

Rev. Proc. 97-8

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SECTION 1. PURPOSE

This revenue procedure provides guidance for complying with the user fee program of the Internal Revenue Service as it pertains to requests for letter rulings, determination letters, etc. on matters under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations); requests for compliance statements under the Voluntary Compliance Resolution (VCR) program and the Standardized VCR Procedure (SVP) described in Rev. Proc. 94-62, 1994-2 C.B. 778, as modified by Rev. Proc. 96-29, 1996-16 I.R.B. 24; requests for correction statements under the Tax Sheltered Annuity Voluntary Correction Program (TVC program) described in Rev. Proc. 95-24, 1995-1 C.B. 694, as modified by Rev. Proc. 96-50, 1996-47 I.R.B. 10; and requests for administrative scrutiny determinations under Rev. Proc. 93-41, 1993-2 C.B. 536.

SECTION 2. CHANGES

.01 *Fee Schedule.* Adjustments have been made in several of the fees. Increases have been made in the following categories: (1) requests for waivers of the minimum funding standard, from \$3,500 to \$3,750 for waivers of \$1,000,000 or more, and from \$1,500 to \$1,625 for requests for waivers of less than \$1,000,000; (2) requests for letter rulings under Rev. Proc. 90-49, from \$200 to \$250; (3) requests for administrative scrutiny determinations with respect to separate lines of business, from \$3,250 to \$3,450 for the first separate line of business for which a determination is requested, and from \$1,000 to \$1,100 for each additional line of business for which a determination letter is requested; (4) request for advance approval of scholarship grant-making pro-

cedures of a private foundation that has an agreement for administration of the scholarship program with the National Merit Scholarship Corp. or a similar organization administering a scholarship program shown to meet Service requirements, from \$100 to \$200; and (5) requests for confirmation letter rulings dealing with private benefit/inurement issues on the tax-exempt status of the organization arising from proposed tax-exempt bond financing, from \$600 to \$700. Reductions have been made in the following categories: (1) change in plan year, from \$150 to \$100; (2) sponsoring organization's minor modification of M & P mass submitter's plan document, per adoption agreement, from \$400 to \$200; and (3) nonmass submission (new or amended) by M & P sponsoring organization, per adoption agreement, from \$3,000 to \$2,000.

.02 *New Category.* A new category has been added to the user fee schedule as a result of the Small Business Job Protection Act of 1996 (P.L. 104-188, enacted August 20, 1996): requests for waiver of the excise tax, under § 4971(f) of the Internal Revenue Code, on failure to pay a liquidity shortfall. For requests for a waiver of \$1,000,000 or more the fee is \$3,750; for requests for a waiver of less than \$1,000,000 the fee is \$1,625.

SECTION 3. BACKGROUND

.01 *Legislation authorizing user fees.* Section 10511 of the Revenue Act of 1987, P.L. 100-203, 101 Stat. 1330-382, 1330-446, enacted December 22, 1987, directed the Secretary of the Treasury or delegate (the "Secretary") to establish a program requiring the payment of user fees for requests to the Service for letter rulings, opinion letters, determination letters, and similar requests. The fees charged under the program (1) were to vary according to categories or subcategories established by the Secretary; (2) were to be determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) were to be payable in advance. The Secretary was to provide for exemptions and reduced fees under the program as the Secretary determined to be appropriate, but the average fee applicable to each category must not be less than the amount specified in the statute. The fees were to apply to requests made on or after February 1, 1988, and before September

30, 1990. Section 11319 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508, 1991-2 C.B. 481, 511, extended the time during which the user fees would be applicable through September 30, 1995. Section 743 of the Uruguay Round Agreements Act, Pub. L. 103-465, 1995-1 C.B. 230, 239, extended the time during which the user fees will be applicable through September 30, 2000. Section 2 of P.L. 104-117, Tax Relief to Operation Joint Endeavor Participants Act, 1996-34 I.R.B. 19, extended the time during which the user fees will be applicable through September 30, 2003.

.02 *Related revenue procedures.* The various revenue procedures that require payment of a user fee, a voluntary compliance fee under the VCR program or the SVP, a voluntary correction fee under the TVC program, or an administrative scrutiny determination user fee are described in the appendix to this revenue procedure.

SECTION 4. SCOPE

.01 *Requests to which user fees apply.* In general, user fees apply to all requests for letter rulings, opinion letters, notification letters, determination letters, and advisory letters submitted by or on behalf of taxpayers, sponsoring organizations or other entities as described in this revenue procedure. Further, voluntary compliance fees applicable to requests under the VCR program or the SVP, voluntary correction fees applicable to requests under the TVC program, and administrative scrutiny determination user fees described in Rev. Proc. 93-41, are collected through the user fee program described in this revenue procedure. Requests to which a user fee, a voluntary compliance fee, a voluntary

correction fee, or an administrative scrutiny determination user fee is applicable must be accompanied by the appropriate fee as determined from the fee schedule set forth in section 6 of this revenue procedure. The fee may be refunded in limited circumstances as set forth in section 10.

.02 *Requests and other actions that do not require the payment of a user fee.* Actions which do not require the payment of a user fee include the following:

(1) Requests for information letters as defined in Rev. Proc. 97-4.

(2) Elections pertaining to automatic extensions of time under § 301.9101-1T.

(3) Use of Form 5305, Individual Retirement Trust Account, or Form 5305-A, Individual Retirement Custodial Account, in order to adopt an individual retirement account under § 408(a). The form should not be filed with the Service.

(4) Use of Form 5305-SEP, Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement, by an employer to make an agreement to provide benefits to all eligible employees under a SEP described in § 408(k). The form should not be filed with the Service.

(5) In general, plan amendments whereby sponsors amend their plans by adopting, word-for-word, the model language contained in a revenue procedure which states that the amendment should not be submitted to the Service and that the Service will not issue new opinion, notification, advisory, ruling or determination letters for plans that are amended solely to add the model language (see, for example, Rev. Proc. 94-13, 1994-1 C.B. 565; Rev. Proc. 95-34, 1995-2

C.B. 385; and Rev. Proc. 96-49, 1996-43 I.R.B. 74).

(6) Change in accounting period or accounting method permitted to be made by a published automatic change revenue procedure.

.03 *Exemptions from the user fee requirements.* The following exemptions apply to the user fee requirements. These are the only exemptions that apply:

(1) Departments, agencies, or instrumentalities of the United States that certify that they are seeking a letter ruling, determination letter, opinion letter or similar letter on behalf of a program or activity funded by federal appropriations. The fact that a user fee is not charged has no bearing on whether an applicant is treated as an agency or instrumentality of the United States for purposes of any provision of the Code.

(2) Requests as to whether a worker is an employee for federal employment taxes and federal income tax withholding purposes (chapters 21, 22, 23, and 24 of subtitle C of the Code) submitted on Form SS-8, Information for Use in Determining Whether a Worker is an Employee for Federal Employment Taxes and Income Tax Withholding, or its equivalent. Such a request may be submitted in connection with an application for a determination on the qualification of a plan when it is necessary to determine whether an employer-employee relationship exists. See section 6.13 of Rev. Proc. 97-6, page 162, this bulletin. In that case, although no user fee applies to the request submitted on Form SS-8, the applicable user fee must be paid in connection with the application for determination on the plan's qualification.

SECTION 5. DEFINITIONS

The following terms used in this revenue procedure are defined in the pertinent revenue procedures referred to below, which are described in the appendix:

Administrative scrutiny determination
Adoption agreement
Advisory letter
Basic plan document
Compliance statement
Correction statement
Determination letter
Group exemption letter
Information letter
Letter ruling
Mass submitter
Mass submitter plan

Rev. Proc. 93-41
Rev. Procs. 89-9, 89-13
Rev. Procs. 89-9, 97-6
Rev. Procs. 89-9, 89-13
Rev. Proc. 94-62
Rev. Proc. 95-24
Rev. Procs. 90-27, 97-6
Rev. Proc. 80-27
Rev. Proc. 97-4
Rev. Proc. 97-4
Rev. Procs. 89-9, 89-13, 87-50
Rev. Proc. 89-9

Mass submitter regional prototype plan	Rev. Proc. 89-13
Master plan	Rev. Proc. 89-9
Minor modification	Rev. Proc. 89-9, 87-50
Notification letter	Rev. Proc. 89-13, 97-4
Opinion letter	Rev. Proc. 89-9, 97-4
Prototype plan	Rev. Proc. 89-9
Regional prototype plan	Rev. Proc. 89-13
Sponsor	Rev. Proc. 89-13
Sponsoring organization	Rev. Proc. 89-9, 90-21
Standardized VCR Program (SVP)	Rev. Proc. 94-62
Tax-Sheltered Annuity Voluntary Correction (TVC) program	Rev. Proc. 95-24
Volume submitter plan	Rev. Proc. 97-6
Volume submitter specimen plan	Rev. Proc. 97-6
Voluntary Compliance Resolution (VCR) program	Rev. Proc. 94-62
Word-for-word identical adoption	Rev. Proc. 89-9, 87-50

SECTION 6. FEE SCHEDULE

The amount of the user fee, compliance fee or correction fee payable with respect to each category or subcategory of submission is as set forth in the following schedule.

CATEGORY	FEE
EMPLOYEE PLANS USER FEES	
<i>.01 Letter ruling requests.</i>	
(1) Computation of exclusion for annuitant under § 72	\$75
(2) Change in plan year (Form 5308)	\$100
Note: No user fee is required if the requested change is permitted to be made pursuant to the procedure for automatic approval set forth in Rev. Proc. 87-27, 1987-1 C.B. 769.	
(3) Change in funding method	\$400
(4) Approval to become a nonbank trustee (see § 1.408-2(e) of the Income Tax Regulations)	\$3,000
(5) Waiver of minimum funding standard, under § 412(d):	
(a) Waiver of \$1,000,000 or more	\$3,750
(b) Waiver of less than \$1,000,000	\$1,625
(6) Waiver of the excise tax, under § 4971(f), on failure to pay a liquidity shortfall:	
(a) Waiver of \$1,000,000 or more	\$3,750
(b) Waiver of less than \$1,000,000	\$1,625
(7) Letter ruling under Rev. Proc. 90-49, 1990-2 C.B. 620	\$250
(8) Letter ruling involving the determination of the account limit under § 419A(c)	\$2,100
(9) Individually designed simplified employee pension (SEP)	\$2,100
(10) Nonmodel amendment of individually designed SEP pursuant to the amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17)	\$400
(11) Nonmodel amendment of individually designed SEP to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34	\$400
Note: A single submission for Service approval may be made for amendments to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34) and to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.	
(12) All other letter rulings	\$2,100
Reduced fees, or augmented fee, applicable to all other letter rulings:	
(a) Letter ruling requests by or on behalf of eligible retirement plans (within the meaning of § 402(c)(8)(B)) with assets of less than \$150,000	\$600

CATEGORY	FEE
(b) Letter ruling requests from U.S. citizens and resident alien individuals, domestic trusts, and domestic estates whose “total income” as reported on their federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period, is less than \$150,000	\$600
<p>Note: The reduced fee applies to a married individual if the combined gross income of the applicant and the applicant’s spouse is less than \$150,000. The gross incomes of the applicant and the applicant’s spouse are not combined, however, if the applicant is legally separated from his or her spouse and the spouses do not file a joint income tax return with each other. In the case of a letter ruling request from a domestic estate or trust that, at the time the request is filed, has not filed an income tax return for a full taxable year, the reduced fee will be applicable if the decedent’s or (in the case of an individual grantor) the grantor’s total income as reported on the last return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income described in this subparagraph, is less than \$150,000.</p>	
(c) Letter ruling requests from organizations exempt from income tax under “Subchapter F-Exempt Organizations” with gross receipts of less than \$150,000	\$600
<p>Note: An organization exempt from income tax under Subchapter F must certify in its request for a letter ruling that its gross receipts for the last full taxable year before the request was filed were less than \$150,000.</p>	
(d) In situations in which a taxpayer requests substantially identical letter rulings for multiple entities with a common member or sponsor, or for multiple members of a common entity, each additional letter ruling request after the \$2,100 fee or the \$600 reduced fee, as applicable, has been paid for the first letter ruling request	\$200
(e) In situations in which a taxpayer requests a single letter ruling involving substantially identical issues of fact and law with respect to multiple members of a common entity, for each additional entity after the \$2,100 fee or \$600 reduced fee, as applicable, has been paid for the first entity	\$200
<p><i>.02 Requests for certain administrative exemptions.</i></p> <p>Requests for administrative exemptions for participant-directed transactions that are in compliance with the regulations under § 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA) but may result in prohibited transactions under § 4975</p>	
	\$2,100
<p>Note: The provisions of Rev. Proc. 75–26, 1975–1 C.B. 722, are applicable to such requests.</p>	
<p><i>.03 Administrative scrutiny determinations with respect to separate lines of business.</i></p>	
(1) For the first separate line of business for which a determination is requested	\$3,450
(2) For each additional separate line of business for which a determination is requested	\$1,100
<p><i>.04 Opinion letters and advisory letters on master and prototype plans.</i></p>	
(1) Mass submitter M & P plan, per basic plan document, new or amended, with one adoption agreement	\$3,600
(2) Mass submitter M & P plan, per each additional adoption agreement	\$700
(3) Sponsoring organization’s word-for-word identical adoption of M & P mass submitter’s basic plan document (or an amendment thereof), per adoption agreement	\$100
<p>Note 1: Mass submitters that are sponsoring organizations in their own right are liable for this fee.</p>	
<p>Note 2: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters with respect to a particular adoption agreement, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.</p>	
(4) Sponsoring organization’s minor modification of M & P mass submitter’s plan document, per adoption agreement	\$200
(5) Nonmass submission (new or amended) by M & P sponsoring organization, per adoption agreement	\$2,000

CATEGORY

FEE

(6) M & P mass submitter's request for an advisory letter with respect to the addition of optional provisions following issuance of a favorable opinion letter (see section 18.031(c) of Rev. Proc. 89-9), per basic plan document (regardless of the number of adoption agreements) \$400

(7) M & P mass submitter's addition of new adoption agreements after the basic plan document and associated adoption agreements have been approved, per adoption agreement \$700

(8) Assumption of sponsorship of an approved M & P plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number \$200

(9) Adoption, by M & P sponsoring organization or M & P mass submitter, of nonmodel amendment pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with the requirements of § 401(a)(31) \$400

(10) Adoption, by M & P sponsoring organization or M & P mass submitter, of nonmodel amendment pursuant to the § 401(a)(17) amendment procedures described in Rev. Proc. 94-13 \$400

(11) Adoption, by M & P sponsoring organization or M & P mass submitter (other than an identical adopter of an M & P mass submitter plan), of nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34 \$400

Note 1: With respect to paragraphs (9), (10) and (11) of this section 6.04, a single submission for Service approval may be made for plan amendments to include plan language required under § 401(a)(31) (see sections 7 through 10 of Rev. Proc. 93-12), to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13), and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.

Note 2: With respect to paragraphs (9), (10) and (11) of this section 6.04, only one user fee is required for all plans submitted simultaneously by each sponsor, regardless of the number of plans affected. See section 7.02 of Rev. Proc. 93-12, section V.E(1).02 of Rev. Proc. 94-13, and section 5(A).02 of Rev. Proc. 95-34.

.05 *Notification letters issued by the National Office on mass submitter regional prototype plans.*

(1) Mass submitter regional prototype plan, per basic plan document, new or amended, with one adoption agreement \$3,600

(2) Mass submitter regional prototype plan, per each additional adoption agreement \$700

Note: Separate notification letters are required for sponsors utilizing mass submitter regional prototype plans. Such notification letters are issued by key district offices. The applicable user fee is set forth in section 6.09(1) of this revenue procedure.

(3) Regional prototype plan mass submitter's addition of new adoption agreements after the basic plan document and associated adoption agreements have been approved, per adoption agreement \$700

(4) Regional prototype plan mass submitter's adoption of nonmodel amendment pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with the requirements of § 401(a)(31) (Form 4461 or 4461-A) \$400

(5) Regional prototype plan mass submitter's adoption of nonmodel amendment pursuant to the amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17) \$400

(6) Regional prototype plan mass submitter's adoption of nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34 \$400

Note 1: With respect to paragraphs (4), (5) and (6) of this section 6.05, a single submission for Service approval may be made for plan amendments to include plan language required under § 401(a)(31) (see sections 7 through 10 of Rev. Proc. 93-12), to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13), and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.

Note 2: With respect to paragraphs (4), (5) and (6) of this section 6.05, only one user fee is required for all plans submitted simultaneously by each sponsor, regardless of the number of plans affected. See section 7.02 of Rev. Proc. 93-12, section V.E(1).02 of Rev. Proc. 94-13, and section 5(A).02 of Rev. Proc. 95-34.

.06 *Opinion letters on prototype individual retirement accounts and/or annuities and simplified employee pensions.*

(1) Mass submission of a prototype IRA or SEP, per plan document, new or amended \$1,000

CATEGORY	FEE
(2) Sponsoring organization's word-for-word identical adoption of mass submitter's prototype IRA or SEP, per plan document or an amendment thereof	\$100
Note: If a mass submitter submits, in any 12-month period ending January 31, more than 300 applications on behalf of word-for-word adopters with respect to a particular adoption agreement, only the first 300 such applications will be subject to the fee; no fee will apply to those in excess of the first 300 such applications submitted within the 12-month period.	
(3) Sponsoring organization's minor modification of mass submitter's prototype IRA or SEP, per plan document	\$200
(4) Sponsoring organization's nonmass submission of prototype IRA or SEP (new or amended), per plan document (Form 5306 or Form 5306-SEP)	\$500
(5) Amendment of an approved prototype SEP or SARSEP by a mass submitter, an identical adopter, or other sponsoring organization solely by the adoption of the Model Amendment reproduced in the Appendix to Rev. Proc. 91-44, per plan document	\$100
(6) Adoption, by prototype SEP sponsor or SEP mass submitter, of nonmodel amendment pursuant to the alternative amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17)	\$400
(7) Adoption, by prototype SEP sponsor or SEP mass submitter, of nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34	\$400

Note 1: With respect to paragraphs (6) and (7) of this section 6.06, a single submission for Service approval may be made for plan amendments to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13) and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.

Note 2: With respect to paragraphs (6) and (7) of this section 6.06, only one user fee is required for all prototype SEPs submitted simultaneously by each SEP sponsor or SEP mass submitter, regardless of the number of SEPs affected. See section V.E(1).02 of Rev. Proc. 94-13 and section 5(E).02 of Rev. Proc. 95-34.

.07 Determination letters

(1) If the plan is intended to satisfy a design-based or nondesign-based safe harbor, or if the applicant is not electing to receive a determination with respect to any of the general tests, and the applicant is not electing to receive a determination with respect to the average benefit test:

(a) Form 5300	\$700
(b) Form 5303	\$700
(c) Form 5310	\$225
(d) Form 5307	\$125
(e) Form 6406	\$125
(f) Multiple employer plan:	
(i) 2 to 10 employers	\$700
(ii) 11 to 99 employers	\$1,400
(iii) 100 to 499 employers	\$2,800
(iv) Over 499 employers	\$5,600

Note: In the case of a multiple employer plan that is adopted by other employers after the initial submission, the fee would be the same as in paragraph (1) above. If only one employer adopts the plan in any subsequent year, the fee would be \$700.

(2) If the applicant is electing to receive a determination with respect to the average benefit test and/or any of the general tests:

(a) Form 5300 or Form 5303	\$1,250
(b) Form 5307	\$1,000
(c) Form 5310	\$375

CATEGORY

FEE

(d) Multiple employer plan:

- (i) 2 to 10 employers \$1,250
- (ii) 11 to 99 employers \$2,000
- (iii) 100 to 499 employers \$3,500
- (iv) Over 499 employers \$6,500

Note: In the case of a multiple employer plan that is adopted by other employers after the initial submission, the fee would be the same as in paragraph (2) above. If only one employer adopts the plan in any subsequent year, the fee would be \$1,250.

(3) Group trusts contemplated by Rev. Rul. 81-100, 1981-1 C.B. 326 \$750

(4) Adoption of nonmodel amendment by employer maintaining an individually designed plan, pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with § 401(a)(31) of the Code (Form 6406) \$125

(5) Adoption of nonmodel amendment by employer that has previously adopted a volume submitter's specimen plan and wishes to utilize the version of the specimen plan that includes a nonmodel amendment pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with § 401(a)(31) (Form 5307) \$125

(6) Adoption of nonmodel amendment by employer maintaining an individually designed plan, pursuant to the alternative amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17) \$125

(7) Adoption of nonmodel amendment by employer that has previously adopted a volume submitter's specimen plan and wishes to utilize the version of the specimen plan that includes a nonmodel amendment pursuant to the alternative amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17) \$125

(8) Adoption of nonmodel amendment by employer that maintains an individually designed plan, including a previously approved volume submitter plan, to include simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34 \$125

(9) Adoption of nonmodel amendment by employer that has previously adopted a volume submitter's specimen plan and wishes to utilize the version of the specimen plan that includes a nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34 \$125

Note: With respect to paragraphs (4), (5), (6) (7), (8) and (9) of this section 6.07, a single submission for Service approval may be made for plan amendments to include plan language required under § 401(a)(31) (see sections 7 through 10 of Rev. Proc. 93-12), to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13), and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.

.08 *Advisory letters on volume submitter plans.*

(1) Volume submitter specimen plans \$1,500

Note: A practitioner that has received approval of a volume submitter specimen plan in a key district office must receive separate approval of the plan from each other key district office in which there are clients adopting substantially similar plans. If the practitioner certifies at the time of filing with the second key district office that the specimen plan is identical to a specimen plan approved by another key district office with respect to that practitioner and attaches a copy of that office's advisory letter, then the user fee that would otherwise be charged for the specimen plan will not be charged.

(2) Adoption, by sponsor of volume submitter specimen plan, of nonmodel amendment pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with the requirements of § 401(a)(31) \$400

(3) Adoption, by sponsor of volume submitter specimen plan, of nonmodel amendment pursuant to the alternative amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17) \$400

(4) Adoption, by sponsor of volume submitter specimen plan, of nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34 \$400

CATEGORY	FEE
<p>Note: With respect to paragraphs (2), (3) and (4) of this section 6.08, a single submission for Service approval may be made for plan amendments to include plan language required under § 401(a)(31) (see sections 7 through 10 of Rev. Proc. 93-12), to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13), and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.</p>	
<p><i>.09 Notification letters issued by key district offices with respect to regional prototype plans.</i></p>	
(1) Sponsor's identical adoption of mass submitter's regional prototype plan basic plan document, per adoption agreement (Form 4461-B)	\$100
<p>Note: Mass submitters that are sponsors in their own right are liable for this fee.</p>	
(2) Sponsor's nonmass submission of regional prototype plan, per adoption agreement (Form 4461 or 4461-A)	\$1,500
(3) Adoption, by sponsor of regional prototype plan, of nonmodel amendment pursuant to the limited amendment procedure described in Rev. Proc. 93-12, to comply with the requirements of § 401(a)(31) (Form 4461 or 4461-A)	\$400
(4) Adoption, by sponsor of regional prototype plan, of nonmodel amendment pursuant to the alternative amendment procedures described in Rev. Proc. 94-13, to comply with the requirements of § 401(a)(17)	\$400
(5) Adoption, by sponsor of regional prototype plan, of nonmodel amendment to use simplified method of determining HCEs pursuant to the procedures described in Rev. Proc. 95-34	\$400
<p>Note: With respect to paragraphs (3), (4) and (5) of this section 6.09, a single submission for Service approval may be made for plan amendments to include plan language required under § 401(a)(31) (see sections 7 through 10 of Rev. Proc. 93-12), to reflect the OBRA '93 changes to § 401(a)(17) (see section E of Part IV of Rev. Proc. 94-13), and to include the simplified method of determining HCEs (see sections 5(A) through 5(E) of Rev. Proc. 95-34). In such a case, only one application and the user fee for a single amendment need be submitted. See section 6 of Rev. Proc. 95-34.</p>	
<p>COMPLIANCE FEES AND CORRECTION FEES</p>	
<p><i>.10 Compliance statements under the Voluntary Compliance Resolution (VCR) program.</i></p>	
<p>(1) Request for a compliance statement under the VCR program:</p>	
(a) For a plan with assets of less than \$500,000, and no more than 1,000 plan participants	\$500
(b) For a plan with assets of at least \$500,000, and no more than 1,000 plan participants	\$1,250
(c) For a plan with more than 1,000 plan participants but less than 10,000 plan participants	\$5,000
(d) For a plan with 10,000 or more plan participants	\$10,000
<p>Note: In establishing the number of plan participants, the plan sponsor will use the numbers from the most recently filed Form 5500 series.</p>	
(2) Request for a compliance statement under the Standardized VCR Program (SVP)	\$350
<p><i>.11 Correction statements under the Tax-Sheltered Annuity Voluntary Correction (TVC) program.</i></p>	
<p>(1) Request for a correction statement under the TVC program:</p>	
(a) For an employer with fewer than 25 employees	\$500
(b) For an employer with at least 25 and no more than 1,000 employees	\$1,250
(c) For an employer with more than 1,000 employees but less than 10,000 employees	\$5,000
(d) For an employer with 10,000 or more employees	\$10,000
<p>EXEMPT ORGANIZATIONS USER FEES</p>	
<p><i>.12 Letter rulings.</i></p>	
(1) Applications with respect to change in accounting period (Form 1128)	\$100
<p>Note: No user fee is charged if the procedure described in Rev. Proc. 85-58, 1985-2 C.B. 740, is used by timely filing the appropriate information return, or if the procedure described in Rev. Proc. 76-10, 1976-1 C.B. 548, for organizations with group exemptions is followed.</p>	
(2) Applications with respect to change in accounting method (Form 3115)	\$100

CATEGORY

FEE

Note: No user fee is charged if the method described in Rev. Proc. 92-74, 1992-2 C.B. 442, or that described in Rev. Proc. 92-75, 1992-2 C.B. 448, is used. Taxpayers complying timely with whichever of those revenue procedures is applicable will be deemed to have obtained the consent of the Commissioner of Internal Revenue to change their method of accounting.

(3) Advance approval of scholarship grant-making procedures of a private foundation that has an agreement for the administration of the scholarship program with the National Merit Scholarship Corp., or similar organization administering a scholarship program shown to meet Service requirements \$200

(4) Request for a letter ruling as to whether an organization exempt from federal income tax is required to file an annual return under § 6033 \$200

Note 1: See Rev. Proc. 95-48, 1995-2 C.B. 418, which specifies that governmental units and affiliates of governmental units that are exempt from federal income tax under § 501(a) are not required to file annual information returns on Form 990, Return of Organization Exempt from Income Tax.

Note 2: There is no additional charge for a determination of the § 6033 filing requirement from an organization seeking recognition of exempt status under § 501 if the organization submits the information required by line 9 of Part I of Form 1023, Application for Recognition of Exemption under Section 501(c)(3) of the Code, or submits a separate written request with its application for recognition of exemption. Only the user fee for the initial application for recognition of exemption applies.

(5) Request for a confirmation letter dealing with private benefit/inurement issues on the tax-exempt status of the organization arising from proposed tax-exempt bond financing \$700

(6) All other letter rulings \$2,100

Reduced fees applicable to all other letter rulings:

(a) Organizations with gross receipts less than \$150,000 \$600

Note: An exempt organization seeking a reduced fee must certify in the letter ruling request that its gross receipts for the last taxable year before the request is filed were less than \$150,000.

(b) Letter ruling requests from U.S. citizens and resident alien individuals, domestic trusts, and domestic estates whose “total income” as reported on their federal income tax return (as amended) filed for a full (12 months) taxable year ending before the date the request is filed, plus any interest income not subject to tax under § 103 (interest on state and local bonds) for that period, is less than \$150,000 \$600

Note: The reduced fee applies to a married individual if the combined gross income of the applicant and the applicant’s spouse is less than \$150,000. The gross incomes of the applicant and the applicant’s spouse are not combined, however, if the applicant is legally separated from his or her spouse and the spouses do not file a joint income tax return with each other. In the case of a letter ruling request from a domestic estate or trust that, at the time the request is filed, has not filed an income tax return for a full taxable year, the reduced fee will be applicable if the decedent’s or (in the case of an individual grantor) the grantor’s total income as reported on the last return filed for a full taxable year ending before the date of death or the date of the transfer, taking into account any additions required to be made to total income described in this subparagraph, is less than \$150,000.

(c) Letter ruling requests in which a taxpayer requests substantially identical letter rulings for multiple entities with a common member or activity, or multiple members of a common entity, for each additional letter ruling request after the \$2,100 fee or the \$600 reduced fee, as applicable, has been paid for the first letter ruling request \$200

.13 *Determination letters and requests for group exemption letters.*

(1) Initial application for exemption under § 501 or § 521 from organizations (other than pension, profit-sharing, and stock bonus plans described in § 401) that have had annual gross receipts averaging not more than \$10,000 during the preceding four years, or new organizations that anticipate gross receipts averaging not more than \$10,000 during their first four years \$150

Note: Organizations seeking this reduced fee must sign a certification with their application that the receipts are or will be not more than the indicated amounts.

(2) Initial application for exempt status from organizations otherwise described in paragraph (1) of this section 6.13 whose actual or anticipated gross receipts exceed the \$10,000 average annually \$465

Note: If an organization that is already recognized as exempt under § 501(c) seeks reclassification under another subparagraph of § 501(c), a new user fee will be charged whether or not a new application is required. An additional fee applies to organizations that seek recognition of exemption under § 501(c)(4) (unless requested at the time of the § 501(c)(3) application) for a period for which they do not qualify for exemption under § 501(c)(3) because their application was filed late and they do not qualify for relief under § 301.9100-1T.

(3) Group exemption letters

\$500

SECTION 7. MAILING ADDRESS FOR REQUESTING LETTER RULINGS, DETERMINATION LETTERS, ETC.

.01 *Matters handled by the National Office.* Requests should either be mailed to the appropriate address set forth in this section 7.01, or hand delivered to the drop box at the 12th Street entrance of 1111 Constitution Avenue, N.W., Washington, D.C. No dated receipt will be given at the drop box.

(1) *Employee plans letter rulings under Rev. Proc. 78-37, 79-61, 79-62, 87-50, 90-49, 94-41, 94-42 or 97-4:*

Internal Revenue Service
Attention: CP:E:EP
P.O. Box 14073
Ben Franklin Station
Washington, D.C. 20044

(2) *Employee plans opinion letters, advisory letters, or notification letters (that is, notification letters with respect to mass submitters' regional prototype plans) under Rev. Proc. 89-9, 89-13 or 97-4:*

Internal Revenue Service
Attention: CP:E:EP
P.O. Box 14073
Ben Franklin Station
Washington, D.C. 20044

(3) *Employee plans compliance statements under Rev. Proc. 94-62:*

Internal Revenue Service
Attention: CP:E:EP:VCR
P.O. Box 14073
Ben Franklin Station
Washington, D.C. 20044

(4) *Employee plans correction statements under Rev. Proc. 95-24:*

Internal Revenue Service
Attention: CP:E:EP:TVC
P.O. Box 14073
Ben Franklin Station
Washington, D.C. 20044

(5) *Employee plans administrative scrutiny determinations under Rev. Proc. 93-41:*

Internal Revenue Service
Attention: CP:E:EP
ADMINISTRATIVE SCRUTINY
P.O. Box 14073
Ben Franklin Station
Washington, D.C. 20044

(6) *Exempt organizations letter rulings:*

Internal Revenue Service
Attention: CP:E:EO
P.O. Box 120
Ben Franklin Station
Washington, D.C. 20044

.02 *Matters handled by key district offices.* Except as noted below, letter requests and applications should be sent to the Internal Revenue Service Center in Covington, Kentucky, at the address shown below. This applies to requests for determination letters, regional prototype notification letters and volume submitter advisory letters on the qualified status of employee plans under §§ 401, 403(a), and 409, and the exempt status of any related trust under § 501; applications for recognition of tax exemption on Form 1023 and Form 1024; and other letter applications for recognition of qualification or exemption. The address is:

Internal Revenue Service
P.O. Box 192
Covington, KY 41012-0192

All other such requests or applications should be sent to the following address:

EMPLOYEE PLANS APPLICATIONS

If entity is in:

**Connecticut, Maine, Massachusetts, New Hampshire,
New York, Rhode Island, Vermont**

**Alaska, California, Hawaii, Idaho, Nevada, Oregon,
Washington**

Send request for determination letter, notification letter, or
advisory letter to this address:

**Internal Revenue Service
EP/EO Division
P.O. Box 1680, GPO
Brooklyn, NY 11202**

**Internal Revenue Service
EP Application
EP/EO Division
McCaslin Industrial Park
2 Cupania Circle
Monterey Park, CA 91755-7406**

EXEMPT ORGANIZATIONS APPLICATIONS

If entity is in:

**Connecticut, Maine, Massachusetts, New Hampshire,
New York, Rhode Island, Vermont**

**Alaska, California, Hawaii, Idaho, Nevada, Oregon,
Washington**

Send request for determination letter to this address:

**Internal Revenue Service
EP/EO Division
P.O. Box 1680, GPO
Brooklyn, NY 11202**

**Internal Revenue Service
EO Application
EP/EO Division
McCaslin Industrial Park
2 Cupania Circle
Monterey Park, CA 91755-7406**

SECTION 8. REQUESTS INVOLVING MULTIPLE OFFICES, FEE CATEGORIES, ISSUES, TRANSACTIONS, OR ENTITIES

.01 Requests involving several offices. If a request dealing with only one transaction involves more than one of the offices within the National Office (for example, one issue is under the jurisdiction of the Associate Chief Counsel (Domestic) and another issue is under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations)), only one fee applies, namely the highest fee that otherwise would apply to each of the offices involved. See Rev. Proc. 97-1, this bulletin, for the user fees applicable to issues under the jurisdiction of the Associate Chief Counsel (Domestic), the Associate Chief Counsel (Employee Benefits and Exempt Organizations), the Associate Chief Counsel (Enforcement Litigation), or the Associate Chief Counsel (International).

.02 Requests involving several fee categories. If a request dealing with only one transaction involves more than one fee category, only one fee applies, namely the highest fee that otherwise would apply to each of the categories involved.

.03 Requests involving several issues. If a request dealing with only one transaction involves several issues, or a request for a change in accounting method dealing with only one item or sub-method of accounting involves several issues, or a request for a change in accounting period dealing with only one item involves several issues, the request is treated as one request. Therefore, only one fee applies, namely the fee that applies to the particular category or subcategory involved. The addition of a new issue relating to the same transaction will not result in an additional fee, unless the issue places the transaction in a higher fee category.

.04 Requests involving several unrelated transactions. If a request involves several unrelated transactions, or a request for a change in accounting method involves several unrelated items or sub-methods of accounting, or a request for a change in accounting period involves several unrelated items, each transaction or item is treated as a separate request. As a result, a separate fee will apply for each unrelated transaction or item. An additional fee will apply if the request is changed by the addition of an unrelated transaction or item not contained in the initial submission.

.05 Requests for separate letter rulings for several entities. Each entity

involved in a transaction (for example, an exempt hospital reorganization) that desires a separate letter ruling in its own name must pay a separate fee regardless of whether the transaction or transactions may be viewed as related. In certain situations, however, a reduced fee may be charged. See sections 6.01(12)(d) and (e) and 6.12(6)(c) of this revenue procedure.

SECTION 9. PAYMENT OF FEE

.01 Method of payment. Each request to the Service for a letter ruling, determination letter, opinion letter, etc. must be accompanied by a check or money order, payable to the Internal Revenue Service, in the appropriate amount. Taxpayers should not send cash.

.02 Transmittal forms. Form 8717, User Fee for Employee Plan Determination Letter Request, and Form 8718, User Fee for Exempt Organization Determination Letter Request, are intended to be used as attachments to determination letter applications. Space is reserved for the attachment of the applicable user fee check or money order. No similar form has been designed to be used in connection with requests for letter rulings, opinion letters, notification letters, advisory letters, compliance statements,

correction statements or administrative scrutiny determinations.

.03 *Effect of nonpayment or payment of incorrect amount.* It will be the general practice of the Service that:

(1) The respective offices within the Service that are responsible for issuing letter rulings, determination letters, etc. will exercise discretion in deciding whether to immediately return submissions that are not accompanied by a properly completed check or money order or that are accompanied by a check or money order for less than the correct amount. In those instances where the submission is not immediately returned, the requester will be contacted and given a reasonable amount of time to submit the proper fee. If the proper fee is not received within a reasonable amount of time, the entire submission will then be returned. However, the respective offices of the Service, in their discretion, may defer substantive consideration of a submission until proper payment has been received.

(2) An application for a determination letter will not be returned merely because Form 8717 or Form 8718 was not attached.

(3) The return of a submission to the requester may adversely affect substantive rights if the submission is not perfected and resubmitted to the Service within 30 days of the date of the cover letter returning the submission. Examples of this are: (a) where an application for a determination letter is submitted prior to the expiration of the remedial amendment period under § 401(b) and is returned because no user fee was attached, the submission will be timely if it is resubmitted by the expiration of the remedial amendment period or, if later, within 30 days after the application was returned; and (b) where an application for exemption under § 501(c)(3) is submitted before expiration of the period provided by § 1.508-1(a)(2) and is returned because no user fee was attached, the submission will be timely if it is resubmitted before expiration of the period provided by § 1.508-1(a)(2) or within 30 days, whichever is later.

(4) If a check or money order is for more than the correct amount, the submission will be accepted and the amount of the excess payment will be returned to the requester.

SECTION 10. REFUNDS

.01 *General rule.* In general, the fee will not be refunded unless the Service declines to rule on all issues for which a ruling is requested. In the case of a request for a letter ruling, if the case has been closed by the Service because essential information has not been submitted timely, the request may be reopened and treated as a new request, but the taxpayer must pay another user fee before the case can be reopened. See section 11.04(5) of Rev. Proc. 97-4, page 119, this Bulletin.

.02 *Examples.*

(1) The following situations are examples of situations in which the fee will not be refunded:

- (a) The request for a letter ruling, determination letter, etc. is withdrawn at any time subsequent to its receipt by the Service, unless the only reason for withdrawal is that the Service has advised the requester that a higher user fee than was sent with the request is applicable and the requester is unwilling to pay the higher fee.
- (b) The request is procedurally deficient, although accompanied by the proper fee and is not timely perfected by the requester. When there is a failure to timely perfect the request, the case will be considered closed and the failure to perfect will be treated as a withdrawal for purposes of this revenue procedure.
- (c) A letter ruling, determination letter, etc. is revoked in whole or in part at the initiative of the Service. The fee paid at the time the original letter ruling, determination letter, etc. was requested will not be refunded.
- (d) The request contains several issues and the Service rules on some, but not all, of the issues. The highest fee applicable to the issues on which the Service rules will not be refunded.
- (e) The taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or not responsive (other than an issue on which the Service has

declined to rule) and requests reconsideration. The Service, upon reconsideration, does not agree that the letter ruling is erroneous or is not responsive. The fee accompanying the request for reconsideration will not be refunded.

- (f) The situation is the same as described in subparagraph (e) of this section 10.02(1) except that the letter ruling covered several unrelated transactions. The Service, upon reconsideration does not agree with the taxpayer that the letter ruling is erroneous or is not responsive for all of the transactions, but does agree that it is erroneous as to one transaction. The fee accompanying the request for reconsideration will not be refunded except to the extent applicable to the transaction for which the Service agrees the letter ruling was in error.
- (g) The request is for a supplemental letter ruling, determination letter, etc. concerning a change in facts (whether significant or not) relating to the transaction ruled on.
- (h) The request is for reconsideration of an adverse or partially adverse letter ruling or a final adverse determination letter, and the taxpayer submits arguments and authorities not submitted before the original letter ruling or determination letter was issued.

(2) The following situations are examples of situations in which the fee will be refunded:

- (a) In a situation to which section 10.02(1)(h) of this revenue procedure does not apply, the taxpayer asserts that a letter ruling the taxpayer received covering a single issue is erroneous or is not responsive (other than an issue on which the Service declined to rule) and requests reconsideration. The Service agrees, upon reconsideration, that the letter ruling is erroneous or is not responsive. The fee accompanying the

taxpayer's request for reconsideration will be refunded.

(b) In a situation to which section 10.02(1)(h) of this revenue procedure does not apply, the requester requests a supplemental letter ruling, determination letter, etc. to correct a mistake that the Service agrees it made in the original letter ruling, determination letter, etc., such as a mistake in the statement of facts or in the citation of a Code section. Once the Service agrees that it made a mistake, the fee accompanying the request for the supplemental letter ruling, determination letter, etc. will be refunded.

(c) The taxpayer requests and is granted relief under § 7805(b) in connection with the revocation in whole or in part, of a previously issued letter ruling, determination letter, etc. The fee accompanying the request for relief will be refunded.

(d) In a situation to which section 10.02(1)(d) of this revenue procedure applied, the taxpayer requests reconsideration of the Service's decision not to rule on an issue. Once the Service agrees to rule on the issue, the fee accompanying the request for reconsideration will be refunded.

SECTION 11. REQUEST FOR RECONSIDERATION OF USER FEE

A taxpayer that believes the user fee charged by the Service for its request for a letter ruling, determination letter, etc. is either not applicable or incorrect and wishes to receive a refund of all or part of the amount paid (see section 10 of this revenue procedure) may request reconsideration and, if desired, the opportunity for an oral discussion by sending a letter to the Internal Revenue Service at the applicable Post Office Box or other address given in this section 11. Both the incoming envelope and the letter requesting such reconsideration should be prominently marked "USER FEE RECONSIDERATION REQUEST." No user fee is required for these requests. The request should be marked for the attention of:

If the matter involves primarily:

Employee plans letter ruling requests and all other employee plans matters handled by the National Office

Exempt organizations letter ruling requests

Employee plans and/or exempt organizations determination letter requests

Mark for the attention of:

Director, Employee Plans Division, CP:E:EP

Director, Exempt Organizations Division, CP:E:EO

Chief, Technical/Review Staff

_____ Key District Office (Add name of key district office handling the request.)

SECTION 12. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 96-8 is superseded.

SECTION 13. EFFECTIVE DATE

This revenue procedure is effective January 6, 1997.

SECTION 14. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1520.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this revenue procedure are in sections 6.01(12)(c), 6.12(6)(a), 6.13(1) and 11. This information is required to substantiate that a taxpayer or an exempt organization seeking to pay a reduced user fee with respect to a request for a

letter ruling is entitled to pay the reduced fee; to identify the user fee category and corresponding fee required to be paid with respect to determination letter requests; to request reconsideration of the user fee charged by the Service and, in connection with such a request, to indicate whether an oral discussion is desired. This information will be used to enable the Service to determine whether the taxpayer or exempt organization is entitled to pay a reduced user fee, to ascertain whether reconsideration of the user fee is being requested and, if it is being requested, whether an oral discussion is requested. The collections of information are voluntary, to obtain a benefit. The likely respondents are individuals, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

The estimated total annual reporting and/or recordkeeping burden is 300 hours.

The estimated annual burden per respondent/recordkeeper varies from one hour to ten hours, depending on individual circumstances, with an estimated average of three hours. The estimated number of respondents and/or

recordkeepers is 90 (requests for reduced fees) and 10 (requests for reconsideration of fee).

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is John H. Turner of the Employee Plans Division. For further information regarding this revenue procedure, contact Mr. Turner at (202) 622-6214 (not a toll-free number).

APPENDIX

Following is a list of revenue procedures requiring payment of a user fee, an administrative scrutiny determination user fee, a voluntary compliance fee, or a voluntary correction fee.

A. Procedures applicable to both Employee Plans and Exempt Organizations

Rev. Proc. 97-4, this bulletin, provides procedures for issuing letter rulings, information letters, etc. relating to matters under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations).

B. Procedures Applicable to Employee Plans Matters other than Actuarial Matters

Rev. Proc. 75-26, 1975-1 C.B. 722, sets forth the general procedures of the Department of Labor and the Internal Revenue Service for the processing of applications for exemption under § 408(a) of ERISA and § 4975(c)(2) of the Code.

Rev. Proc. 87-50, 1987-2 C.B. 647, as modified by Rev. Proc. 91-44 and Rev. Proc. 92-38, sets forth the procedures of the Service relating to the issuance of rulings and opinion letters with respect to the establishment of individual retirement accounts and annuities (IRAs) under § 408, the entitlement to exemption of related trusts or custodial accounts under § 408(e), and the acceptability of the form of prototype simplified employee pension (SEP) agreements under §§ 408(k) and 415.

Rev. Proc. 89-9, 1989-1 C.B. 780, as modified by Rev. Proc. 90-21; Rev. Proc. 92-41, 1992-1 C.B. 870; Rev. Proc. 93-9, 1993-1 C.B. 474; Rev. Proc. 93-12; and Rev. Proc. 94-13; and as supplemented by Rev. Proc. 93-10, 1993-1 C.B. 476, sets forth the procedures of the Service pertaining to the issuance of opinion letters relating to master or prototype pension, profit-sharing and annuity plans involving §§ 401 and 403(a), as amended by the Tax Reform Act of 1986 (TRA '86), the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), and the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), and the status for exemption of related trusts or custodial accounts under § 501(a).

Rev. Proc. 89-13, 1989-1 C.B. 801, as modified by Rev. Proc. 90-21, Rev. Proc. 92-41, Rev. Proc. 93-9 and Rev. Proc. 93-12, and as supplemented by Rev. Proc. 93-10, sets forth the procedures of the Service for issuing notification letters relating to the qualification, as to form, of certain regional prototype defined contribution plans and defined benefit plans, and provides guidance with respect to the issuance of determination letters to employers adopting

such plans as to whether the plans as adopted qualify under §§ 401 and 403(a) and as to whether any related trusts or custodial accounts are exempt under § 501(a).

Rev. Proc. 90-21, 1990-1 C.B. 499, modified Rev. Procs. 89-9 and 89-13 regarding certain requirements for approval by the Service of master and prototype (M & P) pension, profit-sharing and annuity plans and regional prototype plans.

Rev. Proc. 91-44, 1991-2 C.B. 733, modified Rev. Proc. 87-50 (section 2.10) and Notice 87-62, 1987-2 C.B. 374, to permit a mass submitter or sponsoring organization to obtain an opinion letter for a prototype simplified employee pension (SEP) agreement that provides for contributions pursuant to an employee's election as described in § 408(k)(6).

Rev. Proc. 92-24, 1992-1 C.B. 739, provides procedures for requesting determination letters on the effect on a plan's qualified status under § 401(a) of the Code of plan language that permits, pursuant to § 420, the transfer of assets in a defined benefit plan to a health benefits account described in § 401(h).

Rev. Proc. 92-38, 1992-1 C.B. 859, provides notice that individual retirement arrangement trusts, custodial account agreements, and annuity contracts must be amended to provide for the required distribution rules in § 408(a)(6) or (b)(3). In addition, Rev. Proc. 92-38 modifies the guidance in Rev. Proc. 87-50 with regard to opinion letters issued to sponsoring organizations, including mass submitters and sponsors of prototype IRAs.

Rev. Proc. 93-12, as modified by Rev. Proc. 93-39, provides a simplified method for master and prototype plan sponsoring organizations or mass submitters, regional prototype plan sponsors or mass submitters, volume submitter specimen plan sponsors, and sponsors of individually designed plans which have received favorable opinion, notification, advisory, or determination letters to amend their plans to comply with § 401(a)(31) by adopting either a model amendment or a nonmodel amendment for approval by the Service.

Rev. Proc. 93-41, 1993-2 C.B. 536, sets forth the procedures of the Service relating to the issuance of an administrative scrutiny determination as to whether a separate line of business satisfies the requirement of administrative scrutiny within the meaning of § 1.414(r)-6.

Rev. Proc. 94-13, 1994-1 C.B. 566, provides guidance for certain sponsors of qualified plans and SEPs on amending their plans to reflect the modifications made by § 13212 of OBRA '93 to § 401(a)(17).

Rev. Proc. 94-62, 1994-2 C.B. 778, as modified by Rev. Proc. 96-29, 1996-16 I.R.B. 24, describes the Voluntary Compliance Resolution (VCR) program and the Standardized VCR Procedure (SVP). The VCR program permits plan sponsors (including employers, plan administrators and trustees) to correct operational plan defects that they have identified. Certain other operational defects may be corrected under the SVP, pursuant to rules set forth in the applicable sections of Rev. Proc. 94-62.

Rev. Proc. 95-24, 1995-1 C.B. 694, as modified by Rev. Proc. 96-50, 1996-47 I.R.B. 10, establishes the Tax Sheltered Annuity Voluntary Correction Program (TVC program). The TVC program permits an employer that offers a tax sheltered annuity plan under § 403(b) of the Code to voluntarily identify and correct certain defects in the plan. Employers that request consideration under the TVC program, agree to correct the identified defects, and pay the negotiated sanction, will receive written assurance that the corrections are acceptable and that the Service will not pursue revocation of the income tax exclusion with respect to the violations identified and corrected.

Rev. Proc. 95-34, 1995-2 C.B. 385, provides a simplified method for amending certain plans to use the simplified method of determining highly compensated employees provided in Rev. Proc. 93-42, 1993-2 C.B. 540, by adopting either model plan language or a nonmodel amendment for approval by the Service.

Rev. Proc. 97-6, this bulletin, provides procedures for issuing determination letters on the qualified status of employee plans under §§ 401(a), 403(a), 409, and 4975(e)(7).

C. Employee Plans Actuarial Matters

Rev. Proc. 78-37, 1978-2 C.B. 540, sets forth the procedure by which a plan administrator or plan sponsor may obtain approval of the Secretary of the Treasury for a change in funding method as provided by § 412(c)(5) of the Code and § 302(c)(5) of ERISA.

Rev. Proc. 79-61, 1979-2 C.B. 575, outlines the procedure by which a plan administrator or plan sponsor may request and obtain approval for an exten-

sion of an amortization period in accordance with § 412(e) of the Code and § 304(a) of ERISA.

Rev. Proc. 79-62, 1979-2 C.B. 576, outlines the procedure by which a plan sponsor or administrator may request a determination that a plan amendment is reasonable and provides for only *de minimis* increases in plan liabilities in accordance with § 412(f)(2)(A) of the Code and § 304(b)(2)(A) of ERISA.

Rev. Proc. 90-49, 1990-2 C.B. 620, modifies and replaces Rev. Proc. 89-35, 1989-1 C.B. 917, in order to extend the effective date to contributions made for plan years beginning after December 31, 1989, to change the deadline for requesting rulings under the revenue procedure, to revise the information requirements for a ruling request made under the revenue procedure, to furnish a worksheet for actuarial computations,

and to provide a special rule under which certain *de minimis* nondeductible employer contributions to a qualified defined benefit plan may be returned to the taxpayer without a formal ruling or disallowance from the Service.

Rev. Proc. 94-41, 1994-1 C.B. 711, sets forth procedures for requesting waivers of the minimum funding standard described in § 412(d) and the issuance of such waivers by the Assistant Commissioner (Employee Plans and Exempt Organizations).

Rev. Proc. 94-42, 1994-1 C.B. 717, supersedes Rev. Proc. 79-18, 1979-1 C.B. 525, and Rev. Rul. 79-215, 1979-2 C.B. 190, and sets forth a procedure for obtaining approval of an amendment to a qualified plan that, under § 412(c)(8), reduces the accrued benefits of plan participants.

D. Procedures Applicable to Exempt Organizations Matters Only

Rev. Proc. 80-27, 1980-1 C.B. 677, provides procedures under which recognition of exemption from federal income tax under § 501(c) may be obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. This procedure relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption.

Rev. Proc. 90-27, 1990-1 C.B. 514, sets forth revised procedures with regard to applications for recognition of exemption from federal income tax under §§ 501 and 521.
