



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

September 25, 2009

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Robert Choi
Director, EO Rulings and Agreements

SUBJECT: IRC § 509(a)(3) Supporting Organizations

The Pension Protection Act of 2006, Pub. L. No. 109-208 (PPA) enacted certain requirements that affect all § 509(a)(3) supporting organizations. It created a new category of Type III supporting organization, the functionally integrated Type III supporting organization, which is not subject to some of the more restrictive PPA requirements.

A memorandum from the Director, EO Rulings and Agreements, dated September 24, 2007, transmitted guidelines for issuing determination letters to organizations seeking classification as functionally integrated Type III supporting organizations pending the issuance of guidance defining such organizations. The September 24, 2007, memorandum provided that determination letters classifying Type III supporting organizations as functionally integrated could be issued to organizations that chose to meet the criteria for functionally integrated status set forth in the Advance Notice of Proposed Rulemaking (ANPRM), 72 Fed. Reg. 42335 (Aug. 2, 2007).

The IRS and Treasury issued proposed regulations defining functionally integrated Type III supporting organizations on September 24, 2009 (74 Fed. Reg. 48672).

The purpose of this memorandum is to provide notice that EO Determinations should immediately discontinue issuing determinations that an organization is a functionally integrated Type III supporting organization pursuant to the provisions of the ANPRM. Effective immediately, EO Determinations may issue a determination letter classifying an organization as a functionally integrated Type III supporting organization if the organization meets the criteria set forth in the proposed regulations.

This procedure applies both to organizations that submit an exemption application and to those with a determination letter that seek a change in foundation status. It is effective for applications and requests for determination received after the date of the memorandum as well as those currently in inventory.

Organizations may continue to rely on the existing regulations that apply to Type III supporting organizations until the effective date of final or temporary regulations (except

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for the alternate responsive test for trusts that was eliminated by the PPA - see Notice 2008-6). EO Determinations may thus continue to issue determination letters that an organization qualifies as a Type III supporting organization under existing regulations.

An organization that receives a determination that it qualifies as a Type III supporting organization (including any organization that received a determination classifying it as a functionally integrated Type III supporting organization based upon satisfaction of the ANPRM or proposed regulations) may rely on that determination until the effective date of final or temporary regulations.

The content of this memorandum will be incorporated in IRM 7.20.7.1.2(4).