



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

7.20.5

JULY 27, 2023

## EFFECTIVE DATE

(07-27-2023)

## PURPOSE

- (1) This transmits revised IRM 7.20.5, Exempt Organizations Determination Letter Program, Review Procedures for EO Determinations.

## MATERIAL CHANGES

- (1) Incorporated Interim Guidance Memorandum TEGE-07-0821-0020, Interim Guidance on Processing Adverse Rulings, issued on August 11, 2021.
- (2) Incorporated Interim Guidance Memorandum TEGE-07-0123-0006, Proposed Adverse Case Processing Updates, issued on January 24, 2023.
- (3) Incorporated Interim Guidance Memorandum TEGE-07-0423-0008, Processing Adverse Cases with the Denial Checklist, issued on April 3, 2023.
- (4) Edited the document for plain language, as required by the *Plain Writing Act of 2010*.
- (5) Made editorial changes throughout.

## EFFECT ON OTHER DOCUMENTS

This supersedes IRM 7.20.5 dated July 20, 2021, and incorporates the following interim guidance memos: TEGE-07-0821-0020, Interim Guidance on Processing Adverse Rulings, issued on August 11, 2021; TEGE-07-0123-0006, Proposed Adverse Case Processing Updates, issued on January 24, 2023; TEGE-07-0423-0008, Processing Adverse Cases with the Denial Checklist, issued on April 3, 2023

## AUDIENCE

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7.20.5  
Review Procedures for EO Determinations

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7.20.5.1  
(07-27-2023)  
**Program, Scope, and Objective**

- (1) **Purpose:** This IRM describes the responsibilities and procedures for Exempt Organizations (EO) Determinations Quality Assurance (EODQA) employees reviewing Exempt Organizations Determinations (EOD) cases.
- (2) **Audience:** The procedures in this manual apply to EODQA and EO Determinations employees.
- (3) **Policy owner:** Director, Exempt Organizations, Rulings and Agreements.
- (4) **Program owner:** Exempt Organizations and Government Entities.
- (5) **Primary stakeholders:** Exempt Organizations, Rulings and Agreements.

7.20.5.1.1  
(07-20-2021)  
**Background**

- (1) EO includes two primary operational areas: Rulings and Agreements (R&A) and Examinations.
- (2) EO Rulings and Agreements is responsible for determinations related to exempt organizations.
- (3) EO Determinations Quality Assurance is responsible for reviewing determinations cases.

7.20.5.1.2  
(07-27-2023)  
**Authority**

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

7.20.5.1.3  
(07-27-2023)  
**Responsibilities**

- (1) Exempt Organizations Determinations Quality Assurance (EODQA):
  - a. advises Exempt Organizations Determinations (EOD) senior management of areas that need attention, and
  - b. recommends ways to improve technical and procedural processing of determination cases.
- (2) EODQA reviews determination 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, and
  - d. identification of unfavorable case patterns, trends affecting processing quality, problem areas, unique issues, and new or novel techniques that EOD specialists develop.
- (3) EODQA provides EOD senior management analytic support to measure, report, and recommend improvements in EOD program quality, primarily through sample case review (see IRM 7.20.5.5, Processing Sample Review Cases).

- (4) EODQA reviews and processes determination cases designated for mandatory review and:
- returns cases requiring additional consideration to specialists and tax examiners with a Reviewer's Memorandum,
  - mails favorable or adverse letters on reviewed and approved cases, and
  - forwards cases requiring Appeals' consideration to the Independent Office of Appeals (Appeals).
- (5) EODQA:
- helps EOD specialists, tax examiners, and managers by giving training on technical and procedural issues,
  - provides informal advice on procedural and technical issues, and
  - reports significant trends, problem areas, quality measurement findings, and important Appeals decisions to EOD senior management.

7.20.5.1.4  
(07-27-2023)

#### Program Controls

- (1) The EODQA manager reviews the work performed by EODQA reviewers and the EODQA tax examiner.

7.20.5.1.5  
(07-27-2023)

#### Common Abbreviations

- (1) Commonly used abbreviations include:

Abbreviation	Name
ECM	Enterprise Case Management
EDS	EP/EO Determination System
EO	Exempt Organizations
EOD	Exempt Organizations Determinations
EODQA	Exempt Organizations Determinations Quality Assurance
MEDS	Modified EP-EO Determination System, also known as TEDS
OAR	Operations Assistance Request
QMP	Quality Measurement Process
R&A	Rulings and Agreements
TAS	Taxpayer Advocate Service

7.20.5.2  
(07-27-2023)

#### Types of EODQA Review

- (1) EODQA performs these reviews:
- Sample
  - Correspondence with technical issues
  - Mandatory
  - Manager's discretion
  - Saturation or special

- (2) The Quality Measurement Process (QMP) is EODQA's sample review program used to calculate EOD case processing quality scores using attributes to measure the work quality. EODQA reports quality scores for each process and describes any trends or recommends improvements quarterly for:
- Form 1023-EZ - standard processing,
  - Form 1023-EZ - pre-determination processing,
  - Form 1023-EZ - referral processing, and
  - all other determination case processing (all requests other than Form 1023-EZ).

**Note:** Results aren't used to evaluate individual specialists or tax examiners.

- (3) The Correspondence Unit may send unresolved correspondence with technical issues to EODQA.
- (4) Mandatory review evaluates open cases that are complex, sensitive, or impactful. See IRM 7.20.5.2.1 for a list of mandatory review cases.
- (5) An EOD group manager may refer an open case as a manager's discretion review to get an independent view or guidance.
- The group manager sends the open case to EODQA via MEDS explaining why it should be reviewed.
  - EODQA reviews the case and creates a no error Reviewer's Memorandum to provide to the group manager.
- (6) Saturation or special review may be handled either as open or closed case review.
- Saturation review identifies cases by category (such as applications, miscellaneous determination letter requests, reinstatement cases).
  - Special review identifies cases by issue (such as applications from scientific research organizations).

7.20.5.2.1  
(07-27-2023)  
**Cases Subject to  
Mandatory Review**

- (1) Cases subject to mandatory review are:
- a. Proposed adverse determinations
  - b. Determinations subject to IRC 6110 disclosure including IRC 4945(g) advance approvals, unusual grant determinations, etc.
  - c. Foreign organizations (not including those formed in U.S. territories)
  - d. Group ruling approvals (not including declinations)
  - e. An organization that was previously revoked or denied recognition of exemption
- Exception:** This doesn't include organizations automatically revoked for failure to file returns.
- f. Religious and apostolic organizations under IRC 501(d)
  - g. Applications that indicate actual or potential political campaign intervention activities (not including IRC 501(c)(4) approvals based on signed Letter 5228 representations)
  - h. Management requests (senior manager's approval required)

**Note:** Related cases worked simultaneously (and by the same specialist) with one of these issues are also subject to mandatory review.

7.20.5.3  
(07-27-2023)  
**EODQA Reviewer's  
Duties**

- (1) EODQA reviewer duties:
- a. Review determination cases identified for mandatory review, saturation review, special review, or manager's discretion review.
  - b. Perform QMP sample reviews.
  - c. Prepare a Reviewer's Memorandum after review to bring significant items to the manager's and specialist/tax examiner's attention.
  - d. Respond to requests to comment on technical and procedural accuracy of new or revised form letters, standardized work papers, and written procedures.
  - e. Explain significant developments on technical and procedural matters to EOD specialists and tax examiners.
  - f. Review correspondence with technical issues and determine the appropriate action.
  - g. Answer technical questions, as needed.

7.20.5.4  
(07-27-2023)  
**Reviewer's  
Memorandum and  
Response to Reviewer's  
Memorandum**

- (1) Use a Reviewer's Memorandum to report findings to EOD group managers. Issue a/an:

<b>Memo Type</b>	<b>When to Issue</b>
<b>Inquiry</b> memo	When there is a significant error and the case must be returned to the specialist/tax examiner to correct or reconsider.
<b>Advisory</b> memo (with or without returning the case)	<p>If there are insignificant errors that don't affect the case outcome, or would have affected the case outcome, but were corrected by the reviewer.</p> <p><b>Note:</b> Issue an advisory memo to notify a specialist if changes were made to a determination letter before mailing. (Include a copy of the revised letter.)</p> <p><b>Exception:</b> Generally don't prepare advisory memos on sample cases. Inquiry memos may be issued in limited situations.</p>
<b>No error</b> memo (with or without returning the case)	If the specialist didn't cause the error, to return a manager's discretion case, or to return a protest or appeals decision.
<b>Commendatory</b> memo (without returning the case)	To congratulate a specialist for doing an excellent job on a case.

- (2) To prepare a Reviewer’s Memorandum:
  - a. check the box for the type of memo (inquiry, advisory, etc.),
  - b. enter the required information, and
  - c. explain the issue or problem, provide recommendations, and, if needed, provide supporting precedent or procedures.
- (3) EODQA Reviewer’s Memorandum process:
  - a. EODQA reviewer: Email the memo to the EODQA manager for review.  
**Note:** Use the EDS case number in the file name of the Memo.
  - b. EODQA manager: Return the memo to the reviewer for further consideration or to create the final version.
  - c. EODQA reviewer: Create a PDF of the final version of the memo, digitally sign it, and email it back to the manager. Complete Cvent Survey.
  - d. EODQA manager: Digitally sign the memo and send it to the EODQA tax examiner.
  - e. EODQA tax examiner: Import the memo into the MEDS Non-Disclosable folder. Forward the memo to the EOD group manager and send the case back in MEDS, if needed.
- (4) EOD group manager: Review the memo:

IF	THEN
You disagree with an inquiry memo	Discuss the memo with the EODQA manager. If an agreement can’t be reached, elevate to the area manager.
You agree with an inquiry memo	Forward the case to the specialist/tax examiner to complete recommended actions. Maintain appropriate case controls.
It is an advisory, no error, or commendatory memo	Consider the information but, generally, you don’t need to respond to EODQA.

- (5) Specialist/tax examiner: Make the agreed changes, complete and digitally sign Form 5457, Response to Reviewer’s Memorandum - TE/GE. Import the signed memo into the MEDS Non-Disclosable folder.
- (6) EOD group manager: Approve the specialist/tax examiner’s actions by checking out Form 5457, digitally signing the form, and checking it back into the MEDS Non-Disclosable folder. Update the case in MEDS to Status 31RT, Returned to Quality Assurance.
- (7) Reviewer: Review the specialist/tax examiner’s actions. If no further action needed:
  - a. In MEDS, check out Form 5457, digitally sign it, and check it back into the Non-Disclosable folder.

**Note:** Signing Form 5457 is acknowledgment of receipt and not necessarily concurrence.

- b. Complete the Cvent survey on the response.

**Exception:** Don't complete the Cvent survey for a QMP case response.

**Note:** For a response to a second inquiry memo, change the first three digits of the case number to "222" when entering the case number in Cvent.

- c. Submit the case to the EODQA manager for approval in MEDS.

- (8) Reviewer: If further specialist/tax examiner action is recommended, or if the specialist/tax examiner did not address every issue raised on the Reviewer's Memorandum (for example, the specialist indicated that all recommendations were followed, but were not), discuss with the EODQA manager to determine if a discussion with the EOD group manager is appropriate or if the case should be returned with another Reviewer's Memorandum.
- (9) EODQA tax examiner: After all actions are completed and approved, save copies of the Reviewer's Memorandum and Form 5457 to the EODQA shared drive and forward copies to the EOD group manager and EOD area manager.

#### 7.20.5.5 (07-27-2023)

#### Processing Sample Review Cases

- (1) EODQA identifies all closed cases weekly using the Business Objects system and sorts the cases into four categories:
- Form 1023-EZ cases - standard processing
  - Form 1023-EZ cases - pre-determination processing
  - Form 1023-EZ cases - referral processing
  - All other determination cases (all requests other than Form 1023-EZ)
- (2) To identify cases for QMP review, EODQA:
- a. Randomizes the order of cases on each list (using Excel random number generators and sorting functions).
  - b. Selects cases from each list using a modified interval sampling based on the projected number of closures for the year.

**Example:** If the sampling method determines that every 70th case should be reviewed to reach the desired sample size and EOD closes 140 cases during the period, EODQA selects two cases for that period. Because the list of cases is randomized, EODQA reviews the first two listed cases.

- (3) EODQA reviews QMP cases after any final letters are mailed to the applicant and the cases are closed off the MEDS system.
- (4) EODQA manager periodically assigns closed QMP cases to reviewers. Reviewers generally have until the end of the current QMP quarterly rating period to complete their reviews.
- (5) Review the case for technical and procedural accuracy. Determine whether the specialist or tax examiner:

- a. obtained/developed all pertinent facts on technical issues, both favorable and unfavorable, and
  - b. based the determination on laws, regulations, published rulings, and court cases that support the findings.
- (6) Ensure the case file contains properly completed:
- a. determination letters with appropriate addenda and attachments,
  - b. forms, checksheets, and guidesheets applicable to the case,
  - c. special processing instructions,
  - d. applicable processing system documents, and
  - e. Form 5666, TE/GE Referral Information Report, if applicable.
- (7) Rate cases by answering a series of questions in a survey format. Survey questions correlate to attributes.
- (8) The process assigns each attribute to one of four categories:
- Customer accuracy
  - Procedural accuracy
  - Regulatory accuracy
  - Timeliness
- (9) The system totals each attribute category and averages them to determine the quality score for the process.
- The process weighs each attribute equally within its category.
  - “N/A” answers aren’t counted in the calculation.
- (10) Each quarter, the system calculates a quality score for each process.
- (11) Generally, don’t return QMP cases for further development. However, you may return a case (with EODQA manager agreement) if the:
- qualification for exemption or foundation classification isn’t clear,
  - case has other circumstances indicating that not returning the case would be a serious administrative omission, or
- Example:** Return a case that would result in serious criticism of the IRS’s administration of the tax laws, establish a precedent that would seriously hamper IRS attempts to take corrective actions, or result in inconsistent treatment of similarly situated organizations.
- error would result in serious negative consequences to the organization (for example, incorrect information provided in a favorable determination letter).
- (12) Return QMP cases meeting any of the criteria above with an inquiry Reviewer’s Memo to the Staff Assistant of the area where the case originated (for example, Area 1). The Staff Assistant will review the Reviewer’s Memorandum and have the case assigned and worked, as needed.

7.20.5.6  
(07-27-2023)  
**Processing  
Correspondence with  
Technical Issues**

- (1) Technical correspondence cases are assigned to reviewers in Enterprise Case Management (ECM). The reviewer will review the correspondence, conduct any necessary research, and determine the appropriate action.

**Note:** You may call the taxpayer, forward the correspondence to \*TE/GE-EO-Congressional mailbox, or request a case establishment so the issue can be worked by a specialist.

IF there is	THEN
IRS error	<p>Prepare Form 14263, Request for TEDS Case Establishment.</p> <ul style="list-style-type: none"> <li>• Establish case in MEDS in Status 75 and assign to unassigned inventory in specialist's group where service error occurred.</li> <li>• Use the date the new case is requested as the control date on the establishment sheet.</li> </ul> <p><b>Note:</b> New case establishment is subject to managerial approval. Document manager concurrence in the Corrective Action CCR.</p> <p>Prepare and import the following into the MEDS Non-Disclosable folder:</p> <ul style="list-style-type: none"> <li>• Form 14263</li> <li>• Corrective Action CCR with corrective actions and disposition category</li> </ul> <p>Send the case back to the manager in MEDS to review.</p>
No error/taxpayer contact not needed	<ul style="list-style-type: none"> <li>• Prepare Corrective Action CCR with recommended actions or reason for no action and disposition category. Import into the MEDS Non-Disclosable folder.</li> <li>• Send the case back to the manager in MEDS to review.</li> </ul>

IF there is	THEN
No error/taxpayer contact needed	Contact taxpayer to discuss minor issues. Prepare Corrective Action CCR with recommended actions. <ul style="list-style-type: none"> <li>• Input recommended actions or reason for no action.</li> <li>• Designate disposition category.</li> <li>• Import into MEDS Non-Disclosable folder.</li> </ul>
Development needed	Prepare Form 14263, Request for TEDS Case Establishment. <ul style="list-style-type: none"> <li>• Establish case in MEDS in Status 75 and assign to unassigned inventory in specialist's group where case originated.</li> <li>• Use the date the case is requested as the control date.</li> </ul> <p><b>Note:</b> New case establishment is subject to managerial approval. Document managerial concurrence in the Corrective Action CCR.</p> Prepare and import the following into the MEDS Non-Disclosable folder: <ul style="list-style-type: none"> <li>• Form 14263.</li> <li>• Corrective Action CCR with corrective actions and disposition category.</li> </ul>

IF there is	THEN
Potential adverse issue	Prepare Form 14263, Request for 2nd Case Establishment. <ul style="list-style-type: none"> <li>• Establish case in MEDS in Status 75 and assign to unassigned inventory in specialist's group where case originated.</li> <li>• Use the date the case is requested as the control date.</li> </ul> <p><b>Note:</b> New case establishment is subject to managerial approval. Document manager concurrence in the Corrective Action CCR.</p> <ul style="list-style-type: none"> <li>• Import into the MEDS Non-Disclosable folder:               <ol style="list-style-type: none"> <li>a. Form 14263</li> <li>b. Corrective Action CCR with corrective actions and disposition category</li> </ol> </li> </ul>

- (2) EODQA tax examiner: Update the QA Correspondence spreadsheet and forward request back to EO R&A Processing & Support, Correspondence Unit.

7.20.5.7  
(07-27-2023)

**Processing Technical Review Cases**

- (1) Technical review case types:

- Mandatory
- Manager's discretion
- Saturation
- Special cases

- (2) EODQA maintains open cases in unassigned inventory until assigned in the order received.

**Note:** Cases are assigned to reviewers from unassigned inventory within 15 days.

**Exception:** Expedited cases, manager's discretion cases, or cases requiring immediate review per the EODQA manager are assigned to the next available reviewer.

- (3) Review the case within five workdays of assignment.
- (4) Review the case for technical and procedural accuracy. Determine whether the specialist:

- a. obtained/developed all pertinent facts on technical issues, both favorable and unfavorable,
  - b. based the determination on laws, regulations, published rulings, and court cases that support the findings, and
  - c. explained the IRS's position clearly and concisely on an adverse determination.
- (5) Ensure that the case file contains properly completed:
- a. determination letters with appropriate addenda and attachments,
  - b. special processing instructions,
  - c. forms, checksheets, and guidesheets applicable to that case,
  - d. applicable processing system documents, and
  - e. Form 5666, TE/GE Referral Information, if applicable.

**Note:** The EODQA reviewer will forward the Form 5666 after their review.

- (6) Move letters from the MEDS Non-Disclosable folder to the Working folder by right clicking on the letter and selecting Move to Working in the drop down.

**Note:** If there's a valid Form 2848 or Form 8821, make sure there is a completed Letter 937-A (with the Director's signature) and move it to the Working folder. The Document Type and Document Name should be Final Letter-POA.

- (7) To make corrections to PDF closing letters:

- a. Right click on the letter in the MEDS Working folder and select Edit. Click Open at the bottom of the screen.
- b. Correct any information in the fillable fields. To change selectable paragraphs click on Show Selectable Paragraph Pages and click on the box next to any paragraph you want to add or delete from the letter. Click Hide Selectable Paragraph Pages when finished.
- c. If there is a Hide Blank Fields box at the bottom, check it.
- d. Once the letter is complete, click File and Save As to save the letter to your computer.
- e. Right click on the PDF letter file in the MEDS Working folder and choose Check In.
- f. Click the radio button for 1.0 Same Version.
- g. Click Browse and choose the file you just saved to your computer.
- h. Click Open in the dialog box then click Ok.
- i. The letter is complete. Open the letter to make sure your changes are there.

**Note:** See IRM 7.20.5.8.2 for making corrections to composed Non-Disclosable letters.

- (8) You may return a case to a specialist using a Reviewer's Memorandum (see IRM 7.20.5.4).
- (9) Enter your case review results in Cvent

7.20.5.7.1  
(07-27-2023)  
**Group Ruling Cases**

- (1) Specialists: Prepare and import a list of subordinates into the MEDS Working folder.

- (2) Reviewer: After review of the case, email the EODQA tax examiner and request a Group Exemption Number (GEN).
- (3) Reviewer: Complete and import Form 2363-A into the MEDS Working folder.
- (4) EODQA tax examiner: Forward Form 2363-A and any attachments (for example, the list of subordinates) by email to the EO Entity Supervisor, Ogden Campus, and then import the documents into the MEDS Non-Disclosable folder.

**Note:** 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.

7.20.5.8  
(07-27-2023)

**Processing Proposed  
Adverse Rulings**

- (1) So that unagreed cases are resolved at the lowest possible level, the reviewer must confirm that the specialist made a reasonable effort to ensure that the organization understands the reason for the adverse ruling. For determinations resulting from an organization's failure to fully respond to an information request, confirm the specialist made all reasonable attempts to secure the information.
- (2) Form 14280, EO Determinations Checklist - Denials, must be completed and signed by the specialist and their manager and placed in the MEDS Non-Disclosable folder.
- (3) The reviewer must determine if the specialist documented in the CCR that they called the organization and discussed each point from IRM 7.20.2.4(4) , including:
  - a. reasons for the proposed adverse determination,
  - b. the adverse process, including any appeal rights and the appeals process,
  - c. any clarification of facts in the case, including activities and purposes,
  - d. possible alternatives to an adverse position when otherwise approving exemption (for example, an alternate foundation classification), and
  - e. other available options (for example, withdrawing request, opportunity to submit their position).

**Note:** The reviewer must document in the CCR that each of these actions were properly documented on the specialist's CCR.

- (4) The reviewer will also determine if the specialist:
  - a. gave the organization an opportunity to amend organizational documents, proposed activities, or both, to qualify for exempt status (if appropriate based on the facts),
  - b. attempted to secure missing information,
  - c. addressed foundation status as a secondary issue in an IRC 501(c)(3) proposed adverse determination if the specialist disagrees with the requested status,
  - d. prepared the appropriate determination letter,
  - e. included any required enclosures or other documents with the letter, and
  - f. completed the correct system closing actions (for example, in MEDS).

- (5) The reviewer will correct or change the adverse letter, if necessary, using the procedures described in IRM 7.20.5.8.1, Processing IRC 6110 Letters, or return the case to the specialist with an inquiry memo following the procedures in IRM 7.20.5.4, Reviewer's Memorandum and Response to Reviewer's Memorandum.

**Reminder:** Prepare an advisory memo to notify the specialist of any changes to the letter if you're not returning the case to the specialist (see IRM 7.20.5.4).

- (6) Once the proposed adverse letter is complete, the reviewer will:
- check out Form 14280 and complete and sign Section IV and check it back in,
  - make sure all case documents have been moved to the MEDS Non-Disclosable folder, and
  - submit the case to the EODQA manager in MEDS Status 34PA for approval of proposed adverse letter.
- (7) After review and concurrence, the EODQA manager will check out Form 14280, sign it and check it back in.
- (8) For proposed adverse cases with a POA, make sure to include a Letter 937-A, Transmittal for Power of Attorney, with the EO Director's signature.

7.20.5.8.1  
(07-27-2023)  
**Processing IRC 6110  
Letters**

- (1) Certain written determination letters are subject to public disclosure under IRC 6110 after identifying information is redacted. All EO R&A IRC 6110 written determinations are subject to mandatory review, including:
- proposed and final adverse determinations
- Note:** Proposed adverse letters aren't subject to IRC 6110 until the denial becomes final.
- advance approval of grant making procedures in IRC 4945(g)
  - advance approval of certain set-asides in IRC 4942(g)(2)
  - advance approval of voter registration activities in IRC 4945(f)
  - advance approval of unusual grants under Treas. Reg. 1.170A-9(f)(6)(ii) or Treas. Reg. 1.509(a)-3(c)(c)
  - adverse voluntary termination of IRC 501(c)(3) status by a governmental entity, and
  - any additional type of determination letter per Rev. Proc. 2023-5, updated annually.

**Note:** See IRM 7.20.3, Processing Foundation and Miscellaneous Determination Requests, for a chart of letters subject to IRC 6110.

- (2) The reviewer ensures technical and procedural accuracy of the IRC 6110 letter, including use of the correct letter.
- (3) An IRC 6110 letter must include a:
- Uniform Issue List* (UIL) index on the first page of the letter.
  - Legend of identifiers used in the letter as substitutes for information not subject to public disclosure under IRC 6110.

**Note:** Use the specialist's name and contact information on the letter, including the last seven digits of their SmartID.

- (4) To make changes to the letter submitted by the specialist:
- a. download a copy of the letter and make changes,
  - b. save the letter and name it with the format of EDS Case Number-Letter Number, and
  - c. email a copy of the letter to the EODQA manager for review.

**Note:** If a memo is required, send it to the manager along with the letter for approval.

- (5) If the reviewer makes changes to a proposed IRC 6110 letter and is not otherwise returning the case to the specialist, after the EODQA manager has approved the revised letter, the reviewer will:
- email a copy of the proposed letter with changes tracked and an advisory or no error memo to the EOD specialist and the specialist's manager,
  - obtain the specialist's concurrence on the changes to the letter before EODQA mails the letter to the organization, and
  - document the concurrence through email, which must be sent to the reviewer within 5 business days.

**Note:** Import a copy of the emailed concurrence into the MEDS Non-Disclosable folder.

- (6) Once the letter is ready to be mailed (no changes were made to the original letter or the changes were agreed upon) the reviewer will:
- a. Import the agreed-upon version of the letter into the MEDS Working folder and move any prior versions of the letter into the Purge folder.
  - b. If the case is an approval, prepare and import a redacted version of the letter into the MEDS Working folder.

**Note:** For adverse determinations, the redacted letter isn't prepared until after the protest period has expired.

- c. Close the case to the EODQA manager.
- (7) To redact a letter, the reviewer will:
- a. replace identifying information in the legend with general terms,
  - b. remove the organization's name, mailing address, and employer identification number, and
  - c. remove information identifying IRS personnel.

**Note:** See IRM 7.28.4, Public Inspection of Written Determinations Under IRC 6110, for more information on IRC 6110 requirements and processing procedures.

- (8) For proposed adverse IRC 6110 letters, the EODQA tax examiner will:
- a. save the letter as a PDF and add the Director's digital signature and date,

- b. make sure there is a completed Letter 937-A with the Director's signature if there's a valid Form 2848 or Form 8821,
- c. mail the letter to the organization and any valid POA(s) using certified mail,
- d. email the reviewer to let them know the date that the letter was mailed,
- e. hold adverse cases for the 30-day protest period,

**Note:** Hold the case for an additional 15 days after the expiration of the protest period to allow for mail delivery.

- f. keep track of the protest period expiration date and email the reviewer to notify them once the protest period has expired, and
- g. return the case to the reviewer in MEDS after the protest period expiration.

(9) For IRC 6110 approval letters, the EODQA tax examiner will:

- a. save the letter as a PDF and add the Director's digital signature and date,

**Note:** There will also be a redacted version of the approval letter, which only has a date and does not get signed.

- b. prepare Letter 437, Notice of Intention to Disclose (Rulings), and import into the MEDS Non-Disclosable folder,
- c. make sure there is a completed Letter 937-A with the Director's signature if there's a valid Form 2848 or Form 8821,
- d. mail the letter to the organization and any valid POA(s),

**Note:** Do not send approval letters using certified mail.

- e. make sure the IRC 6110 approval letter package contains the unredacted letter, redacted letter, and Letter 437, and
- f. email the reviewer to let them know the date the letter was mailed and ask them to send the IRC 6110 package to Counsel.

(10) Reviewer: Once the EODQA tax examiner has mailed the letter:

- a. If it is an adverse letter, email a copy of the letter (noting the mailing date) to the specialist and the specialist's manager and copy the *\*TE/GE-EO-Determinations QA* mailbox.
- b. If it is an approval letter, send the IRC 6110 package to Counsel at the *\*CC 6110 Disclosure* mailbox and copy the *\*TE/GE-EO-Determinations QA* mailbox.

7.20.5.8.2  
(07-27-2023)  
**Response to Adverse  
Letter**

- (1) An organization may mail or fax a protest directly to the EODQA reviewer. If the specialist receives a protest to a proposed adverse letter, they will immediately forward it to the EODQA reviewer.
- (2) If the certified letter is not successfully delivered (for example, unable to deliver because of an incorrect address, attempt to deliver was made by the post office, but it wasn't delivered, or the organization refused to sign for the letter), the reviewer will call the taxpayer or Power of Attorney and verify that the address on the letter is correct. If:
  - the address was incorrect and a new one is obtained, reissue the letter with a new 30 day protest period.
  - the applicant refuses to accept the letter, issue the final denial letter

after the protest period has expired (see IRM 7.20.5.8.4, Processing the Final Letter after the Protest Period has Expired).

- it appears the post office wasn't able to deliver the letter and it's not clear why, discuss next steps with the EODQA manager.
- (3) Section 9.04 of Rev. Proc. 2023-5, updated annually, explains what is considered to be a protest or appeal of an adverse determination. To protest/appeal an adverse determination letter, the organization must submit a statement of the facts, law, and arguments in support of its position within 30 days of the date of the proposed adverse determination letter. The organization must also state whether it is requesting a conference with the Independent Office of Appeals.
- (4) Reviewer: Carefully consider the protest's effect on the determination.

IF	THEN
<p>The protest raises new or revised facts or arguments the specialist hasn't already considered</p>	<ul style="list-style-type: none"> <li>• Prepare a no error memo to send the case to the specialist for further consideration. The memo may recommend development, approval, preparation of a rebuttal letter, or a new proposed adverse letter.</li> <li>• In general, if the protest is valid according to Rev. Proc. 2023-5, updated annually, and doesn't change the determination, the specialist or reviewer prepares a rebuttal letter, Letter 5918, Protest Received Rebuttal / Transfer to Appeals.</li> <li>• If the applicant provides a new position describing how they qualify for exemption, but doesn't request for the case to be sent to appeals, then revise the proposed adverse letter to include a "Your position" and a "Our response to your position" section after the "Application of law" section of the proposed adverse letter. Issue a revised proposed adverse with a new 30-day protest period.</li> </ul> <p><b>Note:</b> If the reviewer prepares the rebuttal letter then the reviewer's name goes on the rebuttal letter. Send a copy to the specialist and his/her manager and indicate the date stamped on the letter.</p> <p><b>Note:</b> A rebuttal letter is not subject to disclosure under IRC 6110 and doesn't need a legend.</p>

IF	THEN
<p>The protest is valid according to Rev. Proc. 2023-5, updated annually, but doesn't present new facts or arguments</p>	<p>Prepare the case file for Appeals:</p> <ul style="list-style-type: none"> <li>• Print out entire MEDS case file (including non-disclosable documents), index, tab, and bind case with a two-prong fastener.</li> <li>• Prepare a file memo with accounting period ending date, recommended foundation status (501(c)(3) only), filing requirements, and contribution deductibility.</li> </ul>
<p>The protest only states that the organization wants to appeal or protest with no additional information provided</p> <p><b>Caution:</b> This is not a valid protest.</p>	<p>Prepare a no error memo with instructions for the specialist to contact the organization and:</p> <ul style="list-style-type: none"> <li>• Explain that Section 9.04 of Rev. Proc. 2023-5, updated annually, states that to protest/appeal a proposed adverse determination letter, the organization must submit a statement of the facts, law, and arguments in support of its position. The organization must also state whether it is requesting a conference with the Independent Office of Appeals.</li> <li>• Give the organization 14 days to provide a valid protest. If they don't provide a valid protest, the specialist will send the case back to EODQA to issue the final denial letter.</li> </ul>

- (5) Submit the case to the EODQA manager to review. The manager will then either return to the specialist or approve for sending to Appeals.
- (6) If approved for Appeals:
- a. EODQA tax examiner: Update the case to Status 54 in MEDS and send the case to Appeals using Form 3210. Notify the reviewer when the case is sent to Appeals.
  - b. Reviewer: Notify the specialist and EOD group manager that the case was transferred to Appeals.
- (7) If the organization does not submit a timely protest/appeal of a proposed adverse determination letter, issue the final adverse determination letter. See Section 9.05 of Rev. Proc. 2023-5, updated annually, and IRM 7.20.5.8.4, Pro-

cessing Adverse Letters After the Protest Period has Expired.

7.20.5.8.3  
(07-27-2023)  
**Appealed Adverse  
Cases**

- (1) If Appeals:
  - a. upholds the adverse ruling, they prepare and issue the final adverse letter.
  - b. doesn't uphold an adverse ruling, they prepare and issue a closing letter revoking the proposed adverse letter and addressing the effective date of exemption and foundation status (if applicable) and return the case file to EODQA.

**Note:** The closing letter issued by Appeals serves as the organization's determination letter of record. EOD doesn't issue a subsequent determination letter.

- (2) When the case comes back to EODQA from Appeals, the reviewer will:
  - a. review the case summary prepared by Appeals,

**Note:** Discuss any novel legal analyses, disagreement with case disposition, or procedures used to settle the case with the EODQA manager who will determine how to share the information.
  - b. confirm that the determination made in the case is clear and consistent with the documents and letters issued by Appeals,
  - c. consider other appropriate follow-up actions before closing the case (such as preparing an exam referral),
  - d. confirm Master File and/or the applicable processing systems have been updated,
  - e. prepare a no error memo for the originating EOD specialist, attaching a copy of the Appeals statement,
  - f. prepare a Quality Assurance Determination Case Processing Instruction Sheet and place on top of case file, and
  - g. assemble the case file and submit to the EO R&A Processing & Support Unit.
- (3) EODQA manager: Report significant appealed determination case decisions to EOD senior management.

7.20.5.8.4  
(07-27-2023)  
**Processing Adverse  
Letters After the Protest  
Period has Expired**

- (1) After the 30-day protest period has expired on an adverse case, the reviewer will:
  - a. email the specialist to determine if a protest was received. Import the email with the specialist's response into the MEDS Non-Disclosable folder.

**Note:** Document all contact with the specialist and actions taken in the CCR.
  - b. verify that the signed certified mail card (green card) was returned. If it was returned, upload a copy into the MEDS Non-Disclosable folder.
  - c. track the letter using the *USPS Tracking* tool to verify it was delivered if the signed certified mail card was not returned. If the letter was delivered, upload a copy of the verification into the MEDS Non-Disclosable folder.
  - d. contact the specialist and instruct them to call the organization to verify receipt of the adverse letter if unable to verify delivery using the tracking tool and the signed certified mail card was not returned.

**Note:** The specialist's call and the result of the call must be documented in the CCR. If the specialist isn't able to update the CCR, the result of the call can be emailed to the reviewer and then imported into the MEDS Non-Disclosable folder. In addition to uploading the email, the reviewer will document the result of the call in the CCR (for example, the specialist called the director and confirmed receipt of the letter).

- (2) If a protest is received, the reviewer will consider the protest according to IRM 7.20.5.8.2, Response to Adverse Letter.
- (3) If no protest is received for adverse letters subject to IRC 6110, the reviewer will prepare Letter 4038, Final Adverse Determination IRC 501(a) - No Protest, and a redacted copy of Letter 4038 (see IRM 7.20.5.8.1(7) and IRM 7.28.4 for redaction procedures) and send to the EODQA manager for approval.
- (4) If no protest is received for adverse letters subject to IRC 6104, the reviewer will prepare the appropriate final letter, if any (such as Letter 1079-F) and close the case per IRM 7.20.2.5, Case Closing.
- (5) After EODQA managerial approval of the final adverse letter, the reviewer will import the letters into the MEDS Working folder.
- (6) For final closure of an IRC 6110 case, the reviewer will:
  - a. prepare a Checklist for IRC 6110 Written Determinations,
  - b. ensure all case documents have been moved to the MEDS Non-Disclosable folder, and
  - c. forward the case to the EODQA manager for approval.
- (7) EODQA manager: After review, send the case to the EODQA tax examiner for final closure.
- (8) To close a final adverse IRC 6110 case, the EODQA tax examiner will:
  - a. save the final adverse letter (Letter 4038) as a PDF and add the Director's digital signature and date.

**Note:** There is also a redacted version of the letter, which only has a date (no signature).
  - b. prepare Letter 437, Notice of Intention to Disclose (Rulings), and import into the MEDS Non-Disclosable folder.
  - c. make sure there is a completed Letter 937-A with the Director's signature if there's a valid Form 2848 or Form 8821. If there is a POA (or two), print a complete IRC 6110 package for each and mail it with the Letter 937-A on top.
  - d. make sure the IRC 6110 final package contains, in this order: Letter 4038 (dated and signed), Letter 437 (all dates filled in), redacted Letter 4034 (dated by the reviewer with the date that the proposed denial was mailed), and redacted Letter 4038 (date only).
  - e. mail the final IRC 6110 package to the organization and any valid POA(s).
  - f. email the reviewer to let them know the date the final letter was mailed and ask them to send the IRC 6110 package to Counsel.

- (9) Reviewer: After the EODQA tax examiner mails the final letter, email copies of all redacted and unredacted letters (excluding POA copies), Letter 437, and the Checklist for IRC 6110 Written Determinations, to the *\*CC 6110 Disclosure* mailbox and copy the *\*TE/GE-EO-Determinations QA* mailbox. If missing, insert the date each letter was issued on the electronic copies.

7.20.5.9  
(07-27-2023)  
**User Fee  
Reconsideration  
Requests**

- (1) The EODQA manager has the final authority to resolve requests for reconsideration of user fees (see Rev. Proc. 2023-5, updated annually).
- (2) Generally, the EOD specialist:
- prepares and submits a user fee reconsideration request to the EODQA manager on behalf of an organization,
  - summarizes the facts and law for the user fee reconsideration request on Form 14269, User Fee Waiver Request, and
  - submits the form to the group manager for review.

**Note:** See IRM 7.20.2.3.8.3, Reconsideration of User Fee, for specialist procedures.

- (3) The EOD group manager sends the waiver request to EODQA with the case information.
- (4) The EODQA manager (or designated reviewer):
- analyzes the issue,
  - outlines their position in a response to the specialist's recommendation, and
  - signs the response and returns the case to the EOD group manager for further processing.
- (5) The specialist tells the organization about the decision, and, if adverse, explains the reason (even though an organization can't appeal a user fee decision).

7.20.5.10  
(07-27-2023)  
**Processing an  
Operations Assistance  
Request (OAR) in  
EODQA**

- (1) The Taxpayer Advocate Service (TAS) uses the Operations Assistance Request (OAR) process to refer cases to EO Determinations when TAS lacks either the statutory or delegated authority to resolve an organization's problem. See IRM 7.20.2.5.3, Operations Assistance Request (OAR), for more detailed processing information.
- (2) If a mandatory review case has an OAR:
- use the TAMIS number (from Form 12412) in the subject line of all emails to the TAS caseworker and to the TAS Liaison.
  - email a copy of all correspondence you send to the organization to the TAS caseworker.
  - negotiate response and follow up dates with the TAS caseworker.
  - communicate directly with the TAS caseworker in resolving issues (document the TAMIS number, communications, and communication outcomes on the CCR).
  - negotiate new time frames as necessary (don't allow OAR time to expire) and notify the TAS Liaison by email of revised, agreed upon expiration dates.
- (3) When you close a case with an OAR:

- a. complete Form 12412, Sections V and VI (page 2).
- b. import the OAR (including completed Form 12412 page 2) into the MEDS Non-Disclosable folder.
- c. select OAR for the Case Category in Case Information in MEDS.
- d. the TAS Liaison will retrieve the completed OAR and determination letter from MEDS when the case is closed.
- e. negotiate a new expiration date (two to three weeks from the date of closing) if the OAR is expired or expiring shortly after closing.

**Note:** Document all actions taken in the CCR.