

Rev. Proc. 97-21

SECTION 1. PURPOSE

.01 This revenue procedure provides the rules applicable to a new pilot program under which pre-submission conferences may be held in the national office for matters that a district director or a chief, appeals office, is preparing to submit for technical advice under Rev. Proc. 97-2, 1997-1 I.R.B. 64.

.02 In an effort to promote expeditious processing of requests for technical advice, national office personnel generally will meet with the district or appeals office personnel and the taxpayer prior to the time a request for technical advice is submitted to the national office. The pre-submission conference procedures set forth in this revenue procedure are intended to facilitate agreement between the parties as to the appropriate scope of the request for technical advice, the factual information to be included in the request for technical advice, any collateral issues that either should or should not be included in the request for technical advice, and any other substantive or procedural considerations that will allow the national office to provide the parties with technical advice as expeditiously as possible.

.03 The pre-submission conference procedures are not intended to create alternative procedures for determining the merits of the substantive positions advocated by the district or appeals office or by the taxpayer, but instead are intended only to facilitate the overall technical advice process.

SECTION 2. BACKGROUND

.01 Rev. Proc. 97-2 provides the procedures applicable to the national office's processing of requests for technical advice. Those procedures currently contain no provision that permits the district or appeals office personnel and the taxpayer to consult with national office personnel regarding a contemplated request for technical advice.

.02 This revenue procedure establishes a pre-submission conference pilot program to be conducted during 1997 in conjunction with the procedures set forth in Rev. Proc. 97-2. If this pilot

program is successful, the Service will consider extending the pilot program or permanently adopting these or similar pre-submission conference procedures.

SECTION 3. SCOPE

This revenue procedure applies to matters that are subject to a request for technical advice under the procedures of Rev. Proc. 97-2. A request for a pre-submission conference should be made only after the district or appeals office determines that it likely will seek technical advice and the parties agree that a pre-submission conference should be requested.

SECTION 4. PROCEDURE

.01 Requests for a pre-submission conference must be submitted in writing by the district or appeals office. The request should identify that it is being submitted pursuant to this revenue procedure. The request should also identify the associate or assistant chief counsel office expected to have jurisdiction over the request for technical advice. The request should include a brief explanation of the primary issue so that an assignment to the appropriate branch can be made. Coordination with district counsel is strongly encouraged. If the request involves a designated issue or industry under the Industry Specialization Program, coordination with the issue or industry specialist is also strongly encouraged.

.02 An original and one copy of the request should be submitted to the appropriate address listed below. Requests from district offices should be sent to the following address:

Internal Revenue Service
Attn: CC:DOM:CORP:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Requests from appeals offices should be sent to the following address:

Internal Revenue Service
Attn: C:AP:FS
Box 68
901 D Street, SW
Washington, DC 20024

.03 Within 5 working days after it receives the request, the branch assigned responsibility for conducting the pre-submission conference will contact the district or appeals office to arrange a mutually convenient time for the parties

to meet in the national office. The district or appeals office will be responsible for coordinating with the taxpayer as well as with any other Service personnel whose attendance the district or appeals office believes would be appropriate.

.04 Pre-submission conferences generally will be held in person in the national office. However, if the district or appeals office personnel or the taxpayer is unable to attend the conference, the conference may be conducted via telephone.

.05 At least 10 working days before the scheduled pre-submission conference, the district or appeals office and the taxpayer should submit to the national office a statement of the pertinent facts (including any facts in dispute), a statement of the issues that the parties would like to discuss, and any legal analysis, authorities, or background documents that the parties believe would facilitate the national office's understanding of the issues to be discussed at the conference. The legal analysis provided in connection with the pre-submission conference need not be as fully developed as the analysis that ultimately will accompany the request for technical advice, but it should allow the national office personnel to become reasonably informed regarding the subject matter of the conference prior to the meeting. The district or appeals office or the taxpayer should ensure that the national office receives a copy of any required power of attorney, preferably on Form 2848, Power of Attorney and Declaration of Representative.

.06 Any discussion of substantive issues at a pre-submission conference is advisory only, is not binding on the Service in general or on the Office of Chief Counsel in particular, and cannot be relied upon as a basis for obtaining retroactive relief under the provisions of § 7805(b) of the Internal Revenue Code.

SECTION 5. REQUEST FOR COMMENTS

The Service is interested in comments regarding the use of pre-submission conferences and how these procedures may be improved. A signed original and two copies of all comments should be submitted by either mailing them to:

Internal Revenue Service
Attn: CC:DOM:CORP:R
Room 5228
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

or hand delivering them between the hours of 8:00 a.m. and 5:00 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:DOM:CORP:R
Room 5228
1111 Constitution Avenue, NW
Washington, DC

Alternatively, comments may be submitted electronically via the Service's Internet site at "http://www.irs.ustreas.gov/prod/tax_regs/comments.html". All comments will be available for public inspection and copying.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-2, 1997-1 I.R.B. 64, is amplified to permit pre-submission conferences in the circumstances and under the conditions specified in this revenue procedure.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for pre-submission conference requests submitted to the national office after March 10, 1997 and before December 31, 1997.

DRAFTING INFORMATION

The principal authors of this revenue procedure are Phillip J. Howard of the Office of Assistant Chief Counsel (Passthroughs and Special Industries)

and James L. Atkinson and Robert J. Basso of the Office of Associate Chief Counsel (Domestic). For further information regarding this revenue procedure, contact the office expected to have jurisdiction over the matter to be submitted for technical advice:

Income Tax and
Accounting (202) 622-4800
Passthroughs and Special
Industries. (202) 622-3000
Corporate. (202) 622-7700
Financial Institutions and
Products. (202) 622-3900
Employee Benefits and Exempt
Organizations (202) 622-6000
International (202) 622-3810
Enforcement Litigation. (202) 622-3400
These telephone numbers are not toll-free calls.