

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Ruling and determination letters.
(Also Part I, §§ 1502, 1504; 1.1502-33, 1.1502-75, 1.1502-76, 1.1504-1.)

Rev. Proc. 2006-21

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 89-56, 1989-2 C.B. 643, Rev. Proc. 90-39, 1990-2 C.B. 365, and Rev. Proc. 2002-32, 2002-1 C.B. 959, to eliminate impediments to the electronic filing of Federal income tax returns (e-filing) and to reduce the reporting requirements in each of these revenue procedures.

SECTION 2. BACKGROUND

.01 Rev. Proc. 89-56, Rev. Proc. 90-39, and Rev. Proc. 2002-32 each provide a means for a consolidated group to obtain a specified consent or waiver from the Commissioner without requesting a private letter ruling. The revenue procedures each provide that, in order to obtain the subject consent or waiver, a statement containing specified information must be included on or with the group's return. The Internal Revenue Service has concluded that the amount of information required to be included

in these statements is greater than is necessary to facilitate the administration of the tax law. Moreover, each of these statements presents an impediment to e-filing.

.02 Rev. Proc. 89-56 provides a means for a consolidated group to obtain the Commissioner's consent to file a consolidated Federal income tax return in which one or more members of the group use a 52-53 week tax year. Section 3.01 of the revenue procedure sets forth the information and representations that must be provided in a statement included on or with the group's return in order to obtain the consent. Section 3.02 requires the statement to be signed under penalties of perjury by a duly authorized officer of the common parent.

.03 Rev. Proc. 90-39 provides a means for a consolidated group to obtain the Commissioner's consent to elect or change its method of allocating the consolidated Federal income tax liability to its members for purposes of determining the earnings and profits of each member. Section 4.01 of the revenue procedure sets forth the information and representations that must be provided in a statement included on or with the group's return in order to obtain the consent. Section 4.02 requires the statement to be signed under penalties of perjury by a duly authorized officer of the common parent.

.04 Rev. Proc 2002-32 provides a means for a consolidated group to obtain the Commissioner's waiver of the prohibition against including a previously disaffiliated corporation in the group's return during the sixty-month period following the disaffiliation. See § 1504(a)(3)(A) of the Internal Revenue Code. Paragraphs 5.01 through 5.14 of the revenue procedure set forth the information and representations

that must be provided in a statement included on or with the group's return in order to obtain the consent. In the unnumbered paragraph following the heading, Section 5 requires the statement to be filed under penalties of perjury.

SECTION 3. SCOPE

This revenue procedure applies to any taxpayer that applies for a consent or waiver under the provisions of Rev. Proc. 89-56, Rev. Proc. 90-39, or Rev. Proc. 2002-32.

SECTION 4. APPLICATION

.01 To remove e-filing impediments, this revenue procedure eliminates the signature requirement of each of Rev. Proc. 89-56, Rev. Proc. 90-39, and Rev. Proc. 2002-32. Thus, the following provisions of these revenue procedures are deleted: section 3.02 of Rev. Proc. 89-56, section 4.02 of Rev. Proc. 90-39, and the clause, "filed under penalties of perjury," in the second sentence in the unnumbered paragraph following the heading of Section 5 of Rev. Proc. 2002-32.

.02 To reduce the reporting requirements of Rev. Proc. 89-56, this revenue procedure permits a consolidated group to obtain consent under that revenue procedure by including the following statement on or with its return in lieu of the statement described in section 3.01 of Rev. Proc. 89-56: "THIS IS A REQUEST UNDER REV. PROC. 89-56 TO USE A 52-53 WEEK TAX YEAR. THE GROUP HAS COMPLIED, AND WILL CONTINUE TO COMPLY, WITH THE CONDITIONS SET FORTH IN SECTION 3.01 OF REV. PROC. 89-56."

.03 To reduce the reporting requirements of Rev. Proc. 90-39, this revenue

procedure permits a consolidated group to obtain consent under that revenue procedure by including the following statement on or with its return in lieu of the statement described in section 4.01 of Rev. Proc. 90-39: “THIS IS A REQUEST UNDER REV. PROC. 90-39 TO ELECT OR CHANGE THE METHOD OF ALLOCATING CONSOLIDATED FEDERAL INCOME TAX LIABILITY FOR PURPOSES OF DETERMINING MEMBERS’ EARNINGS AND PROFITS. THE GROUP HAS COMPLIED, AND WILL CONTINUE TO COMPLY, WITH THE CONDITIONS SET FORTH IN SECTION 4.01 OF REV. PROC. 90-39.”

.04 To reduce the reporting requirements of Rev. Proc. 2002-32, this revenue procedure permits a consolidated group to obtain a waiver under that revenue procedure by including the following statement on or with its return in lieu of the statement described in section 5 of Rev. Proc. 2002-32: “THIS IS A REQUEST UNDER REV. PROC. 2002-32 FOR A WAIVER OF SECTION 1504(a)(3)(A) FOR [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF SUBSIDIARY]. THE GROUP HAS COMPLIED, AND WILL CONTINUE TO COMPLY, WITH THE CONDITIONS SET FORTH IN SECTIONS 5.01 THROUGH 5.14 OF REV. PROC. 2002-32.”

.05 Although paragraphs 4.02, 4.03, and 4.04 of this revenue procedure reduce the amount of information that a taxpayer is required to include on or with its return, the taxpayer’s recordkeeping requirement remains unchanged. Taxpayers should maintain records to establish the information described in Rev. Proc. 89-56 (Sec. 3.01), Rev. Proc. 90-39 (Sec. 4.01), and 2002-32 (Secs. 5.01 through 5.14) in order to

substantiate their reporting positions. See § 1.6001-1(e) of the Procedure and Administration Regulations.

SECTION 5. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 89-56, Rev. Proc. 90-39, and Rev. Proc 2002-32 are modified. The IRS and Treasury Department intend to modify Rev. Proc. 89-56 and Rev. Proc. 90-39 to reflect revisions to §§ 1.1502-13 and 1.1502-33 of the Income Tax Regulations. Until these revenue procedures are so modified, taxpayers should continue to apply the provisions of both revenue procedures in a manner that reflects the approach in the applicable regulations.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective on May 26, 2006. However, taxpayers may rely on this revenue procedure for prior taxable years.

SECTION 7. PAPERWORK REDUCTION ACT

The collections of information in this revenue procedure have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1784.

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 OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may be material in the administration of any internal revenue tax law.

Generally tax returns and tax return information are confidential, as required by § 6103.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Grid R. Glycer of the Office of Associate Chief Counsel (Corporate). For further information regarding this revenue procedure contact Grid R. Glycer at (202) 622-7930 (not a toll free call).