MANUAL TRANSMITTAL

7.20.3

Department of the Treasury
Internal Revenue Service

OCTOBER 20, 2023

EFFECTIVE DATE

(10-20-2023)

PURPOSE

(1) This transmits revised IRM 7.20.3, Exempt Organizations Determination Letter Program, Processing Foundation Classification and Miscellaneous Requests.

MATERIAL CHANGES

(1) Updated procedures, modifying the guidance as listed below:

Section	Modification
IRM 7.20.3.1.1, Background	Updated to include electronic submission of Form 8940 as outlined in TEGE-07-0423-0007, Processing Electronically Submitted For 8940
IRM 7.20.3.1.5, References	Expanded table to include closing letters
IRM 7.20.3.2.1.1, Public Support Test Considerations	Updated and clarified procedures for public support considerations
IRM 7.20.3.2.1.4, Public Charity Technical Guidance	Updated procedures for public charity considerations
IRM 7.20.3.2.4, Processing Initial Determination Requests (Form 1023) from Non-Exempt Charitable Trusts	Added procedures from IG Memo TEGE-07-0123-0002, Processing Adverse Nonexempt Charitable Trusts Seeking Classification Under Section 509(a)(3)
IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests	Updated to reflect revised all miscellaneous requests on Form 8940
IRM 7.20.3.3.1, Request for Reclassification of Foundation Classification	Added procedures from IG Memo TEGE-07-0821-0019, Interim Guidance on Processing a Request for Public Charity Classification under IRC Sections 509(a)(1) and 170(b)(1)(A)(ii) when Applicant's Primary Activity is not the Presentation of Formal Instruction
IRM 7.20.3.3.2, Private Foundation Terminations under IRC 507(b)(1)(B)	Updated to include "Notice Only" terminations under IRC 507(b)(1)(B)

Section	Modification
IRM 7.20.3.3.2.3, “Notice Only” Terminations	Added processing procedures for “Notice Only” requests submitted on Form 8940
IRM 7.20.3.3.5, Processing Advance Approval of Exclusion of Unusual Grants	Updated and clarified procedures for processing advance approval of unusual grant requests
IRM 7.20.3.3.6.1, 4945(g) Case Processing	Updated procedures for processing 4945(g) advance approval requests
IRM 7.20.3.3.9, Processing Requests for Exception from Form 990 Filing Requirements	Added processing details for Form 990 filing exception requests
IRM 7.20.3.3.11, Processing Group Ruling Requests	Added reference to Notice 2020-36, which provides that the Service will not accept any requests for group exemption letters at this time

(2) Incorporated procedures in Interim Guidance Memorandum TEGE-07-0821-0019, Interim Guidance on Processing a Request for Public Charity Classification under IRC Sections 509(a)(1) and 170(b)(1)(A)(ii) when Applicant’s Primary Activity is not the Presentation of Formal Instruction, issued August 11, 2021.

(3) Incorporated procedures in Interim Guidance Memorandum TEGE-07-0123-0002, Processing Adverse Nonexempt Charitable Trusts Seeking Classification Under Section 509(a)(3), issued January 6, 2023.

(4) Incorporated procedures in Interim Guidance Memorandum TEGE-07-0423-0007, Processing Electronically Submitted For 8940, issued April 4, 2023.

(5) Edited the document for plain language, as required by the *Plain Writing Act of 2010*.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 7.20.3 dated July 19, 2018.

AUDIENCE

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7.20.3
Processing Foundation Classification and Miscellaneous Requests

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7.20.3.1
(10-20-2023)
Overview

(1) **Purpose**: This IRM provides case processing procedures for Exempt Organizations (EO) Determinations specialists to process foundation classification and miscellaneous requests. EO Determinations makes determinations on these issues (see Rev. Proc. 2023-5, updated annually, and modified by Rev. Proc. 2023-12). EO Determinations specialists perform all actions in this manual unless otherwise specified. This IRM provides procedural guidance to process:

a. Foundation classification requests submitted as part of Form 1023, Application for Recognition of Exemption Under IRC 501(c)(3) of the Internal Revenue Code
b. Group ruling requests
c. Requests from government entities requesting voluntary termination of recognition under IRC 501(c)(3)
d. Requests submitted on Form 8940, Request for Miscellaneous Determination, including:
- Foundation reclassifications including termination of private foundation classification
- Exceptions from Form 990-series filing requirements
- Foundation classification of non-exempt charitable trusts
- Advance approvals of scholarship procedures, grant making procedures, set-asides, unusual grants, and voter registration activities
- Voluntary requests for termination by government entities
- Canadian charities requesting inclusion in the Tax Exempt Organization Search database or determination of public charity classification
- "Notice Only" requests submitted by private foundations to terminate private foundation status under IRC 507(b)(1)(B)
- Change in Type (or initial determination of Type) of a Section 509(a)(3) organization

Note: This IRM doesn't provide detailed technical guidance for making determinations on the different types of cases.

(2) **Audience**: The procedures in this manual apply to all EO employees processing foundation classification and miscellaneous requests.

(3) **Program Owner**: Director, Exempt Organizations, Rulings and Agreements.

(4) **Policy Owner**: Exempt Organizations and Government Entities.

(5) **Primary Stakeholders**: Exempt Organizations, Rulings and Agreements.

7.20.3.1.1
(10-20-2023)
Background

(1) Exempt Organizations (EO) includes two primary operational areas: Rulings and Agreements (R&A) and Examinations (Exam).

(2) EO R&A is responsible for issuing determination letters on exempt status, private foundation status, and other determinations related to exempt organizations.

(3) Organizations submit Forms 1023, 1023-EZ, 1024, 1024-A, and 8940 electronically through Pay.gov. Organizations submit other applications for tax-exempt status to the Cincinnati Accounts Management Campus Support (Campus Support).

(4) A separate Form 8940 and user fee are generally required for each type of request listed on Form 8940.

Exception: A request for reclassification as a public charity under IRC 509(a)(3) that requests both a change in Type of Section 509(a)(3) organization and reclassification of foundation status, including a voluntary request from a public charity for private foundation status on Form 8940 or a request for advance approval of grant making procedures for a program described in both 4945(g)(1) and 4945(g)(3) is considered a single request and doesn't need two Form 8940s.

(5) Most determination letter requests are subject to a user fee (see Rev. Proc. 2023-5, updated annually, and modified by Rev. Proc. 2023-12). Requests submitted as part of an initial application (such as foundation classification, Form 990 filing exception, etc.) are considered part of the initial application and aren't subject to an additional user fee.

(6) Campus Support processes the user fee payment in the Letter Information Network and User Fee System (LINUS) and scans the application/request into the Modified EP-EO Determination System (MEDS). MEDS transmits the information to the Employee Plans/Exempt Organizations Determination System (EDS).

(7) Campus Support sends open hard copy case files to an IRS facility in Ogden, UT.

(8) Cases are generally processed electronically in MEDS. See IRM 7.22.4, Modified EP-EO Determination System (MEDS) User Manual, for specific instructions on using MEDS, including how to process cases.

7.20.3.1.2
(10-20-2023)
Authority

(1) Rev. Proc. 2023-5, updated annually, and modified by Rev. Proc. 2023-12, lists procedures for issuing determination letters on issues under the jurisdiction of the Director, EO Rulings and Agreements. It explains the procedures for issuing determination letters on exempt status in response to applications for recognition of exemption from federal income tax under IRC 501 or 521 (other than those subject to Rev. Proc. 2023-4, updated annually), private foundation classification, and other determinations related to exempt organizations. Rev. Proc. 2023-5 also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgement under IRC 7428 and guidance on applicable user fees for requesting determination letters.

7.20.3.1.3
(10-20-2023)
Responsibilities

(1) EO Rulings and Agreements is responsible for issuing determination letters on exempt status, private foundation status, and other determinations related to exempt organizations.

7.20.3.1.4
(10-20-2023)
Program Controls

(1) Exempt Organizations Determinations Quality Assurance (EODQA) reviews cases to ensure:

a. Technical accuracy
b. Adherence to written procedures
c. Uniform and impartial treatment of exempt organizations' interests while protecting the government's interest
d. Identification of unfavorable case patterns, trends affecting processing quality, problem areas, unique issues, and new or novel techniques that EOD specialists develop

7.20.3.1.5
(10-20-2023)
References

(1) Determination letter requests discussed in this IRM vary in how certain rules apply to the requests:

a. IRC 7428 declaratory judgment provisions
b. IRC 6104 or IRC 6110 disclosability
c. Protest/appeal rights on adverse determinations

(2) The following table identifies the different types of requests discussed in this IRM, how these rules apply to the type of request, and the closing letter for each type of request:

Type of Determination Request	IRC 7428	Approval Letter	Disclosability of Approval	Adverse Letter	Disclosability of Adverse	Appeal Rights of Adverse
I Case Approving exemption with adverse foundation classification	Yes	• Letter 1079	• IRC 6104	• Letter 1079	• IRC 6104	Yes
I Case Approving exemption with adverse 990 filing exception request	Yes	• Letter 1079	• IRC 6104	• Letter 1079	• IRC 6104	No
A Case Foundation classification (other than exempt operating foundation (EOF))	Yes	• Letter 4425 • Public Charity to Private Foundation - Letter 4424	• IRC 6104	• Letter 4786	• IRC 6104	Yes
A Case Foundation classification EOF	No	• Letter 4425	• IRC 6104	• Letter 4786	• IRC 6104	No

Type of Determination Request	IRC 7428	Approval Letter	Disclosability of Approval	Adverse Letter	Disclosability of Adverse	Appeal Rights of Adverse
P Case Termination of private foundation classification	Yes	• Beginning P Case - Letter 2245 • Ending P Case - Letter 4422	• IRC 6104	• Letter 4786	• IRC 6104	Yes
A Case NECT 509(a)(3) qualification	Yes	• Favorable - Letter 1071	• IRC 6104	• Letter 4786	• IRC 6104	Yes
A Case 509(a)(3) qualification	No	• Initial Type - Letter 4719 • Change in Type - Letter 4716	• IRC 6104	• Letter 4786	• IRC 6104	No
A Case Other miscellaneous requests	No	• 4945(g) - Letter 4792 • Unusual Grants - Letter 4787 • 4942(g)(2) Set-Aside - Letter 4797 • Set-Aside Extension - Letter 4798 • Voter Reg. 4945(f) - Letter 4778	• IRC 6110	• Letter 4786	• IRC 6110	No
A Case 990 filing exception	No	• Letter 4715	• IRC 6104	• Letter 4786	• IRC 6104	No
A Case Voluntary termination of 501(c)(3) status by a government entity	No	• Letter 5171	• IRC 6104	• Letter 5239 - Rejection	• IRC 6104	No

Type of Determination Request	IRC 7428	Approval Letter	Disclosability of Approval	Adverse Letter	Disclosability of Adverse	Appeal Rights of Adverse
A Case Group exemption	Yes	• Letter 2419	• IRC 6104	• Letter 4786	• IRC 6110	Yes
A Case Group exemption declination	No	• Letter 4788	• N/A (not a determination)	• N/A (not a determination)	• N/A (not a determination)	No

(3) Commonly used abbreviations include:

Abbreviation	Name
CCR	Case Chronology Record
EDS	EP/EO Determination System
EIN	Employer Identification Number
EO	Exempt Organizations
EOD	Exempt Organizations Determinations
EODQA	Exempt Organizations Determinations Quality Assurance
FTE	Failure to Establish
FYM	Fiscal Year Month
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
MEDS	Modified EP-EO Determination System, previously known as TEDS
NECT	Non-Exempt Charitable Trust
PF	Private Foundation
QA	Quality Assurance
TEOS	Tax Exempt Organization Search

7.20.3.2
(10-20-2023)
Processing Initial and Reinstatement Foundation Classification Requests

(1) An organization requests and receives a foundation classification as part of its initial or reinstatement request for exemption (for example, Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, or Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code).

(2) An organization exempt under IRC 501(c)(3) is classified as private foundation unless it meets an exclusion as a public charity described in IRC 509(a)(1) through IRC 509(a)(4). See IRC 509(a), IRC 508(b), and Treas. Reg. 1.508-1(b).

7.20.3.2.1
(10-20-2023)
Processing Initial and Reinstatement Public Charity Requests

(1) When processing an initial application for exemption or an application for reinstatement under IRC 501(c)(3), grant an organization the best classification for which it qualifies considering all facts and circumstances including its:

- Primary purpose
- Sources of support
- Requested classification/preference

Note: See IRM 7.20.9, Processing Form 1023-EZ, for information on foundation classification consideration on Form 1023-EZ.

(2) If the organization requests that the IRS select the best classification for them (see Form 1023, Part VII), choose either 509(a)(1) and 170(b)(1)(A)(vi) or 509(a)(2). If it appears they are best qualified as something else, the organization will likely have to provide more information, such as the appropriate schedule to Form 1023.

(3) If an organization requests a public charity classification for which it doesn't meet the requirements:

a. Consider other public charity classifications.
b. Discuss with the organization, as appropriate.

(4) If the organization doesn't meet the requirements of their requested classification and they don't agree to change their requested classification, process the request as an adverse foundation classification. See IRM 7.20.3.2.1.2, Requested Public Charity Classification Requirements Not Met, and IRM 7.20.3.2.3, Processing Initial and Reinstatement Adverse Determinations on Foundation Classification.

7.20.3.2.1.1
(10-20-2023)
Public Support Test Considerations

(1) When processing an initial or reinstatement application from an organization requesting public charity classification under IRC 509(a)(1) and 170(b)(1)(A)(vi) or IRC 509(a)(2) and the organization existed for five or more years:

If	Then
The foundation classification requires development	Request a statement affirming the organization has continuously met the public support test from inception and any financial data needed to calculate public support for the most recent five years.

If	Then
You suspect that the organization would fail the public support test based on earlier years	Request additional information for the earlier years.
The organization fails the public support test based on available information	Make the determination based on the available information without requesting information regarding earlier years.

(2) If necessary to determine qualification for a public charity classification, complete either:

- Form 14321, Public Support Test Computation Guidesheet - 170(b)(1)(A)(vi)
- Form 14396, Public Support Test Computation Guidesheet - 509(a)(2)

(3) If an organization can't meet the public support test because of one or more unusually large contributions:

a. See if it's entitled to exclude the contributions as unusual grants when computing its public support. Document the unusual grant in the case file. See IRM 7.20.3.3.5, Processing Advance Approval of Exclusion of Unusual Grants. If additional information is needed about the grants, consider the pre-written questions on the *R&A Job Aids SharePoint* site.
b. If the contributions don't constitute unusual grants, see IRM 7.20.3.2.1.2, Requested Public Charity Classification Requirements Not Met.
c. Consider the 10 percent facts and circumstances test if the public support test is not met.

7.20.3.2.1.2
(10-20-2023)
Requested Public Charity Classification Requirements Not Met

(1) If an organization doesn't meet the requirements for its requested public charity classification or appears better qualified under a different classification, consider the following:

If the organization	Then
Hasn't requested its best foundation classification (for example, has requested classification as IRC 509(a)(2) appearing to meet the requirements for classification under IRC 509(a)(1) and 170(b)(1)(A)(vi)) and you don't need any other information	Grant the more favorable public charity classification without contacting the organization and document the reason for changing the foundation classification in the Case Chronology Record (CCR) or in a Memo to File.

If the organization	Then
Doesn't qualify for its requested public charity classification under IRC 509(a) but appears to qualify for a different foundation classification under IRC 509(a) based on information in the case file	Contact the organization to explain why it doesn't qualify for its requested classification, the classification it does appear to qualify under, and any impact of the proposed change. Follow the other guidelines in this chart based on the organization's response.
Agrees to a less favorable public charity classification when contacted (including switching from church, school, or hospital classification)	Obtain a signed statement agreeing to the change in foundation classification or a revised Form 1023, Part VII (initialed and dated by an authorized person).
Disagrees with the proposed change in public charity classification and wants to submit additional information to support its position	Request the necessary additional information. See IRM 7.20.2, Determination Letter Processing for Exempt Organizations, for procedures on requesting additional information.
Submits additional information which supports its requested public charity classification	Close the case with the requested public charity classification.
Disagrees with proposed change in classification or submits additional information which doesn't support a favorable determination on the public charity classification requested	Close the case with an adverse foundation classification determination. See IRM 7.20.3.2.3, Processing Initial and Reinstatement Adverse Determinations on Foundation Classification.

Reminder: Secure a written agreement for a change from church, school, or hospital classification to any other public charity classification because (1) the change may affect the organization's operations and filing requirements and (2) a change from church classification also results in the loss of protection under IRC 7611.

7.20.3.2.1.3
(10-20-2023)
Public Charity Case Closing Assistance

(1) Follow these closing letter procedures for these specific cases:

Approved case for an organization	Action
Classified as a public charity	Prepare Letter 947, 501(c)(3) Exemption with Definitive Ruling of Public Charity Status, for most cases.

Approved case for an organization	Action
Operating a school not required to file Form 990 or Form 990-EZ	Include the Letter 947 selective paragraph which states that the organization is responsible for filing Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.
A charter school under IRC 170(b)(1)(A)(ii)	Include the Letter 947 selective paragraph about compliance with Rev. Proc. 75-50, as modified by Rev. Proc. 2019-22, if the school doesn't operate as a charter school in the future.
Classified under IRC 509(a)(3)	Include the Letter 947 selective paragraph specifying whether it is a Type I, II, III (functionally integrated), or III (non-functionally integrated) supporting organization.
Classified under IRC 509(a)(4)	Compose a letter similar to Letter 947, but state contributions aren't deductible. Replace the first two paragraphs in Letter 947 with the following and remove the letter number from the bottom of the letter. "We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under 509(a)(4). Because you're classified under Section 509(a)(4), donors can't deduct contributions they make to you under Section 170. Also, you aren't qualified to receive tax deductible bequests, devises, transfers, or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions regarding your exempt status. Keep it for your records."

7.20.3.2.1.4
(10-20-2023)
Public Charity Technical Guidance

(1) See the table below for resources for each public charity classification to help you make a determination on foundation classification.

Note: You aren't required to complete a guidesheet when processing a case; however, if you do, consider including it in the case file at closing.

Entity Type	IRC Section(s)	Technical Guidance	Available Guidesheets
Church or convention or association of churches	IRC 509(a)(1) and IRC 170(b)(1)(A)(i)	• American Guidance Foundation v. U.S., 490 F. Supp. 304, (D.D.C. 1980) • IRC 7701(n) • Rev. Rul. 74-224	• Form 14312, Church Guidesheet
School	IRC 509(a)(1) and IRC 170(b)(1)(A)(ii)	• Treas. Reg. 1.170A-9(c)(1) • Rev. Proc. 75-50, as modified by Rev. Proc. 2019-22 • If the applicant's primary function is not the presentation of formal instruction, coordination with TEGE Division Counsel is required ***Note:*** Coordination with counsel is not required if the applicant doesn't satisfy the requirements of IRC Section 501(c)(3)	• Form 14314, Revenue Procedure 75-50 Guidesheet • Form 14323, Charter School Guidesheet • Form 14313, Private School Guidesheet
Hospital/medical research	IRC 509(a)(1) and IRC 170(b)(1)(A)(iii)	• IRC 501(r) • Treas. Reg. 1.501(r)-1 to 7 • Rev. Proc. 2015-21 • Notice 2015-46	• Form 14326, Hospitals, Clinics, and Similar Health Care Providers Guidesheet
Organizations for the benefit of certain state and municipal colleges and universities	IRC 509(a)(1) and IRC 170(b)(1)(A)(iv)	• Rev. Rul. 82-132	
Government entity	IRC 509(a)(1) and IRC 170(b)(1)(A)(v)		• Form 14324, Organizations Closely Affiliated with State or Indian Tribal Governments Guidesheet

Entity Type	IRC Section(s)	Technical Guidance	Available Guidesheets
Publicly supported	IRC 509(a)(1) and IRC 170(b)(1)(A)(vi)	• Treas. Reg. 1.170A-9(f)(1)	• Form 14321, Public Support Test Computation Guidesheet -170(b)(1)(A)(vi)
Publicly supported	IRC 509(a)(2)		• Form 14396, Public Support Test Computation Guidesheet - 509(a)(2)
Supporting organizations	IRC 509(a)(3)	• Treas. Reg. 1.509(a)-4	• 509(a)(3) Type I SO Guidesheet • 509(a)(3) Type II SO Guidesheet • Section 509(a)(3) Type III SO Guidesheet
Testing for public safety	IRC 509(a)(4)	• See Knowledge Management Technical Resource Guide (TRG) 3-3	

7.20.3.2.2
(10-20-2023)
Processing Initial and Reinstatement Private Foundation Classification Requests and Case Closing

(1) An organization can request private foundation classification when it applies for exemption under IRC 501(c)(3). A private foundation can request further classification as a private operating foundation defined in IRC 4942(j)(3) (see IRM 7.20.3.2.2.1, Private Operating Foundation Considerations).

(2) A private foundation must include certain provisions in its organizing document requiring it to act or refrain from acting so that it won't be liable for taxes imposed by IRC 4941, IRC 4942, IRC 4943, IRC 4944, and IRC 4945 (see IRC 508(e)). Private foundations, except those organized in New Mexico, meet this requirement through state-enacted statutory provisions (unless language in the organizing document specifically contradicts the state's provisions) (see Rev. Rul. 75-38).

Note: Rev. Rul. 75-38 hasn't been updated to reflect that Arizona non-profit law now contains IRC 508(e) provisions.

(3) If a private foundation formed in New Mexico doesn't include the following provisions in its organizing document, secure an amendment to the document. See the Streamline questions on the *R&A Job Aids SharePoint* site.

(4) Private foundations (including private operating foundations) must request advance approval of certain grant making procedures under IRC 4945(g) to avoid excise taxes on the grants.

(5) A foundation can request advance approval on its Form 1023 application by completing Schedule H and providing a complete description of its scholarship/grant program (see IRM 7.20.3.3.6 for more information on IRC 4945(g)). If the organization is already exempt, Form 8940 must be used to request advance approval of certain grant making procedures.

Note: Information on advance approvals under IRC 4945(g) submitted as part of a Form 1023 application are subject to public disclosure under IRC 6104.

(6) When approving an organization as a private foundation, prepare Letter 1076, Determination of Exemption Under Section 501(c)(3) as a Private Foundation or Private Operating Foundation, for most cases.

- If the organization is further classified as a private operating foundation, include the appropriate selective paragraph in the letter.
- If the organization fully and completely discloses its grant making procedures that meet the requirements of Treas. Reg. 53.4945-4(c)(1), include the appropriate selective approval paragraphs in the determination letter.

7.20.3.2.2.1
(10-20-2023)
Private Operating Foundation Considerations

(1) A private operating foundation actively conducts its own programs and activities. Contrast this to a private non-operating foundation, which passively distributes funds to accomplish its exempt purpose (for example, providing grants to other entities or to individuals).

(2) To qualify as a private operating foundation, an organization must demonstrate how it meets both the:

a. Income test, and
b. Either: assets, endowment, or support test

(3) An organization less than one year old may submit an affidavit (or the opinion of the organization's counsel) stating in good faith how the income test and one of the other tests are likely to be met (in other words, a good faith determination).

(4) If an organization requests but doesn't meet the requirements for classification as a private operating foundation and doesn't agree to classification as a private non-operating foundation, process the case as an adverse determination on foundation classification (see IRM 7.20.3.2.3, Processing Initial and Reinstatement Adverse Determinations on Foundation Classification).

(5) See Treas. Reg. 53.4942(b)-1, for information on private operating foundations.

7.20.3.2.3
(10-20-2023)
Processing Initial and Reinstatement Adverse Determinations on Foundation Classification

(1) If an organization meets the requirements for exemption under IRC 501(c)(3) but doesn't meet the requirements for its requested classification:

a. Secure your manager's agreement on the adverse position and document the concurrence in the CCR.
b. Call the organization and explain why they don't qualify for the requested foundation classification and explain the classification you are giving them (such as the impact of being classified as a private foundation).

Reminder: Document the telephone call in the CCR.

c. Prepare Letter 1079, Exemption Determination with Adverse Issue, detailing the reasons for the proposed adverse issue. Follow the format of proposed adverse determination letters in IRM 7.20.2, Determination Letter Processing of Exempt Organizations.

Note: Don't prepare a legend for the letter.

d. Follow the procedures for adverse determinations in IRM 7.20.2.4, Adverse Determinations.

Exception: Complete closing information as an approval (closing code and determination code 01, etc.).

Reminder: Adverse determinations (including favorable determinations with adverse issues) are subject to mandatory review.

7.20.3.2.4
(10-20-2023)
Processing Initial Determination Requests (Form 1023) from Non-Exempt Charitable Trusts

(1) A non-exempt charitable trust (NECT) can request recognition under IRC 501(c)(3) by submitting Form 1023. An NECT is identified in IDRS by a Subsection Code of 90, 91, or 92 and Type of Organization of 6.

Reminder: An NECT can request classification as a supporting organization described in IRC 509(a)(3) without requesting recognition of exemption under IRC 501(c)(3) by submitting Form 8940 (see IRM 7.20.3.3.4, Processing Requests for 509(a)(3) Classification from Non-Exempt Charitable Trusts).

(2) Follow the application processing procedures in IRM 7.20.2, Determination Letter Processing of Exempt Organizations, to process a Form 1023 application from an NECT.

(3) If the NECT:

a. Meets the organizational and operational tests and all other IRC 501(c)(3) requirements, grant a favorable determination using the appropriate determination letter (Letter 947 or Letter 1076). The trust is no longer an NECT.
b. Doesn't meet the IRC 501(c)(3) requirements for exemption, discuss the option of withdrawing the request for exemption with the organization. Process as a proposed adverse determination if the organization doesn't withdraw its request (see IRM 7.20.2.4, Adverse Determinations, and IRM 7.20.2.5.6, Withdrawals).

(4) If you close Form 1023 from an NECT as a withdrawal or as a failure to establish (FTE) (if organization doesn't respond to an additional information request), see IRM 7.20.3.2.4.1, Non-Exempt Charitable Trust Form 1023 Withdrawal or FTE.

(5) If an NECT requests a determination that it is described under IRC 509(a)(3) but doesn't meet requirements for any period:

a. Continue to treat the organization as a private foundation and follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.
b. A protest/appeal is available on a proposed adverse determination letter on classification of a Section 4947(a)(1) NECT described in Section 509(a)(3).
c. Prepare Letter 4786, Amendment Requests, Foundation Follow-ups, and section 508 (Private Foundation) Termination Requests Adverse. Include the selectable paragraph regarding appeal rights and remove references to disclosure under IRC 6110 from the letter.

d. Enter a proposed closing code of Status 12 (Other Closing) to retain the NECT's current status information on Master File.

7.20.3.2.4.1
(10-20-2023)
Non-Exempt Charitable Trust Form 1023 Withdrawal or FTE

(1) Because an NECT's unsuccessful application for exemption under IRC 501(c)(3) doesn't change its status as a charitable trust under IRC 4947(a)(1), close the case using IRM 7.20.2.5, Case Closing, except as noted in this section.

(2) If you close the case as a:

a. Withdrawal: create a withdrawal letter similar to Letter 4785, Acknowledgement of Customer's Request for Withdrawal from Status-Change Consideration (AFP), and Letter 2244, Withdrawal of Exemption Determination Request, and close case Status 04 (Withdrawn by applicant). See IRM 7.20.2.5.6, Withdrawal.
b. FTE: create a letter similar to Letter 1314, EO Determination Request Closed - Failure to Establish, and close case Status 12 (Other) to retain NECT status information on Master File. See IRM 7.20.2.5.5, Failure to Establish (FTE).

(3) Include the following language in the closing letter if the NECT is currently treated as a private foundation: "Our records indicate you are considered a charitable trust under IRC Section 4947(a)(1) that is treated as a private foundation and are required to file:"

- "Form 990-PF"
- "Form 1041 (if you have zero taxable income under Subtitle A of the Code, you may use Form 990-PF to satisfy the requirements of filing Form 1041)"
- "Form 4720 (if you have a liability for Chapter 42 excise tax (excluding IRC 4940))"

(4) Include the following language in the closing letter if the NECT is currently treated as supporting organization under IRC 509(a)(3): "Our records indicate you are considered a charitable trust under IRC Section 4947(a)(1) and are subject to the following filing requirements:"

- "Form 990 or Form 990-PF, depending on your foundation classification"
- "Form 1041 (Per IRC Section 6012(a)(4) a trust must file a Form 1041 for the taxable year it has any taxable income or has gross income of $600 or more, regardless of the amount of taxable income. If you have zero taxable income under Subtitle A of the Code, you may use Form 990 or Form 990-PF to satisfy the requirements of filing Form 1041)"
- "Form 4720 (if you have a liability for Chapter 42 excise tax (excluding Section 4940))"

7.20.3.3
(10-20-2023)
Processing Other Miscellaneous Determination Letter Requests

(1) An organization can request a miscellaneous determination letter by electronically submitting Form 8940, Request for Miscellaneous Determination, through *Pay.gov* with the appropriate user fee. A miscellaneous determination letter request is established as an amendment (A) case or a termination of private foundation classification (P) case, based on the requested determination.

(2) Miscellaneous determination letter requests include:

a. Advance approval of certain set-asides described under IRC 4942(g)(2)

b. Advance approval of voter registration activities described under IRC 4945(f)
c. Advance approval of scholarship procedures described under IRC 4945(g)
d. Exception from Form 990 filing requirements
e. Advance approval of a potential grant or contribution as an unusual grant
f. Determination of or change in Type of a Section 509(a)(3) supporting organization
g. Reclassification of foundation classification (including a voluntary request for private foundation classification, correction of erroneous classification as a private foundation, and classification as an exempt operating foundation under IRC 4940(d)(2))

Note: If an organization is requesting correction of erroneous classification as a private foundation, this should be an amendment (A) case rather than a termination of private foundation (P) case. If the case was established as a P case in error, send an encrypted email to **TE/GE-EO-IssueReporting*, and request that the case be changed from a P case to an A case.

h. Termination of private foundation classification under IRC 507(b)(1)(B) (beginning and ending of termination)
i. Voluntary termination of IRC 501(c)(3) status by a government entity
j. Canadian charities requesting inclusion in the Tax Exempt Organization Search database or determination of public charity classification (see IRM 7.20.4.5.1.1.1, Processing Canadian Charities).

(3) Secure IDRS research for the case. Research prior determination cases as necessary.

(4) If the organization is seeking a miscellaneous determination on Form 8940, but is in Status 97 (automatically revoked):

a. Call the organization and explain that they have been automatically revoked and can't receive a miscellaneous determination while in that status. Explain what they need to do to get reinstated. See IRM 7.20.4.2, Automatic Revocation.

Reminder: Document the call in the CCR.

b. Prepare Letter 5239, No Determination Issued per Rev Proc or Organization Already Exempt, and include the appropriate selectable paragraph.
c. Prepare Form 14268, User Fee Refund Request, and import it into the MEDS Non-Disclosable folder. In MEDS Case Information, select the case category *Forward Form 14268 - User Fee Refund.
d. Close the case in Status 12.

(5) Process the case per IRM 7.20.2.3, Case Processing, (including requesting additional information or closing a case as FTE) unless this IRM notes otherwise. Other processing exceptions to IRM 7.20.2 include:

- Enter closing information using current Master File information unless specified in this IRM.
- Prepare Letter 4785, AFP Withdrawal, when closing an A or P case as a withdrawal and close the case Status 12 (Other). See IRM 7.20.2.5.6, Withdrawals.

- For closing adverse determinations, prepare Letter 4786, Amendment Requests, Foundation Follow-ups, and section 508 (Private Foundation) Termination Requests Adverse. Close the case Status 12 (Other). Prepare Form 2363-A, Request for IDRS Input for BMF/EO Entity Change, to update Master File, if necessary. In the MEDS Case Information, select the case category *Forward Form 2363-A. See IRM 7.20.2.4 , Adverse Determinations.
- See IRM 7.20.3.1.5, References, to determine the appropriate appeal rights, IRC 7428 declaratory judgment provisions, and IRC 6104 or IRC 6110 disclosure provisions for the specific type of request.

7.20.3.3.1
(10-20-2023)
Request for Reclassification of Foundation Classification

(1) An organization exempt under IRC 501(c)(3):

a. Receives a foundation classification as part of its initial or reinstatement of exempt status determination.
b. May request a change to its given foundation classification for many reasons, including changes in activities or revenue sources.
c. Requests a change in foundation classification by submitting Form 8940 and the appropriate user fee through Pay.gov.

(2) Reclassification requests include:

- Changing from one public charity classification to another (including requests from subordinate organizations) (IRM 7.20.3.3.1.1, Request Reclassification from One Public Charity Classification to Another)
- Correcting an error of private foundation classification to public charity classification (including an organization with an advanced ruling that expired before June 9, 2008 that did not submit Form 8734) (IRM 7.20.3.3.1.2, Request Correction of Erroneous Classification as a Private Foundation)
- Changing from public charity classification to private foundation classification (IRM 7.20.3.3.1.3, Voluntary Request for Private Foundation Classification)
- Changing from private non-operating foundation classification to private operating foundation classification (IRM 7.20.3.3.1.4, Request for Private Operating Foundation Classification under IRC 4942(j)(3))
- Requesting classification as an exempt operating foundation (IRM 7.20.3.3.1.5, Request for Exempt Operating Foundation Classification under IRC 4940(d))

(3) If an applicant is seeking classification or reclassification of public charity status as an educational organization under IRC Sections 509(a)(1) and 170(b)(1)(A)(ii), and the applicant's primary function is not the presentation of formal instruction, the specialist must coordinate with TEGE Division Counsel.

Note: Specialists do not need to coordinate the processing of such requests with TEGE Division Counsel if the applicant does not satisfy the requirements of IRC Section 501(c)(3).

(4) See Instructions for Form 8940 for suggested documentation that an organization should provide for each type of reclassification request.

(5) For all reclassification requests, if the organization doesn't meet the requirements for its request for reclassification of foundation classification, process as a proposed adverse amendment request (see IRM 7.20.3.3, Processing Other

Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations).

Note: When closing a request for reclassification of foundation classification enter closing information using current Master File information unless specified in this IRM.

7.20.3.3.1.1
(10-20-2023)
Request Reclassification from One Public Charity Classification to Another

(1) An organization requesting a change from one public charity classification to another must submit sufficient supporting information to establish it meets its requested classification.

(2) Request additional information as necessary to determine whether the organization meets the requested classification (see IRM 7.20.3.2.1.4, Public Charity Technical Guidance). When you have sufficient information to make a determination:

If you propose	Then
A favorable determination on the reclassification request	Prepare Letter 4425, Change in Foundation Approval, and prepare the case for closing. Enter closing information in MEDS using current Master File information with the exception of the foundation classification. Update the foundation classification. (See below for additional requirements for a subordinate organization.)
A favorable determination on the reclassification request for a subordinate organization	Complete the steps for proposing a favorable determination described above and complete Form 2363-A to update the organization's affiliation code to "9" and correct the foundation code using: • Document Code 80 • Transaction Code 016 • Definer Code C Complete fields 1, 2, 3, 4, 20, 23, 27, and 39-43 ***Reminder:*** In the MEDS Case Information, select the case category *Forward Form 2363-A.

If you propose	Then
An adverse determination on the reclassification request	Process as an adverse amendment request (see IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests and IRM 7.20.2.4, Adverse Determinations).

7.20.3.3.1.2
(10-20-2023)
Request Correction of Erroneous Classification as a Private Foundation

(1) An organization that was erroneously classified as a private foundation or an organization with an advance ruling that expired before June 9, 2008, that didn't timely submit Form 8734 to the IRS may request correction of the error and be classified as a public charity (Rev. Proc. 2023-5, updated annually, and modified by Rev. Proc. 2023-12) if it:

a. Submits Form 8940.
b. Pays the appropriate user fee.
c. Submits financial information for its five most recent years and/or other documentation supporting its public charity classification or otherwise shows it continuously met the applicable public support test.

Note: An organization that is reclassified as a public charity may request a refund of paid investment income excise taxes (on open statutory periods) from the appropriate IRS office (Ogden).

(2) If needed, request any information necessary to determine whether the organization meets the applicable public support requirements. As necessary, also ask for a statement affirming the organization continuously met the public support test from inception, including years outside the most recent five years.

(3) If proposing a favorable determination on the erroneous classification request:

a. Prepare Letter 4425, Change in Foundation Approval.
b. Prepare the case for closing.
c. Use current master file information for closure but update the foundation classification and filing requirements.
d. Prepare Form 2363-A to remove the advance ruling information (enter "999999" in the advance ruling period field) if the organization displays an old advance ruling period on Master File. In the MEDS Case Information, select the case category *Forward Form 2363-A.

7.20.3.3.1.3
(10-20-2023)
Voluntary Request for Private Foundation Classification

(1) An organization exempt under IRC 501(c)(3) and classified as a public charity can request to be reclassified as a private foundation by submitting Form 8940 and the appropriate user fee. An NECT classified under IRC 509(a)(3) may also request this reclassification.

Note: A public charity can also notify the IRS of its private foundation status by filing Form 990-PF and checking "Initial return of a former public charity."

Note: An NECT that no longer qualifies as an IRC 509(a)(3) supporting organization based on the Pension Protection Act of 2006 provisions was required to self identify and file Form 990-PF as of its first taxable year beginning on or

after January 1, 2008 (see Notice 2008-6 and IRM 3.13.12.9.11, Form 990-PF). Consider advance approval under IRC 4945(g) for organizations that have or will be awarding scholarships (see IRM 7.20.3.3.6, Processing Advance Approvals of Grant Making Procedures under IRC 4945(g)). If past awards have been paid for the self-identified private foundation, make a referral to CP&C Classification to consider distributions as taxable expenditures (see IRM 7.20.1.3, Referrals).

(2) Determine the effective date of private foundation classification. The effective date is generally either:

a. The first day after the tax year in which the organization fails the public support test (prior classification of IRC 509(a)(1) and 170(b)(1)(A)(iv) or (vi) or IRC 509(a)(2)).
b. The date the organization no longer qualifies as a public charity or it voluntarily relinquishes its classification as one.

(3) If possible, the effective date should be the first day of a tax year to avoid partial information returns (such as Forms 990 and 990-PF).

Note: If the organization appears to continue to meet a public charity classification, confirm that the organization is voluntarily requesting private foundation classification and understands the consequences of being reclassified (such as Form 990-PF, PF excise tax provisions, etc.).

(4) When reviewing the submitted information, consider developing:

- IRC 508(e) (see IRM 7.20.3.2.2, Processing Initial and Reinstatement Private Foundation Classification Requests and Case Closing)
- Private operating foundation classification (see IRM 7.20.3.2.2.1, Private Operating Foundation Considerations)
- IRC 4945(g) (see IRM 7.20.3.3.6, Processing Advance Approval of Grant Making Procedures under IRC 4945(g))

Note: IRC 4945(g) advance approval of grant making procedures requires a separate Form 8940 and user fee.

(5) If you propose a favorable determination on a voluntary request for reclassification from public charity to private foundation classification, prepare:

a. Letter 4424, Private Foundation Status.
b. The case for closing, entering the existing Master File information and the filing requirements Form 990-PF - 1, Form 990 - 00, and the appropriate foundation code.

Note: For an NECT, create a letter as necessary and prepare Form 2363-A to update Subsection to 92, Status Code to 12, and the appropriate filing requirements. In the MEDS Case Information, select the case category *Forward Form 2363-A.

7.20.3.3.1.4
(10-20-2023)
Request for Private Operating Foundation Classification under IRC 4942(j)(3)

(1) A private non-operating foundation can request classification as a private operating foundation under IRC 4942(j)(3) by submitting Form 8940 and the appropriate user fee.

(2) To qualify as a private operating foundation, an organization must actively conduct its own exempt function programs and demonstrate how it meets the income test and either an asset, endowment, or support test.

(3) If you propose a favorable determination on private operating foundation classification:

a. Prepare Letter 4425, Change in Foundation Approval.
b. Close the case with a foundation classification of 03 in MEDS.

(4) See Treas. Reg. 53.4942(b)-1 for technical guidance on private operating foundations.

7.20.3.3.1.5
(10-20-2023)
Request for Exempt Operating Foundation Classification under IRC 4940(d)

(1) Certain private operating foundations qualify as exempt operating foundations. The term "exempt operating foundation" under IRC 4940(d) applies to any private foundation that meets all of these:

a. Is an operating foundation (as defined in IRC 4942(j)(3)).
b. Either has been publicly supported (IRC 509(a)(1) and 170(b)(1)(A)(vi) or IRC 509(a)(2)) for at least 10 taxable years or has qualified as an operating foundation as of January 1, 1983, or during its last taxable year ending before that date.
c. Has a governing body that, at all times during the taxable year, (i) consists of individuals at least 75 percent of whom aren't disqualified persons and (ii) is broadly representative of the general public.
d. Doesn't have an officer who is a disqualified person at any time during the taxable year.

(2) If you propose a favorable determination on exempt operating foundation classification:

a. Prepare Letter 4425, Change in Foundation Approval.
b. Close the case with a foundation classification of 02 in MEDS.

(3) If information submitted doesn't support a favorable determination on a request for exempt operating status, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.2
(10-20-2023)
Private Foundation Terminations under IRC 507(b)(1)(B)

(1) Once an organization is classified as a private foundation, it can only terminate its private foundation classification under the provisions of IRC 507.

Exception: An organization that was erroneously classified as a private foundation can request correction of the error using Form 8940 (see IRM 7.20.3.3.1.2, Request Correction of Erroneous Classification as a Private Foundation).

(2) One way to terminate private foundation classification is by operating as a public charity for a continuous period of 60 months after appropriately notifying

IRS before the 60-month period (IRC 507(b)(1)(B)). The private foundation must also notify the IRS that it has met the requirements of a public charity at the end of the 60-month period.

(3) An organization generally requests a ruling of termination of private foundation status by submitting Form 8940 and the appropriate user fee at both the beginning and end of the termination period. They will submit Form 8940 with Schedule H at the beginning of the 60-month termination period and Form 8940 with Schedule J at the end of the 60-month period.

(4) A private foundation alternatively may submit Form 8940 with a **Notice Only** of termination of private foundation status under Section 507(b)(1)(B). See IRM 7.20.3.3.2.3, Notice Only Terminations.

(5) The end of the 60-month termination period for both methods (8940 request with user fee or **Notice Only**) requires submission of Form 8940 and a user fee.

(6) See Treas. Reg. 1.507-2(b)(3), for technical guidance.

7.20.3.3.2.1
(10-20-2023)
Processing Beginning of 60-Month Termination Period Request

(1) Before the beginning of the termination period (referred to as an advance ruling period for an organization requesting an advance ruling), the private foundation must submit the following information on Form 8940 (Schedule H):

a. Name and address
b. Statement of intent to terminate private foundation classification
c. Date its regular (or new) tax year begins
d. Date the 60-month period begins (must be after the date of the request)
e. IRC section (for example, 509(a)(1), (2), or (3)) under which it is seeking classification as a public charity, including any required schedules
f. Description of how it intends to become a public charity (in other words, how it will attract the necessary public support including proposed budgets and anticipated sources of support or how it will operate to meet the requirements of its intended classification)

(2) The organization must:

a. Complete and submit Form 872-B, Consent to Extend the Time to Assess Miscellaneous Excise Taxes, to extend the period of limitations for assessment of Chapter 42 tax (IRC 4940).
b. Extend the period for each of the five taxable years in the 60-month termination period such that the period doesn't expire until 4 years, 4 months, and 15 days after the end of the final fiscal year in the 60-month termination period (see IRC 6501 and Treas. Reg. 1.507-2(d)(5)).

Note: The organization must continue to file Form 990-PF during the advance ruling period.

(3) Request additional information, as needed, to determine if the organization is likely to meet the requirements of its public charity classification at the end of the 60-month period.

(4) Also, if the organization didn't submit Form 872-B or completed it incorrectly, complete the following fields on Form 872-B (with suggested entries) and send it to the organization for a signature:

a. Taxpayer Identification Number (top right of form) - enter EIN
b. Name(s) - enter name of the organization
c. Number, Street, City - enter address of the organization
d. Kind - enter “Chapter 42 Excise”
e. Section - enter **4940** of the **Internal Revenue Code**
f. Period - enter ending day of first fiscal year through ending day of last fiscal year in 60-month termination period

Example: For an advance ruling beginning January 1, 2024, enter: ...for the period ended 12/31/2024, 12/31/2025, 12/31/2026, 12/31/2027, and 12/31/2028.

g. Expiration date - 4 years, 4 months, and 15 days after end of the final fiscal year in the 60-month termination period

Example: For an advance ruling beginning January 1, 2024, enter: ...anytime on or before May 15, 2033.

Note: See Worksheet - Form 872-B Date Calculator on the R&A Job Aids SharePoint site.

(5) If you propose a favorable determination on an advance ruling for termination of private foundation classification under IRC 507(b)(1)(B), prepare:

a. Letter 2245, Approval of Beginning of Termination of PF Status - Advance Ruling.

Note: Place the signed Form 872-B in the MEDS Working folder. Add the case category for “507(b)(1)(B) Termination - Adv Ruling” in MEDS. The group tax examiner will stamp and attach Form 872-B to Letter 2245.

b. Form 2363-A:

Field Number	Field Element	Field Input
1	EIN	NN-NNNNNNN (EIN)
2	Name Control	XXXX (Name Control)
3	Document Codes	80
4	Transaction Codes	016
5	Def Codes	B
22	Status Code and Date	25YYYYMM (beginning of 60-month termination period - for example, 25202401)
31	Adv Ruling Date	YYYYMM (end of 60-month termination period - for example, 202812)
39	Remarks	Beginning of 60-Month Termination Period

Field Number	Field Element	Field Input
40	Prepared by	Signature/Date (specialist name/date)
41	Organization Symbols	SE:T:EO:RA:D:AX:XXXX (Area #:Grp #)
42/43	Group and Phone Numbers	Group number and telephone number

Reminder: Don't update the filing requirement to Form 990. Although the organization is treated as a public charity by contributors during the 60-month termination, it continues to have a Form 990-PF filing requirement.

Note: To see an example of a Form 2363-A as prepared for a beginning P case, go to the R&A Job Aids SharePoint site under Forms, Checksheets, Worksheets, and Guidesheets.

c. In the MEDS Case Information, select the case category *Forward Form 2363-A.

7.20.3.3.2.2
(10-20-2023)
Processing Ending of 60-Month Termination Period Request

(1) The private foundation must submit the following information with Form 8940 within 90 days after the end of the 60-month termination period (see Treas. Reg. 1.507-2(b)(4)):

Note: If the organization submits information after the 90 days, but within a reasonable timeframe, and there is no reason to believe the organization didn't meet the requirements during the entire period up to the date it submitted the information, allow the organization to complete the 60-month termination period. Ensure no exam is being conducted on the organization before approving. See your manager if it isn't submitted within a reasonable timeframe.

a. A complete description of its current operations as well as any changes during the 60-month period
b. Copies of its governing instruments, bylaws, and amendments during the 60-month period (if applicable)
c. Complete copies of financial statements starting with the first day of the 60-month period and ending with the last day of the 60-month period
d. If terminating its private foundation classification under IRC 509(a)(1) and IRC 170(b)(1)(A)(vi) or 509(a)(2), Form 990 Schedule A Part II or III (as applicable) for the 60-month period

(2) If terminating its private foundation classification as an IRC 509(a)(3) supporting organization, the organization must also submit:

a. Details of any changes in its foundation managers (as defined in IRC 4946(b)(1)) during the 60-month period
b. Details of the relationship between the organization and the supported organization(s) during the 60-month period
c. All pertinent information to establish that the organization didn't violate the control requirements in IRC 509(a)(3)(C) during the 60-month period

(3) Request additional information as necessary to determine if the organization meets the requirements as a public charity.

Note: If the organization doesn't appear to meet the requirements for its requested classification, consider and discuss alternate public charity classifications with the organization.

(4) If proposing a favorable determination that the organization has met the requirements of IRC 507(b)(1)(B) and qualifies as a public charity:

a. Prepare Letter 4422, P-Case Final Ruling
b. Prepare Form 2363-A:

Field Number	Field Element	Field Input
1	EIN	NN-NNNNNNN (EIN)
2	Name Control	XXXX (Name Control)
3	Document Codes	80
4	Transaction Codes	016
5	Def Codes	A, B
17	Subsection Code	NN
18	Foundation Code	NN
19	Classification Code	NN
20	Affiliation Code	N
21	Type of Organization	N
22	Status Code and Date	01YYYYMM (beginning of 60-month termination period – for example, 202401)
23	Ruling Date	NNNNNN
35	Fiscal Year/Month	NN
38	Filing Requirements	990: NN and 990-PF:0
31	Adv Ruling Date	999999
36	NTEE	LNN
37	NAICS Code	NNNNNN
39	Remarks	End of 60-Month Termination Period
40	Prepared by	Signature/Date (specialist name/date)
41	Organization Symbols	SE:T:EO:RA:D:AX:XXXX (Area #:Grp #)

Field Number	Field Element	Field Input
42/43	Group and Phone Numbers	Group number and telephone number

c. In the MEDS Case Information, select the case category *Forward Form 2363-A.

Note: For an example of an ending P case Form 2363-A, see the R&A Job Aids SharePoint site under Forms, Checksheets, Worksheets, and Guidesheets.

(5) If the organization fails to meet the requirements for public charity classification, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2, Determination Letter Processing of Exempt Organizations.

7.20.3.3.2.3
(10-20-2023)
"Notice Only" Terminations

(1) Rather than submit a Form 8940 with a user fee and Schedule H, a private foundation may submit Form 8940 with a "Notice Only" of termination of private foundation status under Section 507(b)(1)(B) and complete Schedule I before the beginning of the 60-month termination period.

(2) There is no user fee for "Notice Only" requests and they are processed by tax examiners.

(3) If a specialist receives a "Notice Only" request, they will notify the manager and the case will be reassigned to a tax examiner group.

Reminder: The specialist will add the MEDS case category for 507(B)(1)(b) Notice Only.

(4) The tax examiner manager or designee will regularly query MEDS for the "Notice Only" requests and assign them to tax examiners.

(5) Possible issues when processing a "Notice Only" request:

a. If the request includes a fiscal year month (FYM) that does not align with the FYM on BMFOLO, call the applicant to clarify the correct fiscal year month. If unable to reach the applicant's point of contact, use the FYM from BMFOLO.

Note: Document the call in the CCR.

b. If the date of the beginning of the 60-month period listed on Schedule I is before the date that their request was submitted, the termination period will begin the first day of the next fiscal year.

Example: If the request was submitted July 1, 2023, the FYM is December, and the organization indicated the start of the 60-month period is January 1, 2023, the 60-month termination period will actually begin January 1, 2024.

(6) If approving the request:

- Prepare Letter 6122

- Place the case in Status 25 (507(b)(1)(B) Termination)
- Enter the beginning of the 60-month period as the Status Code, and
- Enter the end of the 60-month period as the Advance Ruling Period.

(7) Reject the "Notice Only" request using Letter 6573, Rejection of Form 8940, Request for Miscellaneous Determination, if the organization is:

- In Status 97;
- Not exempt under IRC 501(c)(3);
- Currently in Status 25, but still in the middle of their advance ruling period;
- Currently in Status 25, advance ruling period has ended and requesting a Notice Only termination;
- A public charity; or
- The EIN doesn't match our records.

(8) When processing "Notice Only" requests:

- The tax examiner will either reject the request or prepare it for closing within 2 workdays.
- The group manager will either approve or return the case to the tax examiner within 2 workdays.
- If the group manager returns the case to the tax examiner, the tax examiner will take action within 2 workdays.

(9) The end of the 60-month termination period for both methods (Form 8940 request with user fee or "Notice Only") requires submission of Form 8940 and a user fee.

7.20.3.3.3
(10-20-2023)
Processing IRC 509(a)(3) Supporting Organization Requests for Determination of Type or Change in Type

(1) An existing IRC 509(a)(3) supporting organization (including a subordinate organization) can request a determination of Type (if not previously designated) or a change in Type, by submitting Form 8940 and the appropriate user fee. This includes a determination of whether a Type III supporting organization is functionally integrated or non-functionally integrated.

(2) Request additional information as necessary to determine if the organization meets the requested (or alternate) Type requirements (see IRM 7.20.3.2.1.4, Public Charity Technical Guidance).

(3) If you propose a favorable determination on initial or change in Type of supporting organization:

a. Prepare Letter 4719, EO - Initial Notification 509(a)(3), or Letter 4716, EO-Change in Type - 509(a) Requirements Met.
b. Prepare the case for closing.
c. Update the foundation classification when closing the case. Enter other closing information using current Master File information.
d. For a subordinate organization, also complete Form 2363-A using: Document Code 80, Transaction Code 016, and Definer Code C. Complete fields 1, 2, 3, 4, 20, 23, 27, and 39-43. In the MEDS Case Information, select the case category *Forward Form 2363-A.

(4) If information submitted doesn't meet the requirements for the requested (or alternate) Type of supporting organization, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.4
(10-20-2023)
Processing Requests for 509(a)(3) Classification from Non-Exempt Charitable Trusts

(1) An NECT described under IRC 4947(a)(1) is a trust that:

a. Hasn't received an IRS determination that it's exempt from federal income tax.
b. Has had a charitable deduction allowed.
c. All of the unexpired interests are devoted to one or more charitable purposes.

(2) IRC 508(a) doesn't apply to NECTs; these trusts don't have to notify the IRS about their foundation classification. However, an NECT is generally treated as a private foundation.

(3) See Rev. Proc. 72-50, superseded in part by Rev. Proc. 76-34, for procedures for an NECT to request a determination letter that it is described in IRC 509(a)(3). These requests are not applications for exempt status.

(4) An NECT can request a determination that it is described in IRC 509(a)(3) by submitting Form 8940 and the appropriate user fee. The NECT must meet the same requirements as any organization requesting classification under IRC 509(a)(3).

Reminder: The Pension Protection Act of 2006 (PPA) (P. L. 109-280) Section 1241(c) eliminated the alternative responsiveness test (charitable trust test) for IRC 509(a)(3) Type III supporting organizations. Consequently, as of August 17, 2007, NECTs previously classified as IRC 509(a)(3) Type III supporting organizations may be classified as private foundations. Based on PPA provisions, an NECT requesting a determination that it is described under IRC 509(a)(3) must demonstrate how it meets the requirements for classification as a Type I, Type II, or Type III supporting organization in the absence of relying on the charitable trust test.

(5) Request additional information as necessary to determine if the trust meets the requirements for classification as an IRC 509(a)(3) supporting organization and under which Type.

(6) If you propose a favorable determination for classification under IRC 509(a)(3):

- Prepare Letter 1071, Favorable 509(a)(3) Letter to NECT.
- Complete Form 2363-A to update the Subsection to 91, Status Code to 12, and the Filing Requirement to 990:01. The foundation code is blank.

Note: In the MEDS Case Information, select the case category *Forward Form 2363-A.

(7) If the NECT requests a determination that it is described under IRC 509(a)(3) but doesn't meet requirements for Type I, Type II, or Type III for any period, continue to treat the organization as a private foundation and follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4 , Adverse Determinations. Protest and appeal rights are available on a proposed adverse determination letter on classification of a Section 4947(a)(1) NECT described in Section 509(a)(3). To close as an adverse case:

a. Prepare Letter 4786, Amendment Requests, Foundation Follow-Ups, and Section 508 (Private Foundation) Termination Requests Adverse.
b. Include the selectable paragraph regarding appeal rights on Letter 4786.
c. Remove references to disclosure under Section 6110 from Letter 4786 before sending.
d. Close the case using closing code Status 12 (Other).

7.20.3.3.5
(10-20-2023)
Processing Advance Approval of Exclusion of Unusual Grants

(1) A publicly supported exempt organization (IRC 509(a)(1) and IRC 170(b)(1)(A)(vi) or IRC 509(a)(2)) that can't meet the public support test because of one or more unusually large contributions may be entitled to exclude those contributions as support in computing whether it's publicly supported.

Note: An organization can entirely exclude unusual grants from the numerator and denominator of its public support calculation.

(2) Generally, unusual grants are substantial contributions or bequests from disinterested parties if the contributions:

- Are attracted by the publicly supported nature of the organization.
- Are unusual or unexpected in amount.
- Would adversely affect, because of the size, the status of the organization as normally publicly supported.

(3) An organization can request advance assurance on whether a potential grant or contribution constitutes an "unusual grant" that won't adversely affect its classification as a publicly supported organization. Grantors, contributors, and the exempt organization can rely on the ruling (see Section 7.03 of Rev. Proc. 2018-32).

(4) Advance assurance of unusual grants can be requested as part of an initial or reinstatement application for exemption, or it can be requested after recognition of exemption by submitting Form 8940 and the appropriate user fee. Requests submitted on Form 8940 are established as A cases.

(5) If the organization submits Form 8940 requesting approval of an unusual grant, but received the grant **prior** to submitting the request, decline to rule. You must:

a. Discuss the request and whether to decline to rule with your manager. Consider Rev. Proc. 2023-5, Section 3.02, updated annually.
b. If the manager agrees that declining to rule is appropriate, call the organization or their representative (see IRM 7.20.1.5, Authorized Persons). Explain that the decision to decline to rule is because advance approval is not appropriate for a grant which was received and accepted prior to the date they submitted Form 8940.

Reminder: Document the telephone call in the CCR, including the name of the individual you called and what was discussed.

c. Refund the user fee using Form 14268, User Fee Refund Request.
d. Close the case in status 12.
e. Consider preparing Form 5666, TE/GE Referral Information Report.

Note: See IRM 7.20.1.3, Referrals, for instructions on preparing a referral.

f. Issue Letter 5239, No Determination Issued per Rev Proc or Organization Already Exempt, and include the following in a composed selectable paragraph:

Revenue Procedure 2023-5, updated annually, and modified by Rev. Proc. 2023-12, provides general procedures for issuing rulings on issues under the jurisdiction of the Office of the Commissioner, Tax Exempt and Government Entities Division. This includes rulings related to the recognition of exemption under IRC Section 501. Rev. Proc. 2023-5, Section 3.02 states that we may decline to issue a determination letter when appropriate in the interest of sound tax administration or on other grounds, whenever warranted by the facts or circumstances of a particular case.

Based on the facts and circumstances presented in your application, we're declining your request and closing your case.

We'll refund your user fee and send it to you in a separate communication.

(6) Contact the organization as necessary to secure information needed to make a determination. For factors to consider, see:

- Treas. Reg. 1.509(a)-3(c)(3)
- Treas. Reg. 1.170A-9(f)(6)(ii)

(7) If you propose a favorable determination that the potential grant or contribution constitutes an unusual grant on an A case:

a. Prepare Letter 4787, Recognition and Approval of Unusual Grant, using a legend for any identifying information. Import letter into the MEDS Non-Disclosable folder.
b. In MEDS, click on Case Information and then File. Select Mandatory Review. From the drop-down menu, select the correct mandatory review type (IRC 6110).

Note: Enter closing information using current Master File information.

(8) If information submitted doesn't support a favorable determination on a request that a potential grant or contribution constitutes an unusual grant, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2, Determination Letter Processing of Exempt Organizations.

7.20.3.3.6
(10-20-2023)
Processing Advance Approvals of Grant Making Procedures under IRC 4945(g)

(1) Under IRC 4945(g), private foundations must request advance approval of individual grant making activities intended to enhance an individual's educational, artistic, or scientific abilities. Without advance approval, individual grants described in IRC 4945(g) are taxable expenditures under IRC 4945(d)(3). Under Treas. Reg. 53.4945-4(a)(2), ″grants″ include but aren't limited to:

- Scholarships
- Fellowships
- Internships
- Prizes
- Awards
- Loans (for purposes described in IRC 170(c)(2)(B))

Note: NECTs can also request a 4945(g) ruling.

(2) A private foundation can request advance approval of individual grant procedures either:

a. As part of its initial or reinstatement application for exemption (see IRM 7.20.3.2.2, Processing Initial and Reinstatement Private Foundation Classification Requests and Case Closing).
b. By submitting Form 8940 and the appropriate user fee after the organization obtains exemption. A request submitted on Form 8940 is established as an A case.

(3) If a foundation properly submits a request for approval of grant making procedures and IRS doesn't notify it within 45 days that its procedures aren't acceptable, then those procedures are considered approved (see Treas. Reg. 53.4945-4(d)(3)). This tacit approval is effective from the date the foundation submits the request to the IRS until the organization receives actual notice that the procedures are unacceptable.

Note: If you process a request under IRC 4945(g) for a private foundation that made grants prior to submitting the request for advance approval or after being notified that the procedures were not acceptable, consider a referral to CP&C Classification to consider distributions as taxable expenditures (see IRM 7.20.1.3, Referrals).

(4) For advance approval, a private foundation must demonstrate:

a. Its grant procedures include an objective and nondiscriminatory selection process.
b. Its procedures are reasonably calculated to result in the grantees performing the activities that the grants are intended to finance.
c. It plans to obtain reports to determine whether the grantees performed the activities that the grants are intended to finance.

(5) A request for advance approval of individual grant making procedures must contain a statement describing the selection process, sufficiently detailed as to prove whether the grants are made on an objective and nondiscriminatory basis, and a detailed description of:

a. The terms and conditions under which it ordinarily makes the grants, sufficient to demonstrate the procedures meet the requirements of IRC 4945(g),
b. Its procedures for exercising supervision over the grants, and
c. Its procedures for review of the grantee reports and investigation of any diversion of grant funds from their proper purposes.

(6) The organization must specify whether the approval is requested under IRC 4945(g)(1) or (3).

Note: This is to prevent the private foundation from later claiming protection under the 45-day rule when it requested approval under IRC 4945(g) and the IRS assumed the grant program was a scholarship, award, or specific grant.

(7) See the Instructions for Form 8940, which describe the information an organization should submit in support of its request. A completed Schedule H (Form 1023) may also provide information sufficient to make a determination.

(8) See or complete Form 14322, Guidesheet for Advance Approval of Individual Grant Procedures, for help to process advance approval of individual grant procedure requests.

7.20.3.3.6.1
(10-20-2023)
4945(g) Case Processing

(1) Process all requests for advance approval of grant making procedures under IRC 4945(g)(1) and IRC 4945(g)(3) as requests that require approval, without considering any previously approved procedures (in other words, don't research the administrative file to review prior advance approval requests).

(2) If a private foundation submits a request for advance approval for a single program that is described under both IRC 4945(g)(1) and IRC 4945(g)(3), process as a single request, requiring one user fee.

Note: The Instructions for Form 8940 generally require an organization to submit a separate form and user fee for each type of request.

(3) When assigned a 4945(g) A case, contact the organization, if necessary, to solicit any additional information you need to make the determination, including confirmation whether the request is for approval under 4945(g)(1) or (3). There are pre-written questions available on the *R&A Job Aids SharePoint* site, if needed.

(4) If you propose a favorable determination on the advance approval of grant making procedures:

a. Prepare Letter 4792 , Section 4945(g)(1) and Section 4945(g)(3) Approval, for all request types, using a legend for any identifying information. Import the letter into the MEDS Non-Disclosable folder.
b. Enter closing information using current Master File information unless specified in this IRM.
c. Send the case for mandatory review. Highlight the Case Information line in MEDS. From the drop-down menu, select **Mandatory Review.** Select **Send for Mandatory Review** and click "OK." Select **IRC 6110** for the Mandatory Review Type.

(5) If information submitted doesn't support a favorable determination on the request for advance approval of grant making procedures, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.6.2
(10-20-2023)
Other IRC 4945(g) Issues

(1) EO Determinations doesn't issue advance approval of grant making procedures under IRC 4945(g)(2). This type of a prize or award is subject to IRC 74(b) (see Rev. Rul. 77-380). If a request appears to be for advance approval of grant making procedures under IRC 4945(g)(2):

a. Get your group manager's agreement that the request was submitted in error.
b. Call the taxpayer and explain we don't issue advance approval of grant making procedures under IRC 4945(g)(2).
c. Prepare Letter 5239, No Determination Issued Per Rev Proc or Because Organization is Already Exempt.
d. Close the case using closing code Status 12 (Other).

e. Complete Form 14268, User Fee Refund Request (see IRM 7.20.2.3.8.2, User Fee Refunds) and in the MEDS Case Information, select the case category *Forward Form 14268 - User Fee Refund.

(2) If IDRS shows that an organization is classified as other than a private foundation (such as a public charity described in IRC 509(a)(3) or an NECT with a subsection code of 91), research IDRS (for example, BMFOLI and BMFOLT) and MEDS, as necessary, to determine if the organization's record is incorrect:

If the organization	Then the specialist will
Is a private foundation based on filing Form 990-PF or a determination letter	a. Prepare Form 2363-A to update Master File to reflect the correct foundation classification. ***Reminder:*** In the MEDS Case Information, select the case category *Forward Form 2363-A. b. Continue to process the request but don't close the case until Master File is updated.
Didn't file Form 990-PF or otherwise request classification as a private foundation	a. Notify the organization that our records indicate it is a public charity and determine why the organization submitted a request for advance approval of grant making procedures. b. If appropriate, get your group manager's agreement that the request was submitted in error. c. For requests submitted in error, prepare Letter 5239 and complete Form 14268, User Fee Refund Request.

(3) If IDRS (BMFOLO) shows an L Freeze, the private foundation is under audit by EO Exam. See your manager and consider coordinating with EO Exam.

(4) An NECT that is classified as a private foundation must also request advance approval of its grant making procedures under IRC 4945(g).

Reminder: The PPA changed the requirements for classification under IRC 509(a)(3). Many NECTs that were previously classified as supporting organizations are now classified or treated as private foundations and must request advance approval of their grant making procedures under IRC 4945(g).

(5) To avoid misinterpretation that the IRS is approving grants for prior years, if an NECT that is classified or treated as a private foundation made grants before receiving advance approval, issue the approval letter specifying an effective date (usually the postmark date of the request for advance approval). Consider a referral to CP&C Classification to consider prior distributions as taxable expenditures (see IRM 7.20.1.3. Referrals).

7.20.3.3.7
(10-20-2023)
Processing Advance Approvals of Set-Asides under IRC 4942(g)(2)

(1) Certain amounts of a private foundation's income may be set aside, rather than currently distributed, for one or more purposes described in IRC 170(c)(2)(B) (IRC 4942(g)(2)). If the foundation meets the requirements of IRC 4942(g)(2), it may treat set-aside amounts as qualifying distributions.

(2) Non-functionally integrated Type III supporting organizations may also request advance approval to have certain set-asides count towards their distribution requirements (see Treas. Reg. 1.509(a)-4(i)(6)(v)).

(3) To request approval of a set-aside or an extension to a set-aside, an organization must submit Form 8940 and the appropriate user fee.

Note: An organization can't request advance approval of a set-aside as part of a Form 1023 application for initial or reinstatement of exempt status.

(4) For set-asides:

a. See IRC 4942(g)(2) for requirements.
b. See Instructions for Form 8940 for the information an organization should submit with its request.

(5) If necessary, request additional information necessary to make a determination. There are pre-written questions available on the R&A Job Aids SharePoint site. Use Form 14325, Section 4942 Set-Aside Guidesheet, for guidance when reviewing a set-aside request.

(6) If you propose a favorable determination on the set-aside or set-aside extension request:

a. Prepare either Letter 4797, Section 4942(g)(2) Set-Aside Approval, Letter 4798, Section 4942(g)(2) Set-Aside Extension Approval, or a composed letter (for an NECT) using a legend for any identifying information. Import the letter into the MEDS Non-Disclosable folder.
b. Enter closing information using current Master File information unless specified in this IRM.
c. Send the case for mandatory review. Highlight the Case Information line in MEDS. From the drop-down menu, select **Mandatory Review.** Select **Send for Mandatory Review** and click "OK." Select **IRC 6110** for the Mandatory Review Type.

(7) If information submitted doesn't support a favorable determination on the request for approval of a set-aside or set-aside extension, follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.8
(10-20-2023)
Processing Advance Approvals of Voter Registration Activities under IRC 4945(f)

(1) A 501(c)(3) organization may engage in nonpartisan voter registration activities if the activities meet certain requirements. If the activities meet the requirements of IRC 4945(f), a grant from a private foundation to the organization won't be a taxable expenditure for the foundation under IRC 4945(d)(2), even though the grant is earmarked for voter registration purposes generally.

(2) An organization may request advance approval of voter registration activities under IRC 4945(f) by submitting Form 8940 and the appropriate user fee.

Note: An organization can't request advance approval under IRC 4945(f) as part of a Form 1023 application for initial or reinstatement of exempt status.

(3) For advance approvals of voter registration activities, see:

a. IRC 4945(f)
b. Instructions for Form 8940 for information an organization should submit as part of its request

(4) If necessary, request additional information necessary to make a determination. There are pre-written questions available on the R&A Job Aids SharePoint site.

(5) If you propose a favorable determination on advance approval of voter registration activities under IRC 4945(f):

a. Prepare Letter 4778, Section 4945(f) Voter Registration Activities Approval, using a legend for any identifying information. Import the letter into the MEDS Non-Disclosable folder.
b. Enter closing information using current Master File information unless otherwise specified in this IRM.
c. .Send the case for mandatory review. Highlight the Case Information line in MEDS. From the drop-down menu, select **Mandatory Review.** Select **Send for Mandatory Review** and click "OK." Select **IRC 6110** for the Mandatory Review Type

(6) If information submitted does not support the request for advance approval of voter registration activities under IRC 4945(f), follow adverse case processing procedures in IRM 7.20.3.3, Processing Other Miscellaneous Determination Letter Requests, and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.9
(10-20-2023)
Processing Requests for Exception from Form 990 Filing Requirements

(1) Generally, a tax-exempt organization must file a Form 990-series information return or notice annually. However, IRC 6033 and certain revenue procedures (Rev. Proc. 2011-15 supplemented by Rev. Proc. 95-48 and Rev. Proc. 96-10) give exceptions to filing Form 990.

(2) An organization can request to be recognized as excepted from Form 990-series filing requirements as part of an application for exemption (initial or reinstatement request). An organization (including a subordinate in a group ruling) can also request Form 990-series filing exception after obtaining exemption by submitting Form 8940 and the appropriate user fee. Requests submitted on Form 8940 are processed as A cases. The Instructions for Form 8940 describe suggested documentation that the organization should submit.

(3) Common exception requests include exception as:

a. A church or an integrated auxiliary of a church
b. A church affiliated organization that is exclusively engaged in managing funds or maintaining retirement programs (Rev. Proc. 96-10)
c. A school below college level affiliated with a church or operated by a religious order
d. A church-affiliated mission society if more than half of its activities are conducted in, or are directed at persons in, foreign countries
e. A governmental unit or an affiliate of a governmental unit that meets the requirements of Rev. Proc. 95-48

Note: This list is not all-inclusive. See IRC 6033, Treas. Reg. 1.6033-2(g), and the revenue procedures listed above for more exceptions and the technical requirements for exception.

(4) Use these guidesheets to help you determine if an organization is excepted from filing a Form 990-series return or notice:

Form number	Description
Form 14318	Guidesheet for Revenue Procedure 95-48 Form 990 Filing Exception
Form 14319	Guidesheet for Revenue Procedure 96-10 Form 990 Filing Exception
Form 14320	Guidesheet for Integrated Auxiliaries and Church-Affiliated Schools Form 990 Filing Exception

(5) If the organization doesn't submit sufficient information, request the information needed to make a determination. There are pre-written questions available on the R&A Job Aids SharePoint site.

(6) If you propose a favorable determination on the filing exception request made on Form 8940:

a. Prepare Letter 4715, EO-Exception to 990 Requirement.
b. Enter closing information based on current Master File data except enter Form 990 filing requirement "06" for a church, "13" for a religious organization (non-church) or "14" for an organization excepted based on Rev. Proc. 95-48.

Note: If a subordinate organization requests and receives a favorable determination on Form 990 filing exception, complete Form 2363-A to update the organization's filing requirements using Document Code 80, Transaction Code 016, and Definer Code C. Complete fields 1, 2, 3, 4, 20, 23, 27, and 39-43. In the MEDS Case Information, select the case category *Forward Form 2363-A.

(7) If Form 990 filing exception is granted to an organization during an initial determination of exempt status because it is an exclusively religious activity of a religious order, add an addendum to the determination letter.

Example: "This is a determination that your exclusively religious activity does not need to be reported on an annual return or notice required by IRC Section 6033. This is not a ruling under Revenue Procedure 91-20, 1991-10 I.R.B. 26, that you are a religious order for purposes of self-employment tax, the Federal Insurance Contributions Act (FICA) tax, and federal income tax withholding, respectively. To request such a ruling, see Rev. Proc. 2023-1 or its successor."

Reminder: If Form 990 filing exception is granted to an organization during an initial determination of exempt status, enter "No" for the Form 990 filing requirement in the heading of the closing letter.

(8) If information submitted doesn't support the request for exception from Form 990 filing requirements, follow adverse case processing procedures in IRM 7.20.3.3 and IRM 7.20.2.4, Adverse Determinations.

7.20.3.3.10
(10-20-2023)
Processing Voluntary Termination of IRC 501(c)(3) by Government Entity

(1) A government entity can request voluntary termination of its recognition under IRC 501(c)(3) (see Rev. Proc. 2023-5, updated annually) by submitting Form 8940 (or a letter request) and the appropriate user fee payment.

(2) Generally accept a written statement from the organization attesting it is a government entity.

(3) To process the termination:

a. Prepare Letter 5171, Government Entity Voluntary Termination of 501(c)(3) Recognition.
b. Prepare Form 5666, TE/GE Referral Information Report, to notify FSL-ET, indicating the organization has terminated its 501(c)(3) status based on its status as a government entity and attaching any documents submitted by the organization in support of its government entity status.

Note: See IRM 7.20.1.3, Referrals, for information on preparing From 5666.

c. Prepare Form 2363-A, to update the organization to Status 20 and remove Form 990 filing requirements (enter Form 990: 00).
d. In the MEDS Case Information, select the case category *Forward Form 2363-A.
e. Close the case Status 12 (Other).

Note: If there is a Y indicator for pension plan on BMFOLO, prepare Form 5666, TE/GE Referral Information Report, to refer to EP.

7.20.3.3.11
(10-20-2023)
Processing Group Ruling Requests

(1) A group ruling is a determination letter issued to a parent organization (also known as a central organization) recognizing, on a group basis, the exemption under IRC 501(c) of subordinate organizations on whose behalf the parent organization has applied for recognition of exemption.

(2) An organization requests a group ruling by submitting Form 8940 and the appropriate user fee. The request is processed per Rev. Proc. 2023-5, updated annually, and Rev. Proc. 80-27 (modified by Rev. Proc. 96-40).

Note: Pub 4573, Group Exemptions, also provides helpful information on group exemptions.

Reminder: Notice 2020-36 provides that the Service will not accept any requests for group exemption letters until publication of the final revenue procedure or other guidance contemplated by the notice in the Internal Revenue Bulletin.

(3) Group rulings are intended to be an administrative convenience to the IRS and to relieve each of the subordinates covered by a group exemption from filing its own application for recognition of exemption. IRS has discretion whether to issue a group exemption letter.

(4) The parent organization must obtain recognition of its own exempt status before or concurrently with the group exemption request. If application is made concurrently, don't start developing the group ruling request until a favorable determination on the parent organization's exempt status appears likely.

Note: The parent organization doesn't have to be described under the same paragraph of IRC 501(c) as the subordinates, but the subordinates must all be described under the same paragraph.

Note: The same specialist should generally work both cases. Request assignment of the related case after discussing with your manager.

(5) The following types of organizations may **not** be included as subordinates in a group exemption letter. Organizations that are:

- Organized and operated in a foreign country (this does not include organizations formed in U.S. territories).
- Private foundations defined in IRC 509(a), if a group exemption is requested under IRC 501(c)(3).

(6) An organization closely affiliated with a government entity (instrumentality) may obtain a group exemption if it meets the requirements in Rev. Proc. 80-27.

(7) Group ruling requests are established in MEDS as Form 1026 "A" cases.

(8) If a subordinate organization under a group exemption applies for individual exemption, see IRM 7.20.4, Automatic Revocation and Special Determination Issues.

7.20.3.3.11.1
(10-20-2023)
Group Ruling Case Development

(1) Review the submitted information (using optional Form 14315, Group Ruling Guidesheet) to determine whether to:

a. Develop the case (favorable determination appears likely).
b. Decline to make a determination on the request (see IRM 7.20.3.3.11.3, Group Ruling Declinations).

(2) If you develop the case, ensure the letter request is signed by a principal officer of the parent organization under penalties of perjury and that the letter and attachments establish that its subordinates are:

a. Affiliated with it.
b. Subject to its general supervision or control (describe the control it has per written bylaws, policy, or agreement).
c. All eligible to qualify for exemption under the same paragraph of IRC 501(c), though not necessarily the paragraph under which the parent organization is exempt.
d. Not private foundations (if the subordinates are described under IRC 501(c)(3)).
e. All on the same accounting period as the parent organization (if they are to be included in a group return).
f. Organized within 27 months from the date of the submission (or if any are organized more than 27 months, all subordinates are willing to be recognized as exempt only from the date of application).

(3) The request must include:

a. A sample copy of a uniform governing instrument (charter, trust, Articles of Association, etc.) that the parent organization says will be adopted by all subordinates or, in the absence of a uniform governing instrument, a representative sample of the subordinates' governing documents.

Note: Review the governing instrument to determine if it meets the organizational requirements for the subsection requested.

b. A detailed description of the purposes and activities of the subordinates including the sources of receipts and the nature of expenditures.

c. An affirmation to the effect that, to the best of the officer's knowledge, the purposes and activities of the subordinates are as stated in the detailed description of the purposes and activities and in the governing instrument ((a) and (b) above).

d. A statement that each subordinate included in the group exemption has furnished written authorization, signed by a duly authorized officer of the subordinate, requesting inclusion in the group exemption request.

e. A list of subordinates to be included in the group exemption to which the IRS has issued an outstanding ruling or determination letter related to exemption.

f. Information to show that each subordinate that is a school claiming exemption under IRC 501(c)(3) has submitted the information required by Rev. Proc. 75-50.

g. A list of the names, mailing addresses (including zip codes), actual addresses, if different than mailing addresses, and employer identification numbers of the subordinates to be included in the group exemption letter.

(4) Research IDRS for all subordinate organizations and include the printouts in your case file.

Caution: Automatically revoked organizations can't be included as subordinates in a group exemption request.

(5) If the letter request doesn't contain sufficient information to show the requirements are met for a group exemption, request the missing information.

(6) After developing the request, discuss with your manager whether to approve (see IRM 7.20.3.3.11.2) or process as a declination (see IRM 7.20.3.3.11.3).

7.20.3.3.11.2
(10-20-2023)
Closing Procedures for Group Rulings - Approvals

(1) The specialist will prepare Letter 2419, Group Exemption, and import it into the MEDS Non-Disclosable folder.

(2) The specialist will import a list of subordinates provided by the parent into the MEDS Working folder. The list should contain the subordinates' names, addresses, EINs, and annotations if any subordinates had an individual exemption letter.

Reminder: Remove any subordinates from the parent's list that are in Status 97 or otherwise not included in the group exemption.

(3) The specialist will select **Mandatory Review** in MEDS and select the mandatory review type in the drop down menu.

(4) The Group Exemption Number will be assigned in Quality Assurance (QA).

(5) The QA Reviewer will prepare Form 2363-A (Pilot Voucher), entering the information listed in the table below.

Note: Form 2363-A (Pilot Voucher) requirements are based on Ogden GEN input procedures listed in IRM 3.13.12.12, Group Rulings.

- If the parent and subordinates have or will have the same information on Master File other than the affiliation code, prepare one pilot voucher which states “PARENT and SUBS” at the top.
- If the parent has or will have different information (for example, subsection, foundation classification, effective date, or filing requirement, etc.) on Master File than its subordinates, prepare two pilot vouchers. One voucher will state “PARENT” (and the GEN) at the top and will reflect the parent’s information. The other will state “SUBORDINATES” (and the GEN) at the top and will reflect the subordinates’ information.

Form 2363-A Fields	**Data to Enter**
1. EIN	XX-XXXXXXX
2. Name Control	XXXX
3. Document Codes	80
4. Transaction Codes	016
5. Def. Codes	ABC
17. Subsection Code	XX
18. Foundation Code	Complete if exempt under IRC 501(c)(3); otherwise leave blank
20. Affiliation code	a. 6 for a parent that is not a church or exempt under IRC 501(c)(1) b. 8 for a parent of churches under 501(c)(3), foundation code 10, or 501(c)(1) organizations c. 9 for a subordinate only pilot voucher ***Note:*** Subordinates will always be coded as “9” regardless of the parent’s affiliation code.
22. Status code and date (YYYYMM)	01 YYYYMM ***Note:*** Leave date portion blank; EO Entity procedures determine date to be entered.

Form 2363-A Fields	Data to Enter
23. Ruling date (YYYYMM)	Ruling date of group exemption (based on closing date)
25. Deductibility code and year (YYYY)	a. 1 YYYY ***Note:*** Leave year blank; EO Entity procedures determine date to be entered. b. 2 followed by four zeros for organizations without deductibility
27. New GEN	4 digit number
34. Employment code	W for 501(c)(3) organization(s); otherwise leave blank
38. Filing Requirements	Enter appropriate filing requirements
39. Remarks	Group Ruling Issuance - New GEN
19, 21, 30, 35, 36, 37, 40, 41, 42, and 43	Enter appropriate information

(6) Prepare the case for closing.

Note: You must enter an affiliation code of 3 in MEDS, as MEDS will not accept an affiliation code of 6 or 8 for the parent organization. Enter the correct affiliation code on the pilot voucher.

(7) The QA reviewer will prepare Form 1725, Routing Slip, to send to EO Entity Supervisor, Ogden Campus. Check item 10, Necessary Action, and include the following information in the Remarks section:

- Issue GEN # _____ to (name of parent organization) with EIN (EIN of parent organization)
- Input GEN
- Process Pilot Voucher(s) (Form(s) 2363-A) for Parent and Subordinates

(8) The QA reviewer will place all forms into the MEDS Working folder to be forwarded by the EODQA tax examiner, per IRM 7.20.5.7.1.

7.20.3.3.11.3
(10-20-2023)
Group Ruling Declinations

(1) A group ruling request may be declined for one or more of these reasons:

- Failure of the parent organization to qualify for recognition of exemption
- Failure to satisfy Rev. Proc. 80-27 requirements
- Issues/activities that have a historical problem with compliance
- Failure of subordinate organizations to file information returns for three consecutive years (would be automatically revoked)
- Against sound tax administration

Reminder: Group ruling declinations do not receive protest rights and are not subject to IRC 7428.

(2) Discuss a proposed declination with your group manager.

(3) If your manager agrees with the declination, call the parent organization to discuss:

a. An explanation that subordinates may submit individual applications for exempt status and, if exempt status is then denied, the subordinates will have appeal rights.
b. Refund of the user fee.

(4) To close the case:

a. Prepare Form 14268, User Fee Refund Request, and import into the MEDS Non-Disclosable folder.
b. Prepare Form 14261, Memorandum to File - EO Determinations Case Closing, explaining why the request is declined
c. Prepare Letter 4788, Group Ruling Declination
d. In MEDS, select closing code Status 12 (Other).
e. Select the MEDS Case Category *Forward Form 14268, User Fee Refund.

(5) In rare circumstances an adverse letter, Letter 4786, may be prepared rather than a declination.

7.20.3.3.12
(10-20-2023)
Commonly Used Guidesheets

(1) Use these guidesheets to help you process public charity classification, private foundation classification, and amendment case issues.

Form	Used to
Form 14312, Church Guidesheet	Process a request to be classified as a church under IRC 509(a)(1) and IRC 170(b)(1)(A)(i).
Form 14313, Private School Determination Case Checklist	Process a request from an organization operating or a supporting private school.
Form 14314, Revenue Procedure 75-50 Guidesheet	Determine whether an organization operating a school complies with the requirements of Rev. Proc. 75-50.
Form 14315, Group Ruling Guidesheet	Process a request for a group exemption ruling under Rev. Proc. 80-27.
Form 14317, Section 509(a)(3) Supporting Organization Guidesheet (Type III)	Process a request to be classified as a supporting organization under IRC 509(a)(3) (Type III).

Form	Used to
Form 14318, Revenue Procedure 95-48 Guidesheet	Process a request for a determination that an organization is not required to file annual 990 returns pursuant to Rev. Proc. 95-48.
Form 14319, Revenue Procedure 96-10 Guidesheet	Process a request for a determination that an organization is not required to file annual 990 returns pursuant to Rev. Proc. 96-10.
Form 14320, Integrated Auxiliary Guidesheet	Process a request for a determination that an organization is not required to file annual 990 returns because it is an integrated auxiliary of a church.
Form 14321, Public Support Test Computation Guidesheet	Compute the public support test under IRC 509(a)(1) and 170(b)(1)(A)(vi).
Form 14322, Advance Approval of Individual Grant Procedure Guidesheet	Process advance approval of individual grant making procedures under IRC 4945(g).
Form 14323, Charter School Guidesheet	Process a request from a charter school for classification under IRC 509(a)(2) and 170(b)(1)(A)(ii).
Form 14324, Organizations Closely Affiliated with State or Indian Tribal Governments Guidesheet	Help determine if an IRC 501(c)(3) organization is closely affiliated with a state government or federally recognized Indian tribal government and, therefore, not required to file annual Forms 990.
Form 14325, Section 4942(g)(2) Set-Aside Guidesheet	Process an IRC 4942(g)(2) set-aside request.
Form 14326, Hospitals, Clinics, and Similar Health Care Providers Reference Guidesheet	Process a request from a hospital, clinic, or similar health care provider.
Form 14396, Public Support Test Computation Guidesheet - 509(a)(2)	Compute the public support test under IRC 509(a)(2).

7.20.3.3.13
(10-20-2023)
Commonly Used Letters

(1) Use these common letters to process public charity classification, private foundation classification, and amendment case issues.

Letter	Description
Letter 1071, Favorable 509(a)(3) Letter to NECT	Notifies non-exempt charitable trust that it is classified under IRC 509(a)(3).
Letter 1079, Exemption Determination with Adverse Issue	Informs an organization that it is exempt from federal income tax under 501(a) but specifies the organization did not meet the requirements for a requested foundation classification, Form 990 filing exception, or effective date of exemption.
Letter 2245, Advance Approval under Section 507(b)(1)(B)-Termination of Private Foundation Status	Advance approval of termination of private foundation classification under IRC 507(b)(1)(B) for 60-month period.
Letter 2419, Group Exemption Letter	Approves group exemption request.
Letter 4422, P-Case Final Ruling	Approves reclassification of private foundation to public charity after 60-month termination under IRC 507(b)(1)(B).
Letter 4424, Private Foundation Status	Reclassifies public charity to private foundation when organization indicates it no longer qualifies as public charity.
Letter 4425, Change in Foundation Approval	Approves change in public charity/private foundation classification of an exempt organization.
Letter 4715, EO-Exception to 990 Requirement	Approves exception to Form 990 filing requirement for affiliate of government unit, religious organization, or integrated auxiliaries.
Letter 4716, Change in 509(a)(3) Type - Requirements Met	Approves change in 509(a)(3) type.
Letter 4719, EO - Initial Notification 509(a)(3)	Approves initial 509(a)(3) type classification.
Letter 4778, Approval of Voter Registration Activities under Section 4945(f)	Approves voter registration activities under IRC 4945(f).
Letter 4785, AFP Case Withdrawal	Acknowledges withdrawal of A or P case request.

Letter	Description
Letter 4786, Adverse Amendment Requests, Foundation Follow-ups, and Section 507 (Private Foundation) Termination Requests	Proposes or makes an adverse determination on an A or P case.
Letter 4787, Recognition and Approval of Unusual Grant	Approves a contribution as an unusual grant.
Letter 4788, Group Ruling Declination	Declines to issue group ruling.
Letter 4792, Section 4945(g)(1) and Section 4945(g)(3) Approval	Advance approval of all individual grant making procedures under IRC 4945(g)(1) and IRC 4945(g)(3).
Letter 4797, Section 4942(g)(2) Set-Aside Approval	Approves IRC 4942(g)(2) set-aside.
Letter 4798, Section 4942(g)(2) Set-Aside Extension Approval	Approves IRC 4942(g)(2) set-aside extension.
Letter 5171, Government Entity Voluntary Termination of 501(c)(3) Recognition	Approves voluntary relinquishment by government entity of exemption under IRC 501(c)(3).
Letter 5239, No Determination Issued per Rev Proc or because Organization Already Exempt	Notifies an organization that its case is closed and a user fee refund issued because its submitted determination request is not covered in Rev. Proc. 2023-5 (updated annually) or it is already exempt.