



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

February 10, 2017

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Affected IRM: 7.20.2 and 7.20.5
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MEMORANDUM FOR EXEMPT ORGANIZATIONS
RULINGS AND AGREEMENTS EMPLOYEES

FROM: Jeffrey I. Cooper /s/ *Jeffrey J. Cooper*
Director, Exempt Organizations Rulings and Agreements

SUBJECT: Determinations Resulting from an Organization's Failure to Fully
Respond to an Additional Information Request

This memorandum sets forth Exempt Organizations (EO) Determinations' procedures for processing applications for recognition of tax-exempt status when an organization does not submit a complete and adequate response to an additional information request. This includes requests submitted on Form 1023, Form 1023-EZ applications selected for pre-determination review, Form 1024, Form 1028, and letter applications.

Background/Source(s) of Authority

Section 6.07(2) of Rev. Proc. 2017-5, 2017-1 I.R.B. 230, states the organization must "fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures." When an organization cannot demonstrate that it qualifies for recognition of exempt status, the Service will generally issue a proposed adverse determination letter.

Section 6.07(3) of Rev. Proc. 2017-5, supra, states that "even though an application is complete, the Service may request additional information before issuing a determination letter." That section also states that "the Service will select a statistically valid random sample of Form 1023-EZ applications for pre-determination reviews, which will result in requests for additional information." As described in IRM 7.20.2.3.2, an additional information request is used to secure information that is appropriate and necessary to making the determination. Per IRM 7.20.2.3.3(5), a case is closed as Failure to Establish (FTE) if the organization does not respond to the additional information request by the due date. When a case is closed as FTE, the user fee is not refunded, and the organization does not have the right to review by the Office of Appeals since a proposed adverse determination letter has not been issued.

Section 6.07(3) of Rev. Proc. 2017-5, supra, further clarifies that the failure to respond to a request for additional information may result either "in the closure of the application without a determination letter being issued and without a refund of the user fee" or "the Service issuing a proposed adverse determination letter to the organization." If the failure to respond results in an adverse determination letter, the proposed adverse determination letter will inform the

organization of its opportunity to protest/appeal the decision.

Procedural Change

If an organization does not respond at all to a request for additional information after you have made all reasonable attempts to secure the information per IRM 7.20.2, close the case as FTE following IRM 7.20.2.3.3(5). In cases where only administrative items are requested and the organization fails to provide a complete response, also close the case as FTE.

Where an organization does not provide a complete response to a request for additional information after you have made all reasonable attempts to secure the information per IRM 7.20.2 and the organization fails to meet or does not clearly meet the requirements for exemption under the subsection requested, such as an organizational test or operational test, process the case as a proposed adverse determination.

Effect on Other Documents

This guidance will be incorporated into IRM 7.20.2 and IRM 7.20.5 by February 13, 2019.

Effective Date

February 13, 2017

Contact

EO Determinations Area 2 Manager

Distribution

www.irs.gov