

Major Changes to Form 4461-A and Instructions (Revised 2007)

Revenue Procedure 2005-16, 2005-10 I.R.B. 674 contains revised procedures for pre-approved plans (Master & Prototype (M&P) and Volume Submitter (VS plans). Until the issuance of Rev. Proc. 2005-16, the rules for M&P and VS plans were contained in different revenue procedures. These rules have now been consolidated into this revenue procedure. The Form 4461-A has been revised to allow for VS submissions as well as M&P submissions. Listed below are the major changes:

1. We changed the title of the form from “**Application for Approval of Master or Prototype Defined Benefit Plan**” to “**Application for Approval of Master or Prototype or Volume Submitter Defined Benefit Plan**”.
2. Page 1, on Line 3, Line 3d, we added a check box for “Volume Submitter Practitioner”, “Volume Submitter Mass Submitter”, and “Volume Submitter National Sponsor”.
4. On Page 1, line 3c, we are asking the filer to provide an email address to allow the Service to send an interim email notifying the applicant that review of the plan has been completed, subject to final approval by opinion or advisory letter.
4. On Page 1, Line 8, ~~Page 1~~, we deleted 2 check boxes and added a check box for the Volume Submitter plan.
5. On Page 2, line 9d, we are revising the header to “Non-mass submitter request (M&P complete (1) and (2). VS complete (3)).”
6. On Page 2, line 9e, we listed the lines that must be completed by M&P and VS mass submitters and national sponsors.
7. On Page 2, we changed line 9e (4) to line 9e (5) and we changed the date of the 12 month ending period to April 1, 2007. In this same line, we added the following text “or any VS specimen plan of the practitioner.”
8. Page 2, Line 9, we deleted question b(3) and added the following question:
 - “For all M&P sponsors and those VS practitioners who are choosing to include a provision in their specimen plans that allows them to amend on behalf of their adopting employers, will you advise those employers who cannot or do not adopt the amended or restated plan providing for such authority, that they may not continue to participate under the M&P plan or the VS plan?”

- We added new question 9d(3):

“If you are a VS (non-mass submitter) practitioner, do you have at least 30 employer-clients reasonably expected to adopt a plan that is substantially similar to the VS practitioner specimen plan?”
 - We added a new question 9e(4):

“For a VS mass submitter, are applications on behalf of at least 30 unaffiliated practitioners sponsoring the same specimen plan on a word-for-word identical basis included?”
9. On Page 3, under the note, we updated the rev. proc to 2005-16. We also added that filers will be able to obtain the List of Required Modifications (LRM’s) through the IRS website.
10. Page 6, Line 10h, we added 2 new questions:
- Question 17(b):

“Does the plan provide for the automatic rollover of a mandatory distribution over \$1,000 to an individual retirement plan, unless the participant elects otherwise?”
 - Question 17(c):

“If provided in the adoption agreement, does the plan specify the source from where it will accept rollovers, such as the type of plans?”
11. On Page 6, line 10h (14) (d), we changed the Regulations section to 1.401(a) (9)-6 Q&A-2.
12. On Page 7, Line 10k, (Form 4461-A,) replaced this line with Line 10k, Page 7, of Form 4461 (10-2006).
13. On Page 7, after replacing Line 10k, with Form 4461, Page 7, Line 10k, we replaced line 10k(5) with “Are the rights of all affected employees to benefits accrued to the date of such termination or partial termination, to the extent funded as of such date, nonforfeitable?”
14. On Page 7, after replacing Line 10k, with Form 4461, Page 7, Line 10k, we deleted line 10k(6) (as this applies to DC plans only). Accordingly, we renumbered (7), (8), and (9), with (6), (7), and (8), respectfully.

after replacing line 10k,

15. On Page 8, we deleted Line 10k(8)(c), as this no longer applies due to a rule change. Accordingly, we changed 10k(8)(d) to 10k(8)(c). See Rev. Proc. 2007-44, section 19.05(3).

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16. On Page 8, Line 10L, Item (10), replaced this line with language in Line 10L, Item (9), Page 8, of Form 4461 (10-2006).

“Does the adopting agreement contain a cautionary statement describing the limitations on employer reliance on an opinion or advisory letter without a determination letter and that the failure to properly fill out the adoption agreement may result in disqualification of the plan?”

17. Line 10L, Page 8, added new question (13), “Does the plan contain any sub-trusts for life insurance?”

18. Page 8, changed Part II, Line 11c to read as Part II, Line 11d, Page 8 of Form 4461 (10-2006).

“Does the adoption agreement contain, in close proximity to the employer’s signature line, the circumstances under which the adoption employer may not rely on the opinion letter (as set forth in section 19, of Rev. Proc. 2005-16), including a statement that the employer, in order to obtain or retain reliance, must obtain a determination letter if the employer ever has maintained any other plan (including a welfare benefit plan)?

19. On Page 8, we deleted **Part III, Complete This Part if You Are Filing for a Paired Plan** because it no longer applicable.

20. On Page 9, we changed Part IV to Part III and added “M&P Only” to the heading.

we renumbered 13 to 12,

21. On Page 9, we change Line 12g to read the same as Form 4461, Line 12(b), as follows:

Page 9,

“Does the adoption agreement contain, in close proximity to the employer’s signature line, the circumstances under which adopting employers may not rely on an opinion letter issued by EP Rulings and Agreements, with respect to the qualification of this plan unless they apply to EP Determinations for a determination letter.”

22. On Page 10, Nonstandardized plans, we deleted the last sentence “A nonstandardized safe harbor plan must meet the requirements of section 4.14 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553. This will make the definition consistent with the instruction to Form 4461.

23. On Page 10, under Where to File, Form 4461-A is now required to be mailed to a new address, pursuant to section 7 of Rev. Proc. 2007-8, I.R.B. 2007-1, 230 (January 2, 2007):

Internal Revenue Service
P.O. Box 2508
Rm. 5106
Cincinnati, OH 45201

Applications shipped by Express Mail or a delivery service should be sent to:
Internal Revenue Service
550 Main Street,
~~Attn: Control and Processing~~, Room 5106
Cincinnati, OH 45202

24. On Page 11 under **Definitions**, we added “VS Mass Submitter“, “VS Plan”, “Specimen Plan” and “VS Practitioner” to the list. See sections 13.01, 13.02, 13.04 and 13.05 of Rev. Proc. 2005-16.
25. On Page 11, under **Specific Instructions**, we updated the Rev. Proc. 2003-7 to reflect Rev. Proc. 2007-8, Section 6.05(1) & Section 6.05(2), for the new user fees. Supersedes Rev. Proc. 2006-8.
- Section 6.05(1) states, “Opinion letters on master and prototype plans. Mass submitter M & P plan, per basic plan document, new or amended, with one adoption agreement \$9,000.”
 - Section 6.05(2) states, “Nonmass submission (new or amended) by M& P sponsor, per adoption agreement \$9,000.”
26. On Page 11, column 2, we changed the definition of Specimen plan, to read the same as the definition for Specimen Plan in the instructions to Form 4461 (Rev 10-2006). Also, we remove the definition of VS Plan as it is not needed.
27. On Page 12, Line 10l, in the last sentence, we added the word “because” after the word “solely”, so that it reads “...for purposes of vesting and benefit accruals, solely because of an absence due to qualified military service.”
28. On Page 12, we changed the address for submitting comments to the Internal Revenue Service, Tax Products Coordinating Committee,
SE: W: CAR: MP: T: T: SP, 1111 Constitution Ave., NW, IR-6525, Washington, DC 20024.

We made editorial and style guide changes throughout the instructions.

Most of the changes to the form were done to make them consistent with the changes made to the Form 4461, which were mainly due to changes in application and submission procedures under Rev. Proc. 2005-16.