

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

ADMINISTRATIVE

Rev. Proc. 2020-29, page 859.

This procedure modifies Rev. Proc. 2020-1 temporarily to allow for the electronic submission of requests for letter rulings, closing agreements, determination letters, and information letters issued by the Associate Chief Counsel (Corporate), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (International), Associate Chief Counsel (Passthroughs and Special Industries), Associate Chief Counsel (Procedure and Administration), and Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). This procedure also contains revised procedures for determination letters issued by the IRS Large Business and International Division.

EXEMPT ORGANIZATIONS

Notice 2020-36, page 840.

This notice contains a proposed revenue procedure that sets forth updated procedures under which recognition of exemption from federal income tax for organizations described in § 501(c) of the Internal Revenue Code may be

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obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization.

INCOME TAX

Notice 2020-32, page 837.

This notice provides guidance regarding the nondeductibility of costs that are the subject of loan forgiveness under section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (March 27, 2020).

Notice 2020-34, page 838.

This notice provides the applicable reference price for qualified natural gas production from qualified marginal wells during taxable years beginning in calendar year 2019 for the purpose of determining the marginal well production credit under §45l. The applicable reference price for taxable years beginning in calendar year 2019 is \$2.55 per 1,000 cubic feet. The notice also provides the credit amount used for the purpose of determining the marginal well production credit. The credit amount for taxable years beginning in calendar year 2019 is \$0.08 per 1,000 cubic feet.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part III

Notice 2020-32

PURPOSE

This notice provides guidance regarding the deductibility for Federal income tax purposes of certain otherwise deductible expenses incurred in a taxpayer's trade or business when the taxpayer receives a loan (covered loan) pursuant to the Paycheck Protection Program under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)). Specifically, this notice clarifies that no deduction is allowed under the Internal Revenue Code (Code) for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 286-93 (March 27, 2020) and the income associated with the forgiveness is excluded from gross income for purposes of the Code pursuant to section 1106(i) of the CARES Act.

BACKGROUND

I. Paycheck Protection Program

The Paycheck Protection Program was established by section 1102 of the CARES Act. Under the Paycheck Protection Program, a recipient of a covered loan may use the proceeds to pay (1) payroll costs, (2) certain employee benefits relating to healthcare, (3) interest on mortgage obligations, (4) rent, (5) utilities, and (6) interest on any other existing debt obligations. *See* section 7(a)(36)(F) of the Small Business Act (describing allowable uses of a covered loan). *See also* Q&A 2.r. in Part III of the interim final rule, Business Loan Program Temporary Changes; Paycheck Protection Program, Docket No. SBA-2020-0015, 85 Fed. Reg. 20811, 20814 (April 15, 2020).

Under section 1106(b) of the CARES Act, a recipient of a covered loan can receive forgiveness of indebtedness on the loan (covered loan forgiveness) in an amount equal to the sum of payments made for the following expenses during

the 8-week "covered period" beginning on the covered loan's origination date (each, an eligible section 1106 expense): (1) payroll costs, (2) any payment of interest on any covered mortgage obligation, (3) any payment on any covered rent obligation, and (4) any covered utility payment. *See* section 1106(a) (defining the terms "covered period", "covered mortgage obligation," "covered rent obligation," "covered utility payment," and "payroll costs"), (b) (regarding eligibility for covered loan forgiveness), and (g) (regarding covered loan forgiveness decisions). However, section 1106(d) of the CARES Act provides that the amount of the covered loan forgiveness is reduced if, during the covered period, (1) the average number of full-time equivalent employees of the recipient is reduced as compared to the number of full-time employees in a specified base period, or (2) the salary or wages of certain employees is reduced by more than 25 percent as compared to the last full quarter before the covered period. In addition, pursuant to an interim final rule issued by the Small Business Administration, no more than 25 percent of the amount forgiven can be attributable to non-payroll costs. *See* Q&A 2.o. in Part III of the interim final rule, Business Loan Program Temporary Changes; Paycheck Protection Program, Docket No. SBA-2020-0015, 85 Fed. Reg. 20811, 20813-20814 (April 15, 2020).

Section 1106(i) of the CARES Act addresses certain Federal income tax consequences resulting from covered loan forgiveness. Specifically, that subsection provides that, for purposes of the Code, any amount that (but for that subsection) would be includible in gross income of the recipient by reason of forgiveness described in section 1106(b) "shall be excluded from gross income." Thus, section 1106(i) of the CARES Act operates to exclude from the gross income of a recipient any category of income that may arise from covered loan forgiveness, regardless of whether such income would be (1) properly characterized as income from the discharge of indebtedness under section 61(a)(11) of the Code, or (2) otherwise includible in gross income under section 61 of the Code.

II. Deductibility of Eligible Section 1106 Expenses

Neither section 1106(i) of the CARES Act nor any other provision of the CARES Act addresses whether deductions otherwise allowable under the Code for payments of eligible section 1106 expenses by a recipient of a covered loan are allowed if the covered loan is subsequently forgiven under section 1106(b) of the CARES Act as a result of the payment of those expenses. This Notice addresses the effect of covered loan forgiveness on the deductibility of payments of eligible section 1106 expenses.

III. Summary of Relevant Law

Section 161 of the Code provides that, in computing taxable income under section 63 of the Code, there shall be allowed as deductions the items specified in part VI, subchapter B, chapter 1 of the Code (for example, sections 162 and 163). However, section 161 of the Code provides that the allowance of these deductions is subject to the exceptions provided in part IX, subchapter B, chapter 1 of the Code. These exceptions include section 265 of the Code. *See also* section 261.

In general, section 162 of the Code provides for a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Covered rent obligations, covered utility payments, and payroll costs consisting of wages and benefits paid to employees comprise typical trade or business expenses for which a deduction under section 162 of the Code generally is appropriate. Section 163(a) of the Code provides a deduction for certain interest paid or accrued during the taxable year on indebtedness, including interest paid or incurred on a mortgage obligation of a trade or business.

However, section 265(a)(1) of the Code and §1.265-1 of the Income Tax Regulations provide that no deduction is allowed to a taxpayer for any amount otherwise allowable as a deduction to such taxpayer that is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or

classes is received or accrued) wholly exempt from the taxes imposed by subtitle A of the Code. *See generally* section 265(a)(1); §1.265-1. The term “class of exempt income” means any class of income (whether or not any amount of income of such class is received or accrued) that is either wholly excluded from gross income under any provision of subtitle A of the Code or wholly exempt from the taxes imposed by subtitle A of the Code under the provisions of any other law. *See* §1.265-1(b)(1). The purpose of section 265 of the Code is to prevent a double tax benefit.

Section 265(a)(1) of the Code applies to otherwise deductible expenses incurred for the purpose of earning or otherwise producing tax-exempt income. It also applies where tax exempt income is earmarked for a specific purpose and deductions are incurred in carrying out that purpose. In such event, it is proper to conclude that some or all of the deductions are allocable to the tax-exempt income. *See Christian v. United States*, 201 F. Supp. 155 (E.D. La. 1962) (school teacher was denied deductions for expenses incurred for a literary research trip to England because the expenses were allocable to a tax-exempt gift and fellowship grant); *Banks v. Commissioner*, 17 T.C. 1386 (1952) (certain educational expenses paid by the Veterans’ Administration that were exempt from income tax, were not deductible); *Heffelfinger v. Commissioner*, 5 T.C. 985 (1945), (Canadian income taxes on income exempt from U.S. tax are not deductible in computing U.S. taxable income); and Rev. Rul. 74-140, 1974-1 C.B. 50, (the portion of a state income tax paid by a taxpayer that is allocable to the cost-of-living allowance, a class of income wholly exempt under section 912, is nondeductible under section 265).

In *Manocchio v. Commissioner*, 78 T.C. 989 (1982), a taxpayer attended a flight-training course that maintained and improved skills required in the taxpayer’s trade or business. As a veteran, the taxpayer was entitled to an educational assistance allowance from the Veterans’ Administration pursuant to 38 U.S.C. section 1677 (1976) equal to 90 percent of the costs incurred. Because the payments received were exempt from taxation under 38 U.S.C. section 310(a) (1976), the taxpayer did not report them as income.

The taxpayer did, however, deduct the entire cost of the flight training course, including the portion that had been reimbursed by the Veterans’ Administration. In a reviewed opinion, the court held that the reimbursed flight-training expenses were nondeductible under section 265(a)(1) of the Code.

NON-DEDUCTIBILITY OF PAYMENTS TO THE EXTENT INCOME RESULTING FROM LOAN FORGIVENESS IS EXCLUDED UNDER SECTION 1106(i) OF THE CARES ACT

To the extent that section 1106(i) of the CARES Act operates to exclude from gross income the amount of a covered loan forgiven under section 1106(b) of the CARES Act, the application of section 1106(i) results in a “class of exempt income” under §1.265-1(b)(1) of the Regulations. Accordingly, section 265(a)(1) of the Code disallows any otherwise allowable deduction under any provision of the Code, including sections 162 and 163, for the amount of any payment of an eligible section 1106 expense to the extent of the resulting covered loan forgiveness (up to the aggregate amount forgiven) because such payment is allocable to tax-exempt income. Consistent with the purpose of section 265, this treatment prevents a double tax benefit.

This conclusion is consistent with prior guidance of the IRS that addresses the application of section 265(a) to otherwise deductible payments. In particular, Rev. Rul. 83-3, 1983-1 C.B. 72, provides that, where tax exempt income is earmarked for a specific purpose, and deductions are incurred in carrying out that purpose, section 265(a) applies because such deductions are allocable to the tax-exempt income. In accordance with the analysis set forth in Rev. Rul. 83-3, the direct link between (1) the amount of tax exempt covered loan forgiveness that a recipient receives pursuant to section 1106 of the CARES Act, and (2) an equivalent amount of the otherwise deductible payments made by a recipient for eligible section 1106 expenses, constitutes a sufficient connection for section 265(a) to apply to disallow deductions for such payments under any provision of the Code, including sections 162 and 163, to

the extent of the income excluded under section 1106(i) of the CARES Act.

The deductibility of payments of eligible section 1106 expenses that result in loan forgiveness under section 1106(b) of the CARES Act is also subject to disallowance under case law and published rulings that deny deductions for otherwise deductible payments for which the taxpayer receives reimbursement. *See, e.g., Burnett v. Commissioner*, 356 F.2d 755, 759-60 (5th Cir. 1966); *Wolfers v. Commissioner*, 69 T.C. 975 (1978); *Charles Baloian Co. v. Commissioner*, 68 T.C. 620 (1977); Rev. Rul. 80-348, 1980-2 C.B. 31; Rev. Rul. 80-173, 1980-2 C.B. 60.

CONTACT INFORMATION

The principal authors of this notice are Sarah Daya and Patrick Clinton of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding the application of sections 161, 162, 163, and 261 please contact Ms. Daya at (202) 317-4891 (not a toll-free call); for further information regarding the application of section 265, please contact Mr. Clinton at (202) 317-7005 (not a toll-free number).

Reference Price for Section 45I Credit for Production of Natural Gas from Marginal Wells During Taxable Years Beginning in Calendar Year 2019

Notice 2020-34

SECTION 1. PURPOSE

This notice provides the applicable reference price for qualified natural gas production from qualified marginal wells during taxable years beginning in calendar year 2019 for the purpose of determining the marginal well production credit (MWC) under §45I of the Internal Revenue Code. The applicable reference price for taxable years beginning in calendar year 2019 is \$2.55 per 1,000 cubic feet (Mcf).

This notice also provides the credit amount used for the purpose of determining the MWC for taxable years beginning in calendar year 2019. The credit amount is determined using the 2019 inflation adjustment factor of 1.3015 and the applicable reference price of \$2.55 per Mcf. The credit amount for taxable years beginning in calendar year 2019 is \$0.08 per Mcf.

SECTION 2. BACKGROUND

Section 45I(a), as it relates to qualified natural gas production, provides that, for purposes of § 38, the MWC for any taxable year is an amount equal to the product of (1) the credit amount and (2) the qualified natural gas production that is attributable to the taxpayer.

Section 45I(c)(1) provides that “qualified natural gas production” means domestic natural gas produced from a qualified marginal well. Section 45I(c)(3)(A) provides that a qualified marginal well is a domestic well (i) the production from which during the taxable year is treated as marginal production under § 613A(c)(6), or (ii) which, during the taxable year (I) has average production of not more than 25 barrel-of-oil equivalents per day, and (II) produces water at a rate not less than 95 percent of total well effluent.

Section 613A(c)(6)(D) and (E) provide that “marginal production” means domestic natural gas produced during any taxable year from a property which is a stripper well property for the calendar year in which the taxable year begins. A “stripper well property” is, with respect to any calendar year, any property producing not more than 15 barrel equivalents per day, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on the property for such calendar year by the number of such wells.

Section 45I(c)(2)(A) provides that generally only the first 1,095 barrels or barrel-of-oil equivalents (as defined in § 45K(d)(5)) produced during the taxable year qualify for the MWC. This limitation is proportionately reduced in the case of a short taxable year or in the case of a well that is not capable of production each day of a taxable year. *See* § 45I(c)(2)(B). The

number of wells on which a taxpayer may claim the MWC is not limited.

Section 45I(d)(2) provides that to claim the credit a taxpayer must hold an operating interest in the qualified marginal well producing the natural gas to which the credit relates. Under § 45I(d)(1) if a well is owned by more than one owner and the natural gas production exceeds the limitation under § 45I(c)(2), the qualifying natural gas production attributable to the taxpayer is determined on the basis of the ratio which taxpayer’s revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production. Finally, § 45I(d)(3) provides that the MWC is not allowable if the taxpayer is also eligible to claim the § 45K nonconventional sources credit for the taxable year, unless the taxpayer elects not to claim the credit under § 45K for the well.

For purposes of § 45I(a)(1), the credit amount is 50 cents (adjusted for inflation) per Mcf of qualified natural gas production (tentative credit amount). *See* § 45I(b)(1)(B) and (b)(2)(B).

Section 45I(b)(2)(A) and (B) provide that the tentative credit amount (adjusted for inflation) is reduced (but not below zero) to the extent that the applicable reference price exceeds \$1.67 (adjusted for inflation). More specifically, § 45I(b)(2)(A) provides that the tentative credit amount (adjusted for inflation) is reduced by an amount which bears the same ratio to the tentative credit amount (adjusted for inflation) as the excess (if any) of the applicable reference price over \$1.67 (adjusted for inflation), bears to \$0.33 (adjusted for inflation). As a result, the MWC is not available if the applicable reference price for qualified natural gas production is \$2.00 (adjusted for inflation) or more.

Section 45I(b)(2)(A) also provides that the applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins. Section 45I(b)(2)(C)(ii) provides that the term “reference price” means, with respect to any calendar year, in the case of qualified natural gas production, the Secretary’s estimate of the annual average wellhead price per Mcf for all domestic natural gas.

Section 45I(b)(2)(B) provides that in the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in § 45I(b)(2)(A) will be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under § 43(b)(3)(B) by substituting “2004” for “1990”).

SECTION 3. INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE

1 Inflation Adjustment. The inflation adjustment factor under § 45I(b)(2)(B) for calendar year 2019 is 1.3015.

2 Reference Price. The Secretary’s estimate of the calendar year 2018 annual average wellhead price per Mcf for all domestic natural gas under § 45I(b)(2)(C)(ii) was calculated by applying the Producer Price Index commodity index for “Natural Gas from the Wellhead” (WPU053101051)¹ published by the Bureau of Labor Statistics (BLS) as part of its Producer Price Index program, to the 2017 annual average wellhead price (\$2.68) published in Notice 2019-37, 2019-37 I.R.B. 629. The annual Producer Price Index commodity index for natural gas published by the BLS was 83.4 in 2017 and 79.3 in 2018, which implies a ratio of 0.951 (79.3 / 83.4). Therefore, the Secretary’s estimate of the calendar year 2018 annual average wellhead price per Mcf for all domestic natural gas is \$2.55 per Mcf (0.951 x \$2.68 per Mcf).

For years after 2018, the Secretary intends to continue calculating the reference price by application of the Producer Price Index commodity index for “Natural Gas from the Wellhead” (WPU053101051) published by the BLS to the previous year’s reference price.

SECTION 4. CALCULATION OF CREDIT AMOUNT

Under § 45I(b)(1)(B) and (2)(B), the tentative credit amount used to calculate the MWC for taxable years beginning in calendar year 2019 is 65 cents per Mcf (\$0.50 x 1.3015 inflation adjustment fac-

¹<https://data.bls.gov/cgi-bin/srgate>. The BLS publishes indexes and not actual or average prices.

tor). To determine the credit amount for purposes of § 45I(a)(1), the tentative credit amount must be reduced as provided by § 45I(b)(2)(A).

Pursuant to § 45I(b)(2)(A), the tentative credit amount for taxable years

beginning in calendar year 2019 is reduced (but not below zero) by an amount (§ 45I(b)(2) Reduction Amount) which bears the same ratio to the tentative credit amount as (i) the excess (if any) of the applicable reference price over \$2.17

(\$1.67 x 1.3015 inflation adjustment factor), bears to (ii) \$0.43 (\$0.33 x 1.3015 inflation adjustment factor). Accordingly, the § 45I(b)(2) Reduction Amount (as adjusted for inflation) is computed as follows:

$$\frac{\text{\$ 45I(b)(2) Red. Amount}}{0.65} = \frac{\text{App. Ref. Price} - 2.17}{0.43}$$

Solving for the § 45I(b)(2) Red. Amount yields the following formula:

$$\text{\$ 45I(b)(2) Red. Amount} = \frac{0.65 \times (\text{App. Ref. Price} - 2.17)}{0.43}$$

Using the applicable reference price of \$2.55, the § 45I(b)(2) Reduction Amount is \$0.57. Therefore, the credit amount used to calculate the MWC for taxable years beginning in calendar year 2019 is \$0.08 per mcf (\$0.65 - \$0.57).

SECTION 5. EFFECTIVE DATE

This notice is effective for qualified natural gas production during taxable years beginning in calendar year 2019.

SECTION 6. DRAFTING AND CONTACT INFORMATION

The principal author of this notice is Charles Hyde of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Hyde at (202) 317-6853 (not a toll-free number).

Notice Proposing Revenue Procedure Updating Group Exemption Letter Program

Notice 2020-36

PURPOSE

This notice contains a proposed revenue procedure that sets forth updated procedures under which recognition of exemption from federal income tax for organizations described in § 501(c) of the Internal Revenue Code (Code) may be

obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. The proposed revenue procedure also sets forth updated procedures a central organization must follow to maintain a group exemption letter. The proposed revenue procedure would modify and supersede Rev. Proc. 80-27, 1980-1 C.B. 677 (as modified by Rev. Proc. 96-40, 1996-2 C.B. 301). The Internal Revenue Service (IRS) is issuing this guidance in proposed form to provide an opportunity for public comment because the IRS recognizes that, if finalized, the proposed revenue procedure would make substantial changes to the procedures set forth in Rev. Proc. 80-27 and that the application of these new procedures may impose an additional administrative burden on central organizations with group exemption letters in existence on the date the final revenue procedure is published in the Internal Revenue Bulletin (preexisting group exemption letters).

BACKGROUND

The IRS oversees more than 4,000 group exemption letters that include more than 440,000 subordinate organizations. The IRS has considered how to reduce the administrative burden and increase the efficiency of the group exemption letter program, to improve the integrity of data collected for purposes of program oversight, to increase the transparency of the program, and to increase compliance by central organizations and subordinate organizations with program requirements.

For example, Rev. Proc. 80-27 requires a central organization to submit certain information regarding its subordinate organizations to the IRS annually in advance of the close of its accounting period. To facilitate the provision of information under this requirement, the IRS historically mailed each central organization a list of its subordinate organizations for verification and return. As of January 1, 2019, the IRS stopped providing these lists to central organizations because the provision of such lists was not required and imposed a significant administrative burden on the IRS.

Many of the IRS's goals for the program are attainable only by updating the procedures currently described in Rev. Proc. 80-27. Accordingly, this notice contains a proposed revenue procedure that would make such changes if it is finalized. This notice discusses the changes the proposed revenue procedure would make to Rev. Proc. 80-27 and explains the reasons for the proposed changes and how the proposed changes would affect preexisting group exemption letters.

SUMMARY AND EXPLANATION OF CHANGES

In general

The proposed revenue procedure is intended to be a comprehensive resource regarding group exemption letters. Accordingly, information located in other guidance, such as in the Treasury Regulations or other revenue procedures, has been incorporated into the proposed rev-

enue procedure, including, but not limited to, information with respect to the filing of group returns (as described in section 7 of the proposed revenue procedure) and donor or contributor reliance on group exemption letters (as described in section 12 of the proposed revenue procedure).

The proposed revenue procedure uses formatting similar to Rev. Proc. 2020-5, 2020-1 I.R.B. 241 (updated annually) and includes much of the same information but specifically tailored to apply to group exemption letters. For example, the proposed revenue procedure states when the IRS will issue a group exemption letter (see section 4 of the proposed revenue procedure) and under what circumstances the IRS may terminate a group exemption letter (see section 8 of the proposed revenue procedure). The proposed revenue procedure describes how a subordinate organization may obtain recognition of exemption or declare its exempt status (without obtaining recognition from the IRS), as applicable, if the IRS does not accept a request for a group exemption letter or declines to issue a group exemption letter or if the IRS or the central organization terminates the group exemption letter (in its entirety or only with respect to a particular subordinate organization) (see section 9.04 of the proposed revenue procedure). The proposed revenue procedure explains how the effective date of exemption is determined in each of these circumstances (see section 10 of the proposed revenue procedure). In particular, the proposed revenue procedure explains that, if a group exemption letter is terminated with respect to all subordinate organizations, a subordinate organization required to file an application for recognition of exemption has 27 months from the date of termination to obtain recognition of its exemption to avoid interruption of its exempt status (see section 10.03(1) of the proposed revenue procedure).

Statutory changes

The proposed revenue procedure updates the procedures currently described in Rev. Proc. 80-27 by incorporating changes to the Code enacted since its publication in January of 1980.

(1) Automatic revocation.

The proposed revenue procedure clarifies the application of § 6033(j) to sub-

ordinate organizations. Section 6033(j) automatically revokes an organization's exemption if the organization fails to file a required annual return or notice (as defined in section 2.05 of the proposed revenue procedure with reference to § 6033) for three consecutive years. *See* Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780 (2006)). The proposed revenue procedure explains that a subordinate organization that has had its exemption automatically revoked (within the meaning of section 2.06 of the proposed revenue procedure) and has not yet had its exemption reinstated after filing an application for reinstatement (within the meaning of section 2.07 of the proposed revenue procedure) is not eligible for initial inclusion in or subsequent addition to a group exemption letter (see section 3.04(5) of the proposed revenue procedure). A subordinate organization will be removed from a group exemption letter if its exemption is automatically revoked (see section 8.02(1)(c) of the proposed revenue procedure). When submitting the information required annually to maintain a group exemption letter (supplemental group ruling information, or SGRI, discussed in section 6 of the proposed revenue procedure), the central organization must notify the IRS of any subordinate organizations that are no longer included in the group exemption letter because such subordinate organizations have had their exemption automatically revoked (see section 6.02(2)(a)(ii) of the proposed revenue procedure). Under the proposed revenue procedure, the IRS may terminate a group exemption letter with respect to all subordinate organizations if more than half of the subordinate organizations have had their exemption automatically revoked (see section 8.01(1)(g) of the proposed revenue procedure).

(2) Notification of intent to operate as an organization described in § 501(c)(4).

Section 5.03(3)(c) of the proposed revenue procedure explains the application of § 506 to subordinate organizations. Section 506 requires an organization described in § 501(c)(4) to notify the Secretary that it is operating as an organization described in § 501(c)(4) no later than 60 days after the organization is established. *See* Protecting Americans from Tax Hikes Act of 2015, Public Law 114-113, Div.

Q (129 Stat. 2242 (2015)) (PATH Act). Section 5.03(3)(c) of the proposed revenue procedure explains that a subordinate organization described in § 501(c)(4) that is included in (or subsequently added to) a group exemption letter must follow the procedures described in Rev. Proc. 2016-41, 2016-30 I.R.B. 165, and submit a completed electronic Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)." This section explains that a subordinate organization may authorize an individual representing the central organization to submit Form 8976 on the subordinate organization's behalf and to receive any communications relating to the subordinate organization's submission.

Proposed modifications to Rev. Proc. 80-27

The proposed revenue procedure would make additional modifications to the procedures currently described in Rev. Proc. 80-27. In general, the changes are intended: to increase efficiency, transparency, and compliance with the group exemption letter program; to improve the central organization's ability to exercise general supervision or control over its subordinate organizations; and to reduce the administrative burden on the IRS. A transition rule and a grandfather rule (both discussed in the "Applicability" section of this notice and in section 14 of the proposed revenue procedure) address how these changes would apply to preexisting group exemption letters.

(1) Central organization requirements to obtain and maintain a group exemption letter.

The proposed revenue procedure includes two requirements a central organization must satisfy to obtain and maintain a group exemption letter in addition to the requirement set forth in Rev. Proc. 80-27 that a central organization must be described in § 501(c) or must be an instrumentality or an agency of a political subdivision. First, Rev. Proc. 80-27 does not require a central organization to have a specific number of subordinate organizations to obtain or to maintain a group exemption letter. Both Rev. Proc. 80-27 and section 2.02 of the proposed revenue procedure define the term "central organization" as an organization that has one or

more subordinate organizations under its general supervision or control. However, the administrative burden of processing one group exemption letter request is comparable to the administrative burden of processing four applications (as defined in section 2.04 of the proposed revenue procedure). Furthermore, more than 300 group exemption letters in existence when the project was conducted included no subordinate organizations but considerable resources are required to administer the program for these group exemption letters. Accordingly, section 3.01(2) of the proposed revenue procedure requires a central organization to have at least five subordinate organizations to obtain a group exemption letter and at least one subordinate organization to maintain the group exemption letter thereafter.

Second, Rev. Proc. 80-27 does not limit the number of group exemption letters a central organization may maintain. However, maintaining more than one group exemption letter may adversely affect the central organization's ability to exercise general supervision or control over its subordinate organizations. Traditionally, IRS electronic databases have not systematically tracked more than one group exemption letter for each central organization. Accordingly, section 3.01(3) of the proposed revenue procedure provides that a central organization may maintain only one group exemption letter.

(2) The central organization's relationship with its subordinate organizations.

Consistent with Rev. Proc. 80-27, section 3.02(1) of the proposed revenue procedure requires a central organization to establish that each subordinate organization to be included in the group exemption letter be affiliated with the central organization and subject to its general supervision or control. Rev. Proc. 80-27, however, does not define the terms "affiliation," "general supervision," or "control." This lack of definition has caused confusion and created a lack of consistency for both the IRS and central organizations. Accordingly, these terms are described in greater detail in sections 3.02(2), 3.02(3), and 3.02(4) of the proposed revenue procedure. Further, section 3.02(5) of the proposed revenue procedure provides that the descriptions of "general supervision" and "control" apply only for purposes

of the proposed revenue procedure and § 1.6033-2(d) of the Treasury Regulations (relating to group returns).

(3) Organizations eligible for initial inclusion in or subsequent addition to a group exemption letter as subordinate organizations.

The proposed revenue procedure describes four new requirements that a subordinate organization must meet for initial inclusion in or subsequent addition to a group exemption letter.

(a) Matching requirements.

Rev. Proc. 80-27 provides that the central organization must establish that all subordinate organizations included in a group exemption letter request are described in the same paragraph of § 501(c), though not necessarily the paragraph in which the central organization is described. Thus, under Rev. Proc. 80-27, a central organization described in § 501(c) (3) may have a group exemption letter for subordinate organizations described in § 501(c)(4). Section 3.03(2)(a)(i) of the proposed revenue procedure retains the requirement that all subordinate organizations be described in the same paragraph of § 501(c). However, permitting a central organization to have subordinate organizations described in a paragraph of § 501(c) that is different from the paragraph describing the central organization limits the central organization's ability to exercise general supervision or control over its subordinate organizations. Accordingly, section 3.03(2)(a)(ii) of the proposed revenue procedure requires all subordinate organizations initially included in or subsequently added to a group exemption letter to be described in the same paragraph of § 501(c) as the central organization. For example, if a central organization is described in § 501(c)(3), all the subordinate organizations initially included in or subsequently added to the group exemption letter must be described in § 501(c)(3). Nonetheless, section 3.03(2)(a)(iii) of the proposed revenue procedure explains that, if the central organization is either an instrumentality or an agency of a political subdivision and is not described in § 501(c), the matching requirement in section 3.03(2)(a)(ii) of the proposed revenue procedure does not apply. Accordingly, such a central organization may obtain and maintain a group exemption letter

for subordinate organizations described in any paragraph of § 501(c) (provided that the eligibility requirements of section 3.03 of the proposed revenue procedure are met), as long as all the subordinate organizations are described in the same paragraph of § 501(c) (see section 3.03(2)(a)(i) of the proposed revenue procedure). For example, a state college or university may obtain and maintain a group exemption letter for organizations described in § 501(c)(3), provided that the state college or university can establish that it is a qualified governmental agency.

(b) Foundation classification requirement.

The second new requirement for initial inclusion in or subsequent addition to a group exemption letter introduced by the proposed revenue procedure involves the foundation classification of subordinate organizations described in § 501(c)(3). Rev. Proc. 80-27 does not require subordinate organizations described in § 501(c) (3) to have any particular foundation classification under § 509(a) (other than the prohibition of subordinate organizations that are private foundations). Traditionally, IRS electronic databases have not systematically tracked multiple foundation classifications in connection with a particular group exemption letter. This limitation reduces transparency, complicates compliance, and increases the administrative burden because different foundation classifications have different requirements. Accordingly, section 3.03(2)(b)(i) of the proposed revenue procedure provides that, if the subordinate organizations initially included in or subsequently added to a group exemption letter are described in § 501(c)(3), all such subordinate organizations must be classified as public charities under the same paragraph of § 509(a).

Subordinate organizations described in § 501(c)(3) and classified under § 509(a) (1) are not required to be classified under the same paragraph of § 170(b)(1)(A). For example, subordinate organizations described in § 501(c)(3) that are classified under § 509(a)(1) as churches described in § 170(b)(1)(A)(i), educational organizations described in § 170(b)(1)(A)(ii), or hospitals described in § 170(b)(1)(A)(iii) may all be initially included in or subsequently added to the same group exemp-

tion letter, provided that the other requirements of the proposed revenue procedure are satisfied. Nonetheless, the IRS is considering how, and the extent to which, this requirement may affect a central organization's ability to exercise general supervision or control over its subordinate organizations and, after an appropriate transition period, eventually may require all subordinate organizations classified under § 509(a)(1) to be classified under the same paragraph of § 170(b)(1)(A).

Public support is calculated annually and may change from year to year. See §§ 170(b)(1)(A)(vi) & 509(a)(1) & (2). Thus, for purposes of the foundation classification requirement described in the proposed revenue procedure, a subordinate organization classified under § 509(a)(1) and described in § 170(b)(1)(A)(vi) will be considered as having the same foundation classification as a subordinate organization classified under § 509(a)(2), and vice versa.

Additionally, subordinate organizations described in § 501(c)(3) are not required to be classified under the same paragraph of § 509(a) as the central organization. For example, subordinate organizations classified as hospitals under §§ 509(a)(1) and 170(b)(1)(A)(iii) may be included in a group exemption letter maintained by a central organization that is a Type III supporting organization described in § 509(a)(3).

(c) Similar purpose requirement.

The third new requirement for initial inclusion in or subsequent addition to a group exemption letter adheres to the original intent of the group exemption letter program by requiring certain subordinate organizations included in a group exemption letter to have the same or similar purposes. This requirement will facilitate the central organization's exercise of general supervision or control and reduce the administrative burden of the group exemption letter program. Therefore, section 3.03(2)(c) of the proposed revenue procedure requires all subordinate organizations described in § 501(c) (other than § 501(c)(3)) initially included in or subsequently added to a group exemption letter to be described by the same National Taxonomy of Exempt Entities (NTEE) Code (as defined in section 2.08 of the proposed revenue procedure). In

this case, the proposed revenue procedure directs a central organization requesting a group exemption letter to visit the Urban Institute, National Center for Charitable Statistics, website at nccs.urban.org for a complete list of NTEE codes.

The IRS has chosen to use NTEE codes, rather than a different coding system, such as the North American Industry Classification System, because the NTEE codes were created specifically to describe the activities engaged in by exempt organizations that further one or more exempt purposes. Indeed, the IRS already requires organizations applying for recognition under § 501(c)(3) to enter the NTEE code that best describes the organization's activities on Form 1023-EZ, "Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code."

Subordinate organizations described in § 501(c)(3) initially included in or subsequently added to a group exemption letter are not required to have the same primary purpose (and therefore are not required to provide an NTEE code), because, although such subordinate organizations must be classified in the same paragraph of § 509(a), such subordinate organizations may have different religious, charitable, educational, or other exempt purposes.

(d) Uniform governing instrument requirement.

The fourth new requirement for initial inclusion in or subsequent addition to a group exemption letter introduced by the proposed revenue procedure is a modification to the requirement in Rev. Proc. 80-27 directing a central organization to include a sample copy the governing instrument adopted by the subordinate organizations with its request for a group exemption letter. If a uniform governing instrument is not used, Rev. Proc. 80-27 requires the central organization to submit copies of representative instruments. However, governing instruments that are not uniform are not consistent with the similar purpose requirement. Accordingly, section 3.03(2)(d) of the proposed revenue procedure eliminates the option of submitting copies of representative instruments in the absence of a uniform governing instrument and requires all subordinate organizations to adopt a uniform governing instrument. Section 5.03(2)(a) of the

proposed revenue procedure requires the central organization to submit a copy of the uniform governing instrument with its request for a group exemption letter. Representative instruments are no longer acceptable for this purpose.

Section 3.03(2)(d) of the proposed revenue procedure includes an exception for subordinate organizations described in § 501(c)(3) because, under the foundation classification requirement, such subordinate organizations may have different religious, charitable, educational, or other exempt purposes and because the similar purpose requirement does not apply to subordinate organizations described in § 501(c)(3). Accordingly, the proposed revenue procedure allows the governing instruments of subordinate organizations described in § 501(c)(3) to describe different purposes. The proposed revenue procedure further explains that, if a group exemption letter includes subordinate organizations described in § 501(c)(3) with different purposes, the governing instrument describing each purpose should be a uniform governing instrument. For example, if a group exemption letter includes subordinate organizations that are schools and hospitals, all the subordinate organizations that are schools should adopt a uniform governing instrument describing their educational purpose and all the subordinate organizations that are hospitals should adopt a uniform governing instrument describing their charitable purpose.

(4) Organizations not eligible for inclusion in or subsequent addition to a group exemption letter as subordinate organizations.

Rev. Proc. 80-27 states that a group exemption letter may not include any subordinate organization that is organized and operated in a foreign country or that is described in § 501(c)(3) and classified as a private foundation under § 509(a). The proposed revenue procedure generally retains these requirements, except it permits a subordinate organization to operate in a foreign country, provided that it is organized in the United States. More specifically, section 3.04(1) of the proposed revenue procedure provides that a subordinate organization that is organized in a foreign country may not be initially included in or subsequently added to a group exemption letter. A subordinate or-

organization that is organized in the United States is subject to federal tax law even if it operates in a foreign country, and a central organization therefore should be able to exercise general supervision or control over such a subordinate organization. In addition, section 3.04(2) of the proposed revenue procedure states that an organization described in § 501(c)(3) that is classified as a private foundation under § 509(a) is not eligible for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization.

The proposed revenue procedure also provides that other types of organizations may not be initially included in or subsequently added to a group exemption letter as subordinate organizations. Sections 3.04(3) and 3.04(4) of the proposed revenue procedure state that neither an organization described in § 501(c)(3) that is classified as a Type III supporting organization under § 509(a)(3) nor a qualified nonprofit health insurance issuer (QNHI) described in § 501(c)(29) is eligible for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization. Both Type III supporting organizations and QNHIs are subject to complex requirements. Permitting these types of organizations to be subordinate organizations would not be in the sound interest of tax administration because of the complexity of the rules governing such organizations and, in the case of Type III supporting organizations, the history of abuse associated with such organizations.

Additionally, section 3.04(5) of the proposed revenue procedure states that an organization that has had its exemption automatically revoked and that has not yet had its exemption reinstated after filing an application for reinstatement may not be initially included in or subsequently added to a group exemption letter as a subordinate organization. An organization that has had its exemption automatically revoked is required to apply for reinstatement under § 6033(j)(2). However, unlike the other types of organizations that may not be initially included in or subsequently added to a group exemption letter as subordinate organizations, such as private foundations, an organization that has had its exemption automatically revoked is eligible to become a subordinate organization after it has filed an application for

reinstatement and has had its exemption reinstated, provided that it meets the other requirements of the proposed revenue procedure.

(5) *Authorization for initial inclusion in or subsequent addition to a group exemption letter.*

Rev. Proc. 80-27 requires a subordinate organization to authorize the central organization to include it in the request for a group exemption letter. Section 3.05(1) of the proposed revenue procedure retains this requirement, but section 3.05(2) of the proposed revenue procedure adds the requirement that the authorization permit the central organization to remove the subordinate organization from the group exemption letter if the subordinate organization fails to comply with the requirements of the proposed revenue procedure. Consistent with Rev. Proc. 80-27, section 3.05(3) of the proposed revenue procedure requires the central organization to retain the authorization but clarifies that the central organization must retain the authorization only while the group exemption letter includes the particular subordinate organization, rather than for the entire duration the group exemption letter is in effect.

(6) *Information required to maintain a group exemption letter.*

Both Rev. Proc. 80-27 and the proposed revenue procedure require a central organization to submit certain information (supplemental group ruling information, or SGRI) annually to maintain a group exemption letter. Under section 6.01 of the proposed revenue procedure, a central organization must submit the SGRI at least 30 days, rather than 90 days as required by Rev. Proc. 80-27, before the close of its annual accounting period. This change is intended to increase the accuracy of the SGRI submitted by the central organization. Nonetheless, the proposed revenue procedure explains that a central organization may provide additional updates at any time. Section 6.05 of the proposed revenue procedure includes the exception to the SGRI filing requirement originally included in Pub. 4573 for central organizations described in § 501(c)(3) that are churches or conventions or associations of churches. More specifically, section 6.05 of the proposed revenue procedure provides that a central organization that is a church or a convention or association of

churches may, but is not required to, submit the SGRI.

(7) *Declaratory judgment provisions of § 7428.*

In 1976, Congress enacted § 7428 to permit organizations described in § 501(c)(3) to file a declaratory judgment action in the case of an actual controversy involving determinations made by the IRS. See Tax Reform Act of 1976, Public Law 94-455 (90 Stat. 1520 (1976)). The PATH Act extended application of § 7428 to all organizations described in § 501(c).

Rev. Proc. 80-27 does not address the application of § 7428 to either central organizations or subordinate organizations. Nevertheless, questions exist regarding how the statute applies in the context of group exemption letters. Accordingly, section 11 of the proposed revenue procedure explains when § 7428 applies in the group exemption letter context. With respect to a central organization, section 11.02 of the proposed revenue procedure clarifies that section 10.02 of Rev. Proc. 2020-5 (or its successor) describes when § 7428 applies. With respect to subordinate organizations, section 11.03 of the proposed revenue procedure describes the limited circumstances in which § 7428 applies.

Section 11.03(1) of the proposed revenue procedure explains that § 7428 applies to a final determination by the IRS that a subordinate organization is no longer described in § 501(c) and therefore is not exempt under § 501(a). Such a determination occurs when the IRS terminates a group exemption letter with respect to a particular subordinate organization under section 8.02(1)(b)(i) of the proposed revenue procedure. Section 11.03(2) of the proposed revenue procedure explains that § 7428 also applies to a final determination by the IRS that a subordinate organization was not eligible for initial inclusion in or subsequent addition to a group exemption letter under section 3.04 of the proposed revenue procedure (other than under section 3.04(5) of the proposed revenue procedure regarding automatic revocation). Such a determination occurs when the IRS terminates a group exemption letter with respect to a particular subordinate organization under section 8.02(1)(b)(ii) of the proposed revenue procedure. Section 11.04 of the proposed revenue procedure explains that § 7428 does not apply to cer-

tain other actions the IRS may take, such as not accepting a group exemption letter request for a reason described in section 4.02 of the proposed revenue procedure or declining to issue a group exemption letter for a reason described in section 4.03 of the proposed revenue procedure.

Section 11.05 of the proposed revenue procedure explains that a subordinate organization must file the declaratory judgment action under § 7428 with respect to a determination affecting its own initial or continuing qualification or classification; the central organization may not file the declaratory judgment action under § 7428 on behalf of the subordinate organization. Similarly, a subordinate organization may not file a declaratory judgment action under § 7428 on behalf of its central organization.

Applicability

The proposed revenue procedure will apply to group exemption letters requested and issued after the date the final revenue procedure is published in the Internal Revenue Bulletin and to preexisting group exemption letters (see sections 14.01 and 14.02 of the proposed revenue procedure). However, section 14.02(2)(a) of the proposed revenue procedure provides that the requirements that a central organization have at least one subordinate organization to maintain a group exemption letter (see section 3.01(2) of the proposed revenue procedure) and that the central organization maintain only one group exemption letter (see section 3.01(3) of the proposed revenue procedure) will apply after a one year transition period. Section 14.02(2)(b) of the proposed revenue procedure directs a central organization with a preexisting group exemption letter, but no preexisting subordinate organizations, to add at least one subordinate organization to the preexisting group exemption letter or to notify the IRS of its intent to terminate the group exemption letter. Section 14.02(2)(c) of the proposed revenue procedure directs a central organization with more than one preexisting group exemption letter to determine, during the transition period, which, if any, preexisting group exemption letter it intends to maintain and to notify the IRS of its intent to terminate any additional preexisting group exemption letters.

The proposed revenue procedure will apply to all new subordinate organizations added to a preexisting group exemption letter (see sections 2.11 and 14.02(3) of the proposed revenue procedure). Section 14.02(3)(b) of the proposed revenue procedure describes the information a central organization must submit the first time it adds one or more subordinate organizations to a preexisting group exemption letter.

The proposed revenue procedure generally will apply to preexisting subordinate organizations (as defined in section 2.10 of the proposed revenue procedure). However, section 14.02(4)(b)(i) through (iii) of the proposed revenue procedure provide a grandfather rule with respect to certain requirements in the proposed revenue procedure. In particular, the following definitions and rules will not apply to preexisting subordinate organizations:

- the definitions of “general supervision” or “control” in sections 3.02(3) and 3.02(4) of the proposed revenue procedure;
- the matching, foundation classification, similar purpose, and uniform governing instrument requirements in section 3.03(2) of the proposed revenue procedure; and
- the limitation applicable to Type III supporting organizations in section 3.04(3) of the proposed revenue procedure.

Instead, definitions and rules similar to those contained in Rev. Proc. 80-27 will apply. Section 14.02(4)(c) of the proposed revenue procedure clarifies that preexisting subordinate organizations must all be described in the same paragraph of § 501(c), though not necessarily the same paragraph as the central organization; preexisting subordinate organizations described in § 501(c)(3) may be classified in any paragraph of § 509(a) (including § 509(a)(3)); and all preexisting subordinate organizations may have different primary purposes and unique, as opposed to “uniform,” governing instruments.

Additionally, section 14.02(4)(b)(iv) of the proposed revenue procedure provides that the requirement that the authorization for initial inclusion in or subsequent addition to a group exemption letter described in section 3.05(1) of the proposed revenue procedure permit the central organization

to remove a subordinate organization in certain circumstances does not apply to preexisting subordinate organizations. The IRS recognizes that imposing this requirement on preexisting group exemption letters could require the central organization to obtain new authorizations from all of its preexisting subordinate organizations, which would likely impose a considerable administrative burden on many central organizations.

Although the definitions of “general supervision” or “control” in sections 3.02(3) and 3.02(4) of the proposed revenue procedure do not apply to preexisting group exemption letters, section 14.02(4)(e) of the proposed revenue procedure explains that a central organization that meets the requirements of section 3.02(3) or section 3.02(4) of the proposed revenue procedure with respect to a particular preexisting subordinate organization will be deemed to exercise “general supervision” or “control,” as applicable, over that preexisting subordinate organization.

Finally, section 14.03 of the proposed revenue procedure provides examples of how the grandfather and transition rules function.

REQUEST FOR COMMENTS

The IRS requests comments on all aspects of the proposed revenue procedure, including the grandfather and transition rules. In particular, the IRS requests comments regarding:

- the administrative burden imposed by the collections of information in sections 3.02(3) (certain information a central organization that exercises general supervision over its subordinate organizations must annually collect from its subordinate organizations and transmit to its subordinate organizations), 3.05 (authorization for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization), and 6 (SGRI) of the proposed revenue procedure;
- factors indicating that a subordinate organization is affiliated with a central organization for purposes of section 3.02(2) of the proposed revenue procedure (description of affiliation); and

- whether central organizations with more than one preexisting group exemption letter would benefit from procedures permitting the consolidation or transfer of one or more preexisting group exemption letters.

Comments should be submitted on or before August 16, 2020. Please include Notice 2020-36 on the cover page. Comments should be sent to the following address:

Internal Revenue Service
CC:PA:LPD:PR (Notice 2020-36), Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Internal Revenue Service
Courier's Desk
1111 Constitution Ave., N.W.
Washington, DC 20224
Attn: CC:PA:LPD:PR (Notice 2020-36)

Submissions may also be sent electronically to the following e-mail address:

Notice.Comments@irs.counsel.treas.gov.

Please include "Notice 2020-36" in the subject line.

All comments will be available for public inspection and copying.

CONTINUED APPLICATION OF REV. PROC. 80-27

Pending publication of the final revenue procedure in the Internal Revenue

Bulletin, Rev. Proc. 80-27 continues to apply. However, the IRS will not accept any requests for group exemption letters starting on June 17, 2020 (30 days after publication of this notice in the Internal Revenue Bulletin) until publication of the final revenue procedure or other guidance in the Internal Revenue Bulletin.

DRAFTING INFORMATION

The principal authors of this notice are Seth J. Groman and Stephanie N. Robbins of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes). For further information regarding this notice contact Seth J. Groman at (202) 317-4086 (not a toll-free number).

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SECTION 1. PURPOSE

The purpose of this revenue procedure is to modify and supersede Rev. Proc. 80-27, 1980-1 C.B. 677 (as modified by Rev. Proc. 96-40, 1996-2 C.B. 301) by setting forth updated procedures under which recognition of exemption from federal income tax for organizations described in § 501(c) of the Internal Revenue Code (Code) may be obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. This revenue procedure relieves each subordinate organization covered by a group exemption letter from filing its own application for recognition of exemption. This revenue procedure also sets forth updated procedures a central organization must follow to maintain a group exemption letter. This revenue procedure is provided as a matter of sound tax administration for the administrative convenience of central organizations and the Internal Revenue Service (IRS).

SECTION 2. DEFINITIONS

.01 The term “group exemption letter” means a letter issued to a central organization recognizing on a group basis the exemption of subordinate organizations described in § 501(c) on whose behalf the central organization has applied for recognition of exemption in accordance with this revenue procedure.

.02 The term “central organization” means an organization that has one or more subordinate organizations under its general supervision or control.

.03 The term “subordinate organization” means a chapter, local, post, or unit of a central organization. It may or may not be incorporated, but it must have an organizing document (see section 3.03(2)(d) of this revenue procedure).

.04 The term “application” means a request for recognition of exemption from federal income tax under § 501 in the manner described by Rev. Proc. 2020-5, 2020-1 I.R.B. 241 (or its successor).

.05 The term “annual information return or notice” means the return or notice an organization must file annually under § 6033(a) or § 6033(i) (that is, Form 990, “Return of Organization Exempt From Income Tax”; Form 990-EZ, “Short Form Return of Or-

ganization Exempt From Income Tax”; or Form 990-N, “Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990-EZ”).

.06 The term “automatically revoked” refers to an organization that has had its exemption automatically revoked by operation of § 6033(j) for failure to file an annual information return or notice for three consecutive years.

.07 The term “application for reinstatement” means an application filed in the manner described by Rev. Proc. 2014-11, 2014-3 I.R.B. 411, as supplemented by Rev. Proc. 2020-5 (or its successor), after an organization’s exemption has been automatically revoked.

.08 The term “National Taxonomy of Exempt Entities code” or “NTEE code” means a three-character series of letters and numbers that is used to classify an organization. For a complete list of NTEE codes, visit the Urban Institute, National Center for Charitable Statistics website at nccs.urban.org.

.09 The term “preexisting group exemption letter” means a group exemption letter in existence on the date the final revenue procedure is published in the Internal Revenue Bulletin.

.10 The term “preexisting subordinate organization” means, with respect to a preexisting group exemption letter, a subordinate organization included in the preexisting group exemption letter on or before the date the final revenue procedure is published in the Internal Revenue Bulletin.

.11 The term “new subordinate organization” means a subordinate organization subsequently added to a preexisting group exemption letter after the date the final revenue procedure is published in the Internal Revenue Bulletin.

.12 The term “supplemental group ruling information” or “SGRI” means the information described in section 6 of this revenue procedure that a central organization must submit annually to the IRS about its subordinate organizations unless an exception applies.

SECTION 3. REQUIREMENTS TO OBTAIN AND MAINTAIN A GROUP EXEMPTION LETTER

.01 *Central organization.* (1) *Exemption.* (a) *In general.* A central organization must be—

- (i) Described in § 501(c);
- (ii) An instrumentality; or
- (iii) An agency of a political subdivision.

(b) *Recognition of exemption.* A central organization described in § 501(c) (see section 3.01(1)(a)(i) of this revenue procedure) must obtain recognition of exemption from the IRS by filing an application or, in the case of a central organization that has had its exemption automatically revoked, by filing an application for reinstatement.

(2) *Minimum number of subordinate organizations.* A central organization must have at least five subordinate organizations to obtain a group exemption letter, and it must have at least one subordinate organization to maintain the group exemption letter thereafter (except as provided in section 14.02(2)(a)(i) of this revenue procedure, which provides a transition period for preexisting group exemption letters).

(3) *Only one group exemption letter.* A central organization may maintain only one group exemption letter (except as provided in section 14.02(2)(a)(ii) of this revenue procedure, which provides a transition period for preexisting group exemption letters).

.02 *The central organization’s relationship with its subordinate organizations.*

(1) *In general.* A central organization must establish that each subordinate organization to be included in the group exemption letter is affiliated with the central organization (as described in section 3.02(2) of this revenue procedure) and subject to its general supervision (as described in section 3.02(3) of this revenue procedure) or control (as described in section 3.02(4) of this revenue procedure).

(2) *Affiliation.* A subordinate organization’s affiliation with the central organization is demonstrated by the entirety of the information required to be submitted in section 5.03 of this revenue procedure.

(3) *General supervision.* A subordinate organization is subject to the central organization’s general supervision if the central organization—

- (a) annually obtains, reviews, and retains information on the subordinate organization’s finances, activities, and compliance with annual filing requirements (see section 7 of this revenue procedure), and

(b) transmits written information to (or otherwise educates) the subordinate organization about the requirements to maintain tax-exempt status under the appropriate paragraph of § 501(c), including annual filing requirements (see section 7 of this revenue procedure).

(4) *Control*. A subordinate organization is subject to the central organization's control if—

(a) The central organization appoints a majority of the subordinate organization's officers, directors, or trustees; or

(b) A majority of the subordinate organization's officers, directors, or trustees are officers, directors, or trustees of the central organization.

(5) *Application*. The term "general supervision" described in section 3.02(3) of this revenue procedure and the term "control" described in section 3.02(4) of this revenue procedure apply only for purposes of this revenue procedure and § 1.6033-2(d) of the Treasury Regulations (relating to group returns).

.03 *Organizations eligible for initial inclusion in or subsequent addition to a group exemption letter as subordinate organizations*. (1) *In general*. Unless described in section 3.04 of this revenue procedure and subject to the requirements described in section 3.03(2) of this revenue procedure, an organization described in § 501(c) may be eligible for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization.

(2) *Requirements for initial inclusion in or subsequent addition to a group exemption letter*. All subordinate organizations initially included in or subsequently added to a group exemption letter must meet the following requirements (except as provided in section 14.02(4) of this revenue procedure regarding preexisting subordinate organizations).

(a) *Matching requirements*. (i) *Subordinate organizations*. All subordinate organizations initially included in or subsequently added to a group exemption letter must be described in the same paragraph of § 501(c).

(ii) *Central organization described in § 501(c)*. If the central organization is described in § 501(c), all subordinate organizations initially included in or subsequently added to a group exemption letter

must be described in the same paragraph of § 501(c) as the central organization, including a central organization that is either an instrumentality or an agency of a political subdivision and that is described in § 501(c). For example, if a central organization is described in § 501(c)(3), all the subordinate organizations initially included in or subsequently added to the group exemption letter must also be described in § 501(c)(3).

(iii) *Central organization not described in § 501(c)*. If the central organization is either an instrumentality or an agency of a political subdivision and is not described in § 501(c), the matching requirement described in section 3.03(2)(a)(ii) of this revenue procedure does not apply. In this case, such a central organization may have subordinate organizations described in any paragraph of § 501(c), provided that the organizations are eligible to be subordinate organizations (see section 3.04 of this revenue procedure) and the subordinate organizations initially included in or subsequently added to the group exemption letter are all described in the same paragraph of § 501(c) (see section 3.03(2)(a)(i) of this revenue procedure).

(b) *Foundation classification requirement*. (i) *In general*. Except as provided in section 3.03(2)(b)(iii) of this revenue procedure, all subordinate organizations described in § 501(c)(3) that are initially included in or subsequently added to a group exemption letter must be classified as public charities under the same paragraph of § 509(a) (but see section 3.04(3) of this revenue procedure, which provides that an organization described in § 501(c)(3) that is classified as a Type III supporting organization is not eligible to be initially included in or subsequently added to a group exemption letter as a subordinate organization).

(ii) *Classification under §§ 509(a)(1) and 170(b)(1)(A)*. Subordinate organizations classified as public charities under § 509(a)(1) are not required to be classified under the same paragraph of § 170(b)(1)(A). For example, a central organization described in § 501(c)(3) may have subordinate organizations described in § 501(c)(3) that are classified as public charities under § 509(a)(1) but are churches described in § 170(b)(1)(A)(i), educational organizations described in § 170(b)(1)(A)

(ii), and hospitals described in § 170(b)(1)(A)(iii).

(iii) *Publicly supported subordinate organizations*. Because public support under §§ 509(a)(1) and 170(b)(1)(A)(vi) or under § 509(a)(2) is determined annually (and therefore may change), subordinate organizations that are classified as a publicly supported organizations either under §§ 509(a)(1) and 170(b)(1)(A)(vi) or under § 509(a)(2) will be considered, for purposes of section 3.03(2)(b)(i) of this revenue procedure, to be classified in the same paragraph of § 509(a).

(iv) *Foundation classification of the central organization may differ from the foundation classification of its subordinate organizations*. Subordinate organizations described in § 501(c)(3) are not required to be classified under the same paragraph of § 509(a) as the central organization. For example, a central organization that is classified as a Type III supporting organization under § 509(a)(3) may have a group exemption letter with subordinate organizations classified under § 509(a)(1).

(c) *Similar purpose requirement*. The primary purpose of all the subordinate organizations described in § 501(c) (other than § 501(c)(3)) initially included in or subsequently added to a group exemption letter must be described by the same NTEE code.

(d) *Uniform governing instrument*. All subordinate organizations must adopt a uniform governing instrument (charter, trust indenture, articles of association, etc.). Representative instruments are not acceptable for this purpose. However, if a group exemption letter includes subordinate organizations described in § 501(c)(3) with different purposes, the governing instrument describing each distinct charitable, educational, scientific, etc. purpose must be a uniform governing instrument. For example, if a group exemption letter includes subordinate organizations that are schools and hospitals, all the subordinate organizations that are schools must adopt a uniform governing instrument describing their educational purpose and all the subordinate organizations that are hospitals must adopt a uniform governing instrument describing their charitable purpose.

.04 *Organizations not eligible for initial inclusion in or subsequent addition to*

a group exemption letter as subordinate organizations. The following organizations are not eligible to be initially included in or subsequently added to a group exemption letter as subordinate organizations:

(1) An organization that is organized in a foreign country.

(2) An organization described in § 501(c)(3) that is classified as a private foundation under § 509(a).

(3) An organization described in § 501(c)(3) that is classified as a Type III supporting organization under § 509(a)(3).

(4) A qualified nonprofit health insurance issuer (QNHII) described in § 501(c)(29).

(5) An organization that has had its exemption automatically revoked and that has not yet had its exemption reinstated after filing an application for reinstatement.

.05 Authorization for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization. (1) *In general.* A subordinate organization must authorize the central organization in writing to include the subordinate organization in the request for the group exemption letter or to add the subordinate organization to an existing group exemption letter. The authorization must be signed by a duly authorized officer of the subordinate organization.

(2) *Removal.* The authorization described in section 3.05(1) of this revenue procedure must acknowledge that the central organization may remove the subordinate organization from the group exemption letter if the subordinate organization fails to comply with the requirements of this revenue procedure.

(3) *Retention of the authorization by the central organization.* The authorization described in section 3.05(1) of this revenue procedure must be retained by the central organization while the group exemption letter is in effect with respect to the authorizing subordinate organization.

.06 Employer identification numbers (EINs). The central organization and each subordinate organization must have its own EIN. The central organization must obtain its own EIN prior to filing an application, and each subordinate organization (or the central organization on a subordi-

nate organization's behalf) must obtain its own EIN prior to initial inclusion in or subsequent addition to a group exemption letter.

.07 Annual information return or notice. A central organization and all subordinate organizations initially included in or subsequently added to a group exemption letter must comply with the annual filing requirement described in section 7 of this revenue procedure.

SECTION 4. ISSUANCE OF GROUP EXEMPTION LETTERS

.01 Group exemption letter requests. The IRS will consider requests from central organizations for group exemption letters made in the manner required by section 5.01 of this revenue procedure and Rev. Proc. 2020-5 (or its successor).

.02 Non-acceptance. A group exemption letter request that is missing any item of information required by section 5 of this revenue procedure will not be considered substantially complete and will not be accepted by the IRS.

.03 Circumstances under which group exemption letters are not ordinarily issued. The IRS may decline to issue a group exemption letter where the activities described in the group exemption letter request involve complex facts and circumstances that, in the interest of sound tax administration, are more appropriate for determination on an organization-by-organization basis.

SECTION 5. INSTRUCTIONS FOR REQUESTING A GROUP EXEMPTION LETTER

.01 Group exemption letter request. A group exemption letter request must be made in the manner described by Rev. Proc. 2020-5 (or its successor). In addition, the group exemption letter request must include all of the information described in sections 5.02, 5.03, and, if applicable, 5.04 of this revenue procedure. A subordinate organization included in a group exemption letter should not apply separately for recognition of exemption (except in the circumstances described in section 9 of this revenue procedure).

.02 Information about the central organization. The central organization must

include its name, address, and EIN; and information establishing that it is described in section 3.01(1)(a) of this revenue procedure. A central organization that has not obtained recognition of exemption at the time it requests a group exemption letter, as required by section 3.01(1)(b) of this revenue procedure, may submit such request concurrently with its own application, or, in the case of a central organization that has had its exemption automatically revoked, its application for reinstatement (see section 4.02(7)(a)(ii) of Rev. Proc. 2020-5 (or its successor) and section 3.01(1)(b) of this revenue procedure).

.03 Information about the subordinate organizations. (1) *In general.* The central organization must include the following statements, representations, and information on behalf of its subordinate organizations:

(a) Information verifying that each subordinate organization is affiliated with and subject to the central organization's general supervision or control (see section 3.02 of this revenue procedure).

(b) A representation that the subordinate organizations are all described in the same paragraph of § 501(c) as the central organization (see sections 3.03(2)(a)(i) and 3.03(2)(a)(ii) of this revenue procedure) or, if the central organization is either an instrumentality or an agency of a political subdivision and is not described in § 501(c), the paragraph of § 501(c) in which all subordinate organizations are or will be described (see sections 3.03(2)(a)(i) and 3.03(2)(a)(iii) of this revenue procedure).

(c) If the subordinate organizations are or will be described in § 501(c)(3), the foundation classification of all the subordinate organizations (see section 3.03(2)(b) of this revenue procedure).

(d) A representation that no subordinate organization is organized in a foreign country (see section 3.04(1) of this revenue procedure).

(e) If the subordinate organizations are or will be described in § 501(c)(3), a representation that no subordinate organization is classified as a private foundation under § 509(a) or a Type III supporting organization under § 509(a)(3) (see sections 3.04(2) and 3.04(3) of this revenue procedure).

(f) A summary of the subordinate organizations' purposes and activities, including the sources of their receipts and the nature of their expenditures.

(g) A representation that the primary purpose of all the subordinate organizations described in § 501(c) (other than § 501(c)(3)) is described by the same NTEE code and the NTEE code describing the subordinate organizations' primary purpose (see section 3.03(2)(c) of this revenue procedure).

(h) A statement that each subordinate organization has furnished written authorization described in section 3.05 of this revenue procedure to the central organization.

(i) A statement confirming that all subordinate organizations were organized within 27 months of the postmark date of the group exemption letter request, or, if any such subordinate organizations have been organized for more than 27 months and were not previously recognized by the IRS as being described in § 501(c) or included in a different group exemption letter, a statement that all subordinate organizations are willing to be recognized as exempt from the postmark date of the group exemption letter request (see section 10.01 of this revenue procedure).

(j) If applicable, a statement that any subordinate organizations on behalf of which the central organization will file group returns, as described in section 7.02 of this revenue procedure, are on the same accounting period as the central organization.

(2) *Supporting information.* The central organization must provide the following supporting information as attachments:

(a) A sample copy of the uniform governing instrument or, if the subordinate organizations are described in § 501(c)(3) and have different purposes, sample copies of the uniform instrument describing each distinct purpose (see section 3.03(2)(d) of this revenue procedure).

(b) A list of the names, mailing addresses, EINs, and dates of formation or incorporation of subordinate organizations to be included in the group exemption letter (a current directory of subordinate organizations may be furnished in lieu of the list if it includes the required information and if the subordinate organizations to be

included in the group exemption letter are identified).

(c) If applicable, a list of subordinate organizations to be included in the group exemption letter to which the IRS has issued determination letters that are still effective (that is, have not been automatically or otherwise revoked).

(3) *Additional requirements.* In certain cases, the central organization must submit information establishing that its subordinate organizations meet additional requirements. For example, a central organization with subordinate organizations that are private schools, charitable hospitals, or social welfare organizations must submit the information described in this section 5.03(3), as applicable, in addition to the information generally required by section 5 of this revenue procedure.

(a) *Private schools.* If the group exemption letter request involves subordinate organizations that are or will be private schools described in § 501(c)(3), the central organization must include the information required by Rev. Proc. 75-50, 1975-2 C.B. 587, as modified by Rev. Proc. 2019-22, 2019-22 I.R.B. 1260, and such other information necessary to establish that the subordinate organizations comply with the requirements of Rev. Rul. 71-447, 1971-2 C.B. 230.

(b) *Charitable hospitals.* If the group exemption letter request involves subordinate organizations that are or will be hospital organizations or facilities described in § 501(c)(3), the central organization must provide the information necessary to establish that each subordinate organization meets the requirements of § 501(r) and Rev. Rul. 69-545, 1969-2 C.B. 117.

(c) *Social welfare organizations.* A subordinate organization described in § 501(c)(4) that is included in or subsequently added to a group exemption letter must, no later than 60 days after the date on which the organization was formed as a legal entity, submit a completed electronic Form 8976 to the IRS in the manner described in Rev. Proc. 2016-41, 2016-30 I.R.B. 165 (unless an exception applies). A subordinate organization may authorize an individual representing the central organization to submit Form 8976 on the subordinate organization's behalf and to receive any communications relating to the subordinate organization's submis-

sion. In its request for the group exemption letter, the central organization must represent that each subordinate organization described in § 501(c)(4) has submitted or will submit Form 8976 (unless an exception applies).

.04 *Request for a new group exemption letter after the termination of a group exemption letter.* If the IRS terminates a group exemption letter as described in section 8.01(1) of this revenue procedure, the central organization may request a new group exemption letter in the manner described in sections 5.01 through 5.03 of this revenue procedure, but also must include a description of the policies or procedures it intends to implement or has implemented to ensure the continued effectiveness of the new group exemption letter.

SECTION 6. INFORMATION REQUIRED TO MAINTAIN A GROUP EXEMPTION LETTER

.01 *Information required annually.* The central organization must submit the information described in section 6.02 of this revenue procedure to the IRS annually at least 30 days before the close of its annual accounting period. A central organization may provide additional updates at any time.

.02 *Supplemental group ruling information.* (1) *Changes in purposes or activities.* In the case of subordinate organizations described in § 501(c) (other than § 501(c)(3)), the central organization must submit a detailed description of any change in the purposes of all of its subordinate organizations (see section 3.03(2)(c) of this revenue procedure). In the case of subordinate organizations described in § 501(c)(3), the central organization must submit a detailed description of any change in the purpose or purposes of any of its subordinate organizations. In the case of subordinate organizations described in any paragraph of § 501(c), the central organization must submit a detailed description of any change in the activities of its subordinate organizations.

(2) *Lists of certain changes, removals, or additions.* (a) *List categories.* The central organization must submit a separate list for each of the following categories (as applicable):

(i) Subordinate organizations that have changed their names or mailing addresses during the year.

(ii) Subordinate organizations no longer to be included in the group exemption letter (see section 8.02 of this revenue procedure).

(iii) Subordinate organizations to be added to the group exemption letter (see section 6.02(3) of this revenue procedure).

(b) *Required information.* Each list described in section 6.02(2)(a) of this revenue procedure must include the name, mailing address, EIN, and date of formation or incorporation of the affected subordinate organizations.

(c) *No annotated directories.* An annotated directory of subordinate organizations is not acceptable for purposes of section 6.02(2)(a) of this revenue procedure.

(3) *Organizations to be added to the group exemption letter as subordinate organizations.* The central organization must submit the following information with respect to any organizations being added to the group exemption letter as subordinate organizations, as described in section 6.02(2)(a)(iii) of this revenue procedure:

(a) A statement that the information upon which the group exemption letter was based (see section 5.03 of this revenue procedure) is applicable in all material respects to the subordinate organizations being added to the group exemption letter.

(b) With respect to subordinate organizations being added to the group exemption letter, the information required by sections 5.03(1)(h) (statement regarding written authorization for inclusion in the group exemption letter), 5.03(1)(j) (statement regarding the accounting period of subordinate organizations on behalf of which the central organization will file group returns), 5.03(2)(c) (list of subordinate organizations with determination letters), and 5.03(3) (any additional information as applicable) of this revenue procedure (see section 10.02 of this revenue procedure regarding effective date of exemption for a subordinate organization subsequently added to a group exemption letter).

(4) *No change.* If the central organization has no changes described in section 6.02(1) or section 6.02(2) of this revenue procedure to report, the central organization must submit a statement to that effect.

(5) *Intent to terminate the group exemption letter.* If a central organization intends to terminate its group exemption letter, the central organization must submit a statement to that effect (see section 9.02 of this revenue procedure for the effect of such termination on any subordinate organization). The central organization should notify each subordinate of the termination and provide information regarding how the subordinate organization may apply for or obtain recognition of its exemption (see section 9.04 of this revenue procedure).

.03 *Address.* The information required by section 6.01 of this revenue procedure must be sent to:

Ogden Service Center
Mail Stop 6271
1000 South 1200
Ogden, UT 84404-4749

.04 *Additional information.* Submission of the information required by this section does not relieve the central organization or any of its subordinate organizations of the duty to submit such additional information as the IRS may require to determine whether the conditions for continued exemption are being met. See § 6001 and the regulations thereunder.

.05 *Exception for central organizations that are churches or conventions or associations of churches.* A central organization described in § 501(c)(3) that is a church or convention or association of churches and that maintains a group exemption letter, may, but is not required to, submit the information described in section 6.01 of this revenue procedure.

SECTION 7. ANNUAL FILING REQUIREMENT

.01 *In general.* A group exemption letter does not change the general requirement described in § 6033(a)(1) that every organization exempt from federal income tax under § 501(a) must file an annual information return or notice, as applicable. Accordingly, unless a filing exception applies, the central organization and each subordinate organization must file an annual information return or notice.

.02 *Group returns.* Section 1.6033-2(d) provides that, in addition to the annual information return or notice filed on its own behalf, a central organization may also

file a group return on Form 990 for two or more of its subordinate organizations. When filing the group return, the central organization must use a special EIN (separate from the central organization's EIN) that is issued solely for the purpose of the group return. A group return is considered the return of each subordinate organization included in the group return and therefore relieves each subordinate organization included in the group return of the requirement to file a separate annual information return or notice described in section 7.01 of this revenue procedure.

SECTION 8. TERMINATION OF THE GROUP EXEMPTION LETTER

.01 *Termination of the group exemption letter with respect to all subordinate organizations.* (1) *Termination by the IRS.* The IRS may terminate a group exemption letter with respect to all subordinate organizations if—

(a) The central organization notifies the IRS that it is going out of existence;

(b) The IRS determines that the central organization is no longer described in § 501(c) and therefore is not exempt under § 501(a);

(c) The central organization's exemption is automatically revoked;

(d) The central organization fails to submit a timely SGRI (see section 6 of this revenue procedure);

(e) The central organization has no subordinate organizations (see section 3.01(2) of this revenue procedure);

(f) The central organization fails to exercise general supervision (see section 3.02(3) of this revenue procedure) or control (see section 3.02(4) of this revenue procedure) over one or more subordinate organizations;

(g) More than half of the subordinate organizations have had their exemption automatically revoked;

(h) More than half of the subordinate organizations fail to meet the requirements for initial inclusion in or subsequent addition to a group exemption letter (see section 3.03(2) of this revenue procedure); or

(i) The central organization otherwise fails to meet the requirements of this revenue procedure.

(2) *Termination by the central organization.* The central organization may ter-

minate its group exemption letter at any time by providing the notice described in section 6.02(5) of this revenue procedure.

.02 Termination of the group exemption letter with respect to a particular subordinate organization. (1) *Removal from the group exemption letter.* A subordinate organization will be removed from a group exemption letter if—

(a) The central organization notifies the IRS that the subordinate organization will no longer be included in the group exemption letter (see section 6.02(2)(a)(ii) of this revenue procedure);

(b) The IRS determines that—

(i) The subordinate organization is no longer described in § 501(c) and therefore is not exempt under § 501(a); or

(ii) The subordinate organization is an organization not eligible for initial inclusion in or subsequent addition to a group exemption letter because it is an organization described in section 3.04(1) (foreign organization), section 3.04(2) (private foundation), section 3.04(3) (Type III supporting organization), or section 3.04(4) (QNHII) of this revenue procedure;

(c) The subordinate organization's exemption is automatically revoked (see section 3.04(5) of this revenue procedure); or

(d) The subordinate organization fails to satisfy one or more of the matching, foundation classification, or similar purpose requirements (see sections 3.03(2)(a), 3.03(2)(b), and 3.03(2)(c) of this revenue procedure).

(2) *Group exemption letter remains in effect.* The group exemption letter will remain in effect with respect to all non-affected subordinate organizations after the removal of one or more subordinate organizations under section 8.02(1) of this revenue procedure unless the IRS has terminated the group exemption letter with respect to all subordinate organizations under section 8.01 of this revenue procedure.

SECTION 9. EFFECT OF NON-ACCEPTANCE, NON-ISSUANCE, TERMINATION, OR REMOVAL

.01 Effect of non-acceptance or non-issuance. When the IRS does not accept a group exemption letter request (see section 4.02 of this revenue procedure) or

declines to issue a group exemption letter (see section 4.03 of this revenue procedure), the IRS will not recognize the exemption of any organization initially included in the group exemption letter request as a subordinate organization, unless the IRS previously issued a determination letter to such subordinate organization and that determination letter is still effective (that is, it has not been automatically or otherwise revoked) on the date of non-acceptance or non-issuance, as applicable, except as provided in section 9.04 of this revenue procedure.

.02 Effect of termination. (1) *In general.* When the IRS or the central organization terminates a group exemption letter with respect to all subordinate organizations (see section 8.01 of this revenue procedure), the IRS will not thereafter recognize the exempt status of any subordinate organization included in the group exemption letter, except as provided in section 9.04 of this revenue procedure.

(2) *Churches or conventions or associations of churches.* Notwithstanding section 9.02(1) of this revenue procedure, the termination of a group exemption letter will not affect the exempt status of subordinate organizations that are churches or conventions or associations of churches, described in § 501(c)(3). See § 508(c). Nonetheless, a subordinate organization that is a church or a convention or association of churches may obtain recognition of its exemption from the IRS by completing one of the actions described in section 9.04(2) of this revenue procedure.

.03 Effect of removal. If the IRS or the central organization notifies a particular subordinate organization that it has been removed from a group exemption letter, the IRS will not thereafter recognize the exempt status of the affected subordinate organization, except as provided in section 9.04 of this revenue procedure.

.04 Subsequent recognition of exemption. (1) *In general.* Notwithstanding sections 9.01, 9.02, and 9.03 of this revenue procedure, an organization may obtain recognition of its exempt status or may declare its exempt status, as applicable, by completing an action described in section 9.04(2) or 9.04(3).

(2) *Organization required to file an application.* An organization required to apply for recognition of exemption under

§ 505 or § 508 may obtain recognition of its exemption by—

(a) Filing an application;

(b) Being added to a group exemption letter maintained by another central organization;

(c) Being included by another central organization in a request for a new group exemption letter; or

(d) Being included by the same central organization in a request for a new group exemption letter.

(3) *Organization not required to file an application.* An organization that is not required to apply for recognition of exemption under § 505 or § 508 may obtain recognition of its exemption in the same manner described in section 9.04(2) of this revenue procedure. Alternatively, such a subordinate organization may declare its exempt status (without obtaining recognition from the IRS) by filing annual information returns or notices (see section 7 of this revenue procedure). In certain circumstances, an organization that intends to operate as an organization described in section 501(c)(4) may be required to file Form 8976 (see section 5.03(3)(c) of this revenue procedure).

(4) *Automatic revocation.* Notwithstanding section 9.04(3) of this revenue procedure, a subordinate organization must file an application for reinstatement if the subordinate organization was removed from a group exemption letter because its exemption was automatically revoked (see section 8.02(1)(c) of this revenue procedure). A central organization may not add the subordinate organization to a group exemption letter (see section 3.04(5) of this revenue procedure) unless and until the IRS has reinstated the subordinate organization's exemption.

SECTION 10. EFFECTIVE DATE OF EXEMPTION

.01 Initial inclusion. If all of the organizations initially included in a group exemption letter as subordinate organizations were organized within 27 months of the postmark date of the group exemption letter request, then the effective date of exemption for each organization initially included in a group exemption letter as a subordinate organization will be the organization's date of formation, or, in the

case of an organization that has had its exemption automatically revoked and subsequently reinstated after filing an application for reinstatement, the date on which the organization's exemption was reinstated, determined in accordance with Rev. Proc. 2014-11. If any organization was organized more than 27 months before the postmark date of the group exemption letter request, was not previously recognized by the IRS as being described in § 501(c), and was not included in another group exemption letter, the effective date of all the organizations initially included in the group exemption letter as subordinate organizations will be the postmark date of the group exemption letter request.

.02 *Subsequent addition.* The effective date of exemption of an organization that is subsequently added to a group exemption letter as a subordinate organization depends on its exempt status immediately prior to its addition. If, at such time, the organization was not recognized by the IRS as being described in § 501(c) and was not included in another group exemption letter, the effective date of exemption will be the postmark date of the information required under section 6 of this revenue procedure, regardless of the organization's date of formation. If, at such time, the organization was recognized by the IRS as being described in § 501(c) or was included in another group exemption letter, the effective date of exemption will be the same as prior to its addition to the group exemption letter.

.03 *Termination or removal.* (1) *In general.* Except as provided in section 10.03(2) or section 10.03(3) of this revenue procedure, if a group exemption letter is terminated, either with respect to all subordinate organizations or with respect to a particular subordinate organization, an organization required to apply for recognition of exemption under § 505 or § 508 must file an application within 27 months of the date on which the IRS terminated the group exemption letter to receive an effective date that is the same as the date of termination of the group exemption letter. An organization that files an application more than 27 months after termination of the group exemption letter will be recognized from the postmark date of its application, provided that it otherwise meets the requirement for tax-ex-

empt status. In this case, the organization will be taxable from the date the IRS terminated the group exemption letter until the postmark date of its application. An organization that is not required to file an application may declare its exempt status (without obtaining recognition from the IRS) by continuing to file annual information returns or notices (see section 9.04(3) of this revenue procedure).

(2) *Automatic revocation.* In the case of a subordinate organization that has had its exemption automatically revoked, the effective date of exemption for such organization will be the date on which the organization's exemption was reinstated after being automatically revoked, determined in accordance with Rev. Proc. 2014-11, as applicable.

(3) *Declaratory judgment action.* In certain circumstances, a subordinate organization may be able to file a declaratory judgment action under § 7428, in which case, the effective date of exemption for such organization will be determined by the outcome of the proceeding.

SECTION 11. DECLARATORY JUDGMENT PROVISIONS OF § 7428

.01 *In general.* Section 10 of Rev. Proc. 2020-5 (or its successor) generally explains when and how a declaratory judgment proceeding under § 7428 may be filed in the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia.

.02 *Application to central organizations.* Section 10.02 of Rev. Proc. 2020-5 (or its successor) describes when § 7428 applies to a central organization.

.03 *Application to subordinate organizations.* Section 7428 applies to a final determination by the IRS that a particular subordinate organization—

(1) Is no longer described in § 501(c) and therefore is not exempt under § 501(a) (see section 8.02(1)(b)(i) of this revenue procedure); or

(2) Was not eligible for initial inclusion in or subsequent addition to a group exemption letter because it is an organization described in section 3.04(1) (foreign organization), section 3.04(2) (private foundation), section 3.04(3) (Type III supporting organization), or section 3.04(4)

(QNHII) of the proposed revenue procedure (see section 8.02(1)(b)(ii) of this revenue procedure).

.04 *Actions to which § 7428 does not apply.* Section 7428 does not apply to the following actions:

(1) Non-acceptance of a group exemption letter request (see section 4.02 of this revenue procedure).

(2) Non-issuance of a group exemption letter (see section 4.03 of this revenue procedure).

(3) Termination of a group exemption letter for a reason described in section 8.01(1), other than section 8.01(1)(b) (determination by the IRS that the central organization is no longer described in § 501(c), in which case § 7428 would apply to the central organization), of this revenue procedure.

(4) Removal of a subordinate organization from a group exemption letter as described in section 8.02(1), other than section 8.02(1)(b)(ii) (determination by the IRS that an organization is not eligible for initial inclusion in or subsequent addition to a group exemption letter as a subordinate organization), of this revenue procedure.

.05 *Who must file.* A subordinate organization must file the declaratory judgment action under § 7428 on its own behalf with respect to a determination affecting its own initial or continuing qualification or classification. Accordingly, a central organization may not file a declaratory judgment action under § 7428 on behalf of one or more of its subordinate organizations. Conversely, a subordinate organization may not file the declaratory judgment action under § 7428 on behalf of its central organization. For more information on the application of § 7428, see section 10 of Rev. Proc. 2020-5 (or its successor).

SECTION 12. RELIANCE

.01 *By a central or subordinate organization.* In general, a central organization and its subordinate organizations may rely on a group exemption letter that continues to meet the requirements of this revenue procedure (except as provided in section 14.02(2) of this revenue procedure, which provides a transition period for preexisting group exemption letters). However,

see section 11.02 of Rev. Proc. 2020-5 (or its successor) regarding limitations on reliance.

.02 *By grantors and contributors.* To verify that contributions to a subordinate organization are deductible under § 170, a donor should consult the central organization's listing in Tax Exempt Organization Search (Pub. 78 Data), which will indicate that contributions to its subordinate organizations are also deductible. Section 3.02 of Rev. Proc. 2018-32, 2018-23 I.R.B. 739. The donor should then confirm that the subordinate organization is covered by the group exemption letter by contacting the central organization. See generally section 6.03 of Rev. Proc. 2018-32. Donors may rely on the central organization's written verification with respect to deductibility of contributions to one or more subordinate organizations included in a group exemption letter.

SECTION 13. DISCLOSURE OF GROUP EXEMPTION LETTER REQUESTS AND GROUP EXEMPTION LETTERS

A group exemption letter, the request for that group exemption letter, and any supporting documents included with that request are open to public inspection under § 6104(a) and (d). See § 301.6104(a)-1(a) & (e)(3); § 301.6104(d)-1(f)(1). See Rev. Proc. 2020-5 (or its successor) for rules regarding the disclosure of applications and determination letters.

SECTION 14. APPLICABILITY

.01 *New group exemption letters.* This revenue procedure applies to all group exemption letters requested and issued after the date the final revenue procedure is published in the Internal Revenue Bulletin.

.02 *Preexisting group exemption letters.* (1) *In general.* Except as otherwise provided in this section 14.02, this revenue procedure applies to all preexisting group exemption letters.

(2) *Certain sections applicable to preexisting group exemption letters after a transition period.* (a) *In general.* The following sections of this revenue procedure apply to preexisting group exemption letters one year after the date the final reve-

nue procedure is published in the Internal Revenue Bulletin (transition period):

(i) Section 3.01(2) of this revenue procedure (requiring a central organization to have at least one subordinate organization to maintain a group exemption letter).

(ii) Section 3.01(3) of this revenue procedure (permitting central organizations to hold only one group exemption letter).

(b) *Minimum number of subordinate organizations.* If a central organization has a preexisting group exemption letter but does not have at least one subordinate organization, the central organization must add, during the transition period, at least one subordinate organization to its group exemption letter (see sections 6.02(2)(a)(iii) and 6.02(3) of this revenue procedure regarding information that must be submitted to the IRS) or notify the IRS of its intent to terminate the group exemption letter (see section 6.02(5) of this revenue procedure). The central organization may submit this information with its SGRI if its SGRI is due before the end of the transition period.

(c) *More than one group exemption letter.* During the transition period, a central organization that maintains more than one preexisting group exemption letter must terminate all but one of its preexisting group exemption letters. The central organization must determine which preexisting group exemption letter it intends to maintain and notify the IRS of its intent to terminate any additional preexisting group exemption letters (see section 6.02(5) (regarding notification of intent to terminate) of this revenue procedure).

(3) *New subordinate organizations.* (a) *In general.* This revenue procedure applies to all new subordinate organizations; no transition period is provided.

(b) *Information required the first time new subordinate organizations are added to a preexisting group exemption letter.* In the case of a central organization with a preexisting group exemption letter, the information the central organization was required to submit about its subordinate organizations under previous revenue procedures was different than the information required by this revenue procedure. However, this revenue procedure applies to all new subordinate organizations of a preexisting group exemption letter (see section 14.02(3)(a) of this revenue procedure).

Therefore, the first time after the effective date of this revenue procedure (see section 16 of this revenue procedure) that a central organization adds any new subordinate organizations to a preexisting group exemption letter, such central organization must provide the information required by section 5.03 of this revenue procedure about its new subordinate organizations. Upon the second, and any subsequent, addition of new subordinate organizations to the preexisting group exemption letter, such central organization must provide only the information required by section 6.02(3) of this revenue procedure.

(4) *Preexisting subordinate organizations.* (a) *In general.* Except as provided in sections 14.02(4)(b) and 14.02(4)(c) of this revenue procedure, the requirements of this revenue procedure apply to preexisting subordinate organizations.

(b) *Certain sections not applicable.* The following sections of this revenue procedure do not apply to preexisting subordinate organizations:

(i) Sections 3.02(3), 3.02(4), and 3.02(5) of this revenue procedure (defining, and describing the applicability of, the terms "general supervision" and "control").

(ii) Sections 3.03(2)(a)(ii), 3.02(2)(b), 3.02(2)(c), and 3.03(2)(d) of this revenue procedure (describing the matching, foundation classification, similar purpose, and uniform governing instrument requirements).

(iii) Section 3.04(3) of this revenue procedure (stating that Type III supporting organizations are not permitted to be subordinate organizations).

(iv) Section 3.05(2) of this revenue procedure (requiring that the authorization for initial inclusion in or subsequent addition to a group exemption letter described in section 3.05(1) of this revenue procedure permit the central organization to remove the subordinate organization from the group exemption letter if the subordinate organization fails to comply with the requirements of this revenue procedure).

(c) *Requirements for preexisting subordinate organizations.* Preexisting subordinate organizations—

(i) Must all be described in the same paragraph of § 501(c), though not necessarily the same paragraph as the central organization;

(ii) If described in § 501(c)(3), may be classified in any paragraph of § 509 (including § 509(a)(3));

(iii) May have different primary purposes; and

(iv) May have unique (as opposed to “uniform”) governing instruments (charters, trust indentures, articles of association, etc.).

(d) *Preexisting subordinate organizations described in different paragraphs of § 501(c).* If a preexisting group exemption letter includes preexisting subordinate organizations that are described in different paragraphs of § 501(c), the central organization must remove the preexisting subordinate organizations described in the paragraph of § 501(c) different from the paragraph in which the central organization stated that the subordinate organizations would be described in its group exemption letter request (see section 4.02(3) of Rev. Proc. 80-27) during the transition period. For example, if a central organization has a preexisting group exemption letter for subordinate organizations described in § 501(c)(3), but has subordinate organizations described in both § 501(c)(3) and 501(c)(4), the central organization must remove the subordinate organizations described in § 501(c)(4) (see section 6.02(2)(a)(ii) of this revenue procedure regarding subordinate organizations no longer to be included in a group exemption letter).

(e) *General supervision or control.* The definitions of “general supervision” and “control” in sections 3.02(3) and 3.02(4) of this revenue procedure do not apply to preexisting subordinate organizations. Nonetheless, a central organization that meets the requirements of section 3.02(3) or section 3.02(4) of this revenue procedure with respect to a particular preexisting subordinate organization per se exercises “general supervision” or “control,” as applicable, over that preexisting subordinate organization.

.03 *Examples.* The application of this section 14 is illustrated by the following examples.

(1) *One preexisting group exemption letter for subordinate organizations described in a different paragraph of § 501(c) than the central organization.* A central organization described in § 501(c)(3) has a single preexisting group exemp-

tion letter for subordinate organizations described in § 501(c)(4), as was permitted by Rev. Proc. 80-27. The central organization may continue to maintain the preexisting group exemption letter because the central organization’s preexisting subordinate organizations are not required to be described in the same paragraph of § 501(c) as the central organization (see section 14.02(4)(c)(i) of this revenue procedure). However, the central organization may not add any new subordinate organizations because, in this case, the addition of new subordinate organizations would violate the matching requirements. In particular, if the central organization added new subordinate organizations described in § 501(c)(3), the central organization would satisfy the requirement that new subordinate organizations be described in the same paragraph of § 501(c) as the central organization (see sections 3.03(2)(a)(ii) and 14.02(3)(a) of this revenue procedure) but would violate the requirement that all subordinate organizations be described in the same paragraph of § 501(c) (see sections 3.03(2)(a)(i) and 14.02(3)(a) of this revenue procedure) because the central organization would have subordinate organizations described both section § 501(c)(3) and (4). If the central organization added new subordinate organizations described in § 501(c)(4), the central organization would satisfy the requirement that all subordinate organizations be described in the same paragraph of § 501(c) (see sections 3.03(2)(a)(i) and 14.02(3)(a) of this revenue procedure) but would violate the requirement that all new subordinate organizations be described in the same paragraph of § 501(c) as the central organization (see sections 3.03(2)(a)(ii) and 14.02(3)(a) of this revenue procedure).

(2) *One preexisting group exemption letter for subordinate organizations described in the same paragraph of § 501(c) as the central organization.* A central organization described in § 501(c)(3) has a single preexisting group exemption letter for subordinate organizations described in § 501(c)(3). The preexisting subordinate organizations (none are private foundations) all have different foundation classifications under § 509(a), which was not prohibited by Rev. Proc. 80-27. The central organization may add new

subordinate organizations that are described in § 501(c)(3) to its preexisting group exemption letter because it satisfies the matching requirements – all of the subordinate organizations are described in the same paragraph of § 501(c) (see sections 3.03(2)(a)(i) and 14.02(3)(a) of this revenue procedure) and the central organization and all of its new subordinate organizations are described in the same paragraph of § 501(c) (see sections 3.03(2)(a)(ii) and 14.02(3)(a) of this revenue procedure). Nonetheless, if the central organization adds new subordinate organizations described in § 501(c)(3) to the preexisting group exemption letter, the new subordinate organizations must have the same foundation classification, although not necessarily the same foundation classification as the central organization (see sections 3.03(2)(b) and 14.02(3)(a) of this revenue procedure).

(3) *Two preexisting group exemption letters for subordinate organizations described in different paragraphs of § 501(c).* A central organization described in § 501(c)(3) has two preexisting group exemption letters – one for subordinate organizations described in § 501(c)(3) and one for subordinate organizations described in § 501(c)(4) – which was not prohibited by Rev. Proc. 80-27. The central organization may only keep one preexisting group exemption letter because this revenue procedure does not permit a central organization to maintain more than one group exemption letter (see sections 3.01(3) and 14.02(1) of this revenue procedure). However, this requirement does not apply until after the transition period (see section 14.02(2)(a)(ii) of this revenue procedure). During the transition period, the central organization must determine which preexisting group exemption letter it intends to keep and notify the IRS regarding which preexisting group exemption letter it intends to terminate (see section 14.02(2)(c) of this revenue procedure). Like *Example 1*, if the central organization chooses to maintain the group exemption letter for subordinate organizations described in § 501(c)(4), the central organization may not add any new subordinate organizations. Like *Example 2*, if the central organization chooses to maintain the group exemption letter for subordinate organizations described in

§ 501(c)(3), the central organization may add new subordinate organizations but the new subordinate organizations must have the same foundation classification as each other, although not necessarily the same as the central organization. Either way, a subordinate organization that is removed from the group exemption letter may maintain its exempt status by taking an action in section 9.04(2) or section 9.04(3) of this revenue procedure (see section 9.02 of this revenue procedure regarding the effect of termination).

(4) *Central organization that is not described in § 501(c) with two preexisting group exemption letters for subordinate organizations described in different paragraphs of § 501(c).* Assume the same facts as *Example 3* except that the central organization is an agency of a political subdivision and is not described in § 501(c). Like *Example 3*, the central organization may only keep one group exemption letter (see sections 3.01(3) and 14.02(1) of this revenue procedure). However, unlike *Example 3*, the central organization may add new subordinate organizations to which ever preexisting group exemption letter it chooses to maintain because the matching requirement described in section 3.03(2)(a)(ii) of this revenue procedure does not apply to a central organization that is an instrumentality or an agency of a political subdivision and that is not described in § 501(c) (see section 3.03(2)(a)(iii) of this revenue procedure).

(5) *One preexisting group exemption letter with no subordinate organizations.* A central organization described in § 501(c)(3) has a single preexisting group exemption letter for subordinate organizations described in § 501(c)(3) but currently does not have any subordinate organizations. Under this revenue procedure, a central organization must have at least one subordinate organization to maintain a group exemption letter (see section 3.01(2) of this revenue procedure). However, this requirement does not apply to preexisting group exemption letters during the transition period (see section 14.02(2)(a)(i) of this section). During the transition period, the central organization either must add at least one subordinate organization described in § 501(c)(3) to the preexisting group exemption letter or must notify the IRS of its intent to terminate the preexist-

ing group exemption letter (see section 14.02(2)(c) of this revenue procedure). If the central organization adds a subordinate organization to the preexisting group exemption letter, the central organization must submit the information described in section 14.02(3)(b) of this revenue procedure. Even though the group exemption letter is a preexisting group exemption letter, after the transition period, this revenue procedure will apply to the preexisting group exemption letter as if it is a new group exemption letter described in section 14.01 of this section because there are no preexisting subordinate organizations.

(6) *One preexisting group exemption letter with subordinate organizations described in different paragraphs of § 501(c).* A central organization described in § 501(c)(3) has a preexisting group exemption letter with subordinates described in § 501(c)(3) and (4). Neither Rev. Proc. 80-27 nor this revenue procedure permit a central organization to maintain a group exemption letter for subordinate organizations described in different paragraphs of § 501(c). Assuming that the group exemption letter was intended for subordinate organizations described in § 501(c)(3), the central organization must remove the subordinate organizations described in § 501(c)(4) by submitting the information required by section 6.02(2)(a)(ii) of this revenue procedure. A subordinate organization described in § 501(c)(4) that is removed from the group exemption letter either may obtain recognition of or declare its exempt status by taking an action in section 9.04(3) of this revenue procedure (see section 9.02 of this revenue procedure regarding the effect of termination).

SECTION 15. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 80-27 (as modified by Rev. Proc. 96-40) is modified and superseded.

SECTION 16. EFFECTIVE DATE

This revenue procedure is effective on and after the date the final revenue procedure is published in the Internal Revenue Bulletin.

Rev. Proc. 2020-29

SECTION 1. PURPOSE

This revenue procedure modifies the procedures in Rev. Proc. 2020-1, 2020-1 I.R.B. 1 (Jan. 2, 2020), temporarily to allow for the electronic submission of requests for letter rulings, closing agreements, determination letters, and information letters under the jurisdiction of the Internal Revenue Service (IRS) Office of Chief Counsel, and for determination letters issued by the IRS Large Business and International Division (LB&I). Until this revenue procedure is modified or superseded, both paper and electronic requests for advice described in section 2.01 of this revenue procedure provided by Associate Chief Counsel Offices and LB&I, as defined in section 2.02 of this revenue procedure, will be accepted.

SECTION 2. BACKGROUND

.01 Revenue Procedure 2020-1 provides detailed information on how taxpayers can request advice from the IRS in the form of letter rulings (including non-automatic requests for changes in methods of accounting and non-automatic requests for changes in accounting periods), closing agreements, determination letters, and information letters (together, requests for advice). Rev. Proc. 2020-1 generally requires taxpayers to submit paper copies of written materials with wet signatures.

.02 For purposes of this revenue procedure, the term “Associate Chief Counsel Offices and LB&I” collectively refers to the following Associate Chief Counsel offices and LB&I: 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 (Employee Benefits, Exempt Organizations, and Employment Taxes).

SECTION 3. OPTIONS FOR SUBMISSION OF REQUESTS FOR ADVICE

.01 *Scope.* This revenue procedure modifies Rev. Proc. 2020-1 to permit the electronic submission of requests for advice from the Associate Chief Counsel Offices and LB&I. This revenue procedure does not modify procedures for determination letters issued by the IRS's Small Business/Self Employed Division, Wage and Investment Division, or Tax Exempt and Government Entities Division. Those procedures are outlined in sections 7 and 12 of Rev. Proc. 2020-1, in Rev. Proc. 2020-4, 2020-1 I.R.B. 148 (Jan. 2, 2020), and in Rev. Proc. 2020-5, 2020-1 I.R.B. 241 (Jan. 2, 2020).

.02 *Option for electronic submission.* The IRS will accept electronic submissions for requests for advice made for matters under the jurisdiction of Associate Chief Counsel Offices and LB&I if the submissions are —

(1) Transmitted by facsimile or compressed and encrypted email attachments using the electronic submission procedures described in section 4 of this revenue procedure,

(2) Signed using the electronic signature procedures described in section 5 of this revenue procedure.

.03 *Option for paper submission.* The IRS will also continue to accept requests for advice as provided in Rev. Proc. 2020-1, although the IRS expects to have limited personnel available, which will likely delay for some period of time the processing of requests that are submitted in paper copies through the mail and private delivery services. Electronic submission in accordance with this revenue procedure will allow for more expeditious processing than paper submission.

SECTION 4. ELECTRONIC SUBMISSION PROCEDURES

.01 *Submission by electronic facsimile.* Taxpayers and their representatives are encouraged to use a secure electronic facsimile service for transmitting requests for advice. The secure electronic facsimile line for submitting requests under the jurisdiction of any of the Associate Chief Counsel Offices is (877) 773-4950.

The secure electronic facsimile line for submitting determination letter requests under the jurisdiction of LB&I is (844) 249-6231. To use the secure electronic facsimile method, first submit the full user fee payment set forth in Appendix A of Rev. Proc. 2020-1 through www.pay.gov. The request package must include a copy of the receipt that is generated on the last page of www.pay.gov with the completed form, a cover sheet, and the materials specified in Rev. Proc. 2020-1, as modified by this revenue procedure. Provide clear titles for the documents and distinguish files containing administrative forms and receipts from files that contain the request itself and from supplemental materials. Transmit the full package, along with a cover sheet, to the IRS at the number indicated above for the office with jurisdiction over the request. If the submission is over 10 MB or over 50 pages, break it into smaller components and number the components sequentially with the total number, such as 1 of 4, 2 of 4, 3 of 4, and 4 of 4.

.02 *Submission by compressed and encrypted email attachments.* There are more risks associated with compressed and encrypted email attachments than with electronic facsimile, such as the possibility that sensitive taxpayer information could be intercepted. Accordingly, the IRS encourages taxpayers and their representatives to use a secure electronic facsimile service for transmitting requests for advice. As an alternative, this section 4.02 provides procedures for using compressed and encrypted email attachments for transmitting a request for advice under the jurisdiction of any of the Associate Chief Counsel Offices and LB&I. The compression and encryption utility used must be compatible with SecureZIP and allow the password-enabled encryption of email attachments and other files. Both the sender and recipient must have the decompression/ decryption utility installed. To compress and encrypt email attachments, follow the directions provided by the program. Because these programs do not encrypt the subject line, the body of the email, or the file name of the attachment, all taxpayer information, including the name of the taxpayer, and return information should be included only in the encrypted attachment.

(1) Compression utilities will request that the sender/ taxpayer create a password for the recipient/ IRS to use to decrypt the attachments. The password should never be sent in the same email with the encrypted attachment. Instead, it should be provided to the IRS in a separate email with a subject line that makes it easy to connect the password to the encrypted email.

(2) The package for a request transmitted through email must include electronic images of the Acknowledgement of Risks of Email (see Attachment A to this revenue procedure) signed by the taxpayer or officer of the taxpayer (note this requires the signature of the taxpayer, not the representative), the receipt that is generated on the last page of www.pay.gov, and all materials specified in Rev. Proc. 2020-1, as modified by this revenue procedure. Provide clear titles for the documents and distinguish files containing administrative forms and receipts from files containing the request itself and from supplemental materials. Enable the compression and encryption utility on the email system before generating the email. If a submission is over 5 MB, break it into smaller components that do not exceed 5 MB each, and number the components sequentially with the total number, such as 1 of 4, 2 of 4, 3 of 4, and 4 of 4. The email address for requests that fall under the jurisdiction of any of the Associate Chief Counsel offices is: Userfee@irscounsel.treas.gov. The email address for determination letter requests that fall under the jurisdiction of LB&I is: lbi.irt.info@irs.gov.

.03 *Submission of copies and originals.* Taxpayers and their representatives do not need to submit multiple copies of documents when submitting them electronically. Where Rev. Proc. 2020-1 requires original forms or documents, submissions made under the provisions of this revenue procedure will be sufficient.

.04 *Submission of additional information and signed consent agreements.* Any additional information required for a ruling and signed consent agreements may be submitted under the procedures set forth in this revenue procedure, but should be directed to the secure facsimile number or email address provided by the office assigned to the request.

.05 *Electronic submission after paper submission.* Taxpayers who filed a paper re-

quest and who have not received confirmation that it has been received and processed may wish to make an electronic submission to ensure faster processing. If a duplicate request is submitted electronically, please indicate on the request that it is a duplicate submission of a paper submission.

SECTION 5. ELECTRONIC SIGNATURE PROCEDURES

.01 This revenue procedure modifies Rev. Proc. 2020-01 to allow electronic signatures to be submitted when wet signatures previously were required. This modification applies to both paper and electronic submissions.

.02 The IRS will accept the following images of signatures (scanned or photographed) in one of the following formats: tiff, jpg, jpeg, pdf, Microsoft Office suite, or Zip.

.03 The IRS will accept digital signatures that use encryption techniques to provide proof of original and unmodified documentation in one of the following formats: tiff, jpg, jpeg, pdf, Microsoft Office suite, or Zip.

SECTION 6. CONFERENCES AND ISSUANCE OF ADVICE

.01 *Conferences.* Conferences will be conducted by telephone in the manner provided in and subject to the requirements of Rev. Proc. 2020-1.

.02 *Issuance of advice.* The IRS has the discretion to determine the form in which it will issue advice to the taxpayer, including transmittal by facsimile or email. The IRS generally will follow established procedures for sending email if compressed and encrypted emails attachments will be used to correspond with the taxpayer.

SECTION 7. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2020-1 is modified.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective April 30, 2020, until modified or superseded.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Teresa Dondlinger Trissell of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure, contact Ms. Trissell at (202) 317-3400 (not a toll-free number).

Attachment A

Acknowledgement of Risk with Email

I acknowledge that there are risks associated with email, such as the possibility that sensitive taxpayer information could be intercepted and viewed by unauthorized persons. I understand the importance of securing email using appropriate encryption, particularly when transmitting sensitive or confidential tax-related information. I understand that SecureZIP and compatible utilities only encrypt the email attachment and not the subject line or the body of the email itself, and that confidential information should not be included in the subject line, the body of the email itself, or the file name of the attachment. By signing this agreement, I understand that sensitive or confidential information should be sent only by compressed and encrypted email attachments in communicating with the IRS.

Even with encryption it is possible electronic communications could be intercepted. I acknowledge that the United States Government does not guarantee the security of data transmitted electronically by email and accepts no liability, regardless of fault, for any loss or damage sustained without negligence of United States Government employees.

(Name of Taxpayer)

(Title of Individual Signing Acknowledgment)

*SIGNATURE: _____

DATE: _____

*Signature must be from any person who could sign the return of the taxpayer, not a representative. If the taxpayer is a corporation, the signature must be from an officer of the corporation.

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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