



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

7.28.4

DECEMBER 4, 2024

EFFECTIVE DATE

(12-04-2024)

PURPOSE

- (1) This transmits revised IRM 7.28.4, Exempt Organizations Disclosure Procedures, Public Inspection of Written Determinations Under IRC 6110.

MATERIAL CHANGES

- (1) Made editorial changes throughout.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 7.28.4 dated November 8, 2023.

AUDIENCE

Tax Exempt and Government Entities
Exempt Organizations
Rulings and Agreements

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7.28.4

Public Inspection of Written Determinations Under IRC 6110

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7.28.4.1
(12-04-2024)
Program Scope and Objectives

- (1) **Purpose:** This IRM section contains guidance on IRC 6110. For general disclosure information, refer to IRM 11.3.9, Disclosure of Official Information, Exempt Organizations, and the *Governmental Liaison, Disclosure and Safeguards* web page.
- (2) **Audience:** The procedures in this manual apply to all Exempt Organizations employees.
- (3) **Program Owner:** Director, Exempt Organizations, Rulings and Agreements.
- (4) **Policy Owner:** Exempt Organizations and Government Entities.

7.28.4.1.1
(11-08-2023)
General Disclosure Background

- (1) IRC 6103 provides the general rules for returns and return information confidentiality. Absent other specific Code disclosure authorization, returns and return information are confidential. Officers and employees of the U.S. are prohibited from disclosing returns or return information (IRC 6103(a)).
- (2) IRC 6103 itself contains exceptions to the rule that returns and return information are confidential. There are also two major statutory exceptions that govern the public disclosure of Exempt Organizations (EO) return information:
 - a. IRC 6104 lists specific rules for the disclosure of EO applications, rulings, determinations, and returns.
 - b. IRC 6110 lists special disclosure rules and procedures for certain categories of rulings, determinations, technical advice memorandums, and Chief Counsel advice.

7.28.4.1.2
(11-08-2023)
IRC 6110 Background

- (1) The IRS must (under IRC 6110 special disclosure rules) release for public inspection:
 - The text of written determinations, and
 - Any background file documents.
- (2) Certain information, including identifying details, about written determinations and background file documents must be deleted (redacted) (IRC 6110(c)).
- (3) On December 2, 2003, the D.C. Circuit Court ruled in Tax Analysts v. Internal Revenue Service, 350 F.3d 100 (D.C. Cir. 2003), that ruling letters issued by the Exempt Organizations division are written determinations under IRC 6110(b)(2).

Note: Previously, Treas. Reg. 301.6110-1 provided an exception for the public disclosure of EO denials and revocations.

7.28.4.1.3
(11-08-2023)
Authority

- (1) Rev. Proc. 2023-5, updated annually:
 - a. Lists procedures for issuing determination letters on issues under the jurisdiction of the Director, EO Rulings and Agreements.
 - b. Explains the procedures for issuing determination letters on exempt status for applications for recognition of exemption from federal income tax under Section 501 or 521 (other than those subject to Rev. Proc. 2023-4, updated annually), private foundation status, and other determinations related to exempt organizations.

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- c. Gives guidance on the exhaustion of administrative remedies for declaratory judgment under IRC 7428 and guidance on applicable user fees for requesting determination letters.

7.28.4.1.4 (06-04-2020) Responsibilities

- (1) EO Rulings and Agreements is responsible for issuing determination letters on exempt status, private foundation status, and other determinations related to exempt organizations.

7.28.4.1.5 (11-08-2023) Program Controls

- (1) Exempt Organizations Determinations Quality Assurance (EODQA) reviews cases to ensure:
 - a. Technical accuracy,
 - b. Adherence to written procedures,
 - c. Uniform and impartial treatment of exempt organizations' interests while protecting the government's interest, and
 - d. Identification of unfavorable case patterns, trends affecting processing quality, problem areas, unique issues, and new or novel techniques that EO Determinations specialists develop.

7.28.4.1.6 (11-08-2023) Acronyms and Terms

- (1) Commonly used abbreviations include:

| Acronym/Abbreviation | Definition |
|----------------------|---|
| CCR | Case Chronology Record |
| EO | Exempt Organizations |
| EODQA | Exempt Organizations Determinations Quality Assurance |
| IRC | Internal Revenue Code |
| Rev. Proc. | Revenue Procedure |
| Rev. Rul. | Revenue Ruling |
| Treas. Reg. | Treasury Regulation |

7.28.4.2 (11-08-2023) Definitions

- (1) A "written determination" means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice.
- (2) A "background file document" for a written determination includes:
 - The request for that written determination,
 - Any material submitted in support of the request, and
 - Any communication, written or otherwise, between the IRS and persons outside the IRS in connection with the written determination received before issuance of the written determination.

Exception: Communications between the Department of Justice and the IRS for a pending civil or criminal case or investigation aren't background file documents.

7.28.4.2.1
(11-08-2023)
**EO Determinations’
Letters Subject to IRC
6110**

- (1) Certain determination letters issued by EO Rulings and Agreements are subject to IRC 6110, including:
 - a. Proposed and final denial of exemption,
Note: Proposed denial letters aren’t subject to IRC 6110 unless and until the denial becomes final.
 - b. Advance approval of grant making procedures in IRC 4945(g),
 - c. Advance approval of certain set-asides in IRC 4942(g)(2),
 - d. Advance approval of voter registration activities in IRC 4945(f),
 - e. Advance approval of an unusual grant per Rev. Proc. 2018-32,
 - f. Adverse voluntary termination of IRC 501(c)(3) status by a government entity, and
 - g. Any additional type of determination letter per Rev. Proc. 2023-5 (updated annually).
- (2) Closed EO Determinations cases with letters subject to IRC 6110 are designated for mandatory review by EODQA. See IRM 7.20.5, Review Procedures for EO Determinations.
- (3) See IRM 7.20.2, Determination Letter Processing of Exempt Organizations, and IRM 7.20.3, Processing Foundation Classification and Miscellaneous Requests, for case processing procedures and additional information for cases subject to IRC 6110.
- (4) See IRM 7.20.5, Review Procedures for EO Determinations, for general EODQA case processing procedures and additional information on IRC 6110.

7.28.4.3
(11-08-2023)
**General Guidelines for
Drafting Letters Subject
to IRC 6110**

- (1) Insert the most appropriate *Uniform Issue List* (UIL) index number on the first page of the letter.
Note: You may use more than one UIL, if appropriate.
- (2) Use the specialist’s name and contact information on the letter, including the last seven digits of their SmartID number.
- (3) Record third-party communications in the case chronology record (CCR) and on the front page of the determination letter. See Treas. Reg. 301.6110-4 .
 - a. Record any communication (whether written, by telephone, at a meeting, or otherwise) the IRS received before issuing a written determination from any person other than the organization to which the determination pertains or that organization’s authorized representative.
 - b. Note all contacts that qualify as third-party communications under Treas. Reg. 301.6110-4 on the front page of the written determination. Enter the contact date and the category of the person making the contact in the heading of the letter.
Example: Contact categories may include Congressional, Department of Commerce, Department of Treasury, Trade Association, White House, Educational Institution, etc.

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Note: See IRM 25.27.1, Third-Party Contact Program, for procedures governing IRS initiated third-party contacts subject to IRC 7602(c).

- (4) Use consistent citation formatting throughout the letter.
- Review the letter template for any citations. Continue to use any template citation format throughout the rest of the letter.

Example: If the letter template initially references “Internal Revenue Code (IRC) Section 501(c)(3),” continue using the citation format “IRC Section 501(c)(3).”

- Use the following general citation formats if the published letter template doesn’t have any embedded citations:

| For | Use |
|--|---|
| The first reference to the Internal Revenue Code (IRC) | Internal Revenue Code (IRC) Section [Insert] |
| Subsequent references to the IRC (first reference in a paragraph) | IRC Section [Insert] |
| Additional references to the IRC in the same paragraph with prior references | Section [Insert] |
| The first reference to the Treasury Regulations | Treasury Regulation Section [Insert] |
| Subsequent references to the Treasury Regulations | Treas. Reg. Section [Insert] |
| The first reference to any revenue ruling | Revenue Ruling with the full citation Example: “Revenue Ruling 67-367, 1967-2 C.B. 188, states that...” |
| Subsequent citations of the same revenue ruling | Rev. Rul. Example: “Rev. Rul. 67-367 states that...” Note: Only spell out “Revenue Ruling” the first time a Revenue Ruling used in the letter. Abbreviate each subsequent citation as “Rev. Rul.” |

| For | Use |
|--|--|
| First citation of each additional revenue ruling | Full citation but abbreviate revenue ruling Example: "Rev. Rul. 69-175, 1969-1 C.B. 149, states that..." |
| Subsequent citations of a revenue ruling | Rev. Rul. Example: "Rev. Rul. 69-175 states that..." |
| The first reference to any revenue procedure | Revenue Procedure |
| Subsequent citations of any revenue procedure | Rev. Proc. |
| The first citation of a court case | Full citation of the court case Example: " <u>B.S.W. Group, Inc. v. Commissioner</u> , 70 T.C. 352 (1978), states that..." Note: Underline, rather than italicize, the name of the case. The spaces between the words should also be underlined. |
| Subsequent citations of the same court case | Just the name Example: " <u>B.S.W. Group, Inc.</u> states that..." |

(5) For adverse letters, prepare the text of the letter in this order:

- Issues
- Facts
- Law
- Application of Law
- Your position (only if provided)
- Our response to your position (if a position is provided)
- Conclusion

Note: Some letter templates include these headings. Templates located on the EO R&A Job Aids SharePoint site may also have prepared text for some headings.

(6) Cite tax law in this order:

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1. Internal Revenue Code
2. Treasury regulations
3. Revenue rulings
4. Revenue procedures
5. Court cases

(7) List tax law references of the same category in numerical or date order, even if they aren't referenced or discussed in that order in the rest of the letter.

(8) Refer to these other general drafting guidelines:

- a. Refer to the organization as "you" in the letter.

Example: You requested a determination under IRC 4945.

- b. Don't capitalize "federal" in "federal income tax."
- c. Enclose quotations of 49 words or less in quotation marks; use block quotes for longer quotations (indent on the left side of the letter).

Caution: Conduct internet research to make sure the quote doesn't identify the organization.

- d. Don't use Latin terms, such as *supra* or *infra*. Use English terms, such as above or below. See the *IRS Style Guide*, for plain language guidelines as required by the *Plain Writing Act of 2010*.

7.28.4.4

(11-08-2023)

General Guidelines for IRC 6110 Deletions (Redaction)

(1) Delete (redact) certain information before any written determination or background file document is made available for public inspection. IRC 6110(c) lists material to redact, including:

- a. Names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under IRC 6110(d)(1), identified in the written determination or any background file document,
- b. Information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified per such Executive Order,
- c. Information specifically exempted from disclosure by any statute (other than this title) which is applicable to the IRS,
- d. Trade secrets and commercial or financial information obtained from a person and is privileged or confidential,
- e. Information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,
- f. Information contained in, or related to, examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions, and
- g. Geological and geophysical information and data, including maps, concerning wells.

(2) The most common deletions under IRC 6110 are the names, addresses, and other identifying details of all entities and individuals.

(3) Delete other identifying details from the determination letter such as:

- Names of local IRS officers and employees,
- Authorized representatives (names of individuals and possibly firm names),

- Director/shareholder information,
 - Organization/taxpayer location, including state of incorporation,
 - Business location (city and state),
 - Dollar figures,
 - Dates, including tax years,
 - Percentages,
 - Type of business if unique or industry is small,
 - Countries of operation,
 - Region, district, city, circuit court,
 - References to state law,
 - References to unique federal law that impacts few industries or individuals,
 - Product lines,
 - Court docket numbers,
 - Policy numbers,
 - Outside consultants (names of individuals and possibly firm names),
 - References to another case involving the same taxpayer(s),
 - Beneficiaries,
 - Patents and trademarks,
 - Any quotations from an opinion or searchable database (for example, SEC filings), if they are associated with the taxpayer,
 - Extensions of time or general time frames, and
 - Any other information that could be cross-referenced in other publicly available sets of information including electronic databases (such as quotes from a website).
- (4) Create a legend on the first page of the letter to define substitutions of identifying information. Generally:
- Use capital letters to represent names of individuals, corporations, places, businesses, and most numbers.
Example: If an organization was formed in Ohio, the legend may read, **B = Ohio** and the **Facts** section of the letter may read, “You were formed in B.”
Caution: Don’t use “A” or “I” in the legend because those letters are also words.
 - Use lower case letters to represent percentages and dollar figures.
Example: If the amount in question is \$100, the legend may read, **x dollars = \$100** and the **Facts** section of the letter may read, “The amount of rent you pay is x dollars.”
Caution: To avoid confusion, don’t use “a.”
 - EODQA will change the descriptor for each legend item on the redacted copy of the letter to a more generic description.
Example: B = State
 - Use specific dates only when it’s important to the issue analysis and ultimate conclusion or reference a general time frame as a substitute for an actual date.
Example: You were incorporated during the time of desegregation.

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- Minimize the use of legend items as much as possible by using generic terms rather than identifiable details, when possible.
- Avoid using both a capital and lowercase version of the same letter.

Example: X and x

7.28.4.5
(11-08-2023)

Submitting IRC 6110 Determination Letters for Disclosure - Reviewer Procedures

- (1) After an IRC 6110 determination letter issued by EO Determinations is final, the EODQA reviewer submits the letter to the Disclosure Support Section, Branch 7, Office of the Associate Chief Counsel (Procedure and Administration), for publication.

Note: Any other employee responsible for submitting an EO written determination for IRC 6110 publication follows the same general procedures.

- (2) Review the letter to ensure all identifying information is removed from the redacted copy. See also IRM 7.20.5, Review Procedures for EO Determinations.

Reminder: Identifying information includes the EIN, organization's name and address, identifying information in the legend, and the specialist's name and contact number.

- (3) Complete Letter 437, Notice of Intention to Disclose - Rulings, and the Checklist for IRC 6110 Written Determinations.
- (4) Save an electronic copy of the letter and other documents using the EIN and a generic description of the letter (for example, type of letter) or document.

Example: nn-nnnnnnn Proposed Adverse, nn-nnnnnnn Proposed Adverse Redacted, nn-nnnnnnn Letter 437, etc.

- (5) Email the letters and forms to 6110.Disclosure@irs.counsel.treas.gov with "IRC 6110 Package" as the subject line.

7.28.4.6
(11-08-2023)

Public Requests for Redacted Background File Documents

- (1) The public may request in writing to receive a redacted copy of the background file documents for written determinations which have been released for public inspection. The Disclosure Support Section, Branch 7, is responsible for processing this type of written request.
- (2) The Disclosure Support Section contacts the EO Rulings and Agreements Processing and Support Unit (Processing Unit) if it receives a written request for background file documents for a determination letter issued by EO Rulings and Agreements.
- (3) The Processing Unit locates the determination case file and provides an electronic copy to the Disclosure Support Section for processing.
- (4) The Disclosure Support Section will redact all identifying information and other material required by IRC 6110(c). Disclosure and Litigation support will direct any questions about specific redactions back to EODQA.