

**RULINGS, DETERMINATION LETTERS,
AND CLOSING AGREEMENTS AS TO SPECIFIC ISSUES**

P-(11)-23 (Approved 6-14-67)

Rulings and determination letters in general

Rulings and determination letters are issued to individuals and organizations upon written requests, whenever appropriate in the interest of wise and sound tax administration, as to their status for tax purposes and as to the tax effect of their acts or transactions, prior to their filing of returns or reports as required by the revenue laws. Rulings are issued only by the National Office. Determination letters are issued only by District Directors and the Director of International Operations. Reference to District Director or district office in these policy statements also includes the office of the Director of International Operations.

Take note:

This I. R. Manual states that individuals can make written inquiry for a determination of their status for tax purposes. Below is an example of a request letter.

EXAMPLE OF REQUEST LETTER

Dear Director:

My research of your Internal Revenue Code and your Regulations has me confused as to what my status is for Federal Income Tax.

Pursuant to I.R. Manual P-(11)-23 "upon written request" I can request a determination of my status from your office for Federal Income Tax purposes.

This is my written formal request for a determination letter as to my status for Federal Income Tax purposes.

If this is not the proper format for making this request, please send that format with instructions to me.

Please respond within 30 days.

Sincerely,

Send a letter to your local DISTRICT DIRECTOR and also send a letter to the DIRECTOR OF INTERNAL OPERATIONS, Dept. of the Treasury, 15th and Pennsylvania Ave., Washington, D.C. 20224

1.2.1.10.5

Justice for a prosecutive opinion if the indicated violation involves the Service. If the indicated violation involves a Federal Criminal Statute for which authority to investigate and take action is vested in another agency, the information will be promptly referred to the agency having the jurisdiction and liaison will be maintained with that agency when it is necessary to protect the interests of the Service.

1.2.1.10.6 (Approved 8-11-1967)

P-10-46

1. **Advising employee in criminal case of right to counsel and right against self-incrimination:** Where there is evidence that an employee has committed a crime against the Government of such nature that it is contemplated the case will be referred to a U.S. Attorney for prosecutive consideration, the Inspector will first advise the employee of his/her right to consult counsel before answering any question and to have counsel present during the interview, and of his/her right against self-incrimination, including his/her right to remain silent.

2. **Legal counsel also permitted in other cases:** If an employee requests permission to consult or to have counsel present at an interview in a case in which there is no reasonable expectation of prosecution for violation of a Federal Criminal Statute, the Director, Internal Security Division or Regional Inspector will permit such representation as he/she deems in the best interests of both the Service and the employee.

3. **Counsel must be attorney not employed by Service:** When an employee retains counsel for an inspection interview, such counsel must be an attorney and member of the bar in good standing who is not employed in any capacity by the Internal Revenue Service.

1.2.1.11 (3-15-2000)

Technical

1. The policy statements within the "P-11-X" series fall under the category of Technical policies.

1.2.1.11.1 (Approved 4-10-1967)

P-11-12

PART I—ADMINISTRATION

1. **Assistance in development of tax returns solicited:** Assistance and suggestions in the development of tax return forms will be solicited, where appropriate, from Governmental agencies and professional, trade, industry and other outside groups. Suggestions received will be evaluated and utilized according to their merits.

2. **Coordination maintained with other Government agencies:** Coordination will be maintained with the Social Security Administration, and other Governmental agencies, and with State tax officials in matters of mutual concern involving the technical content of tax return forms and instructions.

1.2.1.11.2 (Approved 6-14-1967)

P-11-23

1. **Rulings and determination letters in general:** Rulings and determination letters are issued to individuals and organizations upon written requests, whenever appropriate in the interest of wise and sound tax administration, as to their status for tax purposes and as to the tax effect of their acts or transactions, prior to their filing of returns or reports as required by the revenue laws. Rulings are issued only by the National Office. Determination letters are issued only by District Directors and the Director of International Operations. Reference to District Director or district office in these policy statements also includes the office of the Director of International Operations.

1.2.1.11.3 (Approved 2-24-1960)

P-11-26

1. **Rulings in absence of regulations issued under certain circumstances:** Requests for rulings on Code provisions under which regulations have not yet been issued are treated as follows:

a. If the answer to the question raised is clearly covered in the Code, an unconditional ruling is made only after Committee reports are examined to make sure there is no ambiguity in the statute.

b. If the answer in the statute is not entirely free from doubt, but is reasonably certain, a ruling is made but only after it is established that a business emergency requires a ruling or that unusual hardship will result from failure to obtain a ruling. If doubt

retary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

(3) **Precedential status.** Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

(l) Section not to apply.

This section shall not apply to—

- (1) any matter to which section 6104 applies, or
- (2) any—

(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501(c) or (d), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j)(3),

(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

(D) background file document relating to any general written determination issued before July 5, 1967, or

(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.

(m) Exclusive remedy.

Except as otherwise provided in this title, or with respect to a discovery order made in connection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.

In 1999, P.L. 106-170, Sec. 521(a)(2), added a sentence at the end of para. (b)(1), effective 12/17/99.

In 1998, P.L. 105-206, Sec. 3509(a), substituted "technical advice memorandum, or Chief Counsel advice" for "or technical advice memorandum" in para. (b)(1). . . Sec. 3509(h), redesignated subses. (i), (j), (k) and (l) as subses. (j), (k), (l) and (m) and added new subsec. (i) . . . Sec. 3509(e)(1), substituted "Except as otherwise provided by subsection (i), the Secretary" for "The Secretary" in para. (b)(1). . . Sec. 3509(e)(2), substituted "subsection (g) or (i)-(k)(B)" for "subsection (g)" each place it appeared in subpara. (j)(1)(B) and para. (j)(2). . . Sec. 3509(e)(3), substituted "subsection (e)(1) or (i)(3)" for "subsection (e)" in subpara. (k)(1)(B) [as redesignated by Sec. 3509(b) of this Act], effective for any Chief Counsel advice issued more than 90 days after 7/22/98. For special rules, see Sec. 3509(d)(2)-(4) of this Act, which reads as follows:

"(2) Transition rules. The amendments made by this section shall apply to any Chief Counsel advice issued after December 31, 1985, and before the 91st day after the date of the enactment of this Act by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international, except that any such Chief Counsel advice shall be treated as made available on a timely basis if such advice is made available for public inspection not later than the following dates:

"(A) One year after the date of the enactment of this Act, in the case of all litigation guideline memoranda, service center advice, tax litigation bulletins, criminal tax bulletins, and general litigation bulletins.

"(B) Eighteen months after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1994.

"(C) Three years after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1992, and before January 1, 1994.

"(D) Six years after such date of enactment, in the case of any other Chief Counsel advice issued after December 31, 1985.

"(3) Documents treated as Chief Counsel advice. If the Secretary of the Treasury by regulation provides pursuant to section 6110(k)(2) of the Internal Revenue Code of 1986, as added by this section, that any additional advice or instruction issued by the Office of Chief Counsel shall be treated as Chief Counsel advice, such additional advice or instruction shall be made available for public inspection pursuant to section 6110 of such Code, as amended by this section, only in accordance with the effective date set forth in such regulation.

"(4) Chief Counsel advice to be available electronically. The Internal Revenue Service shall make any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act and made available for public inspection pursuant to section 6110 of such Code, as amended by this section, also available by computer telecommunications within 1 year after issuance."

In 1992, P.L. 102-572, Sec. 902(h), effective 10/29/92, relating to Court designation provides as follows:

"(b) Other provisions of law. Reference in any other Federal law or documents to—

"(1) the 'United States Claims Court' shall be deemed to refer to the 'United States Court of Federal Claims'; and

"(2) the 'Claims Court' shall be deemed to refer to the 'Court of Federal Claims'."

In 1987, P.L. 100-203, Sec. 10511, provides rules for fees for requests for ruling, determination, and similar letters. Sec. 10511 of P.L. 100-203 is reproduced in note following Code Sec. 7805.

In 1984, P.L. 98-620, Sec. 10328(b), deleted "and the Court of Appeals shall expedite any review of such decision in every way possible" after "praxis date" in para. (b)(5), effective 11/8/84 except for cases pending on 11/8/84.

In 1982, P.L. 97-144, Sec. 1(b)(9), substituted "United States Claims Court" for "Court of Claims" in para. (a)(1), effective 10/1/82.

In 1976, P.L. 94-455, Sec. 1201(a), redesignated Code Sec. 6110 as Code Sec. 6111 and added new Code Sec. 6110, effective 11/1/76. Sec. 1201(b) of this Act provides:

"(b) Effect upon pending requests. Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (b)(1), but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976."

Sec. 6111. Registration of tax shelters.

(a) Registration.

(1) **In general.** Any tax shelter organizer shall register the tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) not later than the day on which the first offering for sale of interests in such tax shelter occurs.

(2) **Information included in registration.** Any registration under paragraph (1) shall include—

(A) information identifying and describing the tax shelter,

(B) information describing the tax benefits of the tax shelter represented (or to be represented) to investors, and

(C) such other information as the Secretary may prescribe.

(b) Furnishing of tax shelter identification number; inclusion on return.

(1) **Sellers, etc.** Any person who sells (or otherwise transfers) an interest in a tax shelter shall (at such times and in such manner as the Secretary shall prescribe) furnish to each investor who purchases (or otherwise acquires) an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter.

(2) **Inclusion of number on return.** Any person claiming any deduction, credit, or other tax benefit by reason of a tax shelter shall include (in such manner as the Secretary may prescribe) on the return of tax on which such deduc-

APPENDIX A

SCHEDULE OF USER FEES

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

(A) FEE SCHEDULE

<i>CATEGORY</i>	<i>FEE FOR REQUESTS POSTMARKED AFTER 1-14-2001, AND BEFORE 3-1-2001</i>	<i>FEE FOR REQUESTS POSTMARKED ON OR AFTER 3-1-2001</i>
(1) <u>User fee for a request for a determination letter from a director.</u> The user fee for each determination letter request governed by Rev. Proc. 2001-1 (this revenue procedure).	<u>\$275</u>	<u>\$275</u>
(2) User fee for a request for an advance pricing agreement or a renewal of an advance pricing agreement.	See Rev. Proc. 96-53	See Rev. Proc. 96-53
(3) User fee for a request for a letter ruling or closing agreement. Except for the user fees for advance pricing agreements and renewals, the reduced fees provided in paragraph (A)(4) of this appendix, the user fees provided in paragraph (A)(5) of this appendix, and the exemptions provided in section 15.04 of Rev. Proc. 2001-1 (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 & Products), the Associate Chief Counsel (Income Tax & Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs & 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 (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$600	\$600
(ii) Requests made on Part II of Form 2553 to use a fiscal year based on a business purpose (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$600	\$600
(iii) Letter ruling requests for extensions of time to file Form 1128, Form 8716, or Part II of Form 2553 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b) of this appendix)	\$700	\$1,200
(b) Changes in Accounting Methods		
(i) Form 3115 (except as provided in paragraph (A)(4)(a) or (b), or (5)(b) of this appendix)	\$1,200	\$1,200
(ii) Letter ruling requests for extensions of time to file Form 3115 under § 301.9100-3 (except as provided in paragraph (A)(4)(a) or (b), or (5)(c) of this appendix)	\$700	\$1,200