

The estimated annual frequency of responses is one request per applicant, except that a taxpayer requesting a letter ruling may also request a presubmission conference.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Ingrid Grinde of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding how this revenue procedure applies to employee plans and exempt organizations matters, contact the Exempt Organizations and Employee Plans Customer Assistance Center at 877-829-5500. For employee plans matters, Ms. Grinde can be emailed at *RetirementPlanQuestions@irs.gov*. For exempt organizations matters, Mr. Lieber can be emailed at *tege.eo.ra@irs.gov*. Please put “Question about Rev. Proc. 2009-4” in the subject line.

INDEX

— additional information	sec. 9.02(9), 9.03, 11.03, 11.04
— closing agreement	sec. 3.03, 6.06(4), 9.02(4), 9.02(15), 13.04
— conference	sec. 9.02(9), 9.03(5), 12.01–.09, 13.09(2), 14.02(2)
— disclose	sec. 9.02(9)
— exempt organization	sec. 6.01
— expeditious handling	sec. 9.03(3)
— extension	sec. 6.02, 6.04, 11.04, 12.01, 12.06
— fax	sec. 9.03(4), 11.04
— fee	sec. 9.02(14), 11.04(5)
— hand delivered	9.04(1)
— information letter	sec. 3.06, 8.01, 15.03
— no rule	sec. 8, 15.02
— perjury statement	sec. 9.02(13), 11.04, 11.06
— power of attorney	sec. 9.02(12), 9.03(2)
— reliance	sec. 3.09, 11.02, 12.07, 13, 14
— representatives	sec. 3.09, 9.02(10)–(11), 9.03(2)
— retroactive	sec. 11.02, 12.04, 12.07, 13, 14
— revenue ruling	sec. 3.07, 13.04, 13.09(1)
— section 6110	sec. 9.02(9), 13.02
— status	sec. 9.07
— technical advice	sec. 7.08, 13.03, 13.09(1), 14
— telephone	sec. 9.02(1), 11.04, 12.01, 12.08
— where to send	sec. 9.04
— withdraw	sec. 9.08

APPENDIX A

SAMPLE FORMAT FOR A LETTER RULING REQUEST

(Insert the date of request)

Internal Revenue Service
Commissioner, TE/GE
Attention: SE:T:EP:RA
P.O. Box 27063
McPherson Station
Washington, DC 20038

Dear Sir or Madam:

(Insert the name of the taxpayer) (the “Taxpayer”) requests a ruling on the proper treatment of *(insert the subject matter of the letter ruling request)* under § *(insert the number)* of the Internal Revenue Code.

[If the taxpayer is requesting expedited handling, the letter ruling request must contain a statement to that effect. This statement must explain the need for expeditious handling. See section 9.03(3).]

A. STATEMENT OF FACTS

1. Taxpayer Information

[Provide the statements required by sections 9.02(1)(a), (b), and (c) of Rev. Proc. 2009–4, 2009–1 I.R.B. 118. (Hereafter, all references are to Rev. Proc. 2009–4 unless otherwise noted.)]

For example, a taxpayer that maintains a qualified employee retirement plan and files an annual Form 5500 series of returns may include the following statement to satisfy sections 9.02(1)(a), (b), and (c):

The Taxpayer is a construction company with principal offices located at 100 Whatever Drive, Wherever, Maryland 12345, and its telephone number is (123) 456–7890. The Taxpayer’s federal employer identification number is 00–1234567. The Taxpayer uses the Form 5500 series of returns on a calendar year basis to report its qualified employee retirement plan and trust.

2. Detailed Description of the Transaction.

[The ruling request must contain a complete statement of the facts relating to the transaction that is the subject of the letter ruling request. This statement must include a detailed description of the transaction, including material facts in any accompanying documents, and the business reasons for the transaction. See sections 9.02(1)(b), 9.02(1)(c), and 9.02(2).]

B. RULING REQUESTED

[The ruling request should contain a concise statement of the ruling requested by the taxpayer.]

C. STATEMENT OF LAW

[The ruling request must contain a statement of the law in support of the taxpayer’s views or conclusion, including any authorities believed to be contrary to the position advanced in the ruling request. This statement must also identify any pending legislation that may affect the proposed transaction. See sections 9.02(6), 9.02(7), and 9.02(8).]

D. ANALYSIS

[The ruling request must contain a discussion of the facts and an analysis of the law. See sections 9.02(3), 9.02(6), 9.02(7), and 9.02(8).]

E. CONCLUSION

[The ruling request should contain a statement of the taxpayer's conclusion on the ruling requested.]

F. PROCEDURAL MATTERS

1. Rev. Proc. 2009–4 statements

- a. [The statement required by section 9.02(4).]
- b. [The statement required by section 9.02(5).]
- c. [The statement required by section 9.02(6) regarding whether the law in connection with the letter ruling request is uncertain and whether the issue is adequately addressed by relevant authorities.]
- d. [The statement required by section 9.02(7) when the taxpayer determines that there are no contrary authorities.]
- e. [If the taxpayer wants to have a conference on the issues involved in the letter ruling request, the ruling request should contain a statement to that effect. See section 9.03(5).]
- f. [If the taxpayer is requesting the letter ruling to be issued by fax, the ruling request should contain a statement to that effect. See section 9.03(4).]
- g. [If the taxpayer is requesting separate letter rulings on multiple issues, the letter ruling request should contain a statement to that effect. See section 9.03(1).]

2. Administrative

- a. A Power of Attorney is enclosed. [See sections 9.02(12) and 9.03(2).]
- b. The deletions statement and checklist required by Rev. Proc. 2009–4 are enclosed. [See sections 9.02(9) and 9.02(17).]
- c. The required user fee is enclosed. [See section 9.02(14).]

Very truly yours,

(Insert the name of the taxpayer or the taxpayer's authorized representative)

By:

Signature Date

Typed or printed name
of person signing request

DECLARATION: [See section 9.02(13).]

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the request contains all the relevant facts relating to the request and such facts are true, correct, and complete.

(Insert the name of the taxpayer)

By:

Signature

Title Date

Typed or printed name of
person signing declaration

APPENDIX B
CHECKLIST
IS YOUR RULING REQUEST COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your letter ruling request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. Complete the four items of information requested before the checklist. Answer each question by circling "Yes," "No," or "N/A." When a question contains a place for a page number, insert the page number (or numbers) of the request that gives the information called for by a yes answer to a question. **Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.**

If you are an authorized representative submitting a request for a taxpayer, you must include a completed checklist with the request, or the request will either be returned to you or substantive consideration of it will be deferred until a completed checklist is submitted. **If you are a taxpayer preparing your own request without professional assistance, an incomplete checklist will not be cause for returning your request or deferring substantive consideration of the request.** However, you should still complete as much of the checklist as possible and submit it with your request.

TAXPAYER'S NAME _____
TAXPAYER'S I.D. No. _____
ATTORNEY/P.O.A. _____
PRIMARY CODE SECTION _____

CIRCLE ONE

ITEM

Yes No N/A

1. Does your request involve an issue under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division? See section 5 of Rev. Proc. 2009-4, 2009-1 I.R.B. 118, for issues under the jurisdiction of other offices. (Hereafter, all references are to Rev. Proc. 2009-4 unless otherwise noted.)

Yes No N/A

2. If your request involves a matter on which letter rulings are not ordinarily issued, have you given compelling reasons to justify the issuance of a private letter ruling? Before preparing your request, you may want to call the office responsible for substantive interpretations of the principal Internal Revenue Code section on which you are seeking a letter ruling to discuss the likelihood of an exception. The appropriate office to call for this information may be obtained by calling (202) 283-9660 (Employee Plans matters), or (202) 283-2300 (Exempt Organizations matters) (not toll-free calls).

Yes No N/A

Page _____

3. If the request involves an employee plans qualification matter under § 401(a), § 409, or § 4975(e)(7), have you demonstrated that the request satisfies the three criteria in section 6.03 for a headquarters office ruling?

Yes No N/A

Page _____

4. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? See sections 6.01 and 6.02.

Yes No

5. Are you requesting a letter ruling on a hypothetical situation or question? See section 8.03.

Yes No

6. Are you requesting a letter ruling on alternative plans of a proposed transaction? See section 8.03.

Yes No

7. Are you requesting the letter ruling for only part of an integrated transaction? See section 8.04.

Yes No

8. Have you submitted another letter ruling request for the transaction covered by this request?

Yes No

9. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? See section 6.07.

Yes No N/A

30. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the form required by section 9.03(3) and stated a compelling need for such action in the request?

Yes No N/A
Page _____

31. If you want to have a conference on the issues involved in the request, have you included a request for conference in the ruling request? See section 9.03(5).

Yes No N/A

32. If your request is covered by any of the guideline revenue procedures or other special requirements listed in section 10 of Rev. Proc. 2009-4, have you complied with all of the requirements of the applicable revenue procedure?

Yes No N/A
Page _____

33. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 13.09?

Yes No N/A

34. Have you addressed your request to the appropriate office listed in section 9.04? Improperly addressed requests may be delayed (sometimes for over a week) in reaching the appropriate office for initial processing.

Signature

Title or authority

Date

Typed or printed name of
person signing checklist

APPENDIX C

Additional Checklist for Roth IRA Recharacterization Ruling Requests

In order to assist EP Technical in processing a ruling request involving a Roth IRA recharacterization, in addition to the items in Appendix B, please check the following list.

- Yes No N/A
Page ____
1. Did you include the name(s) of trustee and/or custodian of the traditional individual retirement account (IRA) (generally, a financial institution)?
- Yes No N/A
Page ____
2. Is each IRA identification number present?
- Yes No N/A
Page ____
3. If the ruling request involves Roth conversions both of a husband and wife, is the necessary information with respect to each IRA of each party present? Note: as long as husband and wife file a joint federal Form 1040, the Service can issue one ruling covering both parties. Furthermore, if a joint federal income tax return has been filed for the year or years in question, the Service only requires one user fee even if both husband and wife had failed conversions.
- Yes No N/A
Page ____
4. If there was one or more attempted conversions, are the applicable dates on which the attempted IRA conversion(s) occurred included?
- Yes No N/A
Page ____
5. If the reason that a conversion failed is that the taxpayer or related taxpayers relied upon advice of a tax professional such as a CPA, an attorney, or an enrolled actuary, is the name and occupation of that adviser included?
- Yes No N/A
Page ____
6. Is certification that the taxpayer or taxpayers timely filed the relevant federal tax return(s) present?
- Yes No N/A
Page ____
7. Is there a short statement of facts with respect to the conversion? For example, if the ruling request involves a conversion attempted in 1998, there should be a statement of the facts that includes a representation of why the due date(s) found in Announcement 99-57 and Announcement 99-104 were not met.
- Yes No N/A
Page ____
8. If the taxpayer recharacterized his/her Roth IRA to a traditional IRA prior to submitting a request for § 9100 relief, are the date(s) of the recharacterization(s), name(s) of trustees and/or custodians, and the identification numbers of the traditional IRA(s) present?
- Yes No N/A
Page ____
9. Does the request include the type of contribution (*i.e.*, regular or conversion) and amount of the contribution being recharacterized?

APPENDIX D

Additional Checklist for Government Pick-Up Plan Ruling Requests

In order to assist EP Technical in processing a ruling request involving government pick-up plans, in addition to the items in Appendix B please check the following list.

- | | |
|-------------------------|---|
| Yes No N/A
Page ____ | 1. Is the plan qualified under § 401(a) of the Code? (Evidence of qualification or representation that the plan is qualified.) |
| Yes No N/A
Page ____ | 2. Is the organization that established the plan a State or political subdivision thereof, or any agency or instrumentality of the foregoing? An example of this would be a representation that the organization that has established the plan is a political subdivision or municipality of the State. |
| Yes No N/A
Page ____ | 3. Is there specific information regarding who are the eligible participants? |
| Yes No N/A
Page ____ | 4. Are the contributions that are the subject of the ruling request mandatory employee contributions? These contributions must be for a specified dollar amount or a specific percentage of the participant's compensation and the dollar amount or percentage of compensation cannot be subject to change. |
| Yes No N/A
Page ____ | 5. Does the plan provide that the participants do not have the election to opt in and/or out of the plan? |
| Yes No N/A
Page ____ | 6. Are copies of the enacting legislation providing that the contributions although designated as employee contributions are being paid by the employer in lieu of contributions by the employee included? |
| Yes No N/A
Page ____ | 7. Are copies of the specific enabling authorization that provides the employee must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the plan included? For example, a resolution, ordinance, plan provision, or collective bargaining agreement could specify this information. |

APPENDIX E

Additional Checklist for Church Plan Ruling Requests

In order to assist EP Technical in processing a church plan ruling request, in addition to the items in Appendix B, please check the following list.

Yes No N/A
Page ____

1. Is there specific information showing that the submission is on behalf of a plan established by a named church or convention or association of churches? The information must show how the sponsoring organization is controlled by, or associated with, the named church or convention or association of churches. For example, the sponsoring organization might be listed in the church's official directory of related organizations whose mission is to further the objectives of the church. In order to be considered associated with a church or convention or association of churches, the organization must share common religious bonds and convictions with that church or convention or association of churches.

Yes No N/A
Page ____

2. Is there specific information showing that the organization that has established the plan is a tax-exempt organization as described in § 501 of the Code?

Yes No N/A
Page ____

3. Is there representation that the plan for which the ruling is being requested is qualified under § 401(a) of the Code or meets the requirements of § 403(b) of the Code?

Yes No N/A
Page ____

4. Does the ruling clearly state who are the eligible participants and the name of the employer of these eligible participants?

Yes No N/A
Page ____

5. Is there a representation that none of the eligible participants are or can be considered employed in connection with one or more unrelated trades or businesses within the meaning of § 513 of the Code?

Yes No N/A
Page ____

6. Is there a representation that all of the eligible participants are or will be employed by the named church or convention or association of churches, and will not include employees of for-profit entities? An example of an eligible employee includes a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry.

Yes No N/A
Page ____

7. Is there specific information showing an existing plan committee whose principal purpose or function is the administration or funding of the plan. This committee must be controlled by or associated with the named church or convention or association of churches?

Yes No N/A
Page ____

8. Is the composition of the committee stated?

9. [RESERVED]
