



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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[4.75.16](#), [4.75.27](#)

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MEMORANDUM FOR ALL EO EXAMINATIONS MANAGERS AND
ALL EO EXAMINATIONS REVENUE AGENTS

FROM:

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Acting Director, EO Examinations

SUBJECT:

Review of Organizing Documents of Organizations that
Attested to their Conformity in the Determination Process

Purpose:

This memo provides guidance to Exempt Organization Examinations (EOE) examiners for reviewing the organizing or enabling documents (organizing documents) of an organization that received its exemption through a streamlined process of its application (described below) or through filing a [Form 1023-EZ](#).

Background - EO Determinations:

Historically, prior to 2014, if an application for exemption on [Form 1023](#) or [Form 1024](#) included organizing documents that did not satisfy the organizational requirements, such as the organizational test described in Treas. Reg. § 1.501(c)(3)-1(b) for Section 501(c)(3) organizations, the EO Determinations (EOD) agent would require the organization to make the conforming changes and send a copy of the amended documents to the agent prior to issuing a determination letter to the organization.

However, beginning in October 2013, EOD began a pilot program of streamlined processing of applications for exemption. Under this process, instead of waiting to receive the amended documents, EOD began to accept attestations from certain organizations under penalties of perjury that the conforming changes have been made.

On February 28, 2014, EOD expanded the streamlined application process to all EO applications with the issuance of Interim Guidance Memoranda (IGM) [TEGE-07-0214-02](#), Streamlined Processing Guidelines for All Cases. All IGMs about the streamlined application process were later incorporated in EO Determination Letter Program manuals, specifically IRM [7.20.2](#) and IRM [7.20.3](#), in October of 2015.

In July 2014, the IRS released [Form 1023-EZ](#), Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, whereby applicants are not required to attach an organizing document to the form. Instead, an applicant is required to attest under penalties of perjury that it meets the organizational and operational tests under Section 501(c)(3). However, in certain circumstances, EOD will request a copy of the organizing document, as in the case of an organization selected in a statistical sample for a predetermination review. If EOD determines that the document does not satisfy the organizational test, the EOD agent will address the issue in the same streamlined attestation manner as for Form 1023.

Background - EO Examinations:

Exempt Organizations Examinations (EOE) agents conduct audits of exempt organizations that have applied for tax-exempt status and received a ruling or determination letter granting that status. Historically, EOE agents have requested inspection of organizing documents in their initial contacts with organizations under audit. On October 5, 2016, EOE issued IGM [TEGE-04-1016-0022](#), Required Filing Checks and Package Audit Procedures, which clarifies to EOE agents that every audit is a focused audit unless directed to conduct a full-scope audit. A focused audit is limited to one or more issues that have been pre-identified during a return's screening, classification, or selection process, and consideration for large, unusual and questionable items (LUQs). Thus, a focused audit may or may not include an inspection of organizing documents.

EO Examinations Procedure:

- (1) For every audit of an organization described in IRC Section 501(c) that was granted tax-exempt status after October 2013 (Ruling Date 201310 in the EO Business Master File), obtain a copy of the organization's current organizing documents, including any amendments, from the state authority (if available on-line) or directly from the organization.

Note: Organizations granted tax-exempt status after October 31, 2013 may have been granted tax-exempt status via a streamlined process.

- (2) Review the organizing documents to determine whether they contain the required language for the type of exemption granted. If yes, the organizational requirements have been satisfied. If not, move to step (3).

- (3) Obtain the Determination Administrative File (determination file) in Reporting Compliance Case Management System (RCCMS). If RCCMS does not include the determination file, request a copy of the file by sending a secure email to [*TEGE Determinations Processing](#). Review the organizing documents and the application for tax exemption, including supporting documents, in the determination file.
 - a. If the determination file indicates that the organization attested it made conforming amendments as part of the determination process, but the audit reflects no attempt to implement the required changes, propose revocation after discussion with the group manager.
 - b. If the organization attempted to implement the required changes but was not successful (e.g., the organization added a dissolution clause, which the examiner concludes still does not satisfy the organizational test), inform the organization that it must amend its organizing document. Prior to closing the case, secure a conformed copy of the amendments consistent with IDR procedures.
 - c. If the determination file shows that the organization applied on Form 1023-EZ and does not have organizing documents, propose revocation after discussion with the group manager.
- (4) If you secure conformed copies of amended organizing documents after the start of the audit to satisfy organizational requirements, issue [Letter 3609](#), No Change Advisory, to the organization. Close the case with disposal code 19, *Amendment Secured*, unless other issues require a higher priority disposal code. Use principle issue code (PIC) 02B, Org. Req. – Advisory, on [Form 5599](#), TE/GE Examined Closing Record.
- (5) If after discussion with the group manager, you propose a revocation for not satisfying organizational requirements, issue Letter 3618, 30-day Letter - Proposed Revocation of Exempt Status. Close the case with the proper revocation disposal code. Use PIC 02C, Org. Req. – Other, on Form 5599.

Other Information:

For guidance on what constitutes a conformed copy of an organizing or enabling document, refer to [Pub 557](#), Tax-Exempt Status for Your Organization, [Instruction 1023](#), [Instruction 1023-EZ](#) or [Instruction 1024](#). You can also refer to the www.irs.gov webpage titled, [Sample Questions - Organizational and Administrative Requirements](#).

Effect on Other Documents:

This guidance will be incorporated into IRM [4.75.10](#), Exempt Organization Pre-Audit Procedures; IRM [4.75.11](#), On Site Examination Guidelines; IRM [4.75.16](#), Case Closing Procedures; and IRM [4.75.27](#), Office/Correspondence Examination Program

(OCEP), by a date not to exceed two years from the date of this memo.

Effective Date:

This interim guidance is effective immediately.

Contact:

Please submit your questions to Mandatory Review via [*TEGE EO Review Staff](#).

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