



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

April 14, 2025

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Affected IRMs: 7.20.2, 7.20.3, 7.20.4, 7.20.5
Expiration Date: April 14, 2027

MEMORANDUM FOR EXEMPT ORGANIZATIONS
RULINGS AND AGREEMENTS EMPLOYEES

FROM: April D. Hausler /s/ *April D. Hausler*
Acting Director, Exempt Organizations Rulings and Agreements

SUBJECT: Appeal Rights Expansion

This memorandum supersedes TEGE-07-0325-003 and provides processing instructions for cases impacted by the expansion of appeal rights.

Background/Source(s) of Authority

Internal Revenue Code (IRC) 7803(e)(1) codified the IRS Independent Office of Appeals (Appeals).

IRC 7803(e)(3) states that it shall be the function of IRS Appeals to resolve Federal tax controversies without litigation on a basis which —

- is fair and impartial to both the government and the taxpayer,
- promotes a consistent application and interpretation of, and voluntary compliance with, the federal tax laws, and
- enhances public confidence in the integrity and efficiency of the IRS.

IRC 7803(e)(4) states that the resolution process described in paragraph (3) shall be generally available to all taxpayers.

Treasury Regulation Section 301.7803-2(b) provides for consideration of a Federal tax controversy by Appeals.

IRM 7.20.2.2.1(3), Effective Date of Exemption, in part, states that Rev. Proc. 2024-5 provides that EO R&A won't:

- Grant relief under Treas. Reg. [301.9100-3](#) if granting request for relief would result in the organization's exemption being automatically revoked under IRC 6033(j)(1) effective before the date of application.
- Grant relief under Treas. Reg. [301.9100-3](#) if the period of limitations on assessment under IRC 6501(a) for any taxable year for which the organization claims exemption has expired prior to the date of application.

- Consider relief for an organization that is not required to apply for recognition of exempt status in order to be tax-exempt (for example, a church).

Caution: Filing relief does not apply to organizations requesting reinstatement of exempt status after automatic revocation. See [IRM 7.20.4.2](#), Automatic Revocation.

Note: An organization that is excluded from the 27-month (application) notice requirement but is otherwise required to file a Form 990-series annual return or notice may still be subject to automatic revocation.

IRM 7.20.2.2.1(4) indicates that you should request information, as necessary, to determine whether to grant relief to an organization that requests consideration under Treas.

Reg. [301.9100-3](#) in its application.

- Secure agreement from your manager on whether to grant relief and document managerial concurrence of approval or denial in the CCR.
- Prepare a [Form 14261](#), Memorandum to File - EO Determinations Case Closing, documenting whether relief was granted and why.
- Input TC590, if appropriate, to prevent erroneous revocation.
- Continue to process cases using "no-gap" procedures and push to Status 97 if the taxpayer's exemption is automatically revoked under Section 6033(j) on or after the application date but before issuance of a favorable determination letter. If the taxpayer qualifies for relief under Treas. Reg. 301.9100-3 under the procedures discussed above, then its effective date of exemption is retroactive to formation. If the taxpayer does not qualify for relief, then its effective date is the application date.
- Select the appropriate MEDS case category for 9100 Relief (whether or not granted).

IRM 7.20.2.2.1(5), Effective Date of Exemption, states that in all instances where the request for exemption is being approved but relief under Treas. Reg. 301.9100-3 isn't being granted, call the organization and explain why relief isn't being granted. Prepare and send the correct determination letter along with Letter 6392, 9100 Effective Date. These cases are not processed as proposed adverse determinations or proposed approvals with an adverse issue.

The chart found in IRM 7.20.3.1.5(2) indicates that the following requests do not have appeal rights:

- Approving exemption with adverse 990 filing exception
- Adverse exempt operating foundation classification
- 509(a)(3) qualification
- Other miscellaneous requests, including 4945(g), unusual grants, 4942(g)(2) set-asides, 4942(g)(2) set-aside extensions, voter registration under 4945(f)
- Adverse Form 990 filing exception
- Adverse voluntary termination of IRC 501(c)(3) by a government entity

IRM 7.20.4.2.1(6), Determining Automatic Revocation Status/Impact, states that if you're approving the case, but denying relief under Treas. Reg. 301.9100-3 because one of the three situations described above applies:

- Discuss the denial of relief with your manager.
- Call the organization to discuss.
- Prepare a Memo to File documenting the reason for the denial of relief.
- Send the correct determination letter (for example, Letter 947), along with Letter 6392, 9100 Effective Date.

- Have a TC 590 input, as explained above.
- Document each action taken in the CCR.
- Select the appropriate MEDS case category for why 9100 Relief wasn't granted (for example, 9100 Relief - Not granted (not required to apply)).

Note: When relief isn't granted, do not prepare an adverse determination or an approval letter with an adverse issue.

IRM 7.20.5.2.1, states, in part, that proposed adverse determinations must go to Quality Assurance (QA).

Interim Guidance Memo TEGE-07-0624-0009, Public Disclosure of Form 990 Exception Requests from Form 8940, states that if a Form 990 exemption request submitted on Form 8940 is adverse prepare Letter 4786 using the general guidelines for IRC 6110 deletions and follow the adverse case processing instructions found in IRM 7.20.2.4, Adverse Determinations.

Procedural Changes

IRC 7803(e)(4) states that the consideration of Federal tax controversies by Appeals should generally be available to all taxpayers. Therefore, the following adverse determinations are generally subject to Appeals review, including:

- Approving exemption with adverse 990 filing exception requests;
- Exempt operating foundation classification under Section 4940(d)(2);
- IRC 509(a)(3) qualification;
- Other miscellaneous requests, including 4945(g), unusual grants, 4942(g)(2) set-asides, 4942(g)(2) set-aside extensions, and voter registration under 4945(f);
- Form 990 filing exception;
- Voluntary termination of IRC 501(c)(3) by a government entity; and
- Requests for relief under Treas. Reg. Section 301.9100-1 in connection with applications for recognition of exemption.

Case Processing – Adverse Issues (other than 9100 Relief)

For all adverse requests, except for those requesting relief under Treas. Reg. Section 301.9100-1, including approvals with an adverse issue:

- Complete Form 14280, EO Determinations Checklist – Denials.
- Follow the adverse case processing procedures found in IRM 7.20.2.4, Adverse Determinations.

In MEDS, select to send to Mandatory Review as an adverse case for:

- Approving exemption with adverse 990 filing exception requests
- Exempt operating foundation classification under Section 4940(d)(2)
- IRC 509(a)(3) qualification
- Other miscellaneous requests, including 4945(g), unusual grants, 4942(g)(2) set-asides, 4942(g)(2) set-aside extensions, and voter registration under 4945(f)
- Form 990 filing exception
- Voluntary termination of IRC 501(c)(3) by a government entity
- Denial of relief under Treas. Reg. Section 301.9100-3

Case Processing – Requests for 9100 Relief

For organizations that request relief under Treas. Reg. Section 301.9100-3, but don't qualify:

Step 1. Get manager concurrence

The specialist must email their manager for concurrence of the denial of the relief request. If the manager determines relief may be granted, process the case as usual. Document manager concurrence in the CCR.

Step 2. Call the organization**If the case would otherwise be a merit closure**

If the manager concurs with the denial of the relief request and the case would otherwise be closed on merit, you must attempt to contact the organization. If the contact telephone number provided by the organization is not a working number or there is no way to leave a message, attempt to locate another number. Document unsuccessful attempts to reach the taxpayer on the CCR. If you're still unable to reach the taxpayer on the telephone, and the case would otherwise be a merit closure, proceed with processing.

When you call the organization, explain:

- a. Why they don't qualify for relief;
- b. Explain any harm (or lack of harm) to the organization if they accept submission date as the effective date;
- c. The adverse determination process, including their right to appeal;
- d. Alternatively, if they accept the submission date (in writing), no adverse action is necessary.

Note: Document all that was discussed during the call in the CCR.

If the case needs development

If Letter 1312 is needed, call the organization following the process described above before you prepare Letter 1312. If the organization verbally agrees to submission date as the effective date, add an attestation to Letter 1312:

Per our telephone conversation on [Month Day, Year], you agreed that if you're granted exemption, your effective date of exemption will be the date that you submitted your application for exemption.

We agree that if we're granted exemption, it will be effective on [Month Day, Year], the date we submitted our application for exemption.

Signature

Date

If the organization agrees to the submission date as the effective date, proceed with processing the case as usual per IRM 7.20.2.5, Case Closing.

If you need additional information to make a determination, but you are unable to reach the

taxpayer on the telephone, add a paragraph to Letter 1312 asking for a daytime telephone number and contact person that can be reached to discuss their request for 9100 relief. For example:

Please either call the number at the top of this letter or provide a name and daytime telephone number of an authorized individual to discuss your request for relief under Treas. Reg. Section 301.9100-1.

Note: You are still required to make a telephone call two weeks before the response due date (See IRM 7.20.2.3.5(1)).

Note: Follow FTE procedures (IRM 7.20.2.5.6) if no response to Letter 1312 is received.

If a partial response is received to Letter 1312

If you've received a response to Letter 1312 that doesn't include the attestation, call the organization to request a complete response. If the organization agrees, grant up to 14 days to submit a complete response. If a complete response is received, continue with case closing as described in Step 3.

Note: If a complete response is still not received, but all other issues in Letter 1312 have been resolved, continue with case closing as described in Step 3.

Step 3. Prepare the case for closing

1. If you've either contacted or attempted to contact the organization and either they haven't responded to your call within 3 business days, or they wish to proceed with their request for 9100 relief and they don't qualify:
 - a) Prepare the appropriate approval letter (for example, Letter 947) and Letter 6392, 9100 Effective date, with the appropriate selectable paragraph.
 - b) The effective date of exemption on the approval letter will be the application submission date (or later, if appropriate, under IRM 7.20.2.2.1).
 - c) Import the final letters (for example, Letter 947 and 6392) into the MEDS Non-Disclosable folder.

Note: Do not date the fillable or editable version of the letters.

2. For all requests for 9100 relief:
 - a) Prepare a Form 14261, Memo to File, to document whether or not relief was granted and why; and
 - b) Select all applicable MEDS case categories (for example, 9100 Relief – Not granted (not required to apply)).
3. Input TC590, if appropriate, to prevent the organization from being erroneously revoked.
4. Add the mandatory review indicator in MEDS. See the [Specialist's Desk Guide](#) for information on how to send cases for mandatory review.
5. Prepare the case for closing in MEDS. See IRM 7.20.2.

Quality Assurance

Quality Assurance (QA) will mail Letter 947 and Letter 6392 using certified mail. If no protest is received after 45 days, QA will prepare and mail Letter 1079-F using certified mail. If a protest is received, QA will follow IRM 7.20.5.8.2.

Effect on Other Documents

This guidance supersedes IGM TEGE-07-0325-0003 and will be incorporated into IRMs 7.20.2, 7.20.3, 7.20.4 and 7.20.5 by April 14, 2027.

Effective Date

April 14, 2025

Contact

EO Determinations Area 2 Manager

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