

Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information as a courtesy. **Do not file draft forms.** Also, do not rely on draft instructions and publications for filing. We generally do not release drafts of forms until we believe we have incorporated all changes. However, in some cases unexpected issues arise, or legislation is passed, necessitating a change to a draft form we have posted on IRS.gov. Also, forms generally are subject to OMB approval before they are officially released. Drafts of instructions and publications are usually subject to at least some changes before being officially released.

All early releases of draft forms, instructions, and publications are available at www.irs.gov/draftforms. All information about forms, instructions, and publications is accessible from www.irs.gov/formspubs.

If you have any comments on this draft, you can submit them to us on our IRS.gov page titled [Comment on Forms and Publications](#), where you may make comments anonymously if you wish. You can also email us at taxforms@irs.gov. Please include the form or publication number in the subject. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each suggestion. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

**Application for Determination for
Employee Benefit Plan****(Under section 401(a) and 501(a) of the Internal Revenue Code)**► Information about Form 5300 and its instructions is at www.irs.gov/form5300.

OMB No. 1545-0197

Review instructions and the Procedural Requirements Checklist before completing this application.

For Internal Use Only

1a Name of plan sponsor (employer if single-employer plan)**b** Address of plan sponsor**c** City**d** State**e** Zip Code**f** Foreign country name**g** Foreign province/county**h** Foreign postal code**i** Employer identification number (EIN)**j** Telephone number**k** Fax number**l** Employer's tax year ends (MM)**2a** Person to contact if a Power of Attorney is attached, mark box, and do not complete this line.☐

Contact person's name

b Contact person's address**c** City**d** State**e** Zip Code**f** Telephone number**g** Fax number

If more space is needed for any item, attach additional sheets the same size as this form. Identify each additional sheet with the plan sponsor's name and EIN and identify each item.

Under penalties of perjury, I declare that I have examined this application, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE ►

Date ►

Type or print name

Type or print title

3a (1) Determination requested for (enter applicable number in box).☐**1** – Initial Qualification – New Plan**2** – Initial Qualification – Existing Plan**3** – Request after initial qualification**(2)** Enter applicable number (4-7) in box for special rulings, if applicable.☐**4** – Affiliated Service Group (ASG) status (IRC section 414(m))**5** – Leased employee status (IRC section 414(n))**6** – Partial termination**7** – Termination of collectively bargained multiemployer or multiple employer plan covered by PBGC insurance.**b** If line 3a(1) is "1" or "2," enter the date the plan was initially adopted.**c** If line 3a(2) is "6," enter the date of the partial termination.**d** If line 3a(2) is "7," enter the effective date of termination.**e (1)** **Yes** **No**☐☐Is the plan being filed "on-cycle" pursuant to section 13 or 14 of Rev. Proc. 2007-44, 2007-28 I.R.B. 54?
If "Yes," complete lines 3e(2) and 3e(3) below.**(2)** Provide the submission cycle indicator pursuant to section 13 or 14 of Rev. Proc. 2007-44.**A.** Cycle A**C.** Cycle C**E.** Cycle E**G.** Pre-approved DB plans**B.** Cycle B**D.** Cycle D**F.** Pre-approved DC plans

If line 3e(2) is "A" through "E," skip to line 3g.

If line 3e(2) is "F" or "G," go to line 3f(1).

(3) Provide the cycle reason.

- 1.** The last digit of the EIN, or
- 2.** A multiple employer plan, or
- 3.** A governmental plan including governmental multiple employer plan, or
- 4.** A multiemployer plan, or
- 5.** A DC pre-approved plan, or an individually designed DC plan that is eligible for the six-year remedial amendment cycle (RAC), filing in the two-year window, or
- 6.** A DB pre-approved plan, or an individually designed DB plan that is eligible for the six-year RAC, filing in the two-year window, or
- 7.** EIN of the parent company, jointly trustee single employer collectively bargained plan (if the plan sponsor is the Joint Board of Trustees include the EIN used on the Form 5500 filing) or centralized organization if that organization administers and operates the plan, or
- 8.** New plan exception, or
- 9.** Cycle changing event (include the date and explanation of the cycle changing event), or
- 10.** Cycle A controlled group election, ASG election or centralized group election. Attach a copy of the election. Also, attach a statement showing in detail:
 - a.** All members of the group (including their EIN),
 - b.** The type(s) of plan(s) each member has, and
 - c.** Plans common to all members
- 11.** Urgent business need, or
- 12.** Other, attach an explanation.

See Rev. Proc. 2007-44 for details, including sections 10, 11 and 16.

(Line 3 continued)

- f** (1) ☐ **Yes** ☐ **No** Is the plan a pre-approved Master & Prototype (M&P) plan?
- (2) ☐ **Yes** ☐ **No** Is the plan a pre-approved Volume Submitter plan (VS)?

(i) Name of sponsor or practitioner

(ii) Date of opinion/advisory letter

(iii) Serial # of opinion/advisory letter

- g** ☐ **Yes** ☐ **No** Is this form being filed because it is a pre-approved plan required to file on a Form 5300?

If "Yes," indicate in the box the reason it is required to file a Form 5300.

- 1** – Multiple employer plan, or
2 – Request required pursuant to published guidance by Service (such as minimum funding waiver), or
3 – Section 415 and 416 added to an M&P plan due to required aggregation, or
4 – The normal retirement age in the M&P or VS plan is earlier than age 62.

If this is a pre-approved plan that does not meet one of the requirements above, attach an explanation why the Form 5300 is being filed.

- h** ☐ **Yes** ☐ **No** If the plan is not a pre-approved plan, is the plan an individually designed plan that is eligible for the six-year RAC?
- i** (1) ☐ **Yes** ☐ **No** If this is a VS plan, does the VS practitioner have the authority to amend on behalf of adopting employers for the entire prior RAC?
- (2) ☐ **Yes** ☐ **No** If this is a VS plan, does the VS practitioner have the authority to amend on behalf of adopting employers for the entire current RAC?
- j** ☐ **Yes** ☐ **No** Was the plan sponsor entitled to rely on a favorable opinion or advisory letter as an "identical adopter" of a pre-approved plan for the plan's RAC immediately preceding the cycle in which the application is submitted?
 If "Yes," complete j(i), (ii) and (iii) below.
 If "No," go to line 3k.

(i) Name of sponsor or practitioner

(ii) Date of opinion/advisory letter

(iii) Serial # of opinion/advisory letter

- k** ☐ **Yes** ☐ **No** Does the plan have a determination letter (DL) for the plan's RAC immediately preceding the cycle in which the application is filed?
 If "Yes," complete line k (i), (ii), and (iii) below.
 If "No," go to line 3l.

(Line 3 continued)

(i) Date the letter was issued (ii) Year of the Cumulative List considered in the letter (iii) Expiration date of the letter

3l Complete the following table (for (iv), (v), (vi), (vii) mark with an "X" in the applicable boxes). If additional space is needed, attach a separate sheet of paper the same size, label it "Attachment to 3l" using the same format as below.

	(i) Amendment ID	(ii) Effective Date (MM/DD/YYYY)	(iii) Adoption Date (MM/DD/YYYY)	Type of Amendment		(vi) Due Date of Tax Return (including extensions) (MM/DD/YYYY)
				(iv) Interim Amnd. Only	(v) Discr. Amnd. Only	
3l(1)						
3l(2)						
3l(3)						
3l(4)						
3l(5)						
3l(6)						
3l(7)						
3l(8)						
3l(9)						
3l(10)						

m Enter total number of amendments on line 3l.

n Designate the specific tax return that the employer uses to file its return.

4a Name of plan (plan name cannot exceed 70 characters, including spaces):

b Enter 3-digit plan number

c Enter the month on which the plan year ends (MM)

d Enter plan's original effective date

e Enter number of participants

If 100 or less, complete line 4f. Otherwise, go to line 5a.

Yes No

f ☐ ☐ Do you have no more than 100 employees who received at least \$5,000 of compensation for the preceding year?

If "Yes," go to line 4g.

If "No," go to line 5a.

g ☐ ☐ Is at least one employee a non highly compensated employee?

5a Indicate the type of plan by entering the number from the list below.

(Use the lowest number from the list below applicable to the plan.)

- | | | |
|--|--------------------|--------------------------|
| 1 – Pension Equity Plan (PEP) | 5 – ESOP | 9 – 401(k) |
| 2 – cash balance conversion | 6 – money purchase | 10 – profit sharing plan |
| 3 – cash balance (not converted) | 7 – target benefit | |
| 4 – defined benefit but not cash balance | 8 – stock bonus | |

Yes No

b (1) ☐ ☐ If the response to 5a was "1," "2," "3," "4," "6," or "7," was the plan's normal retirement age below 62 any time after 5/22/07?

If "Yes," go to line 5b(2).

If "No," go to line 5c(1).

(2) ☐ ☐ Has the employer (or trustees, if this is a multiemployer plan) made a good faith determination that the plan's normal retirement age is not lower than an age that reasonably represents the typical retirement age for the industry in which the covered workforce is employed? Governmental plans see instructions. Attach required statement.

c (1) If the response to 5a was "5," mark the box to indicate whether the plan sponsor is an S Corporation or a C Corporation.

☐ C Corp. ☐ S Corp.

(2) If there has been a change to the corporate status from C to S or S to C (election/revocation), provide the effective date of such change.

Yes No

6a (1) ☐ ☐ Is the plan sponsor a member of an ASG, controlled group of corporations, or a group of trades or businesses under common control within the meaning of section 414(b) or (c)?

If "Yes," attach the required statement.

(2) ☐ ☐ Is the plan sponsor a foreign entity or is the plan sponsor a member of an ASG, controlled group of corporations, or a group of trades or businesses under common control within the meaning of section 414(b) or (c) that includes a foreign entity?

b ☐ ☐ Is this a governmental plan under section 414(d)?

c (1) ☐ ☐ Is this a church plan under section 414(e)?

If "Yes," go to line 6c(2).

If "No," go to line 6d.

(Line 6 continued)

- Yes** **No**
- (2) ☐ ☐ Was an election made by the church to have participation, vesting, funding, etc. provisions apply in accordance with section 410(d)?
- d ☐ ☐ Does this plan benefit any collectively bargained employees under Regulations section 1.410(b)-6(d)(2)?
- e ☐ ☐ Is this an insurance contract plan under section 412(e)(3)?
- f ☐ ☐ Is this a multiemployer plan under section 414(f)?
- g ☐ ☐ Is this a request for a ruling under section 401(h)?
- h ☐ ☐ Is this a request for ruling under section 420?
- i (1) ☐ ☐ Is this a multiple employer plan under section 413(c)?
If "Yes," complete lines 6i(2) through 6i(5).
If "No," go to line 7.
- (2) Enter the total number of participating employers.
- (3) Enter the number of participating employers submitting a Form 5300 concurrent with this application.
- (4) Enter the EIN of the employer submitting the lead plan.
- (5) Enter the 3-digit plan number of the lead plan.
- 7 ☐ ☐ Have interested parties been given the required notification of this application?
- 8 ☐ ☐ Is a separate DL application for this plan currently pending before the IRS?
- 9a ☐ ☐ Does this plan satisfy one of the design-based safe harbor requirements for contributions or benefits under Regulations section 1.401(a)(4)-2(b) or 3(b)?
If "Yes," go to line 9b.
If "No," go to line 10a.
- b ☐ ☐ Is this an election for a determination regarding a design-based safe harbor?
If "Yes," complete lines 9c through 9e.
If "No," go to line 10a.
- c ☐ Enter the letter ("A" - "E") from the list below that identifies the safe harbor intended to be satisfied.
A = 1.401(a)(4)-2(b)(2) defined contribution (DC) plan with uniform allocation formula
B = 1.401(a)(4)-3(b)(3) unit credit defined benefit (DB) plan
C = 1.401(a)(4)-3(b)(4)(i)(C)(1) unit credit DB fractional rule plan
D = 1.401(a)(4)-3(b)(4)(i)(C)(2) flat benefit DB plan
E = 1.401(a)(4)-3(b)(5) insurance contract plan
- d ☐ ☐ Does this plan satisfy one of the safe harbor definitions of compensation under Regulation sections 1.414(s)-1(c)(2) or (3)?

(Line 9 continued)

e List the plan section(s) that satisfy the design-based safe harbor (including, if applicable, the permitted disparity requirements):
Yes**No****10a**☐☐

Does this plan have a cash or deferred arrangement (CODA)?

If "Yes," go to line 10b(1).

If "No," go to line 10e.

b (1)☐☐

Does the CODA satisfy a safe harbor?

If "Yes," go to line 10b(2).

If "No," go to line 10d.

(2) Indicate by using the corresponding number the type of section 401(k) safe harbor that was satisfied. ☐**1.** 401(k)(12)(B)**2.** 401(k)(12)(C)**3.** 401(m)(11)(B)**c**☐☐

Does this plan contain a qualified automatic contribution arrangement (QACA) within the meaning of section 401(k)(13)?

d☐☐

Does this plan contain an eligible automatic contribution arrangement (EACA) within the meaning of section 414(w)?

e☐☐

Does this plan have matching contributions within the meaning of section 401(m)?

If "Yes," go to line 10f.

If "No," go to line 10g.

f☐☐

Does this plan have after-tax employee voluntary contributions within the meaning of section 401(m)?

11☐☐

Does this plan utilize the permitted disparity rules of section 401(l)?

12☐☐

Is this plan part of an offset arrangement with any other plans?

If "Yes," attach the required statement.

13☐☐

Is this plan part of an eligible combined plan arrangement within the meaning of section 414(x)?

If "Yes," include the EIN and Plan # of the other plan.

EIN:

Plan #:

14☐☐

Has this plan been involved in a merger, consolidation, spinoff, or a transfer of plan assets or liabilities that was not considered under a previous DL?

If "Yes," submit the required attachment.

15a☐☐

Has the plan been amended or restated to change the plan type?

If "Yes," go to line 15b.

If "No," go to line 16a.

b☐☐

Was the change considered in a prior DL?

If "No," attach a statement explaining the change.

16a **Yes** ☐ **No** ☐ Does the plan sponsor maintain any other qualified plans under section 401(a)?
If "Yes," attach required statement and complete lines 16b and 16c next.
If "No," go to line 17.

b (1) ☐ ☐ Does the plan sponsor maintain another plan of the same type (for example, both this plan and the other plan are DC plans or both are DB plans) that covers non-key employees who are also covered under this plan?
If "No," go to line 16c(1).
If "Yes," when the plan is top-heavy, do non-key employees covered under both plans receive the top-heavy minimum contribution or benefit under:

(2) ☐ ☐ This plan, or

(3) ☐ ☐ The other plan?

c (1) ☐ ☐ If this is a DC plan, does the plan sponsor maintain a DB plan (or if this is a DB plan, does the plan sponsor maintain a DC plan) that covers non-key employees who are also covered under this plan?
If "No," go to line 17.
If "Yes," when the plan is top-heavy, do non-key employees covered under both plans receive:

(2) ☐ ☐ The top-heavy minimum benefit under the DB plan,

(3) ☐ ☐ At least a 5% minimum contribution under the DC plan,

(4) ☐ ☐ The minimum benefit offset by benefits provided by the DC plan or

(5) ☐ ☐ Benefits under both plans, using a comparability analysis, at least equal to the minimum benefit.

17 ☐ ☐ Does any amendment to this plan reduce or eliminate any section 411(d)(6) protected benefit?
If "Yes," attach the required statement.

18 **Yes** ☐ **No** ☐ **NA** ☐ If this is a defined contribution plan, are trust earnings and losses allocated on the basis of account balances?
If "No," attach a statement explaining how they are allocated.

19 **Yes** ☐ **No** ☐ Is any issue involving this plan currently pending or has any issue related to this plan been resolved during the current RAC by:
(1) Internal Revenue Service,
(2) Department of Labor,
(3) Pension Benefit Guaranty Corporation,
(4) Any court (including bankruptcy), or
(5) The Voluntary Correction Program of the Employee Plans Compliance Resolution System.
If "Yes," attach a statement with the contact person's name (IRS Agent, DOL Investigator, etc.) and telephone number.

- 20** Indicate the regular (non top-heavy) vesting provisions of the plan by entering the letter from the list below:
- ☐ **a** – Full and immediate **d** – Full vesting after 5 years of service **f** – 3 to 6 year graded vesting
b – Full vesting after 2 years of service **e** – 2 to 6 year graded vesting **g** – Other
c – Full vesting after 3 years of service

- 21** For DB plans – method for determining accrued benefit:

a(1) Benefit formula at early retirement age is:

a(2) Benefit formula at normal retirement age is:

a(3) Normal form of retirement benefit is:

- 22** For DB plans – enter the letter of the accrual rule satisfied by the plan:

- ☐ **A** = Reg. 1.411(b)-1(b)(1) – 3 percent method
B = Reg. 1.411(b)-1(b)(2) – 133 1/3 percent rule
C = Reg. 1.411(b)-1(b)(3) – Fractional rule

- 23** For DC plans – Employer contributions:

a(1) Profit sharing or stock bonus plan contributions are determined under (mark box):

- ☐ A definite formula ☐ A discretionary formula ☐ Both

Indicate the plan section where the above formula is located in the plan document:

(2) Matching contributions are determined under (mark box):

- ☐ A definite formula ☐ A discretionary formula ☐ Both

Indicate the plan section where the above formula is located in the plan document:

(3) Money purchase plan – Enter rate of contribution:

Indicate the plan section where the above formula is located in the plan document:

(4) Target benefit plan formula is:

Indicate the plan section where the above formula is located in the plan document:

Procedural Requirements Checklist

Use this list to ensure that your submitted package is complete. Failure to supply the appropriate information may result in a delay in the processing of the application.

- | | Yes | No | |
|-----|--------------------------|--------------------------|---|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | Is Form 8717, User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request, attached to your submission? |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | Is the appropriate user fee for your submission attached to Form 8717? |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | If appropriate, is Form 2848, Power of Attorney and Declaration of Representative, Form 8821, Tax Information Authorization, or a privately designed authorization attached? (For more information, see the Disclosure Request by Taxpayer in the instructions and Rev. Proc. 2012-4, 2012-1, I.R.B. 125 updated annually.) |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | Is a copy of your plan's latest DL, if any, attached? |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | Have you included a copy of the plan, trust, and all amendments since your last DL? |
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | Is the EIN of the plan sponsor/employer (NOT the trust's EIN) entered on line 1i? |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | If line 3g is "Yes" and does not meet one of the exceptions, have you attached an explanation of why the Form 5300 is being filed? |
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | If line 5b (2) is "Yes," is the required statement attached? |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | Have interested parties been given the required notification of this application? Make sure line 7 is completed. |
| 10. | <input type="checkbox"/> | <input type="checkbox"/> | If you are requesting a determination for an ASG Status, have you included the information requested in the instructions? |
| 11. | <input type="checkbox"/> | <input type="checkbox"/> | If you answered "Yes" to line(s) 6a, have you included the information requested in the instructions? |
| 12. | <input type="checkbox"/> | <input type="checkbox"/> | For Multiple Employer Plans: Have you included the required information as specified in the instructions under <i>Specific Plans—Additional Requirements</i> ? |
| 13. | <input type="checkbox"/> | <input type="checkbox"/> | For Partial Termination Requests: Have you included the required information as specified in the instructions under <i>Type of Determination Letter Requested, Partial Termination</i> ? |
| 14. | <input type="checkbox"/> | <input type="checkbox"/> | If line 12 is "Yes," have you attached the required statement? |
| 15. | <input type="checkbox"/> | <input type="checkbox"/> | If line 14 is "Yes," have you attached the required statement? |
| 16. | <input type="checkbox"/> | <input type="checkbox"/> | If line 15 is "No," have you attached the required statement? |
| 17. | <input type="checkbox"/> | <input type="checkbox"/> | If line 16a is "Yes," have you attached the required statement? |
| 18. | <input type="checkbox"/> | <input type="checkbox"/> | If line 17 is "Yes," have you attached the required statement? |
| 19. | <input type="checkbox"/> | <input type="checkbox"/> | If line 18 is "No," have you attached the required statement? |
| 20. | <input type="checkbox"/> | <input type="checkbox"/> | If line 19 is "Yes," have you attached the required statement? |
| 21. | <input type="checkbox"/> | <input type="checkbox"/> | Is the application signed and dated? (Stamped signatures are not acceptable; see Rev. Proc. 2012-4 updated annually.) |