

EP DETERMINATIONS QUALITY ASSURANCE BULLETIN

FY-2004 No. 1

Date: April 8, 2004

CASE FILE ASSEMBLY

Case file assembly is a TEQMS standard. Due to its importance, this bulletin is being issued to provide assistance with the assembly of determination letter cases. QAB 2001-4 is hereby superseded and all the effective changes have been underlined.

REFERENCE: IRM 7.11.1

Determination Case Assembly

IRM 7.11.1.3.1 & 7.11.1.3.2 specifies the arrangement of an EP determination case file. The right side of the administrative file contains material open to public inspection and the left side of the administrative file contains material that is not open to public inspection.

The specific guidelines follow. However, please note the following additional instructions:

1. In unagreed/adverse letter cases, or in cases where a request for public inspection is received, an index must be prepared. This index should list all of the pertinent material on the right side of the folder. The material on the right side should be tabbed in accordance with the index and fastened to the folder.
2. For all unagreed/adverse letter cases a report (Attachment A) should be prepared explaining why the plan does not qualify. This report should contain sections covering FACTS, LAW, CONCLUSION and the TAXPAYER'S POSITION. The original plus one copy should be left loose in the file. A file copy should be initialed by the group manager and fastened in the file.
3. When more than one item of a particular category exists, these items should be placed in **chronological order, from latest or most recent date on top to earliest date on the bottom.**

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4. All material to be purged should be clearly labeled as such and will be placed as the last item on the right side of the folder. Original Forms should not be purged. Nothing should be marked "purge" on unagreed/adverse letter cases. NOTE: The case should **not** be purged at the group level.
5. If a Form 3198-A, Special Handling Notice, is required, it should be stapled to the outside of the folder.

Determination Cases - Right Side - Open to Public Inspection

(Top to Bottom)

1. Index to case file, if applicable.
2. File copy of the unagreed report, if applicable.
3. Most recent case closing sheet (Form 8671).
4. Determination letters for the current application. There should be a copy for the taxpayer, and POA (if applicable) and a file copy for both, if applicable.
5. The final letter to interested parties and the final letter to the employer regarding interested party comments.
6. Form 8717, User Fee Request for Determination Application.
7. Power of Attorney.
8. Last favorable determination letter.
9. Opinion letter (M&P, Regional Prototype, or Volume Submitter).
10. GUST Certification of intent to adopt.
11. Application form and all attachments (including Schedule Q and Demos). **This does not, however, include any compensation information that identifies any participant. Such information should be placed on the left side of the folder due to disclosure issues.**
12. Written correspondence (in chronological order, from latest or most recent date on top to earliest date on the bottom) between the Service and the applicant with respect to the request for determination.

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13. Any other documentation issued by the Service to the applicant regarding qualification.
14. Interested Party Comments.
15. Correspondence with interested parties with respect to their written comments.
16. Board of Director's resolution to terminate the plan or any other resolutions.
17. Amendments **(in chronological order, from the latest or most recent date on top to the earliest date on the bottom, starting with proposed and followed by executed).**
18. Plan and/or group annuity contract including any supplements to negotiated pension plans.
19. Trust instrument.
20. Notice to interested parties.
21. Supplemental data supporting the application (This includes statistical analysis, such as turnover data, coverage, balance sheets, etc.).
22. Miscellaneous materials and correspondence relating to the application, such as copies of insurance contracts.
23. Purge material - Agreed/Favorable Letter Cases.

Determination Cases - Left Side - NOT Open to Public Inspection

(Top to Bottom)

1. Form 5666, EP/EO Referral and attachments, if applicable. Original and file copy.
2. Case Chronology Record.
3. Form 6088, Distributable Benefits from Employee Pension Benefit Plans, if applicable.
4. Form 5621, Technical Analysis Control Sheet.

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5. Demos with salary information, information on terminated participants and any internal faxes or e-mails.
6. A copy of the official report when the Service makes an investigation regarding the facts as submitted by the applicant or in comments submitted by interested parties.
7. Worksheet prepared by the specialist, any Alert Guidelines or locally developed worksheets, notes and any internal communication regarding the case.
8. Form 5456, Reviewer's Memorandum, and Form 5457, Response to Reviewer's Memorandum. **(Until the case is ultimately accepted by the Quality Assurance Staff these should be left loose inside the folder.)**
9. Form 5402, Appeals Transmittal Memorandum, and supporting statements along with any Appeals workpapers.
10. Other miscellaneous materials not subject to disclosure as identified by disclosure regulations and IRM 1272, including examination and deduction referral information and closing letters from prior audit.
11. Closing agreements, including related documents (workpapers, correspondence, etc.).

Purging Instructions for Agreed/Favorable Letter Cases

1. All blank forms.
2. All envelopes (unless postmark date has 401(b) significance).
3. Summary Plan Description.
4. Collective Bargaining Agreements, except those that are supplements to negotiated pension plans.
5. Duplicate copies of forms, adoption agreements and/or plans.
6. If a prior determination letter is being retained in the file, it is not necessary to retain a copy of the corresponding plan unless it is being used to verify RAP.