Rev. Proc. 2007–8

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SECTION 1. PURPOSE

This revenue procedure provides guidance for complying with the user fee program of the Internal Revenue Service as it pertains to requests for letter rulings, determination letters, etc., on matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division; and requests for administrative scrutiny determinations under Rev. Proc. 93–41, 1993–2 C.B. 536.

SECTION 2. CHANGES

.01 *In general*. This revenue procedure is a general update of Rev. Proc. 2006–8, 2006–1 I.R.B. 245.

.02 Section 6.10 is revised to reflect section 507 termination cases now being handled by EO Determinations.

.03 Section 10.01 is revised to include determination letters.

.04 Section 10.02(1)(b) is clarified as to when a refund of user fees will not be issued.

SECTION 3. BACKGROUND

.01 *Legislation authorizing user fees*. Section 7528 was added to the Code by section 202 of the Temporary Assistance for Needy Families Block Grant Program, Pub. L. No. 108–89, and was extended to September 30, 2014, by section 690 of the American Jobs Creation Act of 2004, Pub. L. No.108–357. Section 7528 of the Code directs the Secretary of the Treasury or delegate (the "Secretary") to establish a program requiring the payment of user fees for requests to the Service for letter rulings, opinion letters, determination letters, and similar requests. The fees charged under the program (1) are to vary according to categories or subcategories established by the Secretary; (2) are to be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance. Section 7528(b)(3) directs the Secretary to provide for exemptions and reduced fees under the program as the Secretary determines to be appropriate, but the average fee applicable to each category may not be less than the amount specified in § 7528.

.02 *Related revenue procedures*. The various revenue procedures that require payment of a user fee, or an administrative scrutiny determination user fee are described in the appendix to this revenue procedure.

SECTION 4. SCOPE

.01 *Requests to which user fees apply*. In general, user fees apply to all requests for letter rulings, opinion letters, determination letters, and advisory letters submitted by or on behalf of taxpayers, sponsoring organizations or other entities as described in this revenue procedure. Further, administrative scrutiny determination user fees, described in Rev. Proc. 93–41, are collected through the user fee program described in this revenue procedure. Requests to which a user fee or an administrative scrutiny determination user fee is applicable must be accompanied by the appropriate fee as determined from the fee schedule set forth in section 6 of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 10.

.02 *Requests and other actions that do not require the payment of a user fee*. Actions which do not require the payment of a user fee include the following:

(1) Requests for information letters as defined in Rev. Proc. 2007–4, page 118, this Bulletin.

(2) Elections pertaining to automatic extensions of time under § 301.9100–1 of the Procedure and Administration regulations.

(3) Use of forms which are not to be filed with the Service. For example, no user fee is required in connection with the use of Form 5305, *Traditional Individual Retirement Trust Account*, or Form 5305–A, *Traditional Individual Retirement Custodial Account*, in order to adopt an individual retirement account under § 408(a).

(4) In general, plan amendments whereby sponsors amend their plans by adopting, word-for-word, the model language contained in a revenue procedure which states that the amendment should not be submitted to the Service and that the Service will not issue new opinion, advisory, ruling or determination letters for plans that are amended solely to add the model language.

(5) Change in accounting period or accounting method permitted by a published revenue procedure that permits an automatic change without prior approval of the Commissioner.

(6) *Compliance and Correction Fees*. Compliance fees and compliance correction fees under the Employee Plans Compliance Resolution System are not described in this procedure because they are compliance fees or compliance correction fees and not user fees. For further guidance, please see Rev. Proc. 2006–27, 2006–22 I.R.B. 945.

.03 *Exemptions from the user fee requirements*. The following exemptions apply to the user fee requirements. These are the only exemptions that apply:

(1) Departments, agencies, or instrumentalities of the United States that certify that they are seeking a letter ruling, determination letter, opinion letter or similar letter on behalf of a program or activity funded by federal appropriations. The fact that a user fee is not charged has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any provision of the Code except for § 7528.

(2) Requests as to whether a worker is an employee for federal employment taxes and federal income tax withholding purposes (chapters 21, 22, 23, and 24

of subtitle C of the Code) submitted on Form SS–8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, or its equivalent. Such a request may be submitted in connection with an application for a determination on the qualification of a plan when it is necessary to determine whether an employer-employee relationship exists. See section 6.13 of Rev. Proc. 2007–6, page 189, this Bulletin. In that case, although no user fee applies to the request submitted on Form SS–8, the applicable user fee must be paid in connection with the application for determination on the plan's qualification.

SECTION 5. DEFINITIONS

The following terms used in this revenue procedure are defined in the pertinent revenue procedures referred to below, which are described in the appendix:

Administrative scrutiny determination	Rev. Proc. 93–41
Adoption agreement	Rev. Proc. 2005–16
Advisory letter	Rev. Procs. 2005–16, 2007–6
Basic plan document	Rev. Proc. 2005–16
Determination letter	Rev. Procs. 90–27, 2007–4
Dual-purpose IRA	Rev. Proc. 98–59
Group exemption letter	Rev. Proc. 80–27
Information letter	Rev. Proc. 2007–4
Letter ruling	Rev. Proc. 2007–4
Mass submitter	Rev. Procs. 87–50, 2005–16
Mass submitter plan	Rev. Proc. 2005–16
Master plan	Rev. Proc. 2005–16
Minor modification	Rev. Procs. 87–50, 2005–16
Opinion letter	Rev. Procs. 2005–16, 2007–4
Prototype plan	Rev. Proc. 2005–16
Roth IRA	Rev. Proc. 98–59
SIMPLE IRA	Rev. Proc. 97–29
SIMPLE IRA Plan	Rev. Proc. 97–29
Plan Sponsor	Rev. Proc. 2005–16
Sponsoring organization	Rev. Procs. 87–50, Rev. Proc. 2005–16
Staggered Remedial Amendment Period	Rev. Proc. 2005–66
Volume submitter lead specimen plan	Rev. Proc. 2005–16
Volume submitter plan	Rev. Proc. 2005–16
Volume submitter specimen plan	Rev. Proc. 2005–16
Word-for-word identical adoption	Rev. Procs. 87–50, 2005–16

SECTION 6. FEE SCHEDULE

The amount of the user fee payable with respect to each category or subcategory of submission is as set forth in the following schedule.

CATEGORY	
EMPLOYEE PLANS USER FEES	
.01 *Letter ruling requests.*	
(1) Computation of exclusion for annuitant under § 72	$380
(2) Change in plan year (Form 5308)	$380
(3) Certain waivers of 60-day rollover period	
(a) Rollover less than $50,000	$500
(b) Rollover equal to or greater than $50,000 and less than $100,000	$1,500
(c) Rollover equal to or greater than $100,000	$3,000
Note: No user fee is required if the requested change is permitted to be made pursuant to the procedure for automatic approval set forth in Rev. Proc. 87–27, 1987–1 C.B. 769. In such a case, Form 5308 should not be submitted to the Service.	
(4) Change in funding method	$2,800
(5) Letter ruling under Rev. Proc. 90–49, 1990–2 C.B. 620	$2,800
(6) Approval to become a nonbank trustee (see §1.408–2(e) of the Income Tax Regulations)	$14,500
(7) Letter ruling involving the determination of the account limit under § 419A(c)	$14,500
(8) Waiver of minimum funding standard or excise tax (§ 412(d), 4971(b) or 4971(f))	
(a) Waiver of $1,000,000 or more	$13,000
(b) Waiver of less than $1,000,000	$6,100
(9) Individually designed simplified employee pension (SEP)	$9,000
(10) All other letter rulings	$9,000
.02 *Requests for certain administrative exemptions.*	
Requests for administrative exemptions for participant-directed transactions that are in compliance with the regulations under § 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA) but may result in prohibited transactions under § 4975	$2,570
.03 *Administrative scrutiny determinations with respect to separate lines of business.*	
(1) For the first separate line of business for which a determination is requested	$4,915
(2) For each additional separate line of business for which a determination is requested	$1,580

.04 *Opinion letters on prototype individual retirement accounts and/or annuities, simplified employee pensions, SIMPLE IRAs, SIMPLE IRA Plans, and Roth IRAs.*

(1) Mass submission of a prototype IRA, SEP, SIMPLE IRA, SIMPLE IRA Plan, or Roth IRA, per plan document, new or amended	$3,000
(2) Sponsoring organization's nonmass submission of prototype IRA, SEP, SIMPLE IRA, SIMPLE IRA Plan, or Roth IRA, per plan document	$3,000
(3) Sponsoring organization's word-for-word identical adoption of mass submitter's prototype IRA, SEP, SIMPLE IRA, SIMPLE IRA Plan, or Roth IRA, per plan document or an amendment thereof	$200

Note: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters of prototype IRAs with respect to a particular plan document, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.

(4) Sponsoring organization's word-for-word identical adoption of mass submitter's prototype dual-purpose IRA, per plan document or an amendment thereof	$200

Note: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters of prototype dual-purpose IRAs with respect to a particular plan document, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.

(5) Sponsoring organization's minor modification of mass submitter's prototype IRA, SEP, SIMPLE IRA, SIMPLE IRA Plan, or Roth IRA, per plan document	$750
(6) Sponsoring organization's minor modification of mass submitter's prototype dual-purpose IRA, per plan document	$750
(7) Opinion letters on dual-purpose (combined traditional and Roth) IRAs:	
(a) Mass submission of a prototype dual-purpose IRA, per plan document, new or amended	$4,500
(b) Sponsoring organization's nonmass submission of prototype dual-purpose IRA, per plan document	$4,500

.05 *Opinion letters on master and prototype plans.*

(1) Mass submitter M & P plan, per basic plan document, new or amended, with one adoption agreement	$9,000
(2) Nonmass submission (new or amended) by M & P sponsor, per adoption agreement	$9,000
(3) Mass submitter M & P plan, per each additional adoption agreement	$650
(4) Sponsor's minor modification of M & P mass submitter's plan document, per adoption agreement	$650
(5) M & P mass submitter's request for an advisory letter with respect to the addition of optional provisions following issuance of a favorable opinion letter (see section 12.031(c) of Rev. Proc. 2005–16), per basic plan document (regardless of the number of adoption agreements)	$650

(6) M & P mass submitter's addition of new adoption agreements after the basic plan document and associated adoption agreements have been approved, per adoption agreement	$650
Note 1: Mass submitters that are sponsors in their own right are liable for this fee.	
Note 2: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters with respect to a particular adoption agreement, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.	
(7) Sponsor's word-for-word identical adoption of M & P mass submitter's basic plan document (or an amendment thereof), per adoption agreement	$200
(8) Assumption of sponsorship of an approved M & P plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number	$200
(9) Mass submitter or sponsor per trust document in excess of 10	$650
.06 *Advisory letters on volume submitter plans.*	
(1) Volume submitter specimen plans	$9,000
(2) Volume submitter lead specimen plan	$9,000
(3) Volume submitter specimen plan that is word-for-word identical to a lead specimen plan	$200
.07 *Determination letters*	
(1) If the plan is intended to satisfy a design-based or nondesign-based safe harbor, or if the applicant is not electing to receive a determination with respect to any of the general tests, and the applicant is not electing to receive a determination with respect to the average benefit test:	
(a) Form 5300 *(Application for Determination for Employee Benefit Plan)*	$1,000
(b) Form 5310 *(Application for Determination for Terminating Plan)*	$1,000
(c) Form 5307 *(Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans)*	$300
(d) Form 6406 *(Short Form Application for Determination for Minor Amendment of Employee Benefit Plan)*	$300
(e) Multiple employer plans (Form 5300):	
(i) 2 to 10 Forms 5300	$1,500
(ii) 11 to 99 Forms 5300	$1,500
(iii) 100 to 499 Forms 5300	$10,000
(iv) Over 499 Forms 5300	$10,000
Note: In the case of a multiple employer plan that is adopted by other employers after the initial submission, the fee would be the same as in paragraph (1) above.	
(f) Multiple employer plans (Form 5310):	
(i) 2 to 10 employers	$1,500
(ii) 11 to 99 employers	$1,500

(iii) 100 to 499 employers	$10,000
(iv) Over 499 employers	$10,000
(2) If the applicant is electing to receive a determination with respect to the average benefit test and/or any of the general tests:	
(a) Form 5300 *(Application for Determination for Employee Benefit Plan)*	$1,800
(b) Form 5310 *(Application for Determination for Terminating Plan)*	$1,800
(c) Form 5307 *(Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans)*	$1,000
(d) Multiple employer plans (Form 5300):	
(i) 2 to 10 Forms 5300	$2,300
(ii) 11 to 99 Forms 5300	$2,300
(iii) 100 to 499 Forms 5300	$15,000
(iv) Over 499 Forms 5300	$15,000
Note: In the case of a multiple employer plan that is adopted by other employers after the initial submission, the fee would be the same as in paragraph (2) above.	
(e) Multiple employer plans (Form 5310):	
(i) 2 to 10 employers	$2,300
(ii) 11 to 99 employers	$2,300
(iii) 100 to 499 employers	$15,000
(iv) Over 499 employers	$15,000
(3) Group trusts contemplated by Rev. Rul. 81–100, 1981–1 C.B. 326, and Rev. Rul. 2004–67, 2004–2 C.B. 28.	$750

EXEMPT ORGANIZATIONS USER FEES

.08 *Letter rulings*.

(1) Applications with respect to change in accounting period (Form 1128)	$350
Note: No user fee is charged if the procedure described in Rev. Proc. 85–58, 1985–2 C.B. 740, is used by timely filing the appropriate information return, or if the procedure described in Rev. Proc. 76–10, 1976–1 C.B. 548, for organizations with group exemptions is followed.	
(2) Applications with respect to change in accounting method (Form 3115)	$275
Note: No user fee is charged if the method described in Rev. Proc. 2002–9, 2002–1 C.B. 327, is used. Taxpayers complying timely with Rev. Proc. 2002–9 will be deemed to have obtained the consent of the Commissioner of Internal Revenue to change their method of accounting.	
(3) Request for approval of a qualified subsidiary related to a § 501(c)(25) organization.	$900
(4) All other letter rulings	$8,700

.09 *Determination letters and requests for group exemption letters*

(1) Initial application for exemption under § 501 or § 521 from organizations (other than pension, profit-sharing, and stock bonus plans described in § 401) that have had annual gross receipts averaging not more than $10,000 during the preceding four years, or new organizations that anticipate gross receipts averaging not more than $10,000 during their first four years	$300
Note: Organizations seeking this reduced fee must sign a certification with their application that the receipts are or will be not more than the indicated amounts.	
(2) Initial application for exempt status from organizations otherwise described in paragraph (1) of this section 6.09 whose actual or anticipated gross receipts exceed the $10,000 average annually	$750
Note: If an organization that is already recognized as exempt under § 501(c) seeks reclassification under another subparagraph of § 501(c), a new user fee will be charged whether or not a new application is required. An additional fee applies to organizations that seek recognition of exemption under § 501(c)(4) (unless requested at the time of the § 501(c)(3) application) for a period for which they do not qualify for exemption under § 501(c)(3) because their application was filed late and they do not qualify for relief under § 301.9100–1.	
(3) Group exemption letters	$900
Note: An additional fee under (1) or (2) above is required when a central organization submits an initial application for exemption with its request for a group exemption letter.	
(4) Canadian registered charities	none
In accordance with the income tax treaty between the United States and Canada, Canadian registered charities are automatically recognized as exempt under § 501(c)(3) without filing an application for exemption. For details, see Notice 99–47, 1999–2 C.B. 391. Therefore, no user fee is required when a Canadian registered charity submits all or part of a Form 1023 or other written request to be listed in Publication 78, or for a determination on its private foundation status.	

.10 *Summary of exempt organization fees*

This table summarizes the various types of exempt organization issues, indicates the office of jurisdiction for each type, and lists the applicable user fee. Reduced fees may be applicable in certain instances.

ISSUE	TECHNICAL OFFICE	USER FEE
Accounting method changes		$275
Accounting period changes		$350
Qualified subsidiaries of § 501(c)(25) organizations		$900
Section 514(b)(3) Neighborhood Land Use Rule		None
Section 4943(c)(7) extensions of disposal period		$8,700

ISSUE	DETERMINATIONS OFFICE	USER FEE
Application for recognition of exemption		$750
Reduced fee described in section 6.09(1)		$300
Advance ruling period inquiries		None
Confirmation of exemption (to replace lost exempt status letter, and to reflect name and address changes)		None
Reclassification of private foundation status		None
Regulations § 301.9100 relief in connection with applications for recognition of exemption		None
Section 507 terminations – advance ruling under § 507(b)(1)(B) and notice under § 507(a)(1) or 507(b)(1)(B)		None
Section 4940(d) exempt operating foundation status		None
Section 4942(g)(2) set asides – advance approval		None
Section 4945 advance approval of organization's grant making procedures		None
Section 4945(f) advance approval of voter registration activities		None
Section 6033 annual information return filing requirements		None
Unusual grants to certain organizations under §§ 170(b)(1)(A)(vi) and 509(a)(2)		None

SECTION 7. MAILING ADDRESS FOR REQUESTING LETTER RULINGS, DETERMINATION LETTERS, ETC.

.01 *Matters handled by EP or EO Technical*. Requests should be mailed to the appropriate address set forth in this section 7.01.

(1) *Employee plans letter rulings under Rev. Procs. 79–62, 87–50, 90–49, 94–42, 2000–41, 2004–15, 2004–44 or 2007–4:*

Internal Revenue Service
Attention: EP Letter Rulings
P.O. Box 27063
McPherson Station
Washington, DC 20038

(2) *Employee plans opinion letters under Rev. Procs. 87–50, 97–29, and 98–59:*

Internal Revenue Service
Attention: EP Opinion Letter
P.O. Box 27063
McPherson Station
Washington, DC 20038

(3) *Employee plans administrative scrutiny determinations under Rev. Proc. 93–41:*

Internal Revenue Service
Attention: Administrative Scrutiny
P.O. Box 27063
McPherson Station
Washington, DC 20038

(4) *Exempt organizations letter rulings:*

Internal Revenue Service
Attention: EO Letter Rulings
P.O. Box 27720
McPherson Station
Washington, DC 20038

Note: Hand delivered requests must be marked RULING REQUEST SUBMISSION. The delivery should be made:

To the following address between the hours of 8:30 a.m. and 4:00 p.m.; where a receipt will be given:

Courier's Desk
Internal Revenue Service
Attention: SE:T:EP [or SE:T:EO]
1111 Constitution Avenue, NW — PE
Washington, DC 20224

.02 *Matters handled by EP or EO Determinations Office*. The following types of requests and applications are handled by the EP or EO Determinations Office and should be sent to the Internal Revenue Service Center in Covington, Kentucky, at the address shown below: requests for determination letters on the qualified status of employee plans under §§ 401, 403(a), or 409, and the exempt status of any related trust under § 501; applications for recognition of tax exemption on Form 1023, Form

1024 and Form 1028; and other applications for recognition of qualification or exemption. The address is:

Internal Revenue Service
P.O. Box 192
Covington, KY 41012–0192

The following types of requests and applications are handled by the EP Determinations Office and should be sent to the Internal Revenue Service at the address shown below: requests for opinion letters and for volume submitter advisory letters on the form of employee plans under § 401 or 403(a) and the exempt status of any related trust under § 501. The address is:

Internal Revenue Service
P.O. Box 2508
Rm. 5106
Cincinnati, OH 45201

Applications shipped by Express Mail or a delivery service should be sent to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

SECTION 8. REQUESTS INVOLVING MULTIPLE OFFICES, FEE CATEGORIES, ISSUES, TRANSACTIONS, OR ENTITIES

.01 *Requests involving several offices*. If a request dealing with only one transaction involves more than one of the offices within Headquarters (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Income Tax & Accounting) and another issue is under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. See Rev. Proc. 2007–1, this Bulletin, for the user fees applicable to issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions & Products), the Associate Chief Counsel (Income Tax & Accounting), the Associate Chief Counsel (Passthroughs & Special Industries), the Associate Chief Counsel (Procedure and Administration), the Associate Chief Counsel (International) or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities).

.02 *Requests involving several fee categories*. If a request dealing with only one transaction involves more than one fee category, only one fee applies, namely the highest fee that otherwise would apply to each of the categories involved.

.03 *Requests involving several issues*. If a request dealing with only one transaction involves several issues, or a request for a change in accounting method dealing with only one item or sub-method of accounting involves several issues, or a request for a change in accounting period dealing with only one item involves several issues, the request is treated as one request. Therefore, only one fee applies, namely the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction will not result in an additional fee, unless the issue places the transaction in a higher fee category.

.04 *Requests involving several unrelated transactions*. If a request involves several unrelated transactions, or a request for a change in accounting method involves several unrelated items or sub-methods of accounting, or a request for a change in accounting period involves several unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction or item. An additional fee will apply if the request is changed by the addition of an unrelated transaction or item not contained in the initial submission.

.05 *Requests for separate letter rulings for several entities*. Each entity involved in a transaction (for example, an exempt hospital reorganization) that desires a separate letter ruling in its own name must pay a separate fee regardless of whether the transaction or transactions may be viewed as related.

SECTION 9. PAYMENT OF FEE

.01 *Method of payment*. Each request to the Service for a letter ruling, determination letter, opinion letter, etc., must be accompanied by a check or money order, payable to the United States Treasury, in the appropriate amount. Taxpayers should not send cash.

.02 *Transmittal forms*. Form 8717, *User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request*, and Form 8718, *User Fee for Exempt Organization Determination Letter Request*, are intended to be used as attachments to certain determination letter, opinion letter and advisory letter applications. Space is reserved for the attachment of the applicable user fee check or money order. No similar form has been designed to be used in connection with requests for letter rulings or administrative scrutiny determinations.

.03 *Effect of nonpayment or payment of incorrect amount*. It will be the general practice of the Service that:

(1) The respective offices within the Service that are responsible for issuing letter rulings, determination letters, etc., will exercise discretion in deciding whether to immediately return submissions that are not accompanied by a properly completed check or money order or that are accompanied by a check or money order for less than the correct amount. In those instances where the submission is not immediately returned, the requester will be contacted and given a reasonable amount of time to submit the proper fee. If the proper fee is not received within a reasonable amount of time, the entire submission will then be returned. However, the respective offices of the Service, in their discretion, may defer substantive consideration of a submission until proper payment has been received.

(2) An application for a determination letter will not be returned merely because Form 8717 or Form 8718 was not attached.

(3) The return of a submission to the requester may adversely affect substantive rights if the submission is not perfected and resubmitted to the Service within 30 days of the date of the cover letter returning the submission. Examples of this are: (a) where an application for a determination letter is submitted prior to the expiration of the remedial amendment period under § 401(b) and is returned because no user fee was attached, the submission will be timely if it is resubmitted by the expiration of the remedial amendment period or, if later, within 30 days after the application was returned; and (b) where an application for exemption under § 501(c)(3) is submitted before expiration of the period provided by § 1.508–1(a)(2) and is re-

turned because no user fee was attached, the submission will be timely if it is resubmitted before expiration of the period provided by § 1.508–1(a)(2) or within 30 days, whichever is later.

(4) If a check or money order is for more than the correct amount, the submission will be accepted and the amount of the excess payment will be returned to the requester.

SECTION 10. REFUNDS

.01 *General rule*. In general, the fee will not be refunded unless the Service declines to rule or make a determination on all issues for which a ruling or determination letter is requested. In the case of a request for a letter ruling, if the case has been closed by the Service because essential information has not been submitted timely, the request may be reopened and treated as a new request, but the taxpayer must pay another user fee before the case can be reopened. *See*, section 11.04(5) of Rev. Proc. 2007–4, page 118, this Bulletin.

.02 *Examples*.

(1) The following are examples of situations in which the fee will not be refunded:

(a) The request for a letter ruling, determination letter, etc., is withdrawn at any time subsequent to its receipt by the Service, unless the only reason for withdrawal is that the Service has advised the requester that a higher user fee than was sent with the request is applicable and the requester is unwilling to pay the higher fee. For example, no fee will be refunded where the taxpayer has been advised that a proposed adverse ruling is contemplated and subsequently withdraws its submission.

(b) The request is procedurally deficient, although accompanied by the proper fee, if it is not timely perfected by the requester. When there is a failure to timely perfect the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure. An exemption application that is not substantially complete is considered a procedurally deficient request for a letter ruling or a determination letter on exempt status.

(c) A letter ruling, determination letter, etc., is revoked in whole or in part at the initiative of the Service. The fee paid at the time the original letter ruling, determination letter, etc., was requested will not be refunded.

(d) The request contains several issues and the Service rules on some, but not all, of the issues. The highest fee applicable to the issues on which the Service rules will not be refunded.

(e) The taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or not responsive (other than an issue on which the Service has declined to rule) and requests reconsideration. The Service, upon reconsideration, does not agree that the letter ruling is erroneous or is not responsive. The fee accompanying the request for reconsideration will not be refunded.

(f) The situation is the same as described in subparagraph (e) of this section 10.02(1) except that the letter ruling covered several unrelated transactions. The Service, upon reconsideration, does not agree with the taxpayer that the letter ruling is erroneous or is not responsive for all of the transactions, but does agree that it is erroneous as to one transaction. The fee accompanying the request for reconsideration will not be refunded except to the extent applicable to the transaction for which the Service agrees the letter ruling was in error.

(g) The request is for a supplemental letter ruling, determination letter, etc., concerning a change in facts (whether significant or not) relating to the transaction ruled on.

(h) The request is for reconsideration of an adverse or partially adverse letter ruling or a final adverse determination letter, and the taxpayer submits arguments and authorities not submitted before the original letter ruling or determination letter was issued.

(2) The following are examples of situations in which the fee will be refunded:

(a) In a situation to which section 10.02(1)(h) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Service declined to rule) and requests reconsideration. The Service agrees, upon reconsideration, that the letter ruling is erroneous or is not responsive. The fee accompanying the taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 10.02(1)(h) of this revenue procedure does not apply, the requester requests a supplemental letter ruling, determination letter, etc., to correct a mistake that the Service agrees it made in the original letter ruling, determination letter, etc., such as a mistake in the statement of facts or in the citation of a Code section. Once the Service agrees that it made a mistake, the fee accompanying the request for the supplemental letter ruling, determination letter, etc., will be refunded.

(c) The taxpayer requests and is granted relief under § 7805(b) in connection with the revocation in whole or in part, of a previously issued letter ruling, determination letter, etc. The fee accompanying the request for relief will be refunded.

(d) In a situation to which section 10.02(1)(d) of this revenue procedure applied, the taxpayer requests reconsideration of the Service's decision not to rule on an issue. Once the Service agrees to rule on the issue, the fee accompanying the request for reconsideration will be refunded.

SECTION 11. REQUEST FOR RECONSIDERATION OF USER FEE

A taxpayer that believes the user fee charged by the Service for its request for a letter ruling, determination letter, etc., is either not applicable or incorrect and wishes to receive a refund of all or part of the amount paid (see section 10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Internal Revenue Service at the applicable Post Office Box or other address given in section 7. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of:

If the matter involves primarily:	*Mark for the attention of:*
Employee plans letter ruling requests and all other employee plans matters handled by EP Technical	Employee Plans Technical
Exempt organizations letter ruling requests	Exempt Organizations Technical
Employee plans determination letter requests and opinion letter and advisory letter requests pursuant to Rev. Proc. 2005–16	Manager, EP Determinations Quality Assurance
Exempt organizations determination letter requests	Manager, EO Determinations Quality Assurance

SECTION 12. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2006–8 is superseded.

SECTION 13. EFFECTIVE DATE

This revenue procedure is effective January 2, 2007.

SECTION 14. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1520.

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

The collections of information in this revenue procedure are in section 6.09. This information is required to substantiate that a taxpayer or an exempt organization seeking to pay a reduced user fee with respect to a request for a determination letter is entitled to pay the reduced fee; to identify the user fee category and corresponding fee required to be paid with respect to determination letter requests; to request reconsideration of the user fee charged by the Service and, in connection with such a request, to indicate whether an oral discussion is desired. This information will be used to enable the Service to determine whether the taxpayer or exempt organization is entitled to pay a reduced user fee, to ascertain whether reconsideration of the user fee is being requested and, if it is being requested, whether an oral discussion is requested. The collections of information are voluntary, to obtain a benefit. The likely respondents are individuals, businesses or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

The estimated total annual reporting and/or recordkeeping burden is 300 hours.

The estimated annual burden per respondent/recordkeeper varies from one hour to ten hours, depending on individual circumstances, with an estimated average of three hours. The estimated number of respondents and/or recordkeepers is 90 (requests for reduced fees) and 10 (requests for reconsideration of fee).

The estimated annual frequency of responses is on occasion.

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

DRAFTING INFORMATION

The principal author of this revenue procedure is Michael Rubin of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding employee plans matters in this revenue procedure, please contact the Employee Plans' taxpayer assistance telephone service 877–829–5500 (a toll-free number) between the hours of 8:30 a.m. and 4:30 p.m., Eastern time, Monday through Friday. For employee plans matters, please contact Mr. Rubin at (202) 283–9888 (not a toll-free number). For exempt organization matters, please contact Mr. Ted Lieber at (202) 283–8999 or Mr. Wayne Hardesty at (202) 283–8976 (not toll-free numbers).

APPENDIX

Following is a list of revenue procedures requiring payment of a user fee or an administrative scrutiny determination user fee.

A. *Procedures applicable to both Employee Plans and Exempt Organizations*

Rev. Proc. 2007–4, this Bulletin, provides procedures for issuing letter rulings, information letters, etc., on matters relating to matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

B. *Procedures applicable to Employee Plans matters other than actuarial matters*

Rev. Proc. 75–26, 1975–1 C.B. 722, sets forth the general procedures of the Internal Revenue Service for the processing of applications for exemption under § 4975(c)(2) of the Code.

Rev. Proc. 87–50, 1987–2 C.B. 647, as modified by Rev. Proc. 91–44, Rev. Proc. 92–38, and Rev. Proc. 2002–10, 2002–1 C.B. 401, sets forth the procedures of the Service relating to the issuance of rulings and opinion letters with respect to the establishment of individual retirement accounts and annuities (IRAs) under § 408, the entitlement to exemption of related trusts or custodial accounts under § 408(e), and the acceptability of the form of prototype simplified employee pension (SEP) agreements under §§ 408(k) and 415.

Rev. Proc. 92–24, 1992–1 C.B. 739, provides procedures for requesting determination letters on the effect on a plan's qualified status under § 401(a) of the Code of plan language that permits, pursuant to § 420, the transfer of assets in a defined benefit plan to a health benefits account described in § 401(h).

Rev. Proc. 92–38, 1992–1 C.B. 859, provides notice that individual retirement arrangement trusts, custodial account agreements, and annuity contracts must be amended to provide for the required distribution rules in § 408(a)(6) or (b)(3). In addition, Rev. Proc. 92–38 modifies the guidance in Rev. Proc. 87–50 with regard to opinion letters issued to sponsoring organizations, including mass submitters and sponsors of prototype IRAs.

Rev. Proc. 93–41, 1993–2 C.B. 536, sets forth the procedures of the Service relating to the issuance of an administrative scrutiny determination as to whether a separate line of business satisfies the requirement of administrative scrutiny within the meaning of § 1.414(r)–6.

Rev. Proc. 97–29, 1997–1 C.B. 698, describes model amendments for SIMPLE IRAs; guidance to drafters of prototype SIMPLE IRAs on obtaining opinion letters; permissive amendments to sponsors of nonSIMPLE IRAs; the opening of a prototype program for SIMPLE IRA Plans; and transitional relief for users of SIMPLE IRAs and SIMPLE IRA Plans that have not been approved by the Service.

Rev. Proc. 98–59, 1998–2 C.B. 727, provides guidance on obtaining opinion letters to drafters of prototype Roth IRAs, and provides transitional relief for users of Roth IRAs that have not been approved by the Internal Revenue Service.

Rev. Proc. 2003–16, 2003–1 C.B. 359, sets forth guidelines for the implementation of the provision for a waiver of the 60-day rollover period described in section 644 of EGTRRA.

Rev. Proc. 2005–16, 2005–1 C.B. 674, revises and combines the Service's master and prototype (M&P) and volume submitter program into a unified program for the pre-approval of pension, profit-sharing and annuity plans.

Rev. Proc. 2005–66, 2005–2 C.B. 509, describes the Service's procedure for issuing determination letters pursuant to § 401(a) of the Code under a staggered remedial amendment system.

Rev. Proc. 2007–6, this Bulletin, provides procedures for issuing determination letters on the qualified status of employee plans under §§ 401(a), 403(a), 409, and 4975(e)(7).

C. *Procedures applicable to Employee Plans actuarial matters*

Rev. Proc. 79–62, 1979–2 C.B. 576, outlines the procedure by which a plan sponsor or administrator may request a determination that a plan amendment is reasonable and provides for only *de minimis* increases in plan liabilities in accordance with § 412(f)(2)(A) of the Code and § 304(b)(2)(A) of ERISA.

Rev. Proc. 90–49, 1990–2 C.B. 620, modifies and replaces Rev. Proc. 89–35, 1989–1 C.B. 917, in order to extend the effective date to contributions made for plan years beginning after December 31, 1989, to change the deadline for requesting rulings under the revenue procedure, to revise the information requirements for a ruling request made under the revenue procedure, to furnish a worksheet for actuarial computations, and to provide a special rule under which certain *de minimis* nondeductible employer contributions to a qualified defined benefit plan may be returned to the taxpayer without a formal ruling or disallowance from the Service.

Rev. Proc. 94–42, 1994–1 C.B. 717, sets forth a procedure for obtaining approval of an amendment to a qualified plan that, under § 412(c)(8), reduces the accrued benefits of plan participants.

Rev. Proc. 2000–41, 2000–2, C.B. 371, sets forth the procedure by which a plan administrator or plan sponsor may obtain approval of the Secretary of the Treasury for a change in funding method as provided by § 412(c)(5) of the Code and section 302(c)(5) of ERISA.

Rev. Proc. 2004–15, 2004–1 C.B. 490, sets forth procedures for requesting waivers of the minimum funding standard described in § 412(d) and the issuance of such waivers by the office of the Director, Employee Plans, Tax Exempt and Government Entities Division.

Rev. Proc. 2004–44, 2004–2 C.B. 134, outlines the procedure by which a plan administrator or plan sponsor may request and obtain approval for an extension of an amortization period in accordance with § 412(e) of the Code and section 304(a) of ERISA.

D. *Procedures applicable to Exempt Organizations matters only*

Rev. Proc. 80–27, 1980–1 C.B. 677, as modified by Rev. Proc. 96–40, 1996–2 C.B. 301, provides procedures under which recognition of exemption from federal income tax under § 501(c) may be obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. This procedure relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption.

Rev. Proc. 90–27, 1990–1 C.B. 514, sets forth revised procedures with regard to applications for recognition of exemption from federal income tax under §§ 501 and 521.