

CC-2022-006

June 30, 2022

Procedures for review and posting of
certain frequently asked questions
Subject: (FAQs) on IRS.gov

Upon incorporation
Cancel Date: into CCDM

PURPOSE

This notice alerts attorneys that the CCDM is being revised to reflect updated procedures for the review and posting of certain frequently asked questions (FAQs) on IRS.gov. These procedures apply to FAQs prepared for newly enacted legislation and in other contexts, such as emerging issues, as appropriate, where no pre-existing Internal Revenue Bulletin guidance, including regulations, has been issued. The purpose of these procedures is to ensure that these FAQs can be properly archived and searchable on IRS.gov and to provide clarity on the issue of taxpayer reliance on FAQs.

DISCUSSION

FAQs that are subject to these procedures are known as Fact Sheet FAQs and will include standard disclaimer language and a link to a new webpage providing public information on the issue of reliance on Fact Sheet FAQs. Counsel attorneys and reviewers who are drafting FAQs or reviewing FAQs that have been drafted by the IRS should coordinate with Executive Counsel if the FAQs address newly enacted legislation or an emerging issue to determine if the FAQs are subject to these procedures. Review, clearance and issuance of Fact Sheet FAQs will be coordinated by the Chief Counsel Office of Executive Counsel. After review, Fact Sheet FAQs will be issued in the form of an IRS Fact Sheet linked to an IRS News Release. The Fact Sheet FAQs and IRS News Release are numbered, dated, and archived in a searchable record on IRS.gov.

On October 15, 2021, the IRS issued IR 2021-202, which announced the new procedures for Fact Sheet FAQs. Fact Sheet FAQs (and any later updates or revisions to the Fact Sheet FAQs) are FAQs that have been prepared, revised, or updated after October 15, 2021, for newly enacted legislation and in other contexts, such as emerging issues, as appropriate, where no pre-existing Internal Revenue Bulletin guidance, including regulations, has been issued. Fact Sheet FAQs are issued in the form of an IRS Fact Sheet carrying model disclaimer language that addresses the extent to which

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taxpayers may rely on the Fact Sheet FAQs and contains a link to a webpage providing public information on the issue of reliance on FAQs. The IRS Fact Sheet is linked to an IRS News Release. The Fact Sheet FAQs and IRS News Release are numbered, dated, and archived in a searchable record on IRS.gov.

Questions as to the applicability of these new procedures to any particular set of FAQs can be addressed to the Chief Counsel Office of Executive Counsel by contacting Christine Ellison, ph. (202) 596-4404, Christine.E.Ellison@irsconsult.treas.gov or Judy Kindell, ph. (202) 351-9621, Judith.E.Kindell@irsconsult.treas.gov.

 /s/

Kathryn A. Zuba
Associate Chief Counsel
(Procedure & Administration)

CCDM REVISIONS

To incorporate into the CCDM new procedures for the review and posting of certain FAQs, new section 32.5, Frequently Asked Questions, will be added as set forth below.

32.5.1 (XX-XX-2022)

Counsel Review of Fact Sheet FAQs

32.5.1.1 Overview

- (1) The Chief Counsel Office of Executive Counsel (Executive Counsel) will serve as the primary point of contact for the review, clearance and issuance of Fact Sheet FAQs. In addition, the role of Executive Counsel includes determining which FAQs are subject to these procedures and coordinating review of Fact Sheet FAQs among the various stakeholders, including the IRS (as further described below), the Associate Offices with subject matter jurisdiction, the relevant Division Counsel, the Chief Counsel, and Treasury.
- (2) These procedures apply to FAQs prepared for newly enacted legislation and in other contexts, such as emerging issues, as appropriate, where no pre-existing Internal Revenue Bulletin guidance, including regulations, has been issued. The procedures provide clarity regarding taxpayer reliance on Fact Sheet FAQs and ensure that Fact Sheet FAQs are archived and searchable on IRS.gov, so taxpayers can later locate the version they relied on should they need to do so.
- (3) Questions as to whether these procedures apply to any particular set of FAQs should be addressed to Executive Counsel.

32.5.1.2 Review of Fact Sheet FAQs

- (1) Counsel attorneys and reviewers who are drafting FAQs or reviewing FAQs that have been drafted by the IRS should coordinate with Executive Counsel if the FAQs address newly enacted legislation or an emerging issue to determine if the FAQs are subject to these procedures.
- (2) The Associate office will draft and approve the Fact Sheet FAQs under normal procedures including, if appropriate, Treasury review. Once that process is completed, further review, clearance and issuance will be coordinated by Executive Counsel. Executive Counsel will coordinate with other Associate offices, the Deputy Chief Counsel, Senior Advisor to the IRS Deputy Commissioner for Services and Enforcement (DCSE), and the Treasury Department, as appropriate, to ensure that all interested parties have the opportunity to review.

32.5.1.3 Format of Fact Sheet FAQs

- (1) Executive Counsel will coordinate with the Associate Office and with Communications and Liaison (C&L) to ensure that Fact Sheet FAQs are

incorporated into an IRS Fact Sheet linked to an IRS News Release using appropriate format and disclaimer language, as described in this section 32.5.1.3.

(2) The IRS Fact Sheet should include:

- Reciprocal links between the Fact Sheet and News Release.
- Standard disclaimer language with a link to the Reliance Page, a number assigned by C&L, and the date.
- If the Fact Sheet revises or updates a prior Fact Sheet, a note at the top of the page indicating the FAQ is a revision of a prior Fact Sheet, the number of the prior Fact Sheet, and the specific FAQs from the prior Fact Sheet that are superseded. Link between the prior and current Fact Sheet (and corresponding News Releases).

(3) The following model disclaimer language should be used on all Fact Sheets containing Fact Sheet FAQs:

Below are answers to frequently asked questions (FAQs) related to [fill in the blank]. These FAQs are being issued to provide general information to taxpayers and tax professionals as expeditiously as possible. Accordingly, these FAQs may not address any particular taxpayer's specific facts and circumstances, and they may be updated or modified upon further review. Because these FAQs have not been published in the Internal Revenue Bulletin, they will not be relied on or used by the IRS to resolve a case. Similarly, if an FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer's case, the law will control the taxpayer's tax liability. Nonetheless, a taxpayer who reasonably and in good faith relies on these FAQs will not be subject to a penalty that provides a reasonable cause standard for relief, including a negligence penalty or other accuracy-related penalty, to the extent that reliance results in an underpayment of tax. Any later updates or modifications to these FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of these FAQs will be maintained on IRS.gov to ensure that taxpayers, who may have relied on a prior version, can locate that version if they later need to do so.

For more information about reliance see:

<https://www.irs.gov/newsroom/general-overview-of-taxpayer-reliance-on-guidance-published-in-the-internal-revenue-bulletin-and-faqs>.

(4) If applicable, the disclaimer language should include a statement that the Treasury Department and the IRS continue to consider publishing additional

guidance in the Internal Revenue Bulletin on the issues addressed in the Fact Sheet FAQs.

- (5) The standard disclaimer language should appear at the top of all Fact Sheets containing Fact Sheet FAQs, with a link to the Reliance Page. In the first sentence of the disclaimer, a description of the legislation or guidance to which the FAQs relate should be filled in within the space provided.
- (6) If the Fact Sheets are later updated or modified, a “Note” in bold should be added at the top indicating that the Fact Sheet is a revision of a prior Fact Sheet. Sample language for revised/updated Fact Sheet FAQs:

Note: These FAQs supersede earlier FAQs that were posted in FS-20XX-XX on [date].

- (7) When the Fact Sheet FAQs are ready for issuance, the IRS Fact Sheet and IRS News Release are posted on IRS.gov and later added to the Fact Sheet/News Release archive on IRS.gov.