

church tax examination will not be suspended during stays of summons proceedings resulting from violations described above; however, violations may be corrected without regard to the otherwise applicable time limits prescribed under the procedures of section 7611. In determining whether a stay is necessary, a court must consider the good faith effort of the Internal Revenue Service and the effect of any violation of the proper examination procedures.

Section 7611(e)(2) provides that no suit may be maintained and no defense may be raised, other than a stay in a summons enforcement proceeding, by reason of any noncompliance with the requirements of section 7611. Thus, failure to comply with any of these requirements may not be raised as a defense or affirmative ground for relief in any judicial proceeding including, but not limited to, a summons proceeding to gain access to church records; a declaratory judgment proceeding involving a determination of tax-exempt status under section 7428; a proceeding to collect unpaid tax; or a deficiency or refund proceeding. Additionally, failure to substantially comply with the requirements that two notices be sent, that the Regional Commissioner approve an inquiry, and that a conference be offered (and the conference held if requested) may not be raised as a defense or as an affirmative ground for relief in a summons proceeding or any other judicial proceeding other than as specifically set forth above. Therefore, a church or its representatives will not be able to litigate the issue of the reasonableness of the appropriate Regional Commissioner's belief in approving the commencement of a church tax inquiry (*i.e.*, that the church may not be tax-exempt or may be engaged in taxable activities) in a summons proceeding or any other judicial proceeding. The church retains the right to raise any substantive or procedural argument which would be available to taxpayers generally in an appropriate proceeding.

#### EFFECTIVE DATE

Q-18: What is the effective date of the church examination procedures?

A-18: The procedures set forth in section 7611 apply to all tax inquiries and examinations beginning after December 31, 1984. The procedures of section 7605 will apply to any examination commenced before January 1, 1985. Any activities commenced after December 31, 1984, that would constitute a new inquiry or new examination must comply with the procedures of section 7611.

#### APPLICATION TO SECTION 4958

Q-19: When do the church tax inquiry and examination procedures described in section 7611 apply to a determination of whether there was an excess benefit transaction described in section 4958?

A-19: See § 53.4958-8(b) of this chapter for rules governing the interaction between section 4958 excise taxes on excess benefit transactions and section 7611 church tax inquiry and examination procedures.

[T.D. 8013, 50 FR 9615, Mar. 11, 1985. Redesignated and amended by T.D. 8077, 51 FR 6220, Feb. 21, 1986; T.D. 8628, 60 FR 62213, Dec. 5, 1995; T.D. 8920, 66 FR 2171, Jan. 10, 2001; 66 FR 13013, Mar. 2, 2001; T.D. 8978, 67 FR 3099, Jan. 23, 2002; 67 FR 12472, Mar. 19, 2002]

#### GENERAL POWERS AND DUTIES

#### § 301.7621-1 Internal revenue districts.

For delegation to the Secretary of authority to prescribe internal revenue districts for the purpose of administering the internal revenue laws, see Executive Order No. 10289, dated September 17, 1951 (16 FR 9499), as made applicable to the Code by Executive Order No. 10574, dated November 5, 1954 (19 FR 7249).

#### § 301.7622-1 Authority to administer oaths and certify.

The officers and employees of the Internal Revenue Service whom the Commissioner has designated are authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the internal revenue laws or regulations issued thereunder, except that the authority to certify shall not be construed as applying to those papers or documents