



Instructions for Form 5307

(Revised March 1996)

Application for Determination for Adopters of Master or Prototype, Regional Prototype, or Volume Submitter Plans

Section references are to the Internal Revenue Code unless otherwise noted.

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to have your plan approved by the IRS, you are required to give us the information. We need it to determine whether you meet the legal requirements for plan approval.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . 5 hr., 16 min.

Learning about the law or the form . . . 4 hr., 3 min.

Preparing the form . . . 8 hr., 2 min.

Copying, assembling, and sending the form to the IRS . . . 1 hr., 4 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, see the instructions for Form 8717.

Public Inspection.—Form 5307 is open to public inspection if there are more than 25 plan participants. Therefore, it is important that the total number of participants be shown on line 4e. See the instructions for line 4e for a definition of participant.

Disclosure Request by Taxpayer.—The Tax Reform Act of 1976 allows a taxpayer to request the IRS to disclose and discuss the taxpayer's return and/or return information with any person(s) the taxpayer designates in a written request. Use **Form 2848**, Power of Attorney and Declaration of Representative, for this purpose.

Signature.—The application must be signed by the employer, plan administrator, or an authorized representative.

General Instructions

A Change To Note

All applications must attach new **Schedule Q (Form 5300)**, Nondiscrimination Requirements. However, certain lines on Schedule Q may not have to be completed. See the instructions for Schedule Q for more information.

Purpose of Form

Adopters of master or prototype, regional prototype, or volume submitter plans, use **Form 5307** to request a determination letter from the IRS for the qualification of a defined benefit or a defined contribution plan and the exempt status of any related trust.

Type of Plan

• A **defined contribution plan** (DCP) provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to the participant's account.

• A **defined benefit plan** (DBP) is any plan that is not a DCP.

Note: A qualified plan must satisfy section 401(a) including but not limited to participation, vesting, nondiscriminatory contributions or benefits, distributions, and contribution and benefit limitations.

Completing the Application

Applications are screened for completeness. Incomplete applications may be returned to the applicant. For this reason, it is important that an appropriate response be entered for each line (unless instructed otherwise). In completing the application, pay careful attention to the following:

• N/A (not applicable) is accepted as a response **only** if an N/A block is provided.

- If a number is requested, a number must be entered.
- If an item provides a choice of boxes to check, check only one box unless instructed otherwise.
- If an item provides a box or boxes to check, written responses are not acceptable.
- If a governmental plan or nonelecting church plan, certain lines do not have to be completed. See **What To File and Specific Plans—Additional Requirements**.
- All applications must include the appropriate user fee and **Form 8717**, User Fee for Employee Plan Determination Letter Request. Please submit a separate check for each application. Form 8717 may be obtained by contacting your local IRS District office or by calling 1-800-TAX-FORM (1-800-829-3676).
- The IRS may, at its discretion, require additional information any time it is deemed necessary.

Who May File

This form may be filed by an adopter of:

- A master or prototype plan that was approved by the IRS National Office;
- A regional prototype plan approved in a key district office; or
- A district approved volume submitter plan.

Standardized Plans.—A plan sponsor who adopts a master or prototype or regional prototype standardized plan and has had another qualified plan, or who adopts another plan in addition to the standardized plan, other than a paired plan, must file an application for a determination letter in order to have reliance as to the qualified status of the plan.

Note: Form 5307 may **not** be filed to request a determination letter for:

- A multiple employer plan (use **Form 5300**, Application for Determination for Employee Benefit Plan);
- An employee stock ownership plan (ESOP) (Attach **Form 5309**, Application for Determination of Employee Stock

*Ownership Plan, to Form 5300 or **Form 5303, Application for Determination for Collectively Bargained Plans**;*

- *An individually designed plan (other than a District approved volume submitter plan) (Use Form 5300 or Form 5303, whichever applies.); or*
- *To determine if you are a member of an affiliated service group (use Form 5300).*

What To File

All plans must attach the following:

- Form 8717, User Fee for Employee Plan Determination Letter Request.
- Attach a duplicate copy of Form 5307, Page 1, to the original Form 5307, printed in special red ink. The duplicate copy may be a reproduction or carbon; however, the signature must be original.
- Schedule Q (Form 5300) and any additional schedules or demonstrations required by these instructions or the instructions for Schedule Q.
- An Adoption Agreement must accompany all applications submitted by master or prototype plan, or regional prototype plans. **Do not** submit a copy of the plan or trust instruments unless the plan is a regional prototype plan which uses separate trust or custodial account documents, or a volume submitter plan, in which case such trust or custodial account documents must be submitted along with the application.
- All applications submitted by adopters of District approved volume submitter plans must be accompanied by a copy of the plan and trust instrument and a written representation, made by the volume submitter under penalty of perjury, which explains if the plan and trust instrument are or are not word-for-word identical to the District approved specimen plan and, if not identical describes the location, nature and effect of each difference from the language of the approved specimen plan.

All applications submitted by adopters of district approved volume submitter plans must also be accompanied by any other information or material required by the District office.

- An Opinion, Notification, or Advisory Letter issued to the plan must accompany all applications for adopters of master or prototype, regional prototype, or volume submitter plans.
- All applications for plans that have at any time in the past received a favorable determination letter must include a copy of the plan's latest determination letter. In addition, if the plan is a regional prototype plan, a certification must be attached to the application that indicates the plans notification letter has not been withdrawn and is still in effect, and that the plan has not changed.

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- If this application is filed for a standardized plan because the adopting employer maintains or has ever maintained another plan that is not paired with this plan, complete only lines 1 through 5, 7 through 9, and 10c and d. See the instructions for Schedule Q (Form 5300) regarding the completion of Schedule Q by standardized plans. Explain in a cover letter why the application is being filed.

Specific Plans—Additional Requirements

For plans of **controlled groups of corporations, trades or businesses under common control, and affiliated service groups**, submit the statement specified in the instructions for line 6 on page 3.

For a **governmental or nonelecting church plan**, file Form 5307 but skip line 10a.

Note: A nonelecting church plan is a plan for which an election under section 410(d) has not been made.

File **Form 5310, Application for Determination for Terminating Plan**, to request a determination letter for the complete termination of a DBP or DCP.

File **Form 5310-A, Notice of Merger, Consolidation, or Transfer of Plan Assets or Liabilities**, 30 days prior to a merger, consolidation, or transfer of plan assets or liabilities.

Note: If a collectively bargained plan benefits employees other than collectively bargained employees, file Form 5303. **DO NOT** file Form 5307.

Where To File

For information on **Where To File**, see Form 8717.

Specific Instructions

Line 1a. Enter the name, address, and telephone number of the plan sponsor/employer. A plan sponsor for:

1. A plan that covers the employees of one employer, is the employer;
2. A plan sponsored by two or more entities required to be combined under section 414(b), (c) or (m), is one of the members participating in the plan; or
3. A plan that covers the employees and/or partner(s) of a partnership, is the partnership.

The plan name of the sponsor should be the same name that was or will be used when the Form 5500 series return/reports are filed for the plan.

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the plan has a P.O. box, show the box number instead of the street address.

Line 1b. Employer identification number (EIN).—Enter the 9-digit EIN

assigned to the plan sponsor/employer. This should be the same EIN that was used or will be used when the Form 5500 series returns/reports are filed for the plan. (Do not use a social security number or the EIN of the trust.) Use **Form SS-4, Application for Employer Identification Number**, to apply for an EIN. Form SS-4 can be obtained at most IRS or Social Security Administration (SSA) offices or by calling 1-800-TAX-FORM (1-800-829-3676).

The plan of a group of entities required to be combined under section 414(b), (c), or (m), and which is sponsored by more than one of the entities required to be combined, should enter the EIN of one of the sponsoring members. This EIN must be used in all subsequent filings of determination letter requests and for filing annual returns/reports unless there is a change of sponsor.

Line 1c. Enter the 2 digits representing the month the employer's tax year ends. This is the employer whose EIN was entered on line 1b.

Line 2. The contact person will receive copies of all correspondence as authorized in a power of attorney or other written designation. This item must be completed as described; a reference such as "see attached" is not acceptable.

Line 3a. In the box in the left margin, enter the number(s) that correspond to the request(s) being made.

Enter 1 if IRS has not issued a determination letter for this plan.

Enter 2 if this application is for a plan for which the IRS has previously issued a determination letter.

In addition, enter the date the plan or amendment was signed. If a plan or amendment is proposed, enter 9/9/99. Enter the effective date where requested. The term "Date amendment effective" means the date the amendment becomes operative or takes effect.

Enter 3 if this is a standardized plan (whether or not paired) and a determination is requested because the adopting employer maintains or has ever maintained another plan that is not paired with this plan.

If you enter 3, you **must** also enter a "1" or "2" and the appropriate dates in the space provided.

Line 3b. If you do not have a copy of the latest determination letter, explain this in the cover letter.

Line 3c. Section 3001 of ERISA requires the applicant to provide evidence that each employee who qualifies as an interested party has been notified of the filing of the application. If "Yes" is checked, it means that you have notified each employee as required by regulations under section 7476 or you have a one-person plan.

Rules defining “interested parties” and the form of notification are in Regulations section 1.7476-1. For an example of an acceptable format, see Rev. Proc. 96-6, 1996-1 I.R.B. 151. If “No” is checked, or this line is blank, your application will be returned.

Line 3d. Check “Yes” if your plan contains provisions for a cash or deferred arrangement (CODA) under section 401(k), or for employee or matching contributions described in section 401(m), otherwise, check “No.”

Line 4a. Enter a name for the plan.

Line 4b. Assign and enter a three-digit number, beginning with “001” and continuing in numerical order for each plan adopted. This numbering will differentiate your plans. The number that is assigned to a plan must not be changed or used for any other plan.

Line 4c. “Plan year” means the calendar, policy, or fiscal year on which the records of the plan are kept. Enter four digits in month-day order. For example, March 31 would be 0331.

Line 4d. Enter the year the plan **originally** became effective.

Line 4e. Enter **(a)** the total number of employees participating in the plan (include employees under a section 401(k) qualified cash or deferred arrangement who are eligible, but do not make elective deferrals), **(b)** retirees or other former employees who have a nonforfeitable right to benefits under the plan, and **(c)** a beneficiary of a deceased employee who is receiving or will in the future receive benefits under the plan. (This means one beneficiary for each former employee regardless of the number of individuals receiving benefits.

For example, payment of a former employee’s benefit to three children is considered as a payment to one beneficiary.)

Line 6

If the plan sponsor is a member of a controlled group of corporations, trades or businesses under common control, or an affiliated service group, all employees of the group will be treated as employed by a single employer for purposes of certain qualification requirements such as coverage. Attach a statement showing in detail all members of the group, their relationship to the plan sponsor, the type of plans each member has, and the plans common to all members.

Note: *If you want to apply for a determination letter to determine if you are a member of an affiliated service group, do not file this form. File Form 5300 instead.*

Line 7. Type of Adopter

Enter 1 if you are adopting a master or prototype plan having an opinion letter issued by the IRS.

Enter 2 if you are adopting a regional prototype plan having a notification letter issued by the IRS.

Enter 3 if you are adopting a volume submitter plan having a favorable letter identifying the plan as approved under the District volume submitter program.

Line 8. Type of Plan

Enter 1 if this is a governmental plan.

Enter 2 if this is a nonelecting church plan (i.e., a plan for which an election under section 410(d) has not been made).

Enter 3 if this is a collectively bargained plan.

Enter 4 if this plan is a section 412(i) plan.

Enter 5 if this plan is not described above. Most plans will enter “5.”

Line 9a. If you maintain any other qualified plan(s), **attach** a list for each plan which includes the following information: name of plan, type of plan, form of plan (standardized or nonstandardized), plan number, whether the plan has received a determination letter or an application for a letter is pending with IRS. Also indicate if the plan is paired (if paired, indicate the letter serial number of the paired plan).

Line 9b and 9c. See M-8, M-12, and M-14 of Regulations section 1.416-1.

Miscellaneous

Line 10a. Section 411(d)(6) protected benefits include:

- The accrued benefit of a participant as of the later of the amendment’s adoption date or effective date; and
- Any early retirement benefit, retirement-type subsidy or optional form of benefit for benefits from service before such amendment.

If the answer is “Yes,” attach an explanation of how the amendment satisfies one of the exceptions to the prohibition on reduction or elimination of section 411(d)(6) protected benefits.

Line 10b. In a DCP, if trust earnings and losses are divided on the basis of account balances, check “Yes.” Otherwise, check “No,” and attach an explanation of how trust earnings and losses are allocated.

Line 10c. If the plan or trust is under examination or if there is an issue related to the plan or trust pending before the IRS, the Department of Labor, the Pension Benefit Guaranty Corporation or any court, check “Yes,” and attach an explanation detailing the specific nature of the matter and the details of who is considering the matter. Otherwise, check “No.”

