



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

July 15, 2020

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Affected IRM: 4.75.37 and 4.75.39

MEMORANDUM FOR EXEMPT ORGANIZATIONS EXAMINATIONS EMPLOYEES

FROM: Sean E. O'Reilly /s/ Sean E. O'Reilly  
Director, Exempt Organizations Examinations

SUBJECT: Waiver of IRC Section 7611 procedures in the examination of a claim or abatement filed by a Church.

**Purpose:**

This memorandum provides instructions to examiners on how to inform churches of their option to authorize the Internal Revenue Service (IRS) to consider church claims for refund or requests for abatement without following the procedures required by Internal Revenue Code (IRC) Section 7611.

**Background:**

IRC Section 7611 restricts how the IRS can interact with churches in connection with church tax inquiries and examinations. The term "church" is found, but not specifically defined, in the IRC. The term is used in its generic sense as a place of worship, including, for example, mosques and synagogues. It includes any organization claiming to be a church or any convention or association of churches.

Unless a church submits a written waiver of all or a portion of the provisions in IRC Section 7611, the IRS must follow the steps outlined in the statute before beginning an inquiry or examination of a church. These steps include procedures to issue a notice of church tax inquiry (NCTI) with the opportunity for the church to respond in writing to a request for information and a subsequent notice of church tax examination (NCTE) with the opportunity for a conference before an examination of books and records.

IRC Section 7611 procedures ordinarily are applicable when the IRS has questions or concerns regarding a claim for refund or request for abatement filed by a church. If a church wishes to facilitate the processing of its claim for refund or request for abatement, the church can authorize the IRS to consider the claim or abatement request without following the procedures contained in Section 7611 by executing a written waiver.

**Procedures:**

Examiners should only follow these procedures if the assigned return is a claim or abatement request submitted by a church.

1. 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 4.75.39.6, Source of Case - Organization Claims to be a Church, or Church by Inference.
2. Conduct a pre-contact analysis following IRM 4.75.10, Exempt Organizations Examination Procedures.
  - If there are any Large, Unusual, Questionable (LUQ) items in addition to the claim or abatement issue, follow Notice of Church Tax Inquiry procedures in IRM 4.75.39, Church Tax Inquiries and Examinations Under IRC 7611.
3. Prepare the waiver package and submit it to your group manager for review. The waiver package includes:
  - Letter 6249, Waiver of IRC section 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.
4. 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 Section 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 Section 7611 procedures.
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 Section 7611 procedures.

- Update the case chronology record to notate the routing through the various management levels.
5. Upon approval from the Director, EOE, offer the waiver to the church by sending the Letter 6249, Form 15239 and Publication 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 Section 7611 procedures under IRM 4.75.39.
  6. Upon receipt of the signed Form 15239 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 and maintain it in the casefile. Do not send the church a copy of the completed Form 15239.
  7. The examiner should follow the normal procedures for claims and abatements set forth in IRM 4.75.37.
  8. 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 Section 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 memo.

**Effect on Other Documents:**

This guidance will be incorporated into IRM 4.75.37, Exempt Organizations Examination Procedures, Claims, Requests for Abatement and Examination Reconsiderations, and IRM 4.75.39, Church Tax Inquiries and Examinations Under IRC 7611 by July 15, 2022.

**Effective Date:**

Immediately.

**Contact:**

If you have questions about this change in procedures, contact EO Exam Mandatory Review at \*TEGE EO Review Staff.

Distribution:

[IRS.gov \(https://www.irs.gov\)](https://www.irs.gov)