

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 2023-12

SECTION 1. PURPOSE

This revenue procedure modifies Revenue Procedure 2023-5, 2023-1 I.R.B. 265, updating the procedures for Exempt Organizations determination letters with respect to the electronically submitted Form 8940, *Request for Miscellaneous Determination*, which is the form used to request miscellaneous determinations. The modifications to Rev. Proc. 2023-5 made by this revenue procedure provide that the electronic submission process is the exclusive means of submitting a completed Form 8940, except for submissions eligible for the 90-day transition relief provided in section 4 of this revenue procedure.

Additionally, this revenue procedure modifies existing procedures so that Form 8940 will be used by government entities to request voluntary termination of exempt status under § 501(c)(3) (previously a letter request), by Canadian registered charities to request inclusion in Tax Exempt Organization Search database of organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data) or a determination on public charity classification (previously a letter request), and by private

foundations giving notice of intent to terminate private foundation status under § 507(b)(1)(B) (previously provided on Form 8940 or by general correspondence).

SECTION 2. CHANGED SUBMISSION PROCESS

The IRS revised and updated Form 8940 and provided for it to be electronically submitted at www.pay.gov. The electronic submission process for Form 8940 replaces the paper submission process for Form 8940 effective for Forms 8940 submitted on or after April 4, 2023, subject to the transition relief provided in section 4 of this revenue procedure. Section 3 of this revenue procedure modifies Rev. Proc. 2023-5 to set forth procedures for issuing determination letters in response to electronically submitted Form 8940 applications. Unless otherwise modified in this revenue procedure, the provisions of Rev. Proc. 2023-5 continue to apply.

SECTION 3. MODIFICATIONS TO REVENUE PROCEDURE 2023-5

.01 Section 4.02(6) of Rev. Proc. 2023-5 is modified to read as follows:

(6) **Form 8940 request for miscellaneous determination.** An organization seeking a miscellaneous determination or a request must electronically submit a completed Form 8940, *Request for Miscellaneous Determination*, at www.pay.gov. The Form 8940 is used for the following determination letter requests and notices—

- (a) Advance approval of certain set-asides described in § 4942(g)(2);
- (b) Advance approval of voter registration activities described in § 4945(f);
- (c) Advance approval of scholarship procedures described in § 4945(g);
- (d) Exception from Form 990 filing requirements;
- (e) Advance approval that a potential grant or contribution constitutes an unusual grant;

- (f) Change in Type (or initial determination of Type) of a § 509(a)(3) organization;
- (g) Reclassification of foundation status, including a voluntary request from a public charity for private foundation status;
- (h) Termination of private foundation status under § 507(b)(1)(B)—advance ruling request;
- (i) Notice Only – Termination of private foundation status under section 507(b)(1)(B);
- (j) Termination of private foundation status under § 507(b)(1)(B)—60-month period ended;
- (k) Voluntary termination of § 501(c)(3) recognition by a government entity; and
- (l) Canadian registered charities: listing on Pub. 78 Data and/or public charity classification.

.02 The first paragraph of section 4.09(1) of Rev. Proc. 2023-5 is modified to read as follows:

(1) Procedures for requesting expedited handling. In the case of the electronically submitted Form 1023, Form 1024, Form 1024-A, or Form 8940, a request for expedited handling must be indicated on the form and a supporting written statement must be submitted as an attachment with the completed form.

.03 Section 7.02 of Rev. Proc. 2023-5 is modified to read as follows:

.02 A request described in section 4.02(6) of this revenue procedure must be electronically submitted on Form 8940 at www.pay.gov (except where otherwise

permitted, including when such request is made as part of an application for recognition of exemption), along with all information, documentation, and other materials required by Form 8940 and the instructions thereto, as well as the appropriate user fee provided in Appendix A. Form 8940 must be electronically signed by an authorized individual under penalties of perjury (see sections 4.04 and 4.06 of this revenue procedure). For complete information about filing requirements and the submission process, refer to Form 8940 and the Instructions for Form 8940.

.04 Section 14.03 of Rev. Proc. 2023-5 is modified to read as follows:

.03 Actions that do not require the payment of a user fee include—

(1) Elections pertaining to automatic extensions of time under Treas. Reg. § 301.9100-1;

(2) Confirmation of tax-exempt status (affirmation letter) (to replace lost tax-exempt status letter and to reflect name and address changes); and

(3) Notice of intent to terminate private foundation status under § 507(b)(1)(B) without a request for an advance ruling.

.05 Section 14.06(1) of Rev. Proc. 2023-5 is modified to read as follows:

(1) Payment of user fees for applications of recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or requests on Form 8940.

User fees for applications for recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or requests on Form 8940 must be paid at www.pay.gov.

.06 Section 14.07 of Rev. Proc. 2023-5 is modified to read as follows:

.07 Form 8718 should be attached to applications or requests other than those made on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, or Form 8940, to

transmit a check in the amount of the required user fee.

.07 Section 15.01(1) of Rev. Proc. 2023-5 is modified to read as follows:

(1) The following types of requests and applications handled by the EO Determinations Office should be sent to the Internal Revenue Service Center, at the address in section 15.01(2):

(a) applications for recognition of exemption on Form 1028; and

(b) requests submitted by letter.

.08 Section 15.02 of Rev. Proc. 2023-5 is modified to read as follows:

.02 Applications for recognition of exemption on Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, and requests on Form 8940 are handled by the EO Determinations Office but must be submitted electronically online at www.pay.gov. Paper submissions of Form 1023, Form 1023-EZ, Form 1024, Form 1024-A, and Form 8940 will not be accepted for processing.

.09 Section 15.03 of Rev. Proc. 2023-5 is modified to read as follows:

.03 Requests for exempt status affirmation letters should be sent to the Internal Revenue Service at the address shown below.

Internal Revenue Service

P.O. Box 2508

Cincinnati, OH 45201

.10 The Note of Appendix A, item (4) of Rev. Proc. 2023-5 is modified to read as follows:

Note: In accordance with the income tax treaty between the United States and Canada, and pursuant to a mutual arrangement between the competent authorities of

the two countries, Canadian registered charities are automatically recognized as exempt under § 501(c)(3) without filing an application for recognition of exemption. For details, see Notice 99-47, 1999-2 CB 391. Therefore, no user fee is required when a Canadian registered charity submits a Form 8940 to request to be listed in Tax Exempt Organization Search database for organizations eligible to receive tax-deductible charitable contributions (Pub. 78 data), or to request a determination on its public charity classification. For additional information about the submission process, refer to the Form 8940 Instructions.

.11 Appendix A of Rev. Proc. 2023-5 is modified to include new item (15) as follows:

(15) Notice of intent to terminate private foundation status under § 507(b)(1)(B) without a request for an advance ruling.	None
---	-------------

SECTION 4. TRANSITION RELIEF

.01 Except as provided in section 4.02, an organization seeking a miscellaneous determination using Form 8940 must electronically submit the form and user fee online at www.pay.gov.

.02 The Internal Revenue Service will accept for processing a completed paper Form 8940, letter request from a government entity voluntarily terminating § 501(c)(3) recognition, letter request from a Canadian registered charity, or correspondence providing notice of intent to terminate private foundation status under § 507(b)(1)(B), accompanied by the correct user fee (if any), as described in Rev. Proc. 2023-5, if the submission is postmarked on or before the date that is 90 days after the effective date of this revenue procedure.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2023-5 is modified.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective April 4, 2023.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Ingrid Vatamanu of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this revenue procedure contact Ms. Vatamanu at (202) 317-4541 (not a toll-free call).