

## Part III

### Administrative, Procedural, and Miscellaneous

#### Industry Issue Resolution Program

Rev. Proc. 2016-19

#### SECTION 1. PURPOSE

This revenue procedure describes procedures for taxpayers and other entities under the jurisdiction of the Large Business and International (LB&I), Small Business and Self Employed (SB/SE), and Tax Exempt and Government Entities (TE/GE) Operating Divisions to submit issues for consideration under the Internal Revenue Service's Industry Issue Resolution (IIR) Program. The objective of the IIR Program is to identify and resolve frequently disputed or burdensome tax issues that are common to a significant number of entities. Resolving issues through pre-filing guidance rather than post-filing examination is a goal of the Internal Revenue Service (IRS) and the Office of Chief Counsel.

#### SECTION 2. BACKGROUND

.01. In Notice 2000-65, 2000-2 C.B. 599, the IRS announced the Industry Issue Resolution Pilot Program. The objective of the pilot program was to establish a procedure to address through pre-filing guidance rather than post-filing examination frequently disputed tax issues that are common to a significant number of large or mid-size business taxpayers. After evaluating the success of the pilot program, the IRS announced in Notice 2002-20, 2002-1 C.B. 732, that the IIR

Program would be made permanent. In addition, Notice 2002-20 expanded the IIR Program to address issues common to small businesses, as well as large and mid-size businesses, and to address opportunities to reduce burden for all business taxpayers.

.02. Revenue Procedure 2003-36, 2003-1 C.B. 859, superseded Notice 2002-20 and revised procedures for business taxpayers, industry associations, and other interested parties to allow issues to be submitted at any time for consideration under the IIR Program. Revenue Procedure 2003-36 limited IIR Program submissions to taxpayers under the jurisdiction of the LB&I (formerly Large and Mid-Size Business) and SB/SE Operating Divisions.

.03. This revenue procedure supersedes Revenue Procedure 2003-36, 2003-1 C.B. 859. It expands the availability of the IIR Program to issues with respect to entities under the jurisdiction of the TE/GE Operating Division, and updates, revises, and clarifies the procedures.

### SECTION 3. SCOPE

.01. Issues appropriate for the program.

The types of issues most appropriate for consideration under the IIR Program will have two or more of the following characteristics:

(1) The proper tax treatment of a common factual situation is uncertain;

(2) The uncertainty results in frequent, and often repetitive, examinations of the same issue;

(3) Frequent, and often repetitive, examinations require significant

resources from both the IRS and impacted entities;

- (4) The issue is significant and impacts a large number of entities;
- (5) The issue requires extensive factual development; and
- (6) Collaboration would facilitate proper resolution of the tax issues by

promoting an understanding of entities' views and business practices.

.02. Additional criteria for accountable plans.

Notice 2005-59, 2005-2 C.B. 443, provides additional criteria for evaluating proposed IIR Program issues for accountable plans and is incorporated by reference into this revenue procedure. With respect to IIR Program issues for accountable plans, the criteria set forth in Notice 2005-59 apply in addition to the requirements set forth in this revenue procedure.

.03. Issues not appropriate for the program.

The following types of issues are generally not appropriate for consideration under the IIR Program:

- (1) Issues unique to one or a small number of entities;
- (2) Issues not under the jurisdiction of the LB&I, SB/SE, or TE/GE

Operating Divisions;

(3) Issues involving transactions that lack a bona fide business purpose, or transactions with a significant purpose of improperly reducing or avoiding federal taxes; and

- (4) Issues involving transfer pricing or international tax treaties.

.04. Requesters.

In general, a requester should be an organization or a group of entities that

represents a significant number and cross section of the entities with the particular tax issue or issues. For example, a retail industry group that represents large, nationwide retailers as well as independent retailers might request pre-filing guidance through the IIR Program on a section 263(a) capitalization issue common to all member retailers.

#### SECTION 4. SELECTION PROCESS

.01. A requester may submit an IIR Program request at any time during the calendar year.

.02. An IRS representative will notify the requester when the IRS decides to select or reject an IIR Program request.

.03. The IRS will make public, at least annually, all IIR Program requests received and those selected. The announcement will include the name of an IRS official to contact for information regarding the selected IIR Program requests.

#### SECTION 5. GUIDANCE FOR SELECTED IIR PROGRAM REQUESTS

Selected IIR Program requests may result in published guidance, such as a regulation, revenue ruling, revenue procedure, or notice. Alternatively, selected requests may result in new or revised administrative procedures such as an LB&I Operating Division directive or a revision to an Internal Revenue Manual provision. In some situations, the guidance may require taxpayers to file a request for a change in method of accounting before changing the manner in which they treat an issue.

#### SECTION 6. ADDITIONAL INFORMATION ABOUT THE IIR PROGRAM

.01. IIR team.

If an IIR Program request is selected, the IRS will establish a team (IIR team) to analyze the issues and develop the appropriate guidance. IIR team members will include appropriate personnel from the requester and from the IRS. IRS team

members may be drawn from the LB&I, SB/SE, or TE/GE Operating Divisions, as well as Appeals, the Office of Chief Counsel, and the Treasury Department. An issue may not be selected for the IIR Program if the requester does not provide appropriate personnel to participate as IIR team members.

.02. Expectations regarding information and meetings.

Consideration of an IIR Program request is intended to be a collaborative effort that fosters constructive dialogue in an attempt to address issues in a manner that enhances good tax administration. This collaboration requires open and transparent discussion of the concerns and goals of all IIR team members. Resolution of an IIR Program request will require multiple and timely exchanges of information, which may include books and records of specific taxpayers, and meetings. However, because these activities are not undertaken for the purpose of examination or inspection within the meaning of section 7605(b), information provided in the context of the IIR Program will not constitute information furnished as part of an examination or inspection within the meaning of section 7605(b).

.03. Disclosure of information.

IIR Program requests and any additional information provided by a requestor in connection with a request are subject to the Freedom of Information Act. All submissions under the IIR Program will be made available for public inspection and copying. Submissions, therefore, should not include confidential or taxpayer specific information that is not intended to be disclosed.

## SECTION 7. SUBMITTING IIR REQUESTS

### .01. No required format.

An IIR Program request is not required to be submitted in a particular format. The submission should, however, include an issue statement, a description of why the issue is appropriate for the IIR Program, an explanation of the need for guidance, an estimate of the number of entities affected by the issue, a description of how the requester relates to those entities, and the name and telephone number of an individual to contact if additional information is needed. The submission may also include a recommendation as to how the issue may be resolved.

### .02. Where to submit IIR requests.

Interested parties should submit IIR requests by e-mail to [IIR@IRS.GOV](mailto:IIR@IRS.GOV).

## SECTION 8. EFFECT ON OTHER DOCUMENTS

This revenue procedure supersedes Rev. Proc. 2003-36.

## SECTION 9. EFFECTIVE DATE

This revenue procedure is effective April 25, 2016.

## SECTION 10. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1837.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this revenue procedure are in Sections 6 and 7. This information is required to submit a request for the IRS to consider an issue under the IIR Program and to consider an issue that has been selected for resolution under the IIR Program. This information will be used to enable the IRS to determine whether the issue is suitable for resolution under the IIR Program and for resolution of selected issues. The collections of information are voluntary to obtain a benefit. The likely respondents are business or other for-profit institutions, exempt organizations, employee plans, and government entities.

The estimated total annual reporting burden is 2,000 hours.

The estimated annual burden per respondent varies from 4 hours to 200 hours, depending on individual circumstances, with an estimated average of 40 hours. The estimated number of respondents is 50.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as the content may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

## SECTION 12. CONTACT INFORMATION

The principal author of this revenue procedure is Sarah McLemore of the Office of Associate Chief Counsel (Procedure and Administration). Ms. McLemore may be contacted at 202-317-6844 (not a toll free number). For information regarding the IIR Program, please contact the IIR Senior Program Analyst by email at

[IIR@IRS.GOV](mailto:IIR@IRS.GOV). Questions will be routed to the appropriate Operating Division for response.