



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.5.8

DECEMBER 11, 2020

EFFECTIVE DATE

(12-11-2020)

PURPOSE

- (1) This transmits a revision of IRM 25.5.8, Summons, Use of Summons Special Applications

MATERIAL CHANGES

- (1) IRM 25.5.8.1 added to include Internal Controls as required by IRM 1.11.2, Internal Management Document System, Internal Revenue Manual (IRM) Process.
- (2) IRM 25.5.8.2(1) deleted an obsolete reference to IRM 4.76.30.4 and added a reference to IRM 4.75.12.14. Bullets added for clarity.
- (3) IRM 25.5.8.2.2(1) added a reference to IRM 25.5.2, Exhibit 25.5.2-1.
- (4) IRM 25.5.8.2.2(2) clarified that official electronic signatures are acceptable.
- (5) IRM 25.5.8.2.2(2)(c) reference to Area Counsel updated to Tax Exempt and Government Entities Division Counsel (TEGEDC) Area Counsel.
- (6) IRM 25.5.8.2.2(3) clarified procedures for the TEGE Area Manager to verbally approve summonses to a political organization in situations requiring expeditious handling.
- (7) IRM 25.5.8.3 added reference to IRM 4.75.39.
- (8) IRM 25.5.8.3.1(1) deleted an obsolete reference to IRM 4.76.7.3 and added a reference to IRM 4.75.39.4.
- (9) IRM 25.5.8.3.1(3) reference to Area Counsel updated to TEGEDC Area Counsel.
- (10) IRM 25.5.8.3.1(5) added to reinforce that the provisions of IRC 7611 are not applicable to a summons in aid of collection.
- (11) 25.5.8.3.1.1 added a Note to explain that requests for information regarding the filing or failure to file a tax or information return by the church is considered a routine request and a Note was added advising that churches are not required to file annual information returns (Form 990).
- (12) IRM 25.5.8.3.2 changed to conform to the procedures reflected in IRM 4.75.39.
- (13) IRM 25.5.8.3.2 Note changed to reflect that the designated official under IRC 7611(a) is the Commissioner TEGE and that approval under IRC 7611(f) is to be made by the Deputy Commissioner for Services and Enforcement. A reference to Delegation Order 7-3 (Rev. 2) in IRM 1.2.2 was added.
- (14) IRM 25.5.8.3.2(3) added procedures for follow up of the church tax inquiry before referencing the church tax examination procedures. Also added references to IRM 4.75.39.7.7 and IRM 25.5.8.3.3.
- (15) IRM 25.5.8.3.3 changed to conform to the procedures reflected in IRM 4.75.39.

- (16) IRM 25.5.8.3.3(4) reference to Area Counsel updated to TEGEDC Area Counsel and Note changed to reflect that the designated official under IRC 7611(b) is the Commissioner TEGE and that approval under IRC 7611(f) is to be made by the Deputy Commissioner for Services and Enforcement. A reference to Delegation Order 7-3 (Rev. 2) in IRM 1.2.2 was added.
- (17) IRM 25.5.8.3.3(5) reference to Area Counsel updated to TEGEDC Area Counsel.
- (18) IRM 25.5.8.3.3(6) reference to Area Counsel updated to TEGEDC Area Counsel.
- (19) IRM 25.5.8.3.4 highlighting emphasis added to improve clarity.
- (20) IRM 25.5.8.3.5(1) information added to the Note to explain that IRC 7611 is not applicable to routine requests as described in IRM 25.5.8.3.1(2).
- (21) IRM 25.5.8.3.5(2) added reference to IRM 4.75.39.10.
- (22) IRM 25.5.8.3.5(3) instructions provided to seek guidance from TEGEDC Area Counsel when changing the preprinted description of purpose on the summons form.
- (23) IRM 25.5.8.3.5(4) references to Area Counsel updated to TEGEDC Area Counsel.
- (24) IRM 25.5.8.4 the information contained in the previous (3) was removed because it merely repeated guidance provided in a separate IRM section.
- (25) IRM 25.5.8.4(1) clarifies that the taxpayer need not be a foreign citizen and reflects that the Commissioner, LB&I is the U.S. Competent Authority.
- (26) IRM 25.5.8.4(2) updated to reflect IRM language specific to the EOI Program, removed references to Tax Attachés and Revenue Service Representatives and added a reference to IRM 4.60.1.2.2.
- (27) IRM 25.5.8.4(2) Note updated to reflect that no contact should be made with foreign tax officials without going through the US Competent Authority.
- (28) IRM 25.5.8.5 the information contained in the previous (4) and (5) was merged into IRM 25.5.8.5(3).
- (29) IRM 25.5.8.5(1) introduction added so this section does not begin with an exception and reworked for clarity.
- (30) IRM 25.5.8.5(2) clarified language regarding U.S. and foreign banks.
- (31) IRM 25.5.8.5(3) updated language to reflect IRM language specific to the EOI Program
- (32) IRM 25.5.8.5(4) a listing of each U.S. territory was removed in favor of the term "U.S. territories."
- (33) Throughout this IRM, replaced "examiner" with "IRS employee" since this IRM is used by all IRS employees authorized to issue a summons. Also, replaced "the Service" with "the IRS".
- (34) The revision to this IRM section includes editorial changes, formatting, and IRM reference corrections throughout.

EFFECT ON OTHER DOCUMENTS

IRM 25.5.8, dated January 27, 2016, is superseded.

AUDIENCE

All operating divisions & functions

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25.5.8

Use of Summons Special Applications

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25.5.8.1
(12-11-2020)
Program Scope and Objectives

- (1) The Summons Handbook provides guidelines for all IRS functions in one multi-functional handbook.
- (2) **Purpose:** This IRM provides instructional procedures for the use of summons regarding:
 - The Finances of a Political Organization
 - Church Tax Inquiries and Examinations
 - Tax Treaties
 - Records Located Outside the United States
- (3) **Audience:** All employees conducting such investigations.
- (4) **Policy Owner:** Director, Collection Policy, SBSE.
- (5) **Program Owner:** Collection Policy, SBSE, Enforcement.
- (6) **Primary Stakeholders:** The primary stakeholders include Counsel, Collection, Examination and Criminal Investigation, (CI).
- (7) **Program Goals:** There are occasions when summonses are required regarding the finances of a political organization, a church, or involving tax treaties or records located outside the United States. By following this IRM, employees will understand the appropriate use of summonses in these situations.

25.5.8.1.1
(12-11-2020)
Background

- (1) This IRM contains guidance on the restrictions associated with an investigation of political organization finances and provides instructions for the use of summons authority to facilitate such investigations.
- (2) This IRM also contains information regarding the restrictions on church tax inquiries, church tax examinations and guidance on issuing church summonses as follows:
 - Restrictions on church tax inquiries and examinations
 - Situations when IRC 7611 procedures are not applicable
 - Collection and TEGE requirements before serving a church summons
 - Church tax inquiries
 - Church tax examinations
 - IRC 7611 definitions
 - Issuing church summonses, and
 - Guidance for criminal investigation
- (3) Foreign countries with tax treaties or Tax Information Exchange Agreements (TIEAs) with the United States may request information located within the United States in furtherance of a foreign tax investigation or procedure. Some such information may be obtainable through a summons issued by the IRS. The IRS is tasked with this activity as is discussed in IRM 25.5.8.4, Summons for Information Pursuant to Tax Treaties. Similarly, the IRS may request information located outside the United States in furtherance of an IRS tax investigation or procedure, where the relevant foreign country has a tax treaty or TIEA with the United States. See IRM 25.5.8.5, Records Outside the United States.

25.5.8.1.2
(12-11-2020)
Authority

- (1) IRC 7602 provides the IRS with summons authority.
- (2) IRC 7609 provides the IRS with special procedures for third-party summonses.
- (3) Delegation Order 25-1 provides the levels of authority delegated to various IRS employees to approve and perform activities concerning summonses. See IRM 1.2.2, Servicewide Delegations of Authority.
- (4) IRC 7611 provides restrictions on church tax inquiries and church tax examinations.
- (5) Delegation Order 7-3 (Rev 2) provides the level of authority to begin a church tax inquiry and/or a church tax examination. See IRM 1.2.2, Servicewide Delegations of Authority.

25.5.8.1.3
(12-11-2020)
Responsibilities

- (1) Paragraph (9) in Delegation Order 25-1 lists the employees authorized to issue, serve and enforce summonses. See IRM 1.2.2, Servicewide Delegations of Authority.
- (2) The approval of the issuing officer's manager, or any supervisory official above that level, is required on a summons to a third party witness, except that such approval is not required for a third party summons issued by a special agent. See paragraph (8) of Delegation Order 25-1 in IRM 1.2.2, Servicewide Delegations of Authority. This approval is evidenced by the signature of the authorizing official on the summons, or by a statement on the summons, signed by the issuing officer, that prior authorization to issue the summons has been obtained and stating the name and title of the authorizing official and the date of authorization.
- (3) Additional procedures for the approval and issuance of summonses concerning churches or the finances of political organizations, summonses for records located outside the United States, and summonses pursuant to tax treaties are provided throughout this section.
- (4) Delegation Order 7-3 (Rev 2) delegates the authority to begin a church tax inquiry under the requirements of IRC 7611(a) and to begin a church tax examination under IRC 7611(b) to the Commissioner, Tax Exempt and Government Entities (TEGE). In situations where a church tax inquiry or examination will begin within the applicable 5 year period described in IRC 7611(f) and approval is required under that subsection, the Deputy Commissioner for Services and Enforcement is the designated official with approval authority. See IRM 1.2.2, Servicewide Delegations of Authority.

25.5.8.1.4
(12-11-2020)
Program Management

- (1) In general, the IRS should issue summonses only when the information is not already in the IRS's possession and the taxpayer (or other witness) will not produce the desired records or other information voluntarily. A summons is specific to each case. There are no program reports that track summonses to third-party witnesses.
- (2) All IRS employees may use Form 2039, Summons. When circumstances dictate, Collection employees use Form 6637, Summons Collection Information Statement, Form 6638, Summons Income Tax Return and Form 6639, Financial Records Summons. See IRM 25.5.2.2.1, Description of Summons, for additional information about summons forms.

- (3) When it has been determined that a summons is required in association with any of the topics discussed in this section, the IRS employee should review the pertinent sections of this IRM and obtain the appropriate approval for the summons being issued.

25.5.8.1.5
(12-11-2020)
Program Controls

- (1) The IRS employee who issued the summons keeps a copy of the original summons, which is Page 1 of the summons labeled "Original". The original summons is needed when referring a summons for enforcement. See IRM 25.5.10, Enforcement of Summons.
- (2) A summons is specific to each case and it is incumbent upon the IRS employee who issued the summons to maintain the proper approval records associated with each summons. All approved summonses, approval memoranda and counsel review documents, where applicable, should be maintained with the summons in the administrative case file.

25.5.8.1.6
(12-11-2020)
**Definitions and
Acronyms**

- (1) The table below lists commonly used acronyms and their definitions.

Acronyms

Acronyms	Definition
CCDM	Chief Counsel Directives Manual
CI	Criminal Investigation
EO	Exempt Organizations
EOI	Exchange of Information
FICA	Federal Insurance Contributions Act
IRC	Internal Revenue Code
IRS	Internal Revenue Service
JITSIC	Joint International Tax Shelter Information and Collaboration
LB&I	Large Business and International
SBSE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
TEGE	Tax Exempt and Government Entities
TEGEDC	Tax Exempt and Government Entities Division Counsel
TIEA	Tax Information Exchange Agreement

- (2) Refer to IRM 25.5.8.3.4, IRC 7611 Definitions, for additional definitions applicable to this section.
- (3) Definitions pertaining to summonses served on third party witnesses can be found in IRM 25.5.6.3, Definitions.

25.5.8.1.7
(12-11-2020)

Related Resources

- (1) IRM 25.5, Summons, provides guidelines for all IRS functions in one multifunctional handbook. The sections are:
 - IRM 25.5.1, Introduction
 - IRM 25.5.2, Preparation
 - IRM 25.5.3, Procedures
 - IRM 25.5.4, Examination of Books and Witnesses
 - IRM 25.5.5, Summons for Taxpayer Records and Testimony
 - IRM 25.5.6, Summonses on Third Party Witnesses
 - IRM 25.5.7, Special Procedures for John Doe Summonses
 - IRM 25.5.8, Use of Summons Special Applications
 - IRM 25.5.9, Fees and Costs for Summoned Witnesses
 - IRM 25.5.10, Enforcement of Summons
- (2) The basic legal concepts governing the use and enforcement of administrative summonses can be found in IRM 5.17.6, Legal Reference Guide for Revenue Officers, Summonses.
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already exist in the tax code, putting them in simple language and grouping them into 10 broad categories. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights> and Policy Statement 1-236 in IRM 1.2.1, Servicewide Policy Statements.
- (4) Additional summons guidance can be found on the Summons Knowledge Base, <https://portal.ds.irsnet.gov/sites/vl053/pages/default.aspx>

25.5.8.2
(12-11-2020)

Use of Summons to Obtain Information Concerning the Finances of a Political Organization

- (1) The term political organization includes:
 - A political party
 - A national, state, or local committee of a political party
 - Campaign committees or other organizations that accept contributions or make expenditures for influencing the selection, nomination, or election of any individual for elective public office.

The term political organization does not include an organization to which the taxpayer is the only contributor. For more information, see IRM 4.75.12.14, Political Organization Returns (Form 1120 POL), and IRM 3.13.12.14, Section 527 Political Organizations.
- (2) Political organization financial information includes testimony or documents that disclose the identity of contributors or recipients of expenditures.
- (3) A summons may be used to obtain testimony or documents concerning the finances of a political organization if compliance with the summons would not require a general disclosure of the finances. Such a summons will be restricted to information relating to the tax liability of named taxpayers under examination or investigation. The summons must specifically identify the taxpayer's transactions with the political organization and be limited to require only testimony or documents relating to those transactions or to other similar transactions. If the taxpayer's transactions with the political organization are known to have occurred through the use of an intermediary person or organization, the summons may require testimony or documents relating to specifically identified transactions of the intermediary with the political organization.

- (4) Do not use a summons to obtain testimony or documents requiring a general disclosure of the finances of a political organization, except as provided in IRM 25.5.8, Criminal Investigation and Summons Concerning Finances of a Political Organization. This restriction applies if the information sought by a summons would generally disclose the finances of a political organization even though the testimony is to be obtained from, or the documents are owned or possessed by, a source that is not a political organization.
- (5) Before issuing a summons, an attempt should be made to obtain the information without a summons. Refer to IRM 4.10.2.10, Requesting Information: Overview; IRM 4.61.2.1, Information Reporting and Record Keeping; *CCDM* 35.4.5.2.1, Formal Document Requests; and IRM 4.10.3.3, Interviews: Authority and Purpose.

25.5.8.2.1
(06-28-2011)
**Criminal Investigation
and Summons
Concerning Finances of
a Political Organization**

- (1) If conformity with IRM 25.5.8 or an exception to the provisions of IRM 25.5.8 is desired, a memorandum request with a copy of the proposed summons will be submitted by the Special Agent in Charge, Criminal Investigation (CI), to the Director, Field Operations, CI, for prior written approval. If time is of the essence, a telephonic request can be made to the Director, Field Operations, CI, followed immediately by a memorandum.
- (2) If there is a question as to the legal sufficiency of the proposed summons and time permits, refer the summons to the appropriate Area Counsel office for a preliminary legal review prior to referral of the request to Headquarters for approval.

25.5.8.2.2
(12-11-2020)
TEGE:EO

- (1) A summons may be issued to obtain testimony or documents concerning a political organization (whether from the organization itself or from a record-keeper, such as a bank), if needed, to determine the exempt status or tax liability of an organization under examination. Refer to IRM 25.5.2, Exhibit 25.5.2-1, for summons preparation.
- (2) The TEGE Area Manager must authorize the summons before it is issued. The signature must be on the original and all copies of the summons. Official electronic signatures are acceptable. The IRS employee should:
 - a. Prepare a detailed memo to the Area Manager, explaining the need for the summons.
 - b. Retain a copy of such memo in the examination administrative file.
 - c. Refer any questions about the legal sufficiency of the proposed summons to TEGEDC Area Counsel for a preliminary legal review before forwarding it to the Area Manager, for approval.
- (3) In situations requiring expeditious handling, the Area Manager may give oral authorization to issue a summons to a political organization. A statement signed by the issuing IRS employee, on the original and all copies of the summons, must specify that the IRS employee had prior authorization by the Area Manager, and include the date authorized. This statement may be written manually or electronically in the "Signature of Approving Officer" blank space on the summons. Such authorization should be confirmed by the Area Manager in writing as soon as possible after the summons is issued.

25.5.8.3
(12-11-2020)

**Restrictions on Church
Tax Inquiries and
Examinations**

- (1) IRC 7611 imposes restrictions on inquiries or examinations concerning a church. Before the IRS can civilly use any information for an adverse action against a church (e.g., final notice of revocation or denial of exempt status, issuance of a notice of deficiency, or the assessment of any underpayment of tax), the restrictions of IRC 7611 must first be met. Refer to IRM 4.75.39, Church Tax Inquiries and Examinations Under IRC 7611, for procedures.

25.5.8.3.1
(12-11-2020)

**Situations in which IRC
7611 Procedures Do Not
Apply**

- (1) IRC 7611 specifically excludes certain IRS inquiries to churches from the restrictions it imposes. See IRM 4.75.39.4, Situations in Which IRC 7611 Procedures Do Not Apply, for a description of these exclusions.
- (2) The restrictions of IRC 7611 do not apply to routine requests. Routine requests are requests for information the IRS needs to administer the Internal Revenue Code apart from requests for information needed to determine an organization's exempt status or to assess tax. Routine requests include (but are not limited to) questions regarding:
 - a. The filing or failure to file any tax or information return by the church.
 - b. Compliance with income tax or FICA withholding responsibilities.
 - c. Supplemental information needed to complete the mechanical processing of any incomplete or incorrect return filed by a church.
 - d. Information needed to process letter ruling requests or applications for exemption.
 - e. Information necessary to process and periodically update registrations for tax-free transactions (excise tax), elections for exemptions from windfall profits tax, or employment tax exemption requests by a church.
 - f. Information identifying a church that will be used by the IRS to update its Exempt Organizations Select Check, an on-line search tool that allows users to check certain information about the federal tax statuses and filings of tax-exempt organizations, and other computer files, and
 - g. Confirmation that a specific business is or is not owned or operated by a church.

Note: Repeated (two or more) failures by the church to respond to routine requests may support the commencement of a church tax inquiry. Observe the provisions of IRC 7611 if a summons is required to secure the information after the failure of the church to respond.

- (3) The restrictions of IRC 7611 must be observed if an organization claims to be a church. When there is reason to believe an organization's claim to be a church is frivolous, TEGEDC Area Counsel's opinion must be secured before a determination is made that IRC 7611 is not applicable.
- (4) IRC 7611 applies to schools operated as part of a church or convention or association of churches. However, IRC 7611 does not apply to a separately organized or incorporated church-supported school, or other organization incorporated separately from the church.
- (5) The provisions of IRC 7611 are not applicable to summonses issued to aid in the collection of liabilities already assessed.

25.5.8.3.1.1
(12-11-2020)
**Collection / TEGE: EO
Requirements Prior to
Service of Church
Summons**

- (1) Follow the provisions of IRC 7611 prior to the service of a summons on a church when the purpose of the summons is to:

- a. Determine a church's requirement to file a tax return.
- b. Secure information required to prepare a delinquent tax return.

Note: A summons served on a third party to obtain information necessary to determine whether a church is subject to filing requirements is not subject to IRC 7611.

Note: Requesting information regarding the filing or failure to file any tax or information return by the church is considered a routine request as described in IRM 25.5.8.3.1

Note: Churches are not required to file annual information returns (Form 990).

25.5.8.3.2
(12-11-2020)
Church Tax Inquiry

- (1) The reasonable belief and notice requirements of IRC 7611 must be satisfied before a church tax inquiry can begin. There must be a reasonable belief by the designated official that the organization:

- a. May not qualify for exemption under IRC 501(a), or
- b. May not be described as a church under IRC 509(a)(1) and IRC 170(b)(1)(A)(i), or
- c. May be carrying on an unrelated trade or business within the meaning of IRC 513 or may be otherwise engaged in activities subject to taxation under the Internal Revenue Code, or
- d. May have engaged in an excess benefit transaction under IRC 4958.

Note: The designated official to approve a church tax inquiry under IRC 7611(a) is the Commissioner, TEGE. In situations where approval is required under IRC 7611(f), such approval is to be made by the Deputy Commissioner for Services and Enforcement. See Delegation Order 7-3 (Rev 2) in IRM 1.2.2, Servicewide Delegations of Authority.

- (2) A church tax inquiry is needed prior to issuance of a summons to a church. See IRM 4.75.39.7, Church Tax Inquiry.
- (3) If a church fails to respond to the inquiry notice, see IRM 4.75.39.7.7, Follow-up on Church Tax Inquiry Notice and follow the procedures in IRM 25.5.8, Church Tax Examination, before serving a summons on a church.
- (4) Refer to IRM 25.5.8, Church Tax Examination, if the final determination will result in the assessment of additional tax (other than by voluntary filing).

25.5.8.3.3
(12-11-2020)
Church Tax Examination

- (1) The IRS employee should initiate steps to begin a church tax examination if the church does not respond to the church tax inquiry or the response does not resolve the IRS's concerns. Notice of examination and opportunity for conference requirements of IRC 7611 must be satisfied prior to the examination. See IRM 4.75.39.8, Church Tax Examination.

- (2) The scope of a church tax examination is limited to determine:

- a. The initial or continuing qualification of the organization under IRC 501(c)(3), including classification as a church under IRC 509(a)(1) and IRC 170(b)(1)(A)(i).
- b. The amount, if any, of tax due to unrelated business activity within the meaning of IRC 513 or other activities that may be subject to tax, or
- c. The amount of any IRC 4958 tax from a disqualified person with respect to a transaction involving a church.

Note: See IRM 4.75.39.9, Scope of Examination for additional information regarding the scope of a church tax examination.

- (3) A church tax examination can only begin if certain notice of examination and opportunity for conference requirements, set forth in IRC 7611, are first satisfied. Refer to IRM 4.75.39.8, Church Tax Examination, for church tax examination procedures.
- (4) To initiate a Notice of Examination, the IRS employee will prepare a draft notice of examination for the signature of the designated official. See IRM 4.75.39.8.1, Preparing the Notice of Examination. Before sending the Notice of Examination to the designated official for approval, the IRS employee must forward the entire file to TEGEDC Area Counsel through the Area Manager. Counsel will provide an opinion regarding the appropriateness of the examination. See IRM 4.75.39.8.2, Area Counsel Pre-Issuance Review. After Counsel approves the action and the designated official signs the church tax examination letter, the notice may be issued. Refer to IRM 4.75.39.8.3, Issuance of Notice of Examination.

Note: The designated official to approve a church tax examination under IRC 7611(b) is the Commissioner, TEGE. In situations where approval is required under IRC 7611(f), such approval is to be made by the Deputy Commissioner for Services and Enforcement. See Delegation Order 7-3 (Rev 2) in IRM 1.2.2, Servicewide Delegations of Authority.

- (5) A summons may be issued if the church does not provide the information requested during the examination. The IRS employee should prepare a summons and forward it to TEGEDC Area Counsel for review as soon as circumstances indicate that the church will not voluntarily provide the information requested. Refer to IRM 25.5.8, Issuing Church Summonses and IRM 4.75.39.10, Summons.
- (6) If the final determination results in the assessment of additional tax (other than by voluntary filing), refer the proposed assessment to TEGEDC Area Counsel for approval. Counsel must furnish written approval that the IRS has substantially complied with the provisions of IRC 7611. See IRM 4.75.39.11, Closing Letters, Report of Examination and Mandatory Review Requirements. Attach Counsel's memorandum to a return prepared under IRC 6020(b) when submitted for assessment.
- (7) If the IRS has not substantially complied with the church tax inquiry and examination procedures, a summons enforcement proceeding brought by the IRS to gain access to church records may be stayed by the Court until the IRS complies with IRC 7611 procedures.

Note: The two-year period for completing a church examination will not be suspended during stays of summons proceedings resulting from violations of IRC 7611 procedures.

25.5.8.3.4
(12-11-2020)
IRC 7611 Definitions

- (1) The term **church** includes:
 - a. Any organization claiming to be a church, and/or
 - b. Any convention or association of churches.
- (2) A **church tax inquiry** is any inquiry to a church (other than an examination) to serve as a determining basis for whether a church is:
 - a. Tax exempt under IRC 501(a) by reason of its status as a church, or
 - b. Carrying on an unrelated trade or business (within the meaning of IRC 513), or
 - c. Engaged in activities which may be subject to taxation.

Note: A church tax inquiry may lead to a church tax examination.

- (3) A **church tax examination** is any examination of church records or the religious activities of any church to determine if a church is:
 - a. Tax exempt under IRC 501(a) by reason of its status as a church, or
 - b. Carrying on an unrelated trade or business (within the meaning of IRC 513), or
 - c. Engaged in activities which may be subject to taxation.

Note: A church tax examination may not take place until a church tax inquiry has been completed.

- (4) **Church records** include:
 - a. All regularly kept church corporate and financial records;
 - b. Corporate minute books, contributor and membership lists, and church books of account, and;
 - c. Private correspondence between a church and its members that is in the possession of the church.

25.5.8.3.5
(12-11-2020)
Issuing Church Summons

- (1) Comply with the requirements of IRC 7611 before issuing a summons to a church to secure:
 - a. Information requested during the examination which the church refuses to provide.
 - b. Information about a church's federal filing requirement, and
 - c. Delinquent returns.

Note: IRC 7611 is not applicable to routine requests as described in IRM 25.5.8.3 or when the purpose of the summons is to secure information to aid in the collection of liabilities already assessed.

- (2) A church summons must be prepared in accordance with procedures in IRM 25.5.2, Summons, Preparation and IRM 4.75.39.10, Summons.
- (3) Modify the preprinted description of purpose on the summons form to reflect the specific purpose of the church summons. Contact TEGEDC Area Counsel

for assistance in drafting the appropriate language. TEGEDC Area Counsel must review the proposed summons before issuance.

- (4) Refer the summons to TEGEDC Area Counsel for enforcement if a church does not comply with the summons. After reviewing the summons enforcement request and preparing the suit letter, TEGEDC Area Counsel will refer the matter to the National Office for review pursuant to *CCDM 34.6.1.3, Preparation of Suit Letters*.
- (5) If the IRS has not substantially complied with the church examination procedures, a summons enforcement proceeding brought by the IRS to gain access to church records may be stayed by the Court until the IRS complies with IRC 7611 procedures.

Note: The two-year period for completing a church examination will not be suspended during stays of summons proceedings resulting from violations of IRC 7611 procedures.

25.5.8.3.5.1
(04-30-1999)
Criminal Investigation

- (1) In church-related investigations, Criminal Investigation will follow the same procedures for summonses and other inquiries as in other criminal cases, since IRC 7611(i) states restrictions on church tax inquiries and examinations do not apply to any criminal investigation.

25.5.8.4
(12-11-2020)
**Summons for
Information Pursuant to
Tax Treaties**

- (1) The IRS may issue a summons, relating to a person's foreign tax liability to obtain information within the United States, in response to a formal request made by a foreign Competent Authority pursuant to the provisions of an income tax treaty, estate and gift tax treaty, tax information exchange agreement (TIEA), or tax coordination agreement with a U.S. territory. The Commissioner, Large Business and International (LB&I), and his/her delegate, acts as the U.S. Competent Authority in administering the operating provisions of these exchange agreements. See IRM 4.60.1.2.2, Foreign Initiated Specific Requests for Information and Delegation Order 4-12 (as revised) in IRM 1.2.2, Servicewide Delegations of Authority.
- (2) Foreign-initiated requests for information are received by the designated U.S. Competent Authority and typically assigned to an analyst in one of the IRS Exchange of Information (EOI) offices including the Program Manager, EOI and the Program Manager, Joint International Tax Shelter Information and Collaboration (JITSIC). When necessary, the assigned analyst may solicit the assistance of IRS civil or CI personnel. If the request is determined to be valid under the terms of the applicable international exchange agreement, the assigned analyst will first attempt to obtain the information requested through informal means without using a summons, except where informal means are not feasible. Refer to IRM 4.10.2.10, Requesting Information: Overview, IRM 4.10.3.3, Interviews: Authority and Purpose and IRM 4.60.1.2.2, Foreign-Initiated Specific Requests for Information. However, do not attempt to obtain documents by informal means from financial institutions which are found within the Tenth Circuit. Refer to IRM 25.5.1.4.1, Documents from Financial Institutions in the Tenth Circuit, for more information on this limitation. If the information requested is not voluntarily provided, and the information cannot be obtained elsewhere, the analyst will prepare an administrative summons. Refer to IRM 4.60.1.2.2.4, Foreign-Initiated Specific Requests for Information Procedures for Cases Involving Summonses. In certain circumstances, Associate Chief Counsel (International), Branch 7, will need to review the prepared

summons prior to issuance. If judicial enforcement of a summons is required, the analyst will request assistance from Area Counsel and Associate Chief Counsel (International). See *CCDM 34.6.3.6.6*, Tax Treaty and TIEA Summonses.

Note: Under no circumstances should contact be made with foreign tax officials without going through the Office of the Commissioner, LB&I, the U.S. Competent Authority.

- (3) Details regarding information requests controlled by the Competent Authority are available in IRM 4.60.1.2.2, Foreign-Initiated Specific Requests for Information and IRM 5.21.7.2, Cases Controlled by the United States Competent Authority Office.

25.5.8.5
(12-11-2020)
**Records Outside the
United States**

- (1) Summonses may be issued to persons or entities in the United States who have control over records located abroad. These summonses are required to be reviewed by Field Counsel prior to issuance. See *CCDM 34.6.3.1(6)*, Summons Provisions. Before issuing a summons for records located outside the United States, the IRS employee should consider alternative means of securing the information.
- (2) The IRS may issue a summons to a domestic bank to produce records of a foreign branch. Additionally, the IRS may issue a summons to a domestic branch of a foreign bank to produce records. Consult with Area Counsel, which will consult with Associate Chief Counsels (Procedure & Administration) and (International) and refer to IRM 25.5.6.7.1, Foreign Branches of Domestic Banks, and IRM 25.5.6.7.2, Domestic Branches of Foreign Banks, for information concerning foreign banks or foreign branches of domestic banks.
- (3) The IRS cannot issue a summons directly to any individual or entity located outside the United States. IRS employees seeking foreign-based information are encouraged to refer to IRM 4.61.2.2, Procedures for Obtaining Books and Records Located Outside the United States and contact LB&I's EOI Program to determine what information could be obtained through a request for information under an international exchange agreement. Refer to IRM 4.60.1.2.1, United States-Initiated Specific Requests for Information, IRM 5.21.2.2, Types of Offshore Gathering Techniques and IRM 4.60.1.1.2.1, Authority - Disclosure, Confidentiality, and Contacts with Foreign Tax Officials. All requests for information under the provisions of an international exchange agreement must be conducted through the U.S. Competent Authority. Under no circumstances should contact be made with foreign tax officials without going through the U.S. Competent Authority.
- (4) To obtain information located in the U.S. territories, See IRM 5.21.2.3.3, Exchange of Information U. S. Territories, for use of the exchange of information program and IRM 25.5.3.2.3, Summonses Issued in U.S. Territories, when issuing a summons.

