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IRS Issues TE/GE Memo on Processing Some Pending Exempt Organization Applications.

The IRS Tax-Exempt and Government Entities Division has issued a memorandum (TEGE-07-03-4-0003) to provide guidance to its determination and technical units on determining the effective date of exemption of some organizations that have failed to file annual information returns for three consecutive years while their application for tax-exempt status is pending.

March 14, 2014 Affected IRM: IRM 7.20.2

Expiration Date: March 14, 2015

MEMORANDUM FOR
EXEMPT ORGANIZATIONS DETERMINATIONS UNIT AND
EXEMPT ORGANIZATIONS TECHNICAL UNIT

FROM:
Stephen A. Martin
Acting Director,
Exempt Organizations Rulings and Agreements

SUBJECT:
Processing Guidelines for Certain Pending Applications of
Exempt Organizations that Fail to File Annual Information
Returns for Three Consecutive Years

This memorandum provides direction to the Exempt Organizations Determinations Unit ("EOD") and Exempt Organizations Technical Unit ("EOT") in determining the effective date of exemption of certain organizations seeking tax-exempt status under IRC section 501(a) that have failed to file annual information returns for three consecutive years while their application is pending. Under IRC section 6033(j), if a tax-exempt organization that is required to file an annual information return under IRC sections 6033(a) or (i) fails to file such return for three consecutive years, such organization's status as an organization exempt from tax under IRC section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third return.

Due to excess inventory, EOD and EOT have applications from organizations that may have failed to file annual information returns for three consecutive years while their applications have been pending. In such circumstances, the exempt status of these organizations may be revoked before they have received a ruling from EOD or EOT. These applications are treated as requests for reinstatement. If an organization is eventually granted a favorable ruling, determination of the effective date of the tax-exemption of such organization requires additional time and resources on

the part of the organization and the IRS. Many of the organizations are operated by volunteers and thus may face challenges in meeting or understanding their filing requirements before receiving a ruling from the IRS.

Accordingly, effective upon issuance of this memorandum, if a specialist is working an application of an organization that (i) filed its application for exemption with the IRS prior to the due date of filing its Form 990-N, 990-EZ, 990, or 990-PF for the third tax year after its formation date, and (ii) he/she has determined that the organization should receive a favorable determination with regard to the exempt status of the organization, then take the following steps:

- 1. Check IDRS to see if the organization has filed a Form 990-N, 990-EZ, 990 or 990-PF at least once in the last three years. If it has, grant exemption effective as of the appropriate date under our normal procedures (e.g., formation date or post-mark date).
- 2. If not, the following must be done:
 - a. Update status to IDRS code “97” effective the due date of the third return and wait for the organization to be listed on the revocation list. It will take three weeks on average to be on the revocation list.
 - b. Input IDRS transaction code “TC 590.”
 - c. Send e-mail to the Correspondence Unit (*TE/GE-EO-Correspondence Unit)
 - i. with the heading “NO GAP CASE — REINSTATEMENT DATE CORRECTION” and
 - ii. in the body of the e-mail include the following statement: “We are processing the application of [Name of Organization], [EIN], as a no-gap reinstatement case. The reinstatement date of the organization on the auto-revocation list should be [Effective date of revocation from step a.]”
 - d. Grant exemption effective as of the date the specialist would have otherwise granted recognition on the determination letter and Form 8670 as if there was no automatic revocation (e.g., formation date or post-mark date).
 - e. Add the following “no gap” addendum to the letter:

You formed [Date 1] and filed your Form [Application number], *Application for Recognition of Exemption under Section 501(a)*, on[DATE 2]. You failed to file a required annual return or notice (Form 990, Form 990-EZ, Form 990-PF or Form 990-N) for three consecutive years after you were formed and while your application was pending. As a result, your tax-exempt status was automatically revoked on [Date 3], the due date of your third year return or notice. We are treating your Form [Application number] as an application for reinstatement and are recognizing your exemption as reinstated on the same day it was automatically revoked. **As a result, you are recognized as tax-exempt continuously from the effective date of exemption as reflected at the top of this letter.**

Any questions are to be directed to Jon Waddell, Manager, Rulings and Agreements, Determinations, Area 2. The contents of the memorandum will be incorporated into IRM 7.20.2.

cc:
www.irs.gov

