

Part III - Administrative, Procedural, and Miscellaneous

Reduced User Fee for Substantially Identical Letter Rulings and User Fee for Foreign Insurance Excise Tax Waiver Agreements

Notice 2016-59

SECTION 1: PURPOSE

This notice advises of revisions to the requirements for the reduced user fee for substantially identical letter rulings set forth in section 15.07(2) of Rev. Proc. 2016-1, 2016-1 I.R.B. 1, and further described in paragraph (A)(5)(a) of Appendix A of Rev. Proc. 2016-1. This notice also corrects the amount of the user fee for Foreign Insurance Excise Tax Waiver Agreements stated in paragraph (A)(3)(e) of Appendix A of Rev. Proc. 2016-1.

SECTION 2: BACKGROUND

Section 7528 was added to the Internal Revenue Code by section 202 of the Extension of the Temporary Assistance for Needy Families Block Grant Program, Pub. L. No. 108-89, amended by section 891(a) of the American Jobs Creation Act of 2004, Pub. L. 108-357, and was made permanent by section 8244 of the U.S. Troop

Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28.

Section 7528 provides that the Secretary of the Treasury or delegate (the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service (the "Service") for letter rulings, opinion letters, determination letters, and other similar requests. The fees charged under the program are to: (1) vary according to categories or subcategories established by the Secretary; (2) be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) be payable in advance. The Secretary is to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category or subcategory must not be less than the amount specified in section 7528(b)(3).

Rev. Proc. 2016-1 contains the current schedule of user fees and provides guidance for administering the user fee requirements for requests for letter rulings under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Associate Chief Counsel (Tax Exempt and Government Entities).

Section 15.07(2) of Rev. Proc. 2016-1 sets forth the requirements for a reduced user fee for certain substantially identical letter rulings requested for multiple entities with a common member or sponsor, or multiple members of a common entity. If the requirements of section 15.07(2) of Rev. Proc. 2016-1 are satisfied, paragraph (A)(5)(a) of Appendix A of Rev. Proc. 2016-1 provides that the user fee for each additional substantially identical letter ruling, after the \$28,300 fee or reduced fee, as applicable, has been paid for the first letter ruling request, is \$2,700 for requests received after February 1, 2015. The Service has recently determined that the requirements for this reduced user fee should be revised to include substantially identical letter rulings requested by taxpayers who are parties engaged together in the same transaction affecting all requesting taxpayers. The Service will include this additional basis for qualifying for a reduced user fee in Rev. Proc. 2017-1 that is published in January 2017. In addition, the Service has determined that this change is effective immediately to reflect more properly the Service's actual costs in preparing letter rulings. Accordingly, pending publication of Rev. Proc. 2017-1, taxpayers may rely on this notice for purposes of requesting a reduced user fee. Section 3 of this notice sets forth the revised requirements for this reduced user fee.

Paragraph (A)(3)(e) of Appendix A of Rev. Proc. 2016-1 provides that the user fee for a request for a Foreign Insurance Excise Tax Waiver Agreement received on or after February 2, 2015 is \$8,000. Effective for requests received on or after February 4, 2016, this user fee was decreased to \$7,200; however, this decrease was inadvertently omitted from Rev. Proc. 2016-1. Section 4 of this notice corrects this discrepancy.

SECTION 3: REDUCED USER FEE FOR SUBSTANTIALLY IDENTICAL LETTER RULINGS

.01 Section 15.07(2) of Rev. Proc. 2016-1 is modified to read as follows:

(2) Substantially identical letter rulings. The user fee provided in paragraph (A)(5)(a) of Appendix A of this revenue procedure applies to a taxpayer or taxpayers requesting substantially identical letter rulings (including accounting period, method of accounting, and earnings and profits requests other than those submitted on Form 1128, Application to Adopt, Change, or Retain a Tax Year, Form 2553, Election by a Small Business Corporation, Form 3115, Application for Change in Accounting Method, and Form 5452, Corporate Report of Nondividend Distributions) in the following situations:

- (a) The taxpayers to whom the letter rulings will be issued are multiple entities with a common member or sponsor, or multiple members of a common entity; or
- (b) The taxpayers to whom the letter rulings will be issued are parties engaged together in the same transaction affecting all requesting taxpayers.

To qualify for this reduced user fee, all information and underlying documents must be substantially identical and all letter ruling requests must be submitted at the same time in a single submission. In addition, the taxpayer(s) must state that the letter ruling requests and all information and underlying documents are substantially identical, and must specifically identify the extent to which the letter ruling requests, information, and underlying documents are not identical.

If a taxpayer or taxpayers requesting reduced user fees pursuant to this section 15.07(2) also request a pre-submission conference pursuant to section 10.07, the taxpayer(s) should notify the Associate office at or before the pre-submission conference that the taxpayer(s) intend to request reduced user fees pursuant to this paragraph. At the pre-submission conference, the taxpayer(s) should discuss with the Associate office how the letter ruling requests will satisfy the requirements of this paragraph.

The reduced fee for substantially identical letter rulings is applicable to taxpayers requesting closing agreements as described in section 2.02 of this revenue procedure, assuming they meet the requirements

described above for letter rulings.

.02 The text in the “CATEGORY” column of paragraph (A)(5)(a) of Appendix A of Rev. Proc. 2016-1 is modified to read as follows:

(5) User fee for substantially identical letter ruling requests, identical changes in method of accounting, or plans from issuing authorities under § 25(c)(2)(B). If the requirements of section 15.07 of Rev. Proc. 2016-1, 2016-1 I.R.B. 1, as modified by Notice 2016-59, are satisfied, the user fee for the following situations is as follows:

- (a) Substantially identical letter rulings requested (other than changes in methods of accounting requested on Form 3115)

Requests for substantially identical letter rulings for multiple entities with a common member or sponsor, or for multiple members of a common entity, or for parties engaged together in the same transaction affecting all requesting taxpayers, for each additional letter ruling request after the \$28,300 fee or reduced fee, as applicable, has been paid for the first letter ruling request. These requests may include, but are not limited to, requests for substantially identical letter rulings for two or more identical trusts, multiple beneficiaries of a trust, a trust divided into identical subtrusts, spouses making split gifts, or series funds within a single trust or series organization.

NOTE: Each entity or member that is entitled to the user fee under paragraph (A)(5)(a) of this appendix, that receives relief under § 301.9100-3 (for example, an extension of time to file an election) will be charged a separate user fee for the letter ruling request on the underlying issue.

NOTE: The fee charged for the first letter ruling is the highest fee applicable to any of the entities.

NOTE: Where the requests for the letter rulings are submitted by a private foundation described in § 509 and one or more disqualified persons described in § 4946, the fee charged for the first letter ruling to a disqualified person is the highest fee applicable to any of the taxpayers.

SECTION 4: USER FEE FOR FOREIGN INSURANCE EXCISE TAX WAIVER

AGREEMENTS

The user fee for a request for a Foreign Insurance Excise Tax Waiver Agreement received on or after February 4, 2016 is \$7,200. Paragraph (A)(3)(e) of Appendix A of Rev. Proc. 2016-1 is modified to reflect this correction.

SECTION 5: EFFECT ON OTHER DOCUMENTS

Section 15.07(2) of Rev. Proc. 2016-1 and paragraph (A)(5)(a) of Appendix A of Rev. Proc. 2016-1 are modified to reflect the revisions to the requirements for the reduced user fee for substantially identical letter rulings set forth in section 3 of this notice. Paragraph (A)(3)(e) of Appendix A of Rev. Proc. 2016-1 is modified to reflect the correct user fee for a request for a Foreign Insurance Excise Tax Waiver Agreement provided in section 4 of this notice.

SECTION 6: EFFECTIVE DATE

The guidance provided in section 3 of this notice is effective for letter ruling requests under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Associate Chief Counsel (Tax Exempt and Government Entities) received on or after September 27, 2016, and requests pending with the Service as of September 27, 2016.

The guidance provided in section 4 of this notice is effective for requests for Foreign Insurance Excise Tax Waiver Agreements received on or after February 4, 2016.

DRAFTING INFORMATION

The principal author of this notice is Laura Leigh Bates of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, please contact Laura Leigh Bates at (202) 317-3400 (not a toll-free call).