Proc. 2010–44, 2010–49 I.R.B. 811.
280A Safe harbor method to determine the amount of deductible expenses attributable to certain business use of a residence	Rev. Proc. 2013–13, 2013–6 I.R.B. 478.
280B Certain structural modifications to a building not treated as a demolition	Rev. Proc. 95–27, 1995–1 C.B. 704.
446 Film producer's treatment of certain creative property costs	Rev. Proc. 2004–36, 2004–1 C.B. 1063.
446 Bank's treatment of uncollected interest	Rev. Proc. 2007–33, 2007–1 C.B. 1289.
448 Nonaccrual-experience method - book safe harbor method	Rev. Proc. 2011–46, 2011–42 I.R.B. 518.
451 Treatment of gift cards issued to customers in exchange for returned merchandise	Rev. Proc. 2011–17, 2011–5 I.R.B. 441.
451 Safe harbor for certain minors' trusts established under the Indian Gaming Regulatory Act (U.S.C. §§ 2701–2721)	Rev. Proc. 2011–56, 2011–49 I.R.B. 834.
471 Estimating inventory shrinkage	Rev. Proc. 98–29, 1998–1 C.B. 857.

471 Valuation of automobile dealer vehicle parts inventory	Rev. Proc. 2002-17, 2002-1 C.B. 676.
471 Valuation of remanufactured cores	Rev. Proc. 2003-20, 2003-1 C.B. 445.
471 Valuation of heavy equipment dealer parts inventory	Rev. Proc. 2006-14, 2006-1 C.B. 350.
471 Rolling-average method of accounting for inventories	Rev. Proc. 2008-43, 2008-2 C.B. 186.
475 Eligible positions	Rev. Proc. 2007-41, 2007-1 C.B. 1492.
584(a) Qualification of a proposed common trust fund plan	Rev. Proc. 92-51, 1992-1 C.B. 988.
642(c)(5) Qualification of trusts as pooled income funds	Rev. Proc. 88-53, 1988-2 C.B. 712.
664 Charitable remainder trusts	Rev. Proc. 2005-24, 2005-1 C.B. 909, as modified by Notice 2006-15, 2006-1 C.B. 501.
664(d)(1) Qualification of trusts as charitable remainder annuity trusts	Rev. Proc. 2003-53, 2003-2 C.B. 230; Rev. Proc. 2003-54, 2003-2 C.B. 236; Rev. Proc. 2003-55, 2003-2 C.B. 242; Rev. Proc. 2003-56, 2003-2 C.B. 249; Rev. Proc. 2003-57, 2003-2 C.B. 257; Rev. Proc. 2003-58, 2003-2 C.B. 262; Rev. Proc. 2003-59, 2003-2 C.B. 268; Rev. Proc. 2003-60, 2003-2 C.B. 274.
664(d)(2) and (3) Qualification of trusts as charitable remainder unitrusts	Rev. Proc. 2005-52, 2005-2 C.B. 326; Rev. Proc. 2005-53, 2005-2 C.B. 339; Rev. Proc. 2005-54, 2005-2 C.B. 353; Rev. Proc. 2005-55, 2005-2 C.B. 367; Rev. Proc. 2005-56, 2005-2 C.B. 383; Rev. Proc. 2005-57, 2005-2 C.B. 392; Rev. Proc. 2005-58, 2005-2 C.B. 402; Rev. Proc. 2005-59, 2005-2 C.B. 412.
832 Insurance company premium acquisition expenses	Rev. Proc. 2002-46, 2002-2 C.B. 105.
856(c) Certain loans treated as real estate assets	Rev. Proc. 2003-65, 2003-2 C.B. 336.
860H Transfers of ownership interests in Financial Asset Securitization Investment Trusts	Rev. Proc. 2001-12, 2001-1 C.B. 335.

1031(a) Qualification as a qualified exchange accommodation arrangement	Rev. Proc. 2000–37, 2000–2 C.B. 308, as modified by Rev. Proc. 2004–51, 2004–2 C.B. 294.
1031 Safe harbor with respect to exchanges of residential real property	Rev. Proc. 2008–16, 2008–1 C.B. 547.
1031 Safe harbor for reporting gain or loss on failed exchanges	Rev. Proc. 2010–14, 2010–12 I.R.B. 456.
1272(a)(6) Proportional method of accounting for original issue discount on pools of credit card receivables	Rev. Proc. 2013–26, 2013–22 I.R.B. 1160.
1286 Determination of reasonable compensation under mortgage servicing contracts	Rev. Proc. 91–50, 1991–2 C.B. 778.
1362(f) Automatic inadvertent termination relief to certain corporations	Rev. Proc. 2013–30, 2013–36 I.R.B. 173.
2056A Qualified Domestic Trust	Rev. Proc. 96–54, 1996–2 C.B. 386.
2702(a)(3)(A) and 25.2702–5(c) Qualified Personal Residence Trust	Rev. Proc. 2003–42, 2003–1 C.B. 993.
4051(a)(2) Imposition of tax on heavy trucks and trailers sold at retail	Rev. Proc. 2005–19, 2005–1 C.B. 832.
1.7704–2(d) New business activity of existing partnership is closely related to pre- existing business	Rev. Proc. 92–101, 1992–2 C.B. 579.
<i>SUBJECT MATTERS</i>	<i>REVENUE PROCEDURE</i>
Certain rent-to-own contracts treated as leases	Rev. Proc. 95–38, 1995–2 C.B. 397.

**Automatic change in
accounting period
revenue procedures**

.03 For requests for an automatic change in accounting period, refer to the following automatic change revenue procedures.

Rev. Proc. 2006-45, 2006-2 C.B. 851, as clarified and modified by Rev. Proc. 2007-64, 2007-2 C.B. 818 (certain corporations); Rev. Proc. 2006-46, 2006-2 C.B. 859 (certain partnerships, subchapter S corporations, personal service corporations, and trusts); and Rev. Proc. 2003-62, 2003-2 C.B. 299 (individuals seeking a calendar year);

The Commissioner's consent to an otherwise qualifying automatic change in accounting period is granted only if the taxpayer timely complies with the applicable automatic change revenue procedure.



Source: IRS Documents > Notices > 1988 > NOTICE 88-129, 1988-2 C.B. 541

NOTICE 88-129, 1988-2 C.B. 541

Amplified and modified by Notice 90-60.

Transfers of Property to Regulated Public Utilities by "Qualifying Facilities."

Notice 88-129

This notice provides guidance with respect to certain payments or transfers of property to regulated public utilities ("utilities") by qualifying small power producers and qualifying cogenerators (collectively "Qualifying Facilities"), as defined in section 3 of the Federal Power Act, as amended by section 201 of the Public Utilities Regulatory Policies Act of 1978 ("PURPA").

BACKGROUND

Notice 87-82, 1987-2 C.B. 389, addressed the Federal tax treatment of contributions in aid of construction ("CIACS") in light of the amendments made to section 118 of the Internal Revenue Code ("Code") by section 824 of the Tax Reform Act of 1986 (the "1986 Act"). Notice 87-82 reserved for separate guidance the treatment of payments or transfers of property made by Qualifying Facilities to utilities in connection with sales of power under PURPA. The Internal Revenue Service has received many inquiries concerning whether, as a result of the 1986 Act, such transfers result in income to utilities. This notice provides guidance with respect to certain types of transfers from Qualifying Facilities to utilities. No inference is intended with respect to other types of transfers.

1. Transfers Exclusively in Connection With the Sale of Electricity by a Qualifying Facility.

PURPA and its implementing rules and regulations require that a utility interconnect with a Qualifying Facility for the purpose of allowing the sale of power produced by the Qualifying Facility. A Qualifying Facility must bear the cost of the purchase and installation of any equipment required for the interconnection. This equipment, referred to herein as an "intertie," may include new connecting and transmission facilities, or modifications, upgrades or relocations of a utility's existing transmission network. Generally, the utility takes legal title to the intertie, which becomes part of the utility's transmission network. Under standard cost-based rate regulation, utilities may neither earn a profit on sales of power purchased from Qualifying Facilities nor include the cost of interties in rate base.

The amendment of Code section 118(b) by the 1986 Act was intended to require utilities to include in income the value of any contribution in aid of construction made to encourage the provision of services by a utility to a customer. See H.R. Rep. No.841, 99th Cong., 2d Sess. 324 (1986) (Conference Report). In a CIAC transaction the purpose of the contribution of property to the utility is to facilitate the sale of power by the utility to a customer. In contrast, the purpose of the contribution by a Qualifying Facility to a utility is to permit the sale of power by the Qualifying Facility to the utility. Accordingly, the fact that the 1986 amendments to Code section 118(b) render CIAC transactions taxable to the utility does not require a similar conclusion with respect to transfers from Qualifying Facilities to utilities.

Qualifying Facilities generally sell electricity to utilities pursuant to long-term power purchase contracts. Some contracts require the Qualifying Facility to construct and install the intertie, and subsequently transfer the intertie to the utility. With respect to transfers of property made by a Qualifying Facility to a utility exclusively in connection with the sale of electricity by the Qualifying Facility to the utility, a utility will not realize income upon transfer of an intertie by a Qualifying Facility. These non-taxable transfers are referred to herein as "QF transfers." The possibility that an intertie may be used to transmit power to a utility that will in turn transmit the power across its transmission network for sale by the Qualifying Facility to another utility (i.e., "wheeling") shall not cause the contribution to be treated as a CIAC. A utility takes no basis in property transferred in a QF transfer, thus, for example, a utility shall not be allowed any depreciation (or amortization) deductions with respect to the property transferred in a QF transfer.

Under some power purchase contracts, the utility agrees to construct and install the intertie on behalf of the Qualifying Facility, with the Qualifying Facility agreeing to reimburse or finance the construction and installation costs. A utility that constructs an intertie in exchange for a cash payment from a Qualifying Facility pursuant to a PURPA contract will be deemed to construct the property for the Qualifying Facility under contract and will recognize income from the construction in the same manner as any other taxpayer constructing similar-property under contract. See, e.g., Code section 460. Subsequent to the construction of the property, the Qualifying Facility will be deemed to transfer the property to the utility in a QF transfer that will be treated in exactly the same manner as an in-kind QF transfer.

2. Other QF Transfers.

In some situations the transfer of property by a Qualifying Facility to a utility may not be exclusively in connection with the sale of power from the Qualifying Facility to the utility. In addition to transmitting power from the Qualifying Facility to the utility, the intertie may be used to transmit power from the utility for sale to the Qualifying Facility (a "dual-use intertie"). A dual-use intertie may be employed where a Qualifying Facility relies on the utility as a "backup" or supplemental power source, either sporadically or on a regular basis. The transfer of a dual-use intertie may be treated as a QF transfer, as provided in the following paragraph; however, the transfer of an asset necessary only for sale of power by the utility to the Qualifying Facility is not a QF transfer and constitutes a CIAC, even if the asset is used in part in connection with the transmission of power to the utility. Thus, for example, if at the time of a QF transfer a Qualifying Facility transfers an asset necessary only for the sale of power to the Qualifying Facility, the transfer of that asset is not a QF transfer.

The contribution of a dual-use intertie to a utility will be treated as a QF transfer (and, therefore, nontaxable) if, in light of all information available to the utility at the time of transfer, it is reasonably projected that during the first ten taxable years of the utility, beginning with the year in which the transferred property is placed in service, no more than 5% of the projected total power flows over the intertie will flow to the Qualifying Facility (the "5% test"). Such a projection shall, if practicable, be supported by a report from an independent engineer. Total power flows means power flows to or from the Qualifying Facility over the intertie. For purposes of this notice, power flows to a Qualifying Facility include power flows to a related party of the Qualifying Facility, if the transmission of power to the related party has been facilitated by the transfer of the intertie. Thus, for example, in the case of a modification or relocation of a utility's existing transmission line, power flows to an unrelated third party are ignored. For purposes of the 5% test, power flows in the taxable year in which the transferred property is placed in service may, at the option of the utility, be ignored. For example, suppose a utility and a Qualifying Facility enter into a power purchase contract with a term of twenty years, and power flow from the utility to the Qualifying Facility is expected to comprise 10% of total power flows in the first year (the taxable year in which the facility is placed in service), 1% in the second and third years, and 0.5% in each of the fourth through tenth years. Total power flows are projected to be 100 megawatt hours ("MWH") in the first and second years, and 200 MWH in the third through tenth years. Assume that the taxpayer excludes the first year of the contract from the projection. Thus, the taxpayer reasonably projects that power flow to the Qualifying Facility will be 0.59% of total power flows over the intertie for the applicable nine-year period $((1\% \times 100 \text{ MWH} + 1\% \times 200 \text{ MWH} + 7 \times (0.5\% \times 200 \text{ MWH})) / (100 \text{ MWH} + 8 \times 200 \text{ MWH}))$. Under the 5% test provided in this notice, the contribution of the intertie to the utility by the Qualifying Facility will be treated as a QF transfer and, therefore, shall be nontaxable.

3. Excluded Transfers.

Certain transfers that would otherwise qualify as QF transfers are excluded from the definition of QF transfers if such transfers are described in this section 3 of this notice. A transfer from a Qualifying Facility to a utility will not be treated as a QF transfer under this notice to the extent the intertie is included in the utility's rate base. Moreover, a transfer of an intertie to a utility will not be treated as a QF transfer under this notice if the term of the power purchase contract is less than ten years.

4. Termination of Safe Harbor.

The fact that a transfer constitutes a QF transfer under this notice does not establish that a utility will never recognize income attributable to receipt of the transferred property. The occurrence of an event specified below in section 4(A) or 4(B) shall terminate the safe harbor and require the utility to recognize income as a consequence of the QF transfer.

(A) *Proportionate Disqualification.* If, for each of any three taxable years within any period of five

consecutive taxable years, more than 5% of the total power flows over the intertie flow from the utility to the Qualifying Facility (a "disqualification event"), then the Qualifying Facility will be deemed to have made a transfer to the utility which constitutes a CIAC under section 118(b) as of the last day of the third such year. At the option of the utility, the taxable year in which the property is placed in service shall not be taken into account in determining whether there has been a disqualification event. The amount of the CIAC shall be that percentage of the fair market value of the intertie as of the date of the deemed transfer which is reflective of the use of the intertie for the purpose of selling power to the Qualifying Facility, determined by the Internal Revenue Service by taking into account all facts and circumstances. Relevant factors include (1) the use of the intertie during the period immediately preceding the disqualification event; (2) the use of the intertie since the date it was placed in service; (3) the reasonably anticipated use of the intertie during the remaining term of the power purchase contract. See section III of Notice 87-82 for guidance as to the fair market value of a CIAC. For example, suppose a Qualifying Facility contributes an intertie to a utility that is a calendar year taxpayer. The utility places the intertie in service in 1990, and reasonably projects that over the ten taxable years beginning in 1990 power flows over the intertie to the Qualifying Facility will be less than 5% of total power flows over the intertie. Power flows over the intertie to the Qualifying Facility constitute the following percentages of total flows over the intertie: 10% in 1990; 7% in 1991; 6% in 1992; 3% in 1993; 1% in 1994; and 6% in 1995. The utility excludes 1990 (the year in which the intertie is placed in service) from the determination of whether a disqualification event has occurred. A disqualification event occurs due to power flows in 1995, the third year within the five year period from 1991 to 1995 in which more than 5% of power flows over the intertie flow to the Qualifying Facility. Therefore, the Qualifying Facility is deemed to have made a CIAC transfer to the utility as of December 31, 1995.

Proportionate disqualification does not apply to any property necessary for, and used solely to facilitate, the transmission of power by the Qualifying Facility to the utility. For example, suppose the contract between a Qualifying Facility and a utility requires the utility to relocate a major transmission line and to construct an intertie to the Qualifying Facility including protective devices which are necessary and used solely for the delivery of power to the utility. Several years into the contract, the use of the intertie by the utility for delivery of power results in a disqualification event. Payments made for the construction of the protective devices are not subject to proportionate disqualification, while payments made for the relocation of the transmission lines are subject to proportionate disqualification (because the transmission line is used for the delivery of power over the intertie by the utility to the Qualifying Facility).

(B) *Termination of Power Purchase Contract.* Upon the termination of the power purchase contract between a Qualifying Facility and a utility, if the utility obtains or retains ownership (for tax purposes) of property transferred in a QF transfer, the Qualified Facility will be deemed to have made a transfer to the utility which constitutes a CIAC under section 118(b) as of the first day of such termination. The amount of the CIAC shall be the fair market value of the intertie, less the amount, if any, paid by the utility to obtain or retain ownership of the property for tax purposes. Therefore, if the amount paid by the utility is fair market value, the Qualified Facility will not be deemed to have made a CIAC transfer. See Section III of Notice 87-82 for guidance as to the fair market value of a CIAC.

5. *Notification Requirements.*

If for any taxable year power flows to the Qualifying Facility exceed 5% of total power flows over the intertie, then the utility must attach a statement to this effect to its return for such taxable year. If a power supply contract subject to the provisions of this notice terminates, the utility must attach a statement to this effect to its return for the year in which the termination occurs. The notification requirements of this section 5 apply to taxable years ending more than 180 days after December 27, 1988, the date this notice is published in the Bulletin.

6. *Cost Recovery of QF Transfer Property.*

Sections 1.461-1(a)(1) and (2) of the Income Tax Regulations provide that taxpayers using the cash and accrual methods of accounting, respectively, may not currently deduct the total amount of an expenditure which results in the creation of an asset having a useful life which extends substantially beyond the close of the taxable year. Instead, such taxpayers are required to capitalize such expenditures as assets and recover the cost of the expenditures over the useful life of the asset in question. See, e.g., Rev. Rul. 70-413, 1970-2 C.B. 103. The cost of property transferred in a QF transfer must be capitalized by the Qualified Facility as an intangible asset and recovered as appropriate. Cf. section VII of Notice 87-82 (amortization of the cost of a CIAC by the contributor).

Tax and Accounting Center

A utility may not take depreciation (or amortization) deductions with respect to property transferred in a QF transfer. This rule applies regardless of whether the Qualifying Facility initially transfers intangible property to the utility or whether the Qualifying Facility initially transfers cash followed by a deemed QF transfer to the utility. However, if property which is the subject of a QF transfer is subsequently transferred or deemed transferred to the utility as a CIAC, the utility may be allowed to take depreciation deductions with respect to the property.

This document serves as an "administrative pronouncement" as that term is described in section 1.6661-3(b)(2) of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or a revenue procedure.

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IRS Rulings & Other Documents (2001-Earlier), 2001FED ¶46,734, Regulated public utilities: Safe harbor: Interties, transfer of: Nonqualifying facilities: Interconnection agreements.--, Cumulative Bulletin Notice 2001-82, 2001-2 CB 619, (Dec. 6, 2001)

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[Code Secs. 118 and 446]

Regulated public utilities: Safe harbor: Interties, transfer of: Nonqualifying facilities: Interconnection agreements.--The IRS has amplified and modified Notice 88-129, 1988-2 CB 541, as modified and amplified by Notice 90-60, 1990-2 CB 345. Notice 88-129 provides that a regulated public utility will not realize income upon transfers of interties from qualifying small power producers and qualifying cogenerators (qualifying facilities). The notice extends the safe harbor provisions of Notice 88-129 to include transfers of interties from nonqualifying facilities, and to transactions in which there is not a long-term power purchase contract between the utility and the power producer but, rather, the intertie is transferred pursuant to a long-term interconnection agreement. Moreover, the intertie is used exclusively to transmit power across the utility's transmission grid for sale to consumers or intermediaries. The notice applies to transfers of property to regulated public utilities pursuant to interconnection agreements completed after December 24, 2001. **BACK REFERENCES:** ¶7202.41 and ¶20,620.25 .

PURPOSE

This notice amplifies and modifies Notice 88-129 , 1988-2 C.B. 541, as modified and amplified by Notice 90-60 , 1990-2 C.B. 345. Notice 88-129 provides that a regulated public utility (utility) will not realize income upon transfers of interties from qualifying small power producers and qualifying cogenerators (collectively, Qualifying Facilities), as defined in section 3 of the Federal Power Act, as amended by section 201 of the Public Utilities Regulatory Policies Act of 1978 (PURPA). This notice extends the safe harbor provisions of Notice 88-129 to include transfers of interties from non-Qualifying Facilities. The safe harbor also is extended to transactions in which there is not a long-term power purchase contract between the utility and the power producer but rather the intertie is transferred pursuant to a long-term interconnection agreement and in which the intertie is used exclusively to transmit power across the utility's transmission grid for sale to consumers or intermediaries.

BACKGROUND

At the time Notice 88-129 was issued, most generators that were not owned by regulated public utilities (stand-alone generators) were Qualifying Facilities for regulatory purposes. As a stand-alone generator, the Qualifying Facility had to be connected to a utility's transmission lines in order to move its power to market. PURPA required that a utility interconnect with a Qualifying Facility for the purpose of allowing the sale of power produced by the Qualifying Facility. A Qualifying Facility generally sold its electricity under a long-term power purchase contract to the local utility with whom it was interconnecting at the utility's avoided cost. A Qualifying Facility also arranged in certain cases for the interconnected utility to transmit electricity across its transmission grid for sale to another utility (wheeling) at that utility's avoided cost.

Deregulation of the electric power industry has significantly changed the operation of the industry. Today, few new stand-alone generators are Qualifying Facilities. The Federal Energy Regulatory Commission (FERC) encouraged the construction of non-Qualifying Facilities starting in the late 1980's by issuing a number of orders to individual projects (known in the industry as independent power producers) approving sales of power at market rates. In addition, the Energy Policy Act of 1992 created a new class of stand-alone generators, called exempt wholesale generators, that are permitted to sell their power at market rates with FERC approval, and are exempted from certain utility regulation. Unlike PURPA, the Energy Policy Act has no requirement that utilities buy electricity from stand-alone generators.

In 1996, FERC issued Order No. 888 in an effort to ensure that every wholesale supplier of electricity, including, for example, power marketers and stand-alone generators, has open access to the national transmission grid. The order requires regulated utilities to allow stand-alone generators to interconnect to the grid and to file nondiscriminatory tariffs under which any wholesale supplier can pay to have its electricity

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wheeled. Stand-alone generators (including Qualifying Facilities) have additional outlets for their power today that they did not have in 1988, including sales of power at auction on regional power exchanges or spot markets and under short and medium-term contracts to specific customers or to power marketers that trade electricity. Regulated utilities have many more sources of supply for electricity than in 1988. As a result of these changes, very few utilities enter into long-term power purchase contracts with stand-alone generators. Electricity produced by stand-alone generators is more likely today than in 1988 to be wheeled across the transmission grid of the interconnected utility for sale to consumers or intermediaries rather than to be sold directly to the interconnected utility.

The new stand-alone generators still need to be interconnected to the transmission grid in order for a customer to take the power. Therefore, the stand-alone generator enters into a long-term interconnection agreement with the local utility. The term of a long-term interconnection agreement may be tied to the period that the stand-alone generator remains in commercial operation. This agreement may permit assignment of the agreement by the utility to accommodate future consolidation of local grids into regional transmission systems that will cover broad regions of the country.

MODIFICATIONS TO NOTICE 88-129 AND NOTICE 90-60

In light of the above-mentioned changes in the electric power industry, the safe harbor provisions of Notice 88-129 are modified as follows:

1. The safe harbor provisions are extended to include transfers of interties from non-Qualifying Facilities. Accordingly, the term "QF transfer" appearing in Notice 88-129 will be construed as including "qualified transfers" of interties from non-Qualifying Facilities that meet the other requirements of the safe harbor provisions. Similarly, the term "Qualifying Facility" for purposes of Notice 88-129 will be construed as including "stand-alone generators" that are not Qualifying Facilities.
2. The safe harbor provisions also are extended to include transfers of interties used exclusively or in part to transmit power over the utility's transmission grid for sale to consumers or intermediaries, including affiliated intermediaries (wheeling). This safe harbor only applies to transactions in which the intertie is transferred pursuant to a long-term interconnection agreement and in which ownership of the electricity wheeled passes to the purchaser prior to its transmission on the utility's transmission grid. The ownership requirement of the preceding sentence is deemed satisfied if title to electricity wheeled passes to the purchaser at the busbar on the generator's end of the intertie. The terms "power purchase contract" and "power supply contract" appearing in Notice 88-129 will be construed as including interconnection agreements in transactions in which the intertie is used for wheeling. Accordingly, a long-term interconnection agreement in lieu of a long-term power purchase contract or power supply contract may be used to satisfy the safe harbor provisions of Notice 88-129 in such transactions. The term "dual-use intertie" appearing in Notice 88-129 will be construed as including an intertie which may be used to transmit power from a third party for sale to the Qualifying Facility.
3. Section 6 , sentence 4, of Notice 88-129 , states, "The cost of property transferred in a QF transfer must be capitalized by the Qualifying Facility as an intangible asset and recovered as appropriate." This sentence is modified to read as follows: "The cost of property transferred in a QF transfer must be capitalized by the Qualified Facility as an intangible asset and recovered using the straight-line method over a useful life of 20 years."

EFFECT ON OTHER DOCUMENTS

Notice 88-129, as amplified and modified by Notice 90-60 , is further amplified and modified.

EFFECTIVE DATE

This notice applies to transfers of property to regulated public utilities pursuant to interconnection agreements completed after December 24, 2001, the date this notice is published in the Bulletin. For transfers of interties occurring on or before December 24, 2001 and meeting the requirements of this notice, taxpayers may request application of this notice through a request for a private letter ruling (including, in appropriate circumstances, where the taxpayer's return for the year of transfer has already been filed).

DRAFTING INFORMATION

WK_: IRS Rulings & Other Documents (2001-Earlier), 2001FED 46,734, Regulated public utilities: Safe harbor: Interties, transfer of: Nonqualifying fac.pdf

The principal author of this notice is Gregory N. Doran of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Mr. Doran at (202) 622-3040 (not a toll-free call).

Certificate of Service

I hereby certify that a copy of the cover letter and/or any materials accompanying this certificate was electronically transmitted to the individuals listed below. Copies of this filing will be hand delivered to the RI Public Utilities Commission and to the RI Division of Public Utilities and Carriers.



August 12, 2014

**Docket No. 4483 – Wind Energy Development LLC & ACP Land, LLC –
Petition for Dispute Resolution Relating to Interconnection
Service List updated 7/29/14**

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