



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

September 30, 2021

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Affected IRMs: 7.20.2 and 7.20.9
Expiration Date: September 30, 2023

MEMORANDUM FOR EXEMPT ORGANIZATIONS
RULINGS AND AGREEMENTS EMPLOYEES

FROM: Stephen A. Martin /s/ *Stephen A. Martin*
Director, Exempt Organizations (EO) Rulings and Agreements

SUBJECT: Interim Guidance on Updated Procedures Relating to Changes in
Requested Subsection/Application Form During Case Processing

This memorandum updates procedures where an organization requests a change in subsection of IRC Section 501 during the application process by submitting one application form to replace a different application form (for example, a Form 1024-A to replace a Form 1023). The updated procedures allow EO Rulings and Agreements (R&A) to process these requests consistently with procedures applicable to all withdrawal cases. These procedures reflect that the organization is withdrawing one application requesting tax-exempt status and submitting another application requesting tax-exempt status, with EO R&A processing two separate applications. These procedures will be effective thirty days after issuance of this memorandum.

These procedures supersede those in Interim Guidance Memorandum (IGM) TEGE-07-0421-0010 (April 29, 2021), which is archived as of the Effective Date below.

Background/Source(s) of Authority

IRM 7.20.2.3.6(1)(a) instructs specialists to establish a new case when an organization requests a change in subsection during the application process by submitting one form to replace another. The procedures describe that an organization generally doesn't owe a new user fee for the new application.

IRM 7.20.2.3.6(2) provides that once a new case is established, the original must be closed as a withdrawal but to not prepare a withdrawal letter.

IRM 7.20.9.4.3.1(1) states that if an organization requests a change in subsection by submitting Form 1024 or Form 1024-A to replace Form 1023-EZ, the procedures in IRM 7.20.2.3.4.1 (now IRM 7.20.2.3.6) Change in Subsection/Application Form During Case Processing, to withdraw

Form 1023-EZ and process Form 1024 or Form 1024-A, should be followed.

IGM TEGE-07-0421-0010 (April 29, 2021) provides updated processing procedures replacing those in IRM 7.20.2.3.6 where an organization requests a change in subsection during the application process by submitting one application form to replace a different application form (for example, a Form 1024-A to replace a Form 1023). Under IGM TEGE-07-0421-0010, where an organization requests to replace its application, the initial application is processed as a withdrawal and the user fee refunded. The organization may then submit a replacement application with the required user fee.

IRC Section 7528 provides that “the Secretary shall establish a program requiring the payment of user fees for ... requests to the Internal Revenue Service for ... determination letters.”

Section 8.01(3) of Rev. Proc. 2021-5 states that “generally, the user fee will not be refunded if a request is withdrawn.”

IRM 7.20.2.5.6(1) provides that an organization may withdraw its determination letter request (in writing) at any time before a determination letter or proposed adverse determination letter is issued, but generally, the user fee is not refunded. An authorized person must sign the withdrawal request. (A Form 2848 representative of Form 8821 appointee cannot sign).

IRM 7.20.2.5.6(2) provides that a specialist can discuss withdrawal as an option when appropriate (for example, when proposing an adverse determination), but that the specialist should not directly or indirectly say or do anything that may be interpreted as coercing or compelling a withdrawal of an application.

Section 4.09 of Rev. Proc. 2021-5 states that “[r]equests for determination letters are ordinarily processed in the order of receipt by the Service.”

The electronic application process through Pay.gov requires the organization to submit a user fee.

Procedural Changes

During case processing, an organization may request to replace the pending application with an application for exemption under a different subsection of IRC Section 501 using a different form (for example, withdraw Form 1023 and submit Form 1024-A).

Each application is a request for a determination letter. IRC Section 7528 requires the IRS to establish user fees for requests for determination letters. The electronic application process through Pay.gov requires a user fee to be submitted with an application.

Accordingly, the specialist will process the request as a withdrawal under IRM 7.20.2.5.6, including the following steps:

- Inform the organization that the request will be processed as a withdrawal and the user fee will not be refunded.
- Explain that after withdrawing its application, the organization may submit another application, which will be processed in submission date order (not necessarily by the same specialist) and will require a new user fee.

- Secure a written withdrawal statement signed by an authorized person.
- Prepare Letter 2244 without a user fee refund addendum.

Effect on Other Documents

This guidance will be incorporated into IRMs 7.20.2 and 7.20.9 by September 30, 2023.

IGM TEGE-07-0421-0010 (April 29, 2021) is hereby archived.

Effective Date

October 30, 2021

Contact

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