



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR EXEMPT ORGANIZATIONS RULINGS AND AGREEMENTS EMPLOYEES

FROM: Jeffrey I. Cooper /s/ *Jeffrey I. Cooper*
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SUBJECT: Declining to Rule on Requests from IRC Section 501(c)(3) Organizations
Requesting Exemption Under Another Subsection

This memorandum provides Exempt Organizations (EO) Rulings and Agreements Determinations guidance for declining to rule on applications from organizations currently exempt under Internal Revenue Code (IRC) section 501(c)(3) requesting recognition of exemption under another subsection.

Background/Source(s) of Authority

Section 3.02(8) of Rev. Proc. 2017-5, 2017-1 I.R.B. 230, provides that the IRS will not ordinarily issue a determination letter if “an organization currently recognized as described in § 501(c)(3) seeks a determination letter recognizing the organization as described in a different subsection of § 501(c).” However, an “organization currently recognized as described in § 501(c)(3) may seek a determination letter under a different subsection of § 501(c) once it has dissolved and re-formed as a new entity.”

Procedural Change

When processing an application for recognition of exemption under any subsection other than IRC section 501(c)(3), research IDRS as required (see IRM 7.20.2.2) to determine whether the organization is currently exempt under section 501(c)(3) (Status 01). If so, then do not issue a determination letter on the request. Instead, issue Letter 5239. Close the request under Status 12 (Other) and complete the necessary forms to initiate a user fee refund.

Note: These procedures do not apply to governmental entities that choose to voluntarily relinquish their 501(c)(3) recognition as provided in Rev. Proc. 2017-5, section 3.01(12).

Effect on Other Documents

This guidance will be incorporated into IRM 7.20.2 by January 3, 2019.

Effective Date

January 3, 2017

Contact

EO Determinations Area 2 Manager

Distribution

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