

Office of Chief Counsel
Internal Revenue Service
Memorandum

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to: Director, SBSE, Newport, Vermont
Attn: Gail Lontine, Supervisory Tax Examining Technician
SS-8 Unit

from: Janine Cook
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Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)

subject: Time limit for reconsideration of SS-8 determinations.

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

Whether there is a specific time limit within which a request for reconsideration of an adverse SS-8 determination must be submitted to the issuing IRS office.

CONCLUSION

The applicable revenue procedure does not provide a specific time limit for requesting reconsideration of SS-8 determinations.

LAW AND ANALYSIS

The procedures for requesting letter rulings and determination letters, specifically, determinations of worker status (i.e., SS-8 determinations), are outlined in the first revenue procedure published each year. The currently applicable revenue procedure is Revenue Procedure 2005-1, 2005-1 IRB 1 (the Revenue Procedure). Section 12.07 of the Revenue Procedure specifically provides for the reconsideration of determination

letters. However, the Revenue Procedure does not provide a time limit for requesting reconsideration of determination letters issued by the Service. While there is no section specifically addressing reconsideration of a letter ruling, the user fee rules under Revenue Procedure section 15.2 refer to “reconsiderations” both of letter rulings and determination letters and indicate that user fees apply (of course, in this context the fees do not apply because there are no user fees associated with the SS-8 determination program). Thus, under the existing rules, reconsiderations may be requested for determination letters and no time limit is currently provided. It is our view that this conclusion applies to SS-8 determinations.

However, it is our opinion that the reconsideration process need not be a protracted process. The taxpayer cannot simply allege that the prior determination was incorrect. In instances where the taxpayer does not present new facts or legal argument and if there is no other reason to believe that the analysis was incomplete or inaccurate, the request for reconsideration should be denied without delay.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call (202) 622-0047 if you have any further questions.