



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

December 23, 2013

Control No: TEGE-07-1213-24
Affected IRM: IRM 7.20.2
Expiration Date: December 23, 2014

MEMORANDUM FOR EXEMPT ORGANIZATIONS DETERMINATIONS UNIT AND
EXEMPT ORGANIZATIONS TECHNICAL UNIT EMPLOYEES

FROM: Kenneth C. Corbin /s/ *Kenneth C. Corbin*
Acting Director, Exempt Organizations, TE/GE

SUBJECT: Expansion of Optional Expedited Process for Certain Exemption
Applications Under Section 501(c)(4)

The purpose of this memorandum is to expand, update and amend the interim administrative guidance to the Exempt Organizations Determinations Unit and Exempt Organizations Technical Unit regarding an optional expedited process for certain exemption applications under section 501(c)(4), which was first outlined in my memorandum dated June 25, 2013, Control No. TEGE-07-0613-08, and amended by a memorandum dated July 18, 2013, Control No. TEGE-07-0713-12.

In the interest of effective and efficient tax administration and to assist in the transparent and consistent review of applications for tax-exempt status under section 501(c)(4), the IRS has been offering an optional expedited process for organizations that have submitted 501(c)(4) applications. Until now, this optional expedited process has been available only to applicants for 501(c)(4) status with applications pending for more than 120 days as of May 28, 2013 that indicate the organization may be involved in political campaign intervention or issue advocacy and that do not present any private inurement issues. The optional expedited process will now be offered to include all applicants for 501(c)(4) status (as opposed to only those with applications pending for more than 120 days as of May 28, 2013) whose applications indicate the organization could potentially be engaged in political campaign intervention or in providing private benefit to a political party and that otherwise do not present any issues with regard to exempt status.

The Exempt Organizations Determinations Unit and Exempt Organizations Technical Unit must follow the attached procedures for the identified pending applications effective the date of this memorandum. Any questions are to be directed to the Director, Rulings and Agreements, Exempt Organizations, TE/GE.

The content of this memorandum will be incorporated in IRM 7.20.2.

Attachment: Optional Expedited Process for Certain Exemption Applications
Under Section 501(c)(4)

cc: www.irs.gov

Optional Expedited Process for Certain Exemption Applications Under Section 501(c)(4)

Outlined below are the steps of a process for achieving expedited and fair processing of certain exemption applications under section 501(c)(4), specifically, those applications for section 501(c)(4) exemption that indicate the organization could potentially be engaged in political campaign intervention or providing private benefit to a political party (hereinafter, “pending applications”) and that otherwise do not present any issues with regard to exempt status.

Step 1: IRS Reviews for Issues Other than Political Issues

The IRS will promptly review all pending applications to ensure that the application (1) is complete, (2) does not indicate any private inurement, and (3) does not present any other potential issues other than possible political campaign intervention or private benefit to a political party (hereinafter, collectively, “political issues”).

If there are no issues other than possible political issues, the pending application will proceed to step 2.

If there are issues other than possible political issues, Exempt Organizations Determinations will prepare and send out a development letter seeking additional information on those other issues and informing the applicant it is eligible for the optional expedited process if/when such other issues are resolved. If the applicant sends a response that resolves these other open issues (i.e., the open issues other than the political issues) such that these issues are no longer a bar to granting exemption under § 501(c)(4), the pending application will proceed to step 2.

If any pending applications are determined ready to be granted favorable status, Exempt Organizations Determinations will proceed to issuing the favorable determination letter and steps 2 through 5 will not apply to such applications.

Step 2: Offering Optional Expedited Process

By letter to the applicant (Letter 5228), Exempt Organizations Determinations will provide an optional expedited process for all pending applications for which there are no issues other than political issues. The optional expedited process will permit these applicants to make representations under penalties of perjury regarding their past, current, and anticipated future political campaign intervention and social welfare activity. If the applicant makes the specified representations, Exempt Organizations Determinations will send the applicant a favorable determination letter without further review and within one month of receipt of the signed representations.

This process is optional; applicants can determine whether they want to provide the representations, assuming they are able to do so, or whether they want the IRS to continue to review their application with regard to the possible political issues.

Letter 5228 will request a response by the applicant within 45 days.

Step 3: IRS Processing of Applications

Optional Expedited Process— Exempt Organizations Determinations will send any applicant that provides the representations under penalties of perjury a favorable determination within one month of receiving the signed representations. Like all organizations receiving a favorable determination of exempt status, the organization may be subject to examination by the IRS and the organization’s exempt status may be revoked if, and as of the tax year in which, the facts and circumstances indicate exempt status is no longer warranted. Revocation may be retroactive to the date of formation if the facts and circumstances indicate the representations were not accurate. An organization may no longer rely on the determination letter issued as part of this optional expedited process for any tax year in which its activities are no longer consistent with the representations, if the applicable legal standards change, or if the determination letter is revoked. If the organization determines that it continues to be described in section 501(c)(4) notwithstanding the fact that its activities are no longer consistent with the representations, it may continue to take the position that it is described in section 501(c)(4) and file Form 990, *Return of Organization Exempt From Income Tax*, but it must notify the IRS about such representations ceasing to be correct on Schedule O, *Supplemental Information*, of the Form 990.

An organization receiving Letter 5228 that provides the representations may be referred to Exempt Organizations Classification (using Form 5666) for subsequent review.

Regular Process—If an applicant received Letter 5228 and does not provide the additional representations under the optional expedited process within 45 days from the date of the letter, Exempt Organizations Determinations will formally transfer the pending application to Exempt Organizations Technical, and Exempt Organizations Technical will review and process the pending application under Steps 4 and 5.

Step 4: Reviewing the Pending Application Under the Regular Process – Documenting Review and Recommendations

Review of the pending applications under the regular process will include review by Exempt Organizations Technical and (in some cases, as explained below) Chief Counsel attorneys and a newly formed Advocacy Application Review Committee (“Review Committee”) comprised of three career executives from the IRS and the Office of Chief Counsel.¹

¹ The Committee will be comprised of the Director, EO; Commissioner (TE/GE); and Division Counsel/Associate Chief Counsel (TEGE), or their delegates.

Exempt Organizations Technical will review the facts and circumstances in the pending application and any other materials to determine if the organization is operated primarily for social welfare purposes, including by evaluating the possible political issues. The issues will be analyzed as quickly as possible under current law, using available resources in applying the law to the facts.

Under the regular process, Exempt Organizations Technical will document² its review of the pending application and its recommendation regarding a favorable or adverse determination.

Favorable Recommendation: If Exempt Organizations Technical determines the applicant is ready to be recognized as described in section 501(c)(4), Exempt Organizations Technical will issue the applicant a favorable determination.

Request for Additional Information: If Exempt Organizations Technical determines that it needs to request additional information regarding the possible political issues, Exempt Organizations Technical will prepare and send a letter requesting additional information.

Adverse Recommendation: If Exempt Organizations Technical's recommendation (either initially or after receiving a response to a request for additional information) is for an adverse determination, Chief Counsel attorneys will review the application and documentation of the recommendation. If Chief Counsel attorneys disagree with the recommendation, they will provide a brief explanation of their views and send the application to the Review Committee. If Chief Counsel attorneys agree with the recommendation, they will assist Exempt Organizations Technical in preparing the proposed adverse determination letter and will follow normal processes in communicating with the applicant to offer an adverse conference (which would be provided on an expedited basis). If the adverse conference results in a changed recommendation to a favorable determination, Exempt Organizations Technical will issue the favorable determination, unless Exempt Organizations Technical or Chief Counsel attorneys recommend further review by the Review Committee.

If the adverse conference is held and does not result in a changed recommendation, the pending application will be sent to the Review Committee in Step 5.

Step 5: Committee Review of Adverse Recommendations

If, after Step 4, Exempt Organizations Technical and Chief Counsel attorneys recommend an adverse determination or conclude that additional review is needed, the Review Committee will review the application, the documentation of the recommendations at all levels, the proposed adverse determination (if any), and any

² Documentation will be done consistently through a template; reviewer will be noted by an identifying number rather than by name.

additional information from the adverse conference (if any). The Review Committee will apply the law to the facts presented and evaluate whether the applicant has satisfied the requirements for exemption under 501(c)(4).

With respect to an adverse recommendation, if the Review Committee concurs, Exempt Organizations Technical will issue an adverse determination. If the Review Committee does not agree, the Review Committee will instruct Exempt Organizations Technical to issue a favorable determination.

In any case, the Review Committee may recommend referral to the Exempt Organizations Classification (using Form 5666) for subsequent review.