



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.70.19

NOVEMBER 22, 2023

EFFECTIVE DATE

(11-22-2023)

PURPOSE

- (1) This transmits IRM 4.70.19, Church Tax Inquiries and Examinations Under IRC 7611.

MATERIAL CHANGES

- (1) The TE/GE Examinations process was created to provide a consistent and streamlined examination process across TE/GE.
- (2) Added IRM 4.70.19.1(6) to update the Taxpayer Bill of Rights (TBOR) content based on guidance from the TEGEDC/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel. (Procedure and Administration).
- (3) This IRM was extracted from the Interim Guidance Memos (IGMs) and IRM sections listed here:

IGM	IRM
IGM TEGE-04-0222-0008, Discussion and Documentation of Publication 1, Notice 609, Publication 5146 and the Examination Process, dated February 28, 2022.	IRM 4.71.6.8 EP Group Procedures – Making Referrals to Pension Benefit Guaranty Corporation (PBGC), dated November 20, 2018.
IGM TEGE-04-0322-0009, Interim Guidance on Fully Electronic (100% Paperless Cases), dated March 15, 2022.	IRM 4.75.39 Church Tax Inquiries and Examinations Under IRC 7611, dated March 24, 2022.
IGM TEGE-04-0622-0018, Taxpayer Digital Communications Secure Messaging, dated June 23, 2022.	
IRM TEGE-04-1122-0033, Letter Consolidation for Change due to Correction of Operations Closing Letter, dated November 15, 2022.	

EFFECT ON OTHER DOCUMENTS

This IRM obsoletes IRM 4.75.39, Church Tax Inquiries and Examinations Under IRC 7611, dated March 24, 2022. This IRM incorporates and supersedes IRM 4.71.6.8 EP Group Procedures – Making Referrals to Pension Benefit Guaranty Corporation (PBGC), dated November 20, 2018. This IRM incorporates Internal Guidance Memos TEGE-04-0222-0008, Discussion and Documentation of Publication 1, Notice 609, Publication 5146 and the Examination Process, dated February 28, 2022, TEGE-04-0322-0009, Interim Guidance on Fully Electronic (100% Paperless Cases), dated March 15, 2022, TEGE-04-0622-0018, Taxpayer Digital Communications Secure Messaging, dated June 23, 2022, and TEGE-04-1122-0033, Letter Consolidation for Change due to Correction of Operations Closing Letter, dated November 15, 2022.

AUDIENCE

Tax Exempt and Government Entities (TE/GE) Examination Employees and Managers

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4.70.19

Church Tax Inquiries and Examinations Under IRC 7611

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- 4.70.19-1 Memo to TEGEDC – Request Review of Notice of Church Tax Inquiry or Examination
- 4.70.19-2 Memorandum to TEGEDC - Transmittal of Notice of Church Tax Examination

4.70.19.1
(11-22-2023)

Program Scope and Objectives

- (1) **Purpose:** This manual provides information and guidance on IRC 7611 and church cases.
- (2) **Audience:** The procedures in this manual apply to Exempt Organizations Examination employees.
- (3) **Policy Owner:** Director, Exempt Organizations and Government Entities.
- (4) **Program Owner:** Director, Exempt Organizations Examinations.
- (5) **Program Controls:** Examiners should consult the Knowledge Management and Transfer (KMT) virtual libraries to ensure proper issue development and consistent application of the law. Examiners should also consult or coordinate with TEGEDC at the early stages when assigned a matter involving IRC 7611.
- (6) **Taxpayer Bill of Rights:** The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights*.
- (7) **Taxpayer Advocate Service:** Taxpayers have the right to receive assistance from the Taxpayer Advocate Service (TAS) if the IRS has not resolved their tax issues properly and timely through normal channels. Refer taxpayers to TAS when the contact meets TAS criteria (see d Referrals to TAS can be made using Form 911, Request for Taxpayer Advocate Assistance (and Application for Taxpayer Assistance Order), and forwarding to TAS. In addition, provide the taxpayer with the number for the National Taxpayer Advocate (NTA) toll-free line, 877-777-4778 or TDY/TDD 800-829-4059 and advise the taxpayer TAS is available if they are not satisfied with the service they received.
 - a. In accordance with the TE/GE and TAS Service Level Agreements in IRM 25.30.7, TAS uses the Operation Assistance Request (OAR) process to refer cases when TAS lacks either the statutory or delegated authority to resolve a taxpayer's problem. The TAS uses Form 12412 Operation Assistance Request, to initiate the OAR process. In cases requiring an OAR, TAS completes and forwards Form 12412 (with any necessary attachments) to the Operating Division Liaison via Form 3210, Document Transmittal. The Operating Division Liaison reviews the case, assigns it to the appropriate area, and monitors the case through its conclusion. For more detailed information, please refer to IRM 13.1.19, Advocating with Operations Assistance Requests (OAR).

4.70.19.1.1
(11-22-2023)

Background/Sources of Authority

- (1) IRC 7611 provides for restrictions on church tax inquiries and examinations.
- (2) IRC 7611(a)(2) provides that a church tax inquiry may begin after an appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church may not be exempt under IRC 501(a) or may be carrying on an unrelated trade or business or otherwise engaged in activities subject to taxation, and the inquiry notice requirements are met.
- (3) 26 CFR 301.7611-1 provides questions and answers (Q&As) relating to church tax inquiries and examinations. Q&A-2 describes a church tax inquiry.

- (4) 26 CFR 301.7611-1 Q&A-3 provides that solely for purposes of applying the procedures of IRC 7611, the term "church" includes any convention or association of churches and any organization claiming to be a church. The term does not include separately incorporated church-supported schools or other organizations incorporated separately from a church.
- (5) 26 CFR 53.4958-8(b) provides IRC 7611 procedures apply in initiating and conducting any inquiry or examination into whether an excess benefit transaction has occurred between a church and a disqualified person where there is a reasonable belief that an IRC 4958 tax is due from a disqualified person with respect to a transaction involving a church.
- (6) IRM 1.2.2.8.3, Delegation Order 7-3 (Rev. 2), Church Tax Inquires and Examinations, delegates authority to the Commissioner, Tax Exempt and Government Entities Division to begin a church tax inquiry under the requirements of IRC 7611(a) and to begin a church tax examination under IRC 7611(b). This is the designated official for purposes of this IRM 4.70.19, Church Tax Inquiries and Examinations Under IRC 7611.
- (7) IRM 1.2.2.8.3, Delegation Order 7-3 (Rev. 2), Church Tax Inquiries and Examinations, delegates authority to the Deputy Commissioner for Services and Enforcement to begin a church tax inquiry under the requirements of IRC 7611(a) and to begin a church tax examination under IRC 7611(b), within the applicable 5-year period described in IRC 7611(f) where written approval is required under that subsection. See IRM 4.70.19.4, Situations in Which IRC 7611 Procedures Do Not Apply, for more information.
- (8) IRM 1.2.2.8.3, Delegation Order 7-3 (Rev. 2), Church Tax Inquiries and Examinations, also provides for the delegation of authority to EO Examination group managers to execute agreements under IRC 7611(c)(2)(C) to suspend the periods for completing church tax inquiries and examinations, and to hold conferences described in IRC 7611(b)(3)(A)(iii).

4.70.19.1.2
(11-22-2023)
Responsibilities

- (1) During an examination, examiners are responsible for determining if the organization:
 - a. Meets the requirements for exemption.
 - b. Has the proper foundation status (IRC 501(c)(3) organizations only).
 - c. Filed all required tax and information returns.
 - d. Reported information and tax liabilities correctly.
- (2) The IRS adopted the Taxpayer Bill of Rights in June 2014. All IRS employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3) and IRM 1.2.1.2.36(2), Policy Statement 1-236, Fairness and Integrity in Enforcement Selection. Examiners must process all church tax inquiries and examinations with the rights afforded in Pub 5328, Statement of Administrative and Constitutional Rights. A copy of the Publication is included with the Letter 5307, Church Tax Inquiry Notice.

4.70.19.1.3
(11-22-2023)
**Terms/Definitions/
Acronyms**

- (1) The term, "adverse determination" used in this manual includes a revocation of ruling or determination letter granting tax-exempt status, a disqualification (denial) of an organization claiming to be a church for the examined tax years, or an adverse change in foundation status.

- (2) The term “church plan” is a plan that is established and maintained by a church or a convention or association of churches that is exempt from tax under IRC 501. See IRC 414(e). A Similar definition is in ERISA 3(33).
- a. IRC 414(e)(3)(A) provides that a church plan includes a plan maintained by an organization, whether a civil law corporation or otherwise, that has as its principal purpose or function the administration or funding of a plan or program for providing retirement or welfare benefits for the employees of the church or convention or association of churches, provided such organization is controlled by or associated with a church or convention or association of churches.
 - b. The use of the word “includes” in IRC 414(e)(3)(A), means that a church plan can be sponsored by a tax-exempt entity such as hospital, school, university, nursing home or other such entity, if the plan is maintained by an organization that is controlled by or associated with a church and whose principal purpose is the funding or administration of the plan. Many church plans are sponsored by such tax-exempt entities.
 - c. Conversely, IRC 414(e)(2) provides, in part, that the term “church plan” does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of IRC 513); or if less than substantially all of the individuals included in the plan are church or related organization employees.
 - d. Church plans under IRC 414(e) are one of the following:
 - i. those that make an election under IRC 410(d) to comply with ERISA (commonly referred to as ‘electing’ church plans); and
 - ii. those that do not make an election under IRC 410(d) (commonly referred to as ‘non-electing’ church plans).
 - e. An electing church plan is subject to ERISA and must meet all the requirements of IRC 401(a) in order to be qualified. Non-electing church plans are exempt from ERISA and many of the current IRC 401(a) qualification requirements applicable to electing church plans. Non-electing church plans must satisfy pre-ERISA coverage, participation, vesting and funding requirements that were in effect on September 1, 1974. Most church plans are non-electing church plans.
- (3) The term “recognized church” denotes a church that has received a ruling or determination letter from the IRS granting it tax-exempt status. An “unrecognized church” is a church that has not been issued such letter and is not recognized as tax-exempt in the EO Business Master File (EO BMF).
- (4) The following table lists acronyms and abbreviations used in this manual along with their definitions:

Acronym/Abbreviation/ Terms	Definition
AIMS	Audit Information Management System
CP&C	Compliance Planning and Classifica- tion

Acronym/Abbreviation/ Terms	Definition
EO	Exempt Organizations
EOE	Exempt Organizations Examination
FAC	Functional Assignment Coordinator
FADL	Final Adverse Determination Letter
FAST	Field Agent Support Team
FSL/ET	Federal, State and Local Govern- ments & Employment Tax
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
NCTI	Notice of Church Tax Inquiry
NCTE	Notice of Church Tax Examination
NMF	Non-Master File
RCCMS	Reporting Compliance Case Manage- ment System
SAR	Suspicious Activity Report
SLA	Service Level Agreement
TAS	Taxpayer Advocate Service
TEGEDC	Tax Exempt Government Entities Division Counsel
Treas. Reg.	Treasury Regulation

4.70.19.1.4
(11-22-2023)

References

- (1) The following is a list of helpful references, forms and publications involving churches:
- IRM 4.5.3.5.5, TE/GE AIMS Special Processing Procedures - Church Examinations
 - IRM 4.23.2.2.3.2, Employment Tax Examination Objectives - Churches, Conventions or Association of Churches
 - IRM 4.23.5.10, Social Security Coverage for Church Employees
 - IRM 4.70.13.9.1.1, Non-Return Units
 - IRM 4.70.17.7.3, Requests for Withdrawal of a Claim
 - IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria
 - IRM 13.1.19, Advocating with Operations Assistance Requests (OAR)
 - IRM 21.7.2.5.14, FICA Adjustments on Exempt Organizations Pursuant to IRC 501(c)(3)
 - IRM 25.5.8.3, Restrictions on Church Tax Inquiries and Examinations
 - IRM 25.7.1, Exempt Organizations/Business Master File and Support Processing
 - IRM 25.30.7, Service Level Agreement between the Tax Exempt & Government Entities Division and the Taxpayer Advocate Service

- Form 15304, IRC Section 7611 Church Case Time Limits and Approvals Cover Sheet
- Form 14312, Church Guide Sheet (internal form for workpapers as needed)
- Pub 1828, Tax Guide for Churches and Religious Organizations
- Pub 517, Social Security and Other Information for Members of the Clergy and Religious Workers
- Pub 3498, The Examination Process
- Pub 5328, Statement of Administrative and Constitutional Rights

4.70.19.2
(11-22-2023)
Introduction

- (1) IRS personnel must observe the restrictions imposed by section 7611 in any inquiry or examination of a church intended to determine whether:
 - a. The organization is exempt from tax under IRC 501(a),
 - b. The organization is a church under IRC 509(a)(1) and IRC 170(b)(1)(A)(i),
 - c. The church is carrying on an unrelated trade or business as defined in IRC 513,
 - d. The church is otherwise engaged in activities subject to any federal tax, or
 - e. The church is engaged in an excess benefit transaction.
- (2) The term "church" includes:
 - a. Any organization claiming to be a church, or
 - b. Any convention or association of churches.
- (3) IRC 7611 applies to any examination of a school operated as part of a church or convention or association of churches. IRC 7611, however, does **not** apply to any examination of a separately organized or incorporated church-related school that doesn't claim to be a church or convention or association of churches.
- (4) IRC 7611 applies to any examination of a church plan that is NOT formed as a separate trust from a church.
- (5) In non-church examinations, examiners must not disregard an organization's claim to church status unless information in the examiner's possession establishes the claim to be frivolous. See IRM 4.70.19.5, Source of Case - Organization Claims to be a Church or Church by Inference, below. In such instances, before proceeding, the examiner must obtain TEGEDC's written opinion as to whether:
 - a. The organization's claim to be a church is frivolous, and
 - b. IRC 7611 is or is not applicable.

4.70.19.3
(11-22-2023)
**Church Tax Inquiry
Procedures**

- (1) IRS personnel must follow the restrictions of IRC 7611 if an organization claims to be a church. An organization may directly claim to be a church, or the IRS may infer it from facts and other characteristics that show the organization holds itself out to be a church. IRS has developed fourteen criteria which it applies on an ad hoc basis to individual organizations. While some of these are relatively minor, others are of central importance. Characteristics that an organization holds itself out to be a church might include, for example:

- The existence of an established congregation served by an organized ministry,
- The provision of regular religious services and religious education for the young, and
- The dissemination of a doctrinal code.

- (2) If it is unclear whether the organization claims to be a church, the examiner should ask the organization during the first contact if it claims to be a church. If there is any doubt, the examiner will consult with TEGEDC to determine whether there are sufficient characteristics of a church to ask the organization whether it claims to be a church.
- (3) For procedures and requirements to introduce and use Taxpayer Digital Communication Secure Messaging, see IRM 4.70.11.8.4.1, Taxpayer Digital Communication Secure Messaging (TDC SM).

4.70.19.4
(11-22-2023)

**Situations in Which IRC
7611 Procedures Do Not
Apply**

- (1) Certain IRS inquiries are excluded from the restrictions imposed under IRC 7611. The following paragraphs describe these exclusions.

Note: Even in cases not subject to the specific restrictions of IRC 7611, IRS personnel should be mindful of the rights granted by the First Amendment to the Constitution, which limits government interference with the free exercise of religion to cases of compelling government interest. The IRS's legitimate interest of enforcing compliance with federal tax laws doesn't extend to the source and content of sincerely held religious beliefs.

- (2) The restrictions of IRC 7611 don't apply to:
 - a. An examination of a religious organization that does not claim to be a church.
 - b. A separately organized or incorporated church-supported school or other organization incorporated separately from the church.
 - c. Any church plan whose trust is formed separate from the church.
 - d. Any assessments under IRC 6851 (relating to termination assessments of income tax), IRC 6852 (relating to termination assessments in case of flagrant political expenditures of IRC 501(c)(3) organizations) or IRC 6861 (relating to jeopardy assessments of income taxes).
 - e. Any criminal investigation, including an investigation of a willful attempt to defeat or evade tax or the knowing failure to file a return of tax imposed by the Internal Revenue Code. However, the possibility that an examination may result in a referral to Criminal Investigation Division doesn't in itself take the investigation outside the scope of IRC 7611.
 - f. Examinations relating to the tax liability of any person other than a church, except for the application of certain IRC 7611 procedures to IRC 4958 examinations involving a disqualified person's transactions with a church. See 26 CFR 53-4958-8(b).
- (3) For example, IRC 7611 doesn't apply to examinations regarding:
 - a. The tax status or liability of a contributor to the church,
 - b. The use of church funds to benefit a particular individual or organization that might result in the denial of a contribution deduction (for example a tuition payment that is claimed as a contribution),
 - c. Assignment of income, services or contributions to a church,
 - d. A vow of poverty with transfer of assets to a church,

- e. Self-employment tax, or income tax withheld from wages of individuals other than a church (for example, the income tax liability of the pastor). See Q&A-6 of 26 CFR 301.7611-1 for the exceptions to IRC 7611 procedures for examinations relating to these tax matters with respect to a church.

Note: Examination of church records to determine the liability of persons or organizations other than the church cannot be used to avoid the intended purpose of IRC 7611. For example, the IRS shouldn't seek to examine a contributor or membership list in the possession of a church, without observing the restrictions of IRC 7611, if the purpose for seeking the list is to determine the overall financial structure of the church, rather than verifying a contribution from an individual. The information learned during an examination of church records to determine the liability of individuals or organizations other than the church, however, may support a reasonable belief to begin a church tax inquiry.

- (4) Examiners will not start inquiries or examinations of church records to determine the tax status of an organization other than the church without the area manager's approval. The area manager should grant approval only when the tax status of the organization under examination can't be resolved without information in the possession of the church.
- (5) Generally, the restrictions of IRC 7611 don't apply to third party records. For example:
 - a. Records relating to the church held by a third party (acquired by a summons to which IRC 7609 applies) such as cancelled checks in the possession of a bank. However, the IRS must follow the procedures of IRC 7609 before examining third-party records.
 - b. Requests to a church for information needed to locate third-party records. Such information includes the chartered name of the church, the state and year in which it incorporated, and the location of its bank accounts.

Note: Information obtained from third-party records may provide the "reasonable belief," as discussed in IRM 4.70.19.6.1, Reasonable Belief Requirements, necessary to start a church tax inquiry and examination. The IRS may not, however, determine a church is not entitled to exemption or assess tax on unrelated business income against a church solely based on third-party records, without first complying with the procedures of IRC 7611. The church's failure to provide information necessary to locate third-party records, however, may be a factor in determining if there is "reasonable belief" for starting a church tax inquiry.

- (6) IRC 7611 procedures apply to employment tax inquiries including FICA (social security) and income tax withholding responsibilities of a church. IRC 7611 does not apply to routine requests for information the IRS needs to administer the Code, apart from requests for information needed to determine an organization's exempt status or to assess tax. Refer to IRM 25.5.8.3.1, Situations in which IRC 7611 Procedures Do Not Apply for routine requests and matters outside the scope of IRC 7611. See also Q&A-4 of 26 CFR 301.7611-1.

- (7) A church may submit a written waiver of all or a portion of the provisions in IRC 7611. See IRM 4.70.19.15, Waiver of IRC 7611 for Claims and Abatement Requests, for instructions to examiners on how to inform churches of their option to authorize the IRS to consider church claims for refund or requests for abatement without following the procedures otherwise required by IRC 7611. Examiners should only follow these procedures of offering a waiver if the assigned return is a claim or abatement request submitted by a church. See also IRM 4.70.17, Claims and Abatements
- (8) For cases involving Employer Shared Responsibility Payments (ESRP), contact TEGEDC.

4.70.19.5
(11-22-2023)

**Source of Case -
Organization Claims to
be a Church, or Church
by Inference**

- (1) An organization that hasn't previously claimed to be a church (for example, an evangelistic organization that has been recognized by the IRS as an organization described in IRC 509(a)(1) and IRC 170(b)(1)(A)(vi)) may claim to be a church after the IRS starts an examination. The examiner must honor a claim of church status in such a case, unless it can be dismissed as frivolous, or if the examination has progressed in good faith to such a point that the organization can be considered to have waived the application of IRC 7611 for the years under examination. Factors to consider in deciding whether to apply the IRC 7611 provisions at any stage after initiation of an examination include, but aren't limited to, whether:
 - a. The IRS has determined the organization to be a private foundation or a public charity described in a section other than IRC 509(a)(1) and IRC 170(b)(1)(A)(i);
 - b. The organization has filed Form 990, Return of Organization Exempt From Income Tax, and claimed public charity status under provisions other than IRC 509(a)(1) and IRC 170(b)(1)(A)(i);
 - c. A professional advisor, such as an attorney or accountant represented the organization and allowed the examination to proceed without asserting a claim to church status;
 - d. The organization previously described itself as the type of organization, specifically excluded from the application of IRC 7611 by IRC 7611 Q&A-3, such as a "church-controlled" organization; and,
 - e. The extent to which the examination has progressed before the organization claims to be a church and whether the organization makes the claim after the examiner has discussed potentially adverse findings with the organization.
- (2) If the organization claims to be a church after an examination has progressed in good faith to a point that the examiner considers the organization has waived the application of IRC 7611 for the years under examination, the examiner must request concurrence from TEGEDC that IRC 7611 procedures need not be followed.
- (3) Any serious doubt about whether the application of IRC 7611 has been effectively waived should be resolved in favor of the application of IRC 7611.
- (4) The restrictions set out in IRC 7611 apply to inquiries and examinations started because an organization claimed to be a church during an examination or the IRS inferred the existence of a church from the facts, whether the examination is conducted by TE/GE or any other operating division.

- (5) The filing of a Form 1023, Application for Recognition of Exemption Under 501(c)(3) of the Internal Revenue Code, which is incomplete or that fails to establish an organization's exemption under IRC 501(c)(3) does not affect the organization's entitlement to claim church status and the application of IRC 7611 concerning restrictions on the examination of churches.

4.70.19.6
(11-22-2023)
Church Tax Inquiry

- (1) A church tax inquiry is defined as any inquiry to a church (other than an examination) that serves as a basis for determining whether the organization qualifies for tax exemption as a church, or whether it is carrying on an unrelated trade or business or otherwise engaged in activities subject to any federal tax. An inquiry as to whether an excess benefit transaction has occurred between a church and a disqualified person also constitutes a church tax inquiry.
- (2) A church tax inquiry commences when the IRS requests information from a church other than routine requests for information discussed in IRM 25.5.8.3.1, Situations in which IRC 7611 Procedures Do Not Apply, or inquiries regarding matters that don't primarily concern the tax status or liability of the church itself.
- (3) The IRS may begin a church tax inquiry only when the designated official reasonably believes based on facts and circumstances recorded in writing that:
- The organization may not qualify for exemption under IRC 501(a),
 - The organization may not be described as a church under IRC 509(a)(1) and IRC 170(b)(1)(A)(i),
 - The organization may be carrying on an unrelated trade or business within the meaning of IRC 513 or may be otherwise engaged in activities subject to any federal tax, or
 - An IRC 4958 tax is due from a disqualified person with respect to a transaction involving a church (26 CFR 53-4958-8(b)).
- (4) IRC 7611 imposes strict time limits on both church tax inquiries and church examinations. The IRS can't send a notice of examination until at least 15 full calendar days after sending the notice of inquiry. If the IRS doesn't send a notice of examination within 90 calendar days from the date of the notice of tax inquiry, the IRS must terminate the inquiry with no change to the organization's tax status or liability. Certain circumstances may suspend the 90-day time limit. See IRM 4.70.19.12, Time Limits.

4.70.19.6.1
(11-22-2023)
**Reasonable Belief
Requirements**

- (1) Before an NCTI can be sent, the designated official must "reasonably believe" it is necessary. This reasonable belief must be based on facts and circumstances recorded in writing. See section 7611(a)(2)(A)-(B).
- (2) The IRS can obtain the information supporting a reasonable belief from many sources, including but not limited to:
- Newspaper or magazine articles or ads,
 - Television and radio reports (a transcript should be obtained, if possible),
 - Internet web pages,
 - Voter guides created and/or distributed by the church,

- Documents on file with the IRS (e.g., a Form 990-T, Exempt Organization Business Income Tax Return, filed by the church), and
 - Records concerning the church in the possession of third parties or whistleblowers.
- (3) Consider performing research using the search engines such as: Accurint and YK1 to retrieve property ownership, current addresses, related parties, interest in other entities and copies of returns.
- (4) Perform IDRS Research by considering some of the following command codes:
- BMFOL
 - BRTVU
 - IMFOL
 - INOLES
 - IRPTR
 - PMFOL
 - RTVUE
- (5) The IRS must derive the facts and circumstances forming the basis for a reasonable belief from information lawfully obtained. Information obtained from whistleblowers must not be known to be unreliable.
- (6) The failure of a church to respond to repeated (two or more) inquiries concerning the tax liability of other persons or to routine IRS requests will be considered a reasonable basis to begin a church tax inquiry.
- (7) A church's failure to respond to repeated (two or more) IRS requests for information needed to locate third-party records is a factor, but not a conclusive factor, in determining if there is reasonable cause for starting a church tax inquiry. A failure to respond to a request for this purpose means either that no response has been made or that the response does not make a reasonable attempt to submit the information called for by the specific language of the request.

4.70.19.6.2
(11-22-2023)
**Church Information
Referrals**

- (1) EO personnel as well as personnel from other operating divisions with information that indicates a church tax inquiry under IRC 7611 may be warranted, should forward the information on Form 5666, TE/GE Referral Information Report, Classification Group 3 (*Manager EO Classification (EOclass@irs.gov)) for consideration. See IRM 4.70.19.13, Coordination of IRC 170(c) Deduction Cases.
- (2) In IRC 170(c) cases in which the issue is whether a taxpayer made claimed contributions, or made them with the expectation of receiving benefits in return, W&I and other operating divisions can, without following the restrictions of IRC 7611, examine church records to the extent needed to allow or disallow all or part of the contribution deduction. IRC 7611(i)(2) specifically provides that the restrictions don't apply to any inquiry or examination relating to the tax liability of any person other than a church. Such an examination is limited to the determination of facts and circumstances specifically relating to the tax liabilities of the person in question. Other operating divisions may provide TE/GE CP&C Classification with an information referral, but TE/GE CP&C Classification need not act unless, in its judgment, a church tax inquiry and examination are needed to address IRS concerns.

Note: TEGEDC recommends that you consult with them when these issues arise.

- (3) If another operating division proposes to disallow an IRC 170 deduction because the donee organization isn't described in IRC 170(c), it will make a referral to the Manager, Classification Group 3. A classifier will review the referral to determine if the information supports a view that the organization may not be tax exempt as a church. If the classifier determines that the information doesn't support starting an IRC 7611 inquiry, TE/GE CP&C Classification will advise the operating division the deduction shouldn't be disallowed on the basis that the organization isn't described in IRC 170(c).
- (4) After the case is classified, TE/GE's Compliance Planning & Classification's (CP&C's) Case Assignment group electronically prepares the case to be placed in RCCMS. The electronic case file includes copies of the referral materials and the referral tracking sheet. Case Assignment notifies the Functional Assignment Coordinator (FAC) of the priority case for immediate assignment to the field within five business days. Case is transferred to the EO field group manager.
- (5) When the group manager receives the inquiry file from the FAC, the group manager should assign immediately. The examiner should start the church case within 30 days due to time constraints.
- (6) The examiner will conduct research to determine if potential compliance concerns should be expanded or contracted, and to identify statutes. The examiner will perform these activities only to the extent that the issues and research provide a foundation for establishing a reasonable belief that the inquiry should be conducted. The examiner will provide feedback to the group manager within five business days.
- (7) If the electronic case file has enclosed SAR information, the examiner should manage the information with care and protect the information from unauthorized disclosures.

4.70.19.6.3
(11-22-2023)
AIMS Requirements

- (1) A church case will be in status 10 when assigned to the field. The inquiry will be completed while the case remains in status 10. If the case progresses to an examination, the examiner will update the activity code from 345 to 349 and update the case to status 12.
- (2) Examiners are responsible for ensuring returns secured during the inquiry or examination are established on AIMS, if included in the inquiry or examination. Examiners should establish related returns included in the inquiry or examination using the applicable activity codes.
- (3) The examiner will close a church tax inquiry or examination off AIMS Non-Master File and RCCMS, assuming no return is required. When closing the case off AIMS, the examiner will include in the electronic case file a "Dummy" Form 990, Return of Organization Exempt From Income Tax, with only the church identifying information completed for the year(s) under inquiry or examination. See IRM 4.70.13.9.1.1, EO Non-Return Units.
- (4) Current activity, disposal, source, and status codes can be found in Document 6379, Information Systems Codes FY 2023 Quick Reference for EO Employees (updated annually).

4.70.19.6.4
(11-22-2023)
**Church Tax Inquiry
Notice Requirements**

- (1) The designated official must sign the church tax inquiry letter.

Note: The designated official has final authority in all cases to determine whether to conduct a church tax inquiry.

- (2) IRC 7611(a)(3)(B) requires that the notice include the following:

- a. An explanation of the concerns giving rise to and the general subject matter of the inquiry. This should be sufficiently specific to enable the church to understand the particular area of church activities or behavior at issue.

Example: For an inquiry regarding unrelated business income, the notice should indicate the general activities of the church that may result in unrelated income, (e.g., use of a particular property or facility for other than tax exempt purposes, advertising, rental of personal property, etc.). For an inquiry regarding tax-exempt status, the notice should indicate those aspects of the church operations or activities that give rise to questions about its tax-exempt status. The IRS isn't required to share particular items of evidence with the church, or to identify its sources of information, if providing such information would be damaging to the inquiry or the IRS's sources.

- b. A general explanation of the provisions of the Internal Revenue Code that authorize the inquiry or that otherwise may be involved in the inquiry. The language in Letter 5307, Church Tax Inquiry Notice Letter, satisfies this requirement.
- c. A general explanation of applicable administrative and constitutional provisions with respect to the inquiry, including the right to a conference before the IRS begins an examination of church records. The language contained in Pub 5328, Statement of Administrative and Constitutional Rights, satisfies this requirement.

- (3) IRC 7611 doesn't preclude the IRS from expanding its inquiry beyond the concerns expressed in the notice because of facts and circumstances that subsequently come to its attention. For example, the IRS may expand an inquiry concerning unrelated business income to include questions of tax-exempt status, or vice-versa, without sending another church tax inquiry notice. Generally, you may not make inquiries into other years without invoking the IRC 7611 procedures again. See 26 CFR 301.-7611-1, Q&A 15.

4.70.19.6.5
(11-22-2023)
**Processing the Church
Tax Inquiry Notice**

- (1) The examiner must prepare the Form 15304, IRC Section 7611 Church Case Time Limits and Approvals Cover Sheet, for all church tax inquiry and examination letters. The cover sheet must be enclosed in the electronic case file to ensure proper routing and awareness of pertinent time periods.

Note: The same cover sheet is used for both the inquiry and examination process.

- (2) Refer to IRM 4.70.19.12, Time Limits, for computation of 90-day and two-year expiration periods. The cover sheet must remain with the electronic case file throughout the approval process. Each approving official will update, as appropriate, initial and date the cover sheet upon approving the request.
- (3) The examiner will prepare the church tax inquiry notice for the designated official using Letter 5307, Church Tax Inquiry Notice Letter. The letter must

provide an explanation of the concerns giving rise to the inquiry and the general subject matter of the inquiry inserted where indicated on the letter. The examiner must attach Pub 5328, Statement of Administrative and Constitutional Rights to the inquiry notice letter to satisfy the requirement of IRC 7611(a)(3)(B).

- (4) Although not required by IRC 7611, the notice of church tax inquiry should usually include questions relevant to the inquiry. The questions are important as the inquiry phase is intended to give the church the opportunity to satisfy all the IRS's concerns without an examination. The questions asked will depend on the information in the IRS's possession and the reasons for the inquiry. The letter should ask only those questions needed to resolve the issue or issues involved. The letter shouldn't request the church to submit materials that are records, as described in IRM 4.70.19.8(2), Scope of Examination, as these records may be inspected only on examination. The examiner may coordinate with TEGEDC to develop the NCTI letter and questions.
- (5) The IRS must allow the church a minimum of 15 calendar days to respond to the inquiry letter. The examiner may allow more time depending on the facts and circumstances but should exercise precautions to insure the 90-day time limit for completing the inquiry is not exceeded.
- (6) The designated official must sign the church tax inquiry letter. However, before requesting the designated official's approval, the examiner must request concurrence from management and TEGEDC that an inquiry is warranted.
- (7) The examiner will prepare a memorandum to TEGEDC (Exhibit 4.70.19-1), (Memorandum to TEGEDC - Request Review of Notice of Church Tax Inquiry or Examination) setting forth the following:
 - a. Reasons for the inquiry,
 - b. The information upon which the decision to start the inquiry is based,
 - c. The specific provisions of the IRC and regulations considered, and
 - d. An explanation of how the examiner obtained the information relied on for the proposed inquiry.

Note: The request should include the electronic documents holding all of the information the examiner considered in making the decision to request approval to start the church tax inquiry, including the administrative record, if available. If the examiner believes the information is too voluminous to be included, he or she should include a summary, and offer TEGEDC the opportunity to inspect the information, if necessary.

4.70.19.6.6 (11-22-2023) **TEGEDC Pre-Issuance Review**

- (1) The group manager will send the case information, the memorandum, and the draft inquiry letter to the area manager for transmittal to TEGEDC. If the church tax inquiry is based on information the examiner believes shouldn't be disclosed to the church, the examiner will consult with TEGEDC and Disclosure.

Note: The group manager and the area manager document concurrence by signing the electronic cover sheet. Materials can be sent to TEGEDC by either area manager or the group manager, but the electronic cover sheet must show concurrence.

- (2) If TEGEDC doesn't concur that an inquiry is called for, TEGEDC will prepare a memorandum to the area manager setting forth the reasons and supplying recommendations. If the area manager doesn't agree with TEGEDC, he or she will arrange a telephone conference with TEGEDC, the group manager, and the examiner.
- (3) If TEGEDC and the Area Office can't reach a consensus, the designated official will decide whether the information supports a reasonable belief that the organization may not qualify for tax exemption as a church, may be operating an unrelated trade or business, may be otherwise engaged in activities subject to tax or the church has engaged in an excess benefit transaction under IRC 4958. The designated official's office will also send a copy of the decision to TEGEDC.

Note: The matter will be briefed to EOE Director who will coordinate with the designated official for a review/decision as appropriate.

- (4) If TEGEDC agrees that the requirements for a church tax inquiry are met, it will return the electronic documents to the area manager who will elevate the electronic documents for approval of the inquiry by the designated official. TEGEDC provides a memo both for concurrence and non-concurrence. TEGEDC also returns the signed electronic cover sheet.

4.70.19.6.7
(11-22-2023)

**Procedures for Approval
and Issuance of the
Church Tax Inquiry
Notice**

- (1) A briefing will only be held at the discretion of the designated official or lower-level executive. A briefing will be conducted via conference call prior to the approval of the inquiry. The person requesting the briefing decides who is to participate. Participation could include the EOE Director, area manager, group manager and the examiner. They should be prepared to discuss their reasonable belief basis to issue a NCTI. The documents required to conduct a NCTI briefing are as follows:
 - a. Examiner's memo to Counsel.
 - b. Counsel's Memorandum approving the NCTI.
 - c. Letter 5307, Notice of Church Tax Inquiry.
 - d. NCTI Questions approved by Counsel.
 - e. Church Tax Inquiry/Examination Cover sheet.
 - f. Documents supporting NCTI request (e.g., referral).
- (2) If the designated official signs the church tax inquiry notice, the electronic documents will be returned to the group for mailing of the letter and attachments. The electronic documents must have a photocopy of the signed and dated letter and attachments as they must be attached to any follow-up or future notice of examination. The inquiry notice letter must be mailed "certified mail, return receipt requested." The signed return receipt or return receipt evidencing refusal to accept the letter must be attached to the file copy of the church tax inquiry notice letter.
- (3) The area manager is responsible for monitoring the statutory time limit for completing the inquiry. However, the examiner and the group manager will perform this duty. It is imperative that the examiner enters (and update as needed) the 90-day Church Inquiry expiration period and the two-year examination statutory period on the Cover Sheet. Usually, the examiner should compute the expiration periods and enter them on the cover sheet upon receipt of the file from the designated official after signing the notice of church tax inquiry.

- (4) If the designated official doesn't approve the church tax inquiry notice, the designated official cascades the disapproval through the management chain.
- (5) The IRS must allow the church a minimum of 15 calendar days to respond to the inquiry letter. The examiner may allow more time depending on the facts and circumstances but should exercise precautions to ensure the 90-day time limit for completing the inquiry isn't exceeded. If the church requests more time to respond to the inquiry, the examiner will consider securing a consent to extend the 90-day time limit. The examiner will ask the church to submit a written request for additional time to respond.
- (6) IRC 7611 doesn't preclude the IRS from granting a conference after issuance of the inquiry notice if requested. However, the inquiry notice shouldn't offer a conference in addition to the offer of conference required in the notice of examination.

4.70.19.6.8 (11-22-2023) **Follow-Up on Church Tax Inquiry Notice**

- (1) If a church doesn't respond to the inquiry notice within the specified time, the examiner may send a follow-up request. The examiner should send the follow-up only if the facts and circumstances indicate it may be useful in resolving the inquiry and can be done without risk of exceeding the 90-day period for concluding the inquiry. The examiner should use Letter 5308, Follow-up Church Tax Inquiry Notice, for this purpose.
- (2) The examiner will attach a copy of the first inquiry notice and all attachments, to the follow-up letter. The follow-up letter will be mailed over the designated official's signature but may be signed by an official not lower than the area manager. As with the initial inquiry notice, send the follow-up "certified mail, return receipt requested." Attach the signed return receipt or other evidence of receipt evidencing refusal to accept the letter to the file copy of the letter.
- (3) If the church refuses to accept the church tax inquiry notice, the examiner will start procedures to issue a notice of examination, using Letter 5309, Notice of Church Examination, with approval from management. The notice of examination will be mailed no sooner than 15 calendar days after the mailing date of the tax inquiry notice.
- (4) If the church responds but doesn't provide sufficient information to address the concerns stated in the inquiry notice, the examiner should, depending on the facts and circumstances, prepare a notice of examination, or prepare a follow-up to the church tax inquiry. If the examiner decides to send a follow-up letter, he or she should also consider requesting an extension of the 90-day period. Because of the 90-day period for concluding the church tax inquiry and because the notice of examination offers a conference to discuss the issues, the examiner will send a follow-up church tax inquiry notice only when information the IRS already possesses suggests the issues can be readily resolved by correspondence. TEGEDC should be consulted on these decisions.
- (5) The area manager has discretion to grant a conference if the organization requests one after receiving the church tax inquiry notice. However, the conference won't take the place of the conference required to be offered in the notice of examination. The area manager should usually agree to a conference if the examiner believes the issues can be resolved in a conference, and the church agrees to extend the 90-day period. Factors the area manager should consider in deciding whether to grant a request for a conference include:

- a. The likelihood that a conference will help resolve the issues, and preclude the need to pursue the matter,
 - b. The effect granting a conference will have on the 90-day time limit for concluding the church tax inquiry, and
 - c. The effect any delay in issuing the notice of examination will have on the years subject to examination if an examination is necessary.
- (6) The response to the church tax inquiry notice letter may provide information that indicates no further action is required because:
- The church meets or continues to meet the requirements for exemption under IRC 501(c)(3),
 - The church qualifies or continues to qualify for classification as an organization described in IRC 509(a)(1) and IRC 170(b)(1)(A)(i),
 - The church isn't liable for unrelated business income tax or other taxes, or
 - IRC 4958 tax isn't due from a disqualified person with respect to a transaction involving a church.

4.70.19.6.9
(11-22-2023)
**Resolution of Church
Tax Inquiry Without
Examination**

- (1) If the examiner determines no further action is required, he or she will prepare a letter advising the organization of this conclusion, specifying the time period covered, and the issue for which the no change is made.
- a. Examiner should use the language contained in Letter 6407, Church Non-Examined - No Change or Advisory, for an organization previously recognized as exempt by the IRS.
 - b. Examiner should use the language contained in Letter 6407, Church Non-Examined - No Change or Advisory, for an organization **not** previously recognized as exempt by the IRS.

4.70.19.6.10
(11-22-2023)
**Revocation of Exempt
Status Without
Examination**

- (1) In certain exceptional circumstances the IRS may, in lieu of an examination, propose to revoke or deny an organization's exemption. IRC 7611 doesn't require that the IRS formally examine church records and religious activities before it issues an adverse determination to a church. If the concerns that led to the church tax inquiry aren't resolved after the church tax inquiry notice, the notice of examination, and the conference, if requested, the IRS may, in lieu of an examination, revoke (or deny, if the organization hasn't applied for recognition of exemption) the organization's exempt status when it possesses sufficient information to determine that the organization doesn't qualify for exemption.
- (2) Revocation or denial of exempt status without examination may, in exceptional circumstances, be appropriate where the facts and circumstances indicate examination will not produce information sufficient to change the determination the IRS can make based on information in its possession. For example, an examination may be unnecessary when information in the examiner's possession establishes that the organization is operated for the private benefit of a particular individual or individuals and church records, which will be available only after issuance and enforcement of a summons, aren't likely to show otherwise. However, the IRS shouldn't start this revocation or denial merely because an organization won't voluntarily provide information if that information may be material to the determination of the organization's exempt status.
- (3) Revocation or denial of exempt status without examination may also be appropriate in cases in which material facts aren't in dispute, but the church contests

the effect of the facts on the organization's exempt status. For example, if the church doesn't dispute facts showing it intervened in a political campaign, but contests only the effect of the intervention on its exempt status, it may be appropriate to issue an adverse determination.

- (4) Action to revoke or deny a church's exempt status without formal examination may be taken only after the IRC 7611 requirements of a church tax inquiry notice, a notice of examination, and conference, if requested, are satisfied. Action to revoke or deny recognition should be limited to exceptional circumstances. Consult with TEGEDC first.
- (5) The IRS must base the adverse determination on information showing the organization doesn't qualify for exempt status. The IRS may not base the adverse determination on the grounds the organization failed to establish it qualifies or continues to qualify for exemption. If the examiner doesn't have sufficient information to make a determination, an examination will be started.
- (6) The IRS must follow the procedures in IRM 4.70.19.10, Closing Letters, Report of Examination and Mandatory Review Requirements, in preparing, processing and issuing the adverse determination. The examiner will prepare a report of examination even if the examiner didn't conduct a formal examination.

4.70.19.7
(11-22-2023)
Church Tax Examination

- (1) Under IRC 7611(c)(1)(B), the IRS has 90 calendar days from the date of the mailing of a notice of inquiry to decide whether to start a church tax examination and to issue a notice of examination.
- (2) If the church refuses to respond to Letter 5307, Church Tax Inquiry Notice, or any follow-up letter, or when the church's response doesn't resolve the IRS's concerns, the examiner will initiate steps to issue a Notice of Examination.
- (3) Letter 5309, Notice of Church Examination, must not be mailed sooner than 15 calendar days after the date the notice of church tax inquiry (NCTI) was mailed and must be mailed at least 15 days before the date the examination begins.
- (4) The designated official must sign the notice of examination.
- (5) The notice of church tax examination (Letter 5309) must have all of the following:
 - a. A copy of Letter 5307, Church Tax Inquiry Notice, and enclosures.
 - b. A description of the church records and activities the IRS seeks to examine.
 - c. An offer of a conference between the church and the IRS to resolve concerns relating to such examination (included in Letter 5309 content).
 - d. A copy of all documents collected or prepared by the IRS for use in the examination (Disclosure of this information is required by the Freedom of Information Act (5 U.S.C.552), as supplemented by IRC 6103 relating to disclosure and confidentiality of tax return information).

Note: The IRS need not furnish to the church documents that would be exempt from disclosure under the Freedom of Information Act or IRC 6103. The IRS isn't required to furnish all documents it may have on the organization, only those used to determine that an inquiry and examination were necessary. The IRS must not provide

documents that would reveal the existence or identity of a confidential whistleblower (nor any other informant) to the church. The Area Office should consult with TEGEDC or Disclosure before withholding any documents on the grounds that disclosure would reveal the existence or identity of a confidential whistleblower (or other informant).

- e. Pub 3498
- f. Notice 609

4.70.19.7.1
(11-22-2023)
Preparing the Notice of Examination

- (1) Under IRC 7611(c)(1)(B), the IRS has 90 calendar days from the date of the mailing of a notice of inquiry to decide whether to start a church tax examination and to issue a Notice of Examination.
- (2) If the church refuses to respond to the notice of church tax inquiry or any follow-up letter, or when the church's response doesn't resolve the IRS's concerns, the examiner will initiate steps to issue a Notice of Examination.
- (3) To start a request to issue a Notice of Examination, the examiner will:
 - a. Prepare a draft notice of examination using Letter 5309, Notice of Church Examination for the signature of the designated official. The letter must include a description of the records and activities the IRS seeks to examine inserted where indicated on Letter 5307, Church Tax Inquiry Notice.
 - b. Attach a copy of Letter 5307, Church Tax Inquiry Notice, and attachments, plus any follow-up letter to the notice of examination.
 - c. Attach a copy of all the documents the IRS collected or prepared for use in the examination. The disclosure of this information is required by the Freedom of Information Act (5 U.S.C. 552 as supplemented by IRC 6103(relating to disclosure and confidentiality of tax return information). If doubt exists whether any document is disclosable, the examiner should consult TEGEDC and Disclosure.
 - d. Prepare a memorandum to TEGEDC for reviewers stating why the examination is necessary. See Exhibit 4.70.19-1, Memorandum TEGEDC - Request of Notice of Church Tax Inquiry or Examination.
 - e. Verify the accuracy of the 90-day period date on the Cover Sheet. See Form 15304, IRC Section 7611 Church Case Time Limits and Approvals Cover Sheet, and mark "expedite".

4.70.19.7.2
(11-22-2023)
TEGEDC Pre-Issuance Review

- (1) The group manager will send the case information, the memorandum, and the draft examination letter to the area manager for transmittal to TEGEDC who will be responsible for providing an opinion as to whether an examination is warranted. The examiner will prepare a memorandum to TEGEDC using Exhibit 4.70.19-1, Memorandum TEGEDC - Request of Notice of Church Tax Inquiry or Examination.
- (2) The examiner, managers, TEGEDC and Division Counsel will exercise all precautions, including informal contact, to ensure Counsel's (for purposes of this paragraph and the succeeding paragraph of this section, Counsel hereinafter refers to either TEGEDC or Division Counsel, or both, as appropriate) review can be completed without jeopardizing the 90-day period for completing the church tax inquiry and mailing the notice of examination. After Counsel's review is complete, the Notice of Examination will be sent to the designated official and cascaded through the management chain for approval.

Note: The electronic transmittal should include all documents (letters, RAR, case chronology, etc.) prepared in the inquiry or examination. This information will allow Counsel to make the revisions to the notice of examination in appropriate circumstances.

- (3) Generally, if TEGEDC agrees that the issuance of the notice of examination is appropriate, TEGEDC will secure the written concurrence of Division Counsel. If TEGEDC believes revisions are necessary, TEGEDC will exercise discretion in whether to make the changes directly (after concurrence by the examiner) or to return the file to the examiner for revision. If the file is returned to the examiner, he/she will make any necessary revisions and return the file to TEGEDC. TEGEDC will prepare a recommendation memorandum and forward the matter to Division Counsel. Division Counsel has 15 days to provide a non-binding advisory opinion addressed to the designated official. Upon concurrence by Division Counsel (or concurrence subject to certain revisions, in which case TEGEDC will make the necessary revisions after concurrence by the examiner) TEGEDC will send the entire file, which will include the written opinion of TEGEDC and the concurrence memorandum of Division Counsel, to the designated official (through the group manager and area manager) for approval and issuance of the notice of examination. As noted above, Counsel will exercise appropriate precautions to ensure that it timely completes its review, and will keep the examiner, group manager and the area manager apprised of the status of that review. The file should be sent to the designated official, so that it is received no later than ten days before the expiration of the 90-day period.

Note: TEGEDC's pre-issuance review doesn't remove the requirement of IRC 7611(b)(2)(A) that at least 15 calendar days before the beginning of an examination, the designated official provide a copy of the notice of examination to Division Counsel (successor position to Regional Counsel referenced in IRC 7611(b)(2)(A)) and to the organization.

4.70.19.7.3
(11-22-2023)
**Issuance of Notice of
Examination**

- (1) After the designated official signs, the notice of examination, the signed letter will be sent to the group to mail with the enclosures "certified mail, return receipt requested." Include the memorandum to Division Counsel in Exhibit 4.70.19-2, Memorandum to Division Counsel - Transmittal of Notice of Church Tax Examination. Keep an electronic copy of the signed and dated letter with the electronic case file.
- (2) The designated official's office (or the group on its behalf) must provide a copy of the notice of examination to Division Counsel upon mailing the notice to the organization.
- (3) The examiner will calculate the two-year examination period expiration date beginning on the date of the notice of examination. The examiner will enter the two-year expiration date prominently on the cover sheet (Form 15304, IRC Section 7611 Church Case Time Limits and Approvals Cover Sheet) enclosed in the electronic case file and advise his or her group manager of the critical dates. The area manager is responsible for monitoring the statutory time limit for completing the examination.
- (4) Discuss the following items during the first phone contact with the taxpayer or POA after mailing the Notice of Examination:

- a. Verify the taxpayer's receipt of Publication 1 and Notice 609.
- b. If conducting an employment tax examination, verify the taxpayer's receipt of Publication 5146.
- c. Briefly describe the rights discussed in Publication 1 and Notice 609 and respond to any questions.
- d. Briefly describe the examination process and inform the taxpayer and/or representative of the resolution options available for unagreed (e.g., managerial conference, Fast Track Settlement, formal appeal, right to petition the United States Tax Court, etc.).
- e. Document the confirmation of receipt of Publication 1, Notice 609, and Publication 5146 if applicable, and the discussion held with the taxpayer and/or representative on your CCR.

Note: You may also document the confirmation and discussion in any initial interview workpapers.

4.70.19.7.4
(11-22-2023)
**Pre-Examination
Conference**

- (1) The purpose of the conference is to provide the opportunity to discuss and resolve the IRS's concerns that gave rise to the inquiry without the need for an examination.
- (2) After the IRS issues a notice of examination, the church may request a conference at any time before the examination begins. If the church requests a conference, the IRS must schedule it within a reasonable time and may not proceed to examine church records and activities until after the conference.
- (3) The IRS will not allow a church to use the conference requirement to unreasonably delay an examination. This is determined by the facts and circumstances. Examples of unreasonable delays include:
 - a. Repeated (two or more) failures to keep scheduled appointments with the IRS,
 - b. Repeated (two or more) requests to reschedule a conference, unless the church provides sufficient reasons for the requests,
 - c. Request to schedule the conference at a date more than 30 days from the date of the notice of examination without sufficient reason and refusal to execute a consent to suspend the two-year time limit for completing the examination.
- (4) If the church requests a conference, the IRS will schedule the conference at a mutually convenient time and place.
- (5) If the church doesn't request a conference within 15 calendar days after the date of the notice of examination, and if Division Counsel has advised the designated official that it doesn't object to the examination, the examiner will contact the organization to arrange the examination.
- (6) If Division Counsel hasn't rendered an opinion to the designated official as to whether or not it objects to an examination, the examiner will not contact the organization to arrange the examination until 30 days after the notice of examination mailing date.
- (7) If the organization requests a conference when the examiner contacts the organization to arrange an examination, or any time before the examination starts, the conference must be held before the examination can begin.

- (8) At least one management official and the examiner assigned to the case should attend the conference. To avoid misunderstandings, the IRS will remind the church at the meeting, in general terms, of the stages of the church examination procedures and its rights under such procedures.
- (9) After the conference, the area manager will decide whether to proceed with an examination or to close the case as a no change. If the church is to submit additional information, the area manager will wait until receipt of the information, or the expiration of the time allowed for the church to submit the information before making a final decision to proceed with an examination.

4.70.19.8 (11-22-2023) **Scope of Examination**

- (1) Church records may only be examined to determine tax liabilities and church religious activities may only be examined to determine whether the taxpayer is a church. See section 7611(b)(1)(A)-(B).
- (2) Church records include all regularly kept church corporate and financial records, including (but not limited to) corporate minute books, contributor and membership lists, and church books of account, in any format, including electronic. Church books of account include the general ledger, general journal, accounts receivable ledgers, accounts payable ledgers, cash disbursements book, cash receipts books, all subsidiary ledgers, voucher register, check register, purchases journal, sales journal, check books, savings account books and all specialized journals. In addition, church records include private correspondence between a church and its members that is in the possession of the church, in any format, including electronic.
- (3) An examination conducted in accordance with the church examination procedures may disclose that the organization isn't exempt under IRC 501(c)(3), is subject to federal tax, or IRC 4958 tax is due from a disqualified person with respect to a transaction involving a church, for reasons other than those that led to the examination. In such cases, the examiner may expand the examination, without additional procedural requirements (as long as you're not opening a new year), to include examination of any records necessary to resolve the new issue or issues if the new issue or issues occurred during the year or years under examination.

4.70.19.9 (11-22-2023) **Summons**

- (1) A summons may be issued to a church to secure information requested during the examination, which the church refuses to provide.
- (2) If the purpose of the summons is to secure information to aid in the collection of liabilities already assessed, IRC 7611 isn't applicable.
- (3) Prepare a church summons in accordance with the instructions contained in IRM 25.5.8.3.5, Issuing Church Summonses.
- (4) TEGEDC must review the proposed summons before issuance.
- (5) If a church doesn't comply with a summons, consult TEGEDC.

4.70.19.10
(11-22-2023)
**Closing Letters, Report
of Examination and
Mandatory Review
Requirements**

- (1) See the following subsections for guidance on specific case closures:
- IRM 4.70.19.10.1, No Change Cases.
 - IRM 4.70.19.10.2, All Adverse Determinations.
 - IRM 4.70.19.10.3, Adverse Cases Involving Exemption of Tax (IRC 7428).
 - IRM 4.70.19.10.4, Determinations of Tax.

4.70.19.10.1
(11-22-2023)
No Change Cases

- (1) No-change and no-change advisory letters issued in church examination cases must specify the time period covered and include a specific description of the issues considered in the examination. Like non-church cases, church inquiries and examinations that result in no change are not subject to Mandatory Review. The examiner will use the language contained in the following exhibits in accordance with the appropriate examination situation:

- a. See Letter 6484, Church Examined - No Change or Advisory, for an organization previously recognized as exempt as a church.
- b. See Letter 6484, Church Examined - No Change or Advisory, for an organization not previously recognized as exempt as a church.
- c. See Letter 6486, Church Exam not Completed in Two Years, for an organization not previously recognized as exempt as a church, and the two-year limit for completing a church tax examination imposed by IRC 7611(c)(1)(A) is imminent but no issue(s) critical to exempt status have been identified.
- d. See Letter 6486, Church Exam not Completed in Two Years, for an organization recognized as a church exempt from tax, when the two-year limit for completing a church tax examination imposed by IRC 7611(c)(1)(A) is imminent though an issue that is critical to exempt status remains unresolved.

Note: Examiners can conclude such examinations with a no change or a no change advisory letter, which neither denies nor recognizes exempt status, or continues to recognize exempt status under IRC 501(c)(3), as applicable. A no change letter under IRC 7611 isn't an adverse determination and isn't a basis for declaratory judgment.

- (2) In cases not subject to the declaratory judgment procedures under IRC 7428, i.e., no change to exempt status or church classification under IRC 170(b)(1)(A)(i), but liable for employment taxes, unrelated business income or other taxes, or a disqualified person is liable for IRC 4958 tax, Mandatory Review will review unagreed cases not subject to review by the IRS Independent Office of Appeals (Appeals) involving 90-day letters. After securing written approval of Division Counsel, the EO Reviewer issues a statutory notice of deficiency.

4.70.19.10.2
(11-22-2023)
**All Adverse
Determinations**

- (1) The examiner must prepare a report of examination for all church examinations resulting in adverse determinations (IRC 7428) or assertions of additional tax. Group Managers must ensure the report of examination and appropriate 90-day letter is issued within the statutory 90-day time period for inquiries, or the statutory 2-year period for examinations.
- (2) See the table below for where the group manager is to send the case:

If the church case involves:	Then send the church case to:
Adverse determination of exempt status	Mandatory Review
Protested tax determination	Appeals
Protested worker classification determination	Appeals
Unprotested, unagreed tax determination (excluding non-worker classification employment taxes)	Mandatory Review
Unprotested, unagreed worker classification determination	Mandatory Review
Unprotested, unagreed non-worker classification employment tax determination	Closing Unit

Note: Examinations that result in adverse determinations regarding exempt status (IRC 7428) go to Mandatory Review for Issuance of the 90-day letter.

- (3) In adverse change cases subject to the provisions of IRC 7611, Division Counsel must approve the report of examination. Division Counsel must also determine and indicate in writing that the IRS has conducted the church tax inquiry and examination in substantial compliance with the requirements of IRC 7611. This requirement applies to any:
- Determination that an organization is not exempt from tax by reason of IRC 501(a).
 - Determination that an organization is not a church described in IRC 170(b)(1)(A)(i).
 - Notice of deficiency of any tax involved in a church tax examination, including penalties subject to subchapter B of Chapter 63 (relating to deficiency procedures).
 - Underpayment of tax involved in a church tax examination with respect to which subchapter B of Chapter 63 (relating to deficiency procedures) does not apply.
 - Notice of deficiency of any IRC 4958 tax due from a disqualified person with respect to a transaction involving a church.

Note: The Taxpayer First Act (TFA) added IRC 7803(e)(5), which provides that if any taxpayer who has received a statutory notice of deficiency (SNOD) requests referral to Appeals and such request is denied, the Commissioner shall provide the taxpayer a written notice with a detailed description of the facts involved, the basis for the decision to deny the request, a detailed explanation of how the basis of such decision applies to such facts, and the procedures for protesting the decision to deny the request. Under the TFA, this process does not apply when the taxpayer's request is denied because the issue involved is a frivolous position (within the meaning of IRC 6702(c)). Consult with TE/GE TEGEDC for further guidance.

- (4) The examiner should close a church case with an adverse determination or change in tax to Mandatory Review so that Mandatory Review receives the case no less than 120 days before the two-year period will expire. Mandatory Review will submit the request for Division Counsel's approval so that Division Counsel receives the case with no less than 90 days before the expiration of the two-year period. Group managers must notify the receiving manager of the review function, via secure email, that a church case is forthcoming.

4.70.19.10.3
(11-22-2023)

**Adverse Cases Involving
Exemption of Tax (IRC
7428)**

- (1) In cases subject to the declaratory judgment procedures under IRC 7428, IRC 7611(g) provides that any final report of an examiner is treated as a final adverse determination under IRC 7428(a)(1) and any church receiving such a report shall be treated for purposes of IRC 7428 and IRC 7430 as having exhausted the administrative remedies available to it. Thus, the IRS does not provide for administrative appeal and will not send a proposed adverse determination letter or "30 day letter," but rather will send only the final adverse determination letter, "90 day letter," with Form 4621-A, Exempt Organizations - Report of Examination (Proposed Status Changes).
- (2) In such cases, Mandatory Review will mail the final adverse determination letter "certified mail, return receipt requested," after the reviewer secures Division Counsel's written approval, and will retain the administrative file in 90-day suspense (AIMS Status 24) until the time for filing a declaratory judgment action under IRC 7428 or, in the case of tax deficiencies, the time for filing a petition with the Tax Court under IRC 6213(a) has passed.
- (3) The examiner's final report in adverse cases subject to the declaratory judgment procedures under IRC 7428 should contain all grounds for the determination. The report, however, should be limited to IRC 7428 issues and shouldn't discuss positions inconsistent with the primary basis for the adverse determination. For example, the report in a revocation case shouldn't discuss the organization's liability for unrelated business income tax (unless the basis for revocation is that the organization's primary activity is carrying on unrelated trade or business).
- (4) If the church doesn't timely file a petition under IRC 7428, Mandatory Review may issue a 30-day letter on any converted return income tax or FUTA tax due, after the 90-day period has expired. If the case is held in the Area, the Area will issue the 30-day letter. If Mandatory Review has the case, Mandatory Review will issue the 30-day letter.

4.70.19.10.4
(11-22-2023)

Determinations of Tax

- (1) In cases involving a change to tax, the IRS will send a proposed adverse determination letter, "30-day letter," to the church. The examiner will prepare and issue the letter.
- (2) In unagreed cases subject to Mandatory Review involving a change to tax, such as worker classification, unrelated business income or other taxes, or a disqualified person is liable for IRC 4958 tax, Mandatory Review will issue the SNOD or FADL. After securing written approval of Division Counsel, the examiner will send the "30-day letter," to the church.
- (3) If the church or disqualified person files a protest, the group will send the case to Appeals for consideration.

4.70.19.11
(11-22-2023)

Referrals to Appropriate State Officials

- (1) In accordance with the procedures outlined in IRC 6104(c) and 26 CFR 301.6104(c)-1, the IRS will notify appropriate state officials of any final decision that an organization which claims to be a church is not entitled to initial or continuing qualification as an organization described in IRC 501(c)(3). See IRM 7.28.2, Exempt Organizations Disclosure Procedures, Information Disclosure to State Officials Under IRC 6104(c).

4.70.19.12
(11-22-2023)

Time Limits

- (1) The church tax inquiry period must last a minimum of 15 calendar days from the date the notice is mailed but must be concluded within 90 calendar days from the date the church tax inquiry is mailed. The period is counted from the day after the day the notice is mailed (e.g.), if the notice is mailed on November 1, day one of the church tax inquiry period is November 2. If, absent any consent to extend as described in IRM 4.70.19.12.1, Suspension of Time Limits, the IRS doesn't conclude the church tax inquiry by the 90th calendar day - by sending a notice of examination or issuing a final determination letter - the inquiry must be terminated with no change to the organization.
- (2) A church examination may not begin until at least 15 calendar days after the mailing of the notice of examination and after the conference, if one is requested before the examination is begun. A final determination, 90-day letter or final adverse determination letter must be issued within two years from the issuance of the notice of examination.

4.70.19.12.1
(11-22-2023)

Suspension of Time Limits

- (1) The running of the 90-day period in which the IRS must issue a notice of examination and the two-year period in which the IRS has to make a final determination is suspended under any of the following conditions:
 - a. A judicial proceeding is brought by the organization against the IRS concerning a church tax inquiry or examination that is pending or being appealed.
 - b. A judicial proceeding brought by the IRS against the organization or any official of the organization to compel compliance with any reasonable request of the IRS for examination of church records or religious activities is pending or being appealed.
 - c. The IRS is unable to act with respect to a church tax inquiry or examination because of an order issued in a judicial proceeding brought under IRC 7609.
 - d. The IRS and the church have agreed to a suspension of the 90-day or two-year period.
- (2) IRC 7611(c)(2)(C) provides direct authority for obtaining a consensual extension of time for either the 90-calendar day inquiry period or the two-year examination period. If it becomes necessary to obtain an extension, the IRS should prepare a special consent form.
- (3) See Letter 6487, Consent to Suspend the Period to Conduct a Church Tax Inquiry/Examination, and which contain sample language for a consent to suspend the period to conduct an IRC 7611 inquiry or examination. The designated official or his/her delegate no lower than the group manager may execute the consent. Because IRC 7611 contains special limitations, use of the standard Form 872 Consent to Extend the Time to Assess Tax or Form 872-A Special Consent to Extend the Time to Assess Tax is not suitable for purposes of extending the IRC 7611 periods. Use Letter 6488, Suspension Consent

Letter, to solicit an extension. Also, use Letter 6488, Suspension Consent Letter, to send the executed consent back to the organization.

- (4) IRC 7611(c)(2)(B) provides that the two-year time limitation on church examinations is suspended for any period in excess of 20 days but not in excess of six months, provided that the church fails to comply with any reasonable request for church records or other information. In such case, the two-year period for conducting an examination shall be suspended after the 20th day of the failure, but the suspension shall not last more than six months from the beginning of the refusal. This suspension provision doesn't apply to the 90-day period for completing a church tax inquiry so a refusal by the organization to answer questions should cause the examiner to prepare a notice of examination. The examiner shouldn't wait six months to issue a summons for the requested information that church officials refuse to provide. The examiner should prepare a summons and send it to TEGEDC for review as soon as circumstances indicate that the church will not voluntarily provide the information requested. See IRM 25.5.2, Summons Handbook, Preparation, for more information.
- (5) Usually, the examiner should send a follow-up letter to the organization if it has not responded to the request at the end of the 20-day period following an unanswered information request. This notifies the organization of the suspension of the examination time-period. It is especially important to send such a letter if the organization responds to the information request but refuses to provide all the information requested. See Letter 6485, Notice of Suspension of Two-Year Period - Delays in Church's Response, which provides a sample of the language to be included in this letter.
- (6) No extension of the two-year period is allowed by reason of a stay of summons proceedings against the church resulting from the IRS's noncompliance with IRC 7611 procedures.

4.70.19.12.2
(11-22-2023)
**Limitation on Years
Subject to Examination**

- (1) The statute of limitation periods under subchapter A of Chapter 66 (relating to limitations on assessment and collection) apply to church examinations except for the situations in the succeeding paragraphs below.
- (2) If the organization hasn't filed a return, an examination concerning exempt status is limited to the three completed tax-years immediately preceding the date of issuance of the notice of examination. The IRS may add an additional three years to this period if the organization isn't exempt for any year of the three-year period immediately preceding the issuance year of the notice of examination, so that the examination may cover a six-year period immediately preceding the year of issuance of the notice of examination. Examination of additional years doesn't extend the two-year period, for completing the examination. The IRS may examine church records of a year earlier than the third or sixth completed taxable year only to the extent relevant to a determination of tax-exempt status during the three or six-year period.
- (3) For purposes of examining church records for the additional three years, a church is considered not to be exempt for any of the three most recently completed taxable years preceding the examination notice date when the designated official, without delegation to a subordinate official, agrees in writing with the findings of the examiner that the church isn't exempt for any one of the three most recently completed taxable years. Consultation with TEGEDC is advisable before sending a request to the designated official for concurrence.

The examiner will set forth his findings for the three most recently completed taxable years in a summary report and forward it to the designated official through the group manager and the area manager, with a recommendation for expansion of the examination to six years. This report isn't a final adverse determination. The declaratory judgment procedures under IRC 7428, therefore, will not be available to the church until the IRS makes a final adverse determination (which includes a final examiner's report and a 90-day letter) with respect to the expanded six-year examination.

- (4) If the organization hasn't filed a return and the examination concerns unrelated business income tax under IRC 511, the IRS may assess or collect tax for the six most recently completed taxable years preceding the date on which the notice of examination is sent. The IRS may examine church records of a year earlier than the sixth year only to the extent relevant to a determination of unrelated business income tax liability during the six-year period.
- (5) For examinations involving issues other than revocation of exempt status or unrelated business income; for example, examinations relating to social security or other employment taxes, no limitation period applies if the church didn't file a return.
- (6) For cases involving IRC 4958 issues, consult Counsel.

4.70.19.12.3
(11-22-2023)
**Non-Compliance by IRS
with Church
Examination Procedures**

- (1) If the IRS hasn't substantially complied with the church examination procedures, a summons enforcement proceeding brought by the IRS to gain access to church records may be stayed by the Court until the IRS complies with IRC 7611 procedures.
- (2) The IRS has not complied with the church examination procedures when the non-compliance is substantial and relates to either of the following:
 - a. The requirements relating to the Notice of Church Tax Inquiry and the Notice of Church Tax Examination.
 - b. The requirement that the designated official approve the commencement of a church tax inquiry.
 - c. The requirement that an offer of a conference with the church be made and held if requested.
- (3) The two-year period for completing a church examination will not be suspended during stays of summons proceedings resulting from violations described in the preceding paragraph above.
- (4) In determining whether a stay is necessary, a court will consider the good faith effort of the IRS and the effect of any failure to comply with church examination procedures.
- (5) There is no remedy, other than a stay of IRS summons enforcement action, for IRS non-compliance with the procedures of IRC 7611. Division Counsel, however, may not approve final adverse actions resulting from a church tax examination unless there has been substantial compliance with the IRC 7611 requirements

4.70.19.12.4
(11-22-2023)

**Limitations on
Additional Inquiries and
Examinations**

- (1) The IRS can't begin a subsequent church tax inquiry or examination of a church for a five-year period unless the previous examination or inquiry resulted in a revocation, notice of deficiency or an assessment, or a request for a significant change in church operations, including a significant change in accounting practices.
- (2) The five-year limitation period referred to above begins the date the notice of examination was mailed to the church in connection with an earlier examination. If the IRS previously issued a church tax inquiry notice, but didn't proceed to issue a notice of examination, the five-year limitation period begins on the date the notice of inquiry was mailed. If the 90-day period or the two-year period was suspended in the earlier inquiry or examination, the five-year limitation period is extended for a time equal to the length of the earlier suspension, unless the prior examination was actually concluded within two years of the notice of examination.
- (3) The five-year limitation on a church tax inquiry or examination doesn't apply under the following conditions:
 - a. Written approval is obtained from the Deputy Commissioner Services and Enforcement. (See IRM 1.2.2.8.3, Delegation Order 7-3 (Rev. 2)), or
 - b. The issues involved aren't the same as or similar to the issues involved in the previous inquiry or examination. A determination of similarity of issues depends on the substantive factual issues rather than legal classification.

Example: Unrelated business income from a different source will be considered as involving a different issue.

4.70.19.13
(11-22-2023)

**Coordination of IRC
170(c) Deduction Cases**

- (1) In some instances, an individual may claim that he or she is entitled to the parsonage allowance exclusion from income under IRC 107. In such cases, if another operating division determines the individual hasn't performed services that are ordinarily the duties of a minister of the gospel, it will not be necessary for EO Examinations to examine the church. However, if another operating division considers an examination of the church is necessary to determine whether the individual did perform services in accordance with the tenets and practices of the church, the operating division will make a referral to the Manager, Classification Group 3.
- (2) Representatives from other operating divisions may conduct periodic meetings to discuss developments in the program relating to examination of alleged churches and related individuals and to discuss problems that arise. EO representatives should attend, when asked.
- (3) See also IRM 4.70.19.6.2, Church Information Referrals.

4.70.19.14
(11-22-2023)

**Church Related Private
School Examinations**

- (1) If the church-related private school is a separate legal entity, IRC 7611 procedures do not apply. If the school claims to be a church, the IRS must follow IRC 7611 procedures. See the Audit & Technique Guide - Private and Charter Schools for specific information for finding and developing issues common to private and charter school and college/university exams. The guide is available at *Audit & Technique Guide - Private and Charter Schools*.

4.70.19.15
(11-22-2023)
**Waiver of IRC 7611 for
Claims and Abatement
Requests**

- (1) Examiners should only follow these procedures of offering a waiver if the assigned return is a claim or abatement request submitted by a church.
- (2) Confirm that the organization is a church. Generally, a church is identified with foundation status code 10 and/or filing requirement code 06 in IDRS. However, if the organization does not have either of these codes but there is a reason to believe it may be claiming to be a church, contact your group manager and review IRM 4.70.19.5, Source of Case - Organization Claims to be a Church, or Church by Inference.
- (3) Conduct a pre-contact analysis following IRM 4.70.12, Planning the Examination.
 - If there are any Large, Unusual, Questionable (LUQ) items in addition to the claim or abatement issue, see IRM 4.70.19.3, Church Tax Inquiry Procedures.
- (4) Prepare the waiver package and submit it to your group manager for review. The waiver package includes:
 - Letter 6249, Waiver of IRC 7611.
 - Form 15239, Waiver of the Provisions of Section 7611. In the designated spaces, insert the organization's legal name and description of the subject matter to which this waiver applies (e.g., employment tax claim for tax year(s)).
 - A memo to your area manager including a brief summary of:
 - The claim or abatement request
 - The subject matter
 - Issue(s)
 - Tax period(s) covered
 - Method(s) used to determine church status
 - Other pertinent information
 - A copy of the claim or abatement request.
- (5) Secure approval to offer the waiver from the Director, Exempt Organizations Examinations (EOE).

If the...	Agrees:	Disagrees:
Group Manager (GM)	Send the waiver package to the Area Manager (AM).	Return the waiver package to examiner to revise the waiver package or begin IRC 7611 procedures.
Area Manager (AM)	Send the waiver package to the Director, EOE.	Return the waiver package to GM to work with the examiner to revise the waiver package or begin IRC 7611 procedures.

If the...	Agrees:	Disagrees:
Director, EOE	Sign Letter 6249 and return to AM. AM forwards signed letter to GM and examiner.	AM will return package to GM to work with the examiner to revise the waiver package or begin IRC 7611 procedures.

- Update the case chronology record to notate the routing through the various management levels.
- (6) Upon approval from the Director, EOE, offer the waiver to the church by sending the Letter 6249, Wavier of IRC 7611, Form 15239, Waiver of the Provisions of Section 7611, and Pub 5328, Statement of Administrative and Constitutional Rights:
- Send using certified mail to verify that the letter was received at the address provided in the claim or abatement request.
 - Allow 15 calendar days for the church to respond.
 - Upon the church's request, allow a reasonable amount of time to respond to Letter 6249.
 - If the church declines the waiver or does not timely respond to Letter 6249, follow the IRC 7611 procedures. See IRM 4.70.19.3, Church Tax Inquiry Procedures.
- (7) Upon receipt of the signed Form 15239, Waiver of the Provisions of Section 7611 from the organization:
- Update the Definer Code for the RCCMS case file by selecting 8311, IRC Section 7611 Waivers from the drop-down menu.
 - Verify the form was properly completed including a valid signature by an officer, director, trustee or other authorized official. It should not be signed by a Power of Attorney (POA).
 - Date-stamp the valid Form 15239, Waiver of the Provisions of Section 7611 and maintain it in the electronic case file. Do not send the church a copy of the completed Form 15239.
- (8) The examiner should follow the normal procedures for claims and abatements set forth in IRM 4.70.17, Claims and Abatements.
- (9) Consult your group manager (and Division Counsel as necessary) if:
- The church later states that they wish to revoke a previously signed waiver. By signing the waiver, the church only voluntarily waived IRC 7611 procedures for processing the claim or abatement relating to the specific tax period.
 - Additional compliance issues arise during the examination of the claim or abatement.
 - The church modifies the waiver, for example by striking out the description included in the waiver and adding something different.
 - Any other circumstances arise that are not addressed in this section.

Exhibit 4.70.19-1 (11-22-2023)**Memo to TEGEDC – Request Review of Notice of Church Tax Inquiry or Examination**

[Use Standard EO Examinations letterhead from Letter 3609]	
Date:	
MEMORANDUM FOR:	YOUR TEGEDC CONTACT
FROM:	[Insert name] [Insert title]
Subject:	Request for Review and Approval of Notice of Church Tax [Inquiry/ Examination] [(NCTI)/(NCTE)] for [Insert name and EIN of Church]
<p>[SELECTABLE PARAGRAPH – INQUIRIES ONLY] You should have received or will soon be receiving the case file for the organization listed above.</p> <p>I am requesting TEGEDC to provide an advisory memorandum on whether the attached proposed [NCTI / NCTE] satisfies the requirements of [IRC 7611(a)(3)(B) for church tax inquiries / IRC 7611(b)(3)(A) for church tax examinations].</p> <p>We also request your opinion whether we have demonstrated a sufficient basis to satisfy the reasonable belief standard of IRC 7611(a)(2).</p> <p>If we have satisfied both these requirements, we request your concurrence on whether we should proceed with a church tax [inquiry / examination]. Also, please indicate your approval (concurrence) of the [inquiry / examination] on the attached “Approval Cover Sheet.”</p> <p>You can:</p> <ul style="list-style-type: none">• Concur with issuing an [NCTI / NCTE] without comment.• Concur with issuing an [NCTI / NCTE], with comments.• Not concur with issuing the [NCTI / NCTE] because changes are required, stating the changes.• Not concur with conducting a church tax [inquiry / examination] at all, stating your reasons. <p>Our reasons for the church tax [inquiry / examination] are [].</p> <p>[SELECTABLE PARAGRAPH – INQUIRIES ONLY] The information upon which the decision to initiate an inquiry is based on [].</p> <p>[SELECTABLE PARAGRAPH – INQUIRIES ONLY] The specific IRC sections and regulations considered are [].</p> <p>[SELECTABLE PARAGRAPH – INQUIRIES ONLY] The information relied on for the proposed inquiry was obtained in the following manner: []</p> <p>Please provide your advisory memo with a cc to the individuals listed below within [] calendar days from the date of this memo. I will schedule a conference in the interim to discuss proceeding with a church tax [inquiry, inquiry questions, the written reasons for our inquiry / examination and the content of the NCTE], or any other matter pertinent to the case.</p> <p>Should you have any questions or concerns regarding this case, please contact me at [insert telephone number].</p> <p>ATTACHMENTS: [Notice of Church Tax Inquiry / Notice of Church Tax Examination] and attachments</p>	

Exhibit 4.70.19-1 (Cont. 1) (11-22-2023)

Memo to TEGEDC – Request Review of Notice of Church Tax Inquiry or Examination

cc	Group Manager Area Manager Church Tax Coordinator Manager FSL/ET
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Church Tax Inquiries and Examinations Under IRC 7611 4.70.19

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Exhibit 4.70.19-2 (11-22-2023)

Memorandum to TEGEDC - Transmittal of Notice of Church Tax Examination

DEPARTMENT OF THE TREASURY Internal Revenue Service Washington, D.C. 20224	
[Enter Same Date or a later date of the NCTE]:	
MEMORANDUM FOR:	[Insert name] TEGEDC
From:	[Insert name] [Insert title of Designated Official]
Subject:	Copy of Church Notice of Examination Issued to [Insert name and EIN of Church]
<p>Attached is a copy of the examination notice, as described in IRC section 7611(b), that we will issue to the above organization on [insert same date or later date]. While TEGEDC has reviewed and approved the attached examination notice, we are providing you a copy in accordance with IRC section 7611(b)(2)(A).</p> <p>We believe an examination is necessary because [insert explanation].</p> <p>If you have any objections to this examination, please provide an advisory opinion within 15 calendar days from the date of the notice of examination letter, as provided in IRC section 7611(b)(3)(C).</p> <p>Should you have any questions or concerns regarding this notice of examination, please contact me at [insert designated official's telephone number].</p> <p>Attachments (3)</p>	

