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# Application for Determination of Employee Stock Ownership Plan

(Under section 409 or 4975(e)(7) of the Internal Revenue Code)

**For IRS Use Only**

Department of the Treasury  
Internal Revenue Service

▶ Attach to Form 5300.

<b>1</b> Name of employer or plan sponsor	<b>2</b> Employer identification number	<b>3</b> Three-digit plan number
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**4** This application is for (complete one):

**a**  A tax credit employee stock ownership plan under section 409

**b**  An employee stock ownership plan under section 4975(e)(7)

**5** Type of plan:

**a**  Profit-sharing      **b**  Stock bonus      **c**  Money purchase and stock bonus

All Plans (Complete lines 6a through 6h.)	Yes	No
<b>6a</b> Is the plan designed to invest primarily in employer securities as defined in section 409(l)?		
<b>b</b> Is each participant entitled to direct the plan to vote the allocated securities as required by section 409(e)?		
<b>c</b> Does the plan provide that each participant who is entitled to a distribution from the plan has a right to demand that the benefit be distributed in the form of employer securities, and, if the securities are not readily tradable on an established market, can the participant require the employer to repurchase the securities under a fair valuation formula within the time frames prescribed by law? (See section 409(h).)		
<b>d</b> If the charter or bylaws of the corporation restrict stock ownership to employees or the ESOP, does the plan provide that participants are entitled to receive distributions in cash? (See section 409(h)(2).)		
<b>e</b> If the plan is maintained by an S corporation, does the plan provide that participants are entitled to receive distributions in cash? (See section 409(h).)		
<b>f</b> Does the plan provide that a participant may elect to diversify a portion of his or her account investment in employer securities, as required by section 401(a)(28)(B)?		
<b>g</b> With respect to activities that are carried on by the plan, are all valuations of employer securities acquired after December 31, 1986, which are not readily tradable on an established securities market made by an independent appraiser? (See section 401(a)(28)(C).)		
<b>h</b> Does the plan provide that a participant may begin receiving a distribution of his or her account that is attributable to employer securities acquired after December 31, 1986 (within the guidelines of section 409(o)) after reaching normal retirement age, or after death, disability, or other separation from service?		
<b>Plans Applying Under Section 409</b> (Complete lines 7a and 7b.)		
<b>7a</b> Do the participants have a nonforfeitable right to the securities allocated to them?		
<b>b</b> Does the plan provide that, even if the employee plan or ESOP credit is recaptured or redetermined, amounts transferred to the plan for such credit shall remain in the plan and, if allocated, shall remain allocated?		
<b>Plans Applying Under Section 4975(e)(7)</b> (Complete lines 8a through 9.)		
<b>8a</b> Is the plan designed as an ESOP within the meaning of section 4975(e)(7)?		
<b>b</b> Does the plan provide that the exempt loan proceeds must be used within a reasonable time to acquire qualifying employer securities, repay such loan, or repay a prior loan as required under Regulations section 54.4975-7(b)(4)?		
<b>c</b> Does the plan provide for the establishment and maintenance of a suspense account as required under Regulations section 54.4975-11(c)?		
<b>d</b> Does the plan provide that the collateral must be limited to qualifying employer securities purchased with such exempt loan or a prior exempt loan as required under Regulations section 54.4975-7(b)(5)?		
<b>e</b> Does the plan provide that no person entitled to payment under an exempt loan shall have any right to the ESOP's assets, other than collateral given for the loan, contributions (other than contributions of employer securities) made to repay the exempt loan, and earnings attributable to the collateral and the investment of the contributions as required under Regulations section 54.4975-7(b)(5)?		
<b>f</b> Does the plan provide that payments made with respect to an exempt loan by the ESOP during the year must not exceed an amount equal to the sum of contributions and earnings received during or prior to such year less such payments in prior years as required under Regulations section 54.4975-7(b)(5)?		
<b>g</b> Do plan terms provide that qualifying employer securities will be forfeited only after other assets as required under Regulations section 54.4975-11(d)(4)?		
<b>h</b> Are the participants' rights to plan assets acquired by use of the exempt loan protected as specified in Regulations section 54.4975-11(a)(3)(i) and (ii)?		
<b>9</b> If the plan is applying under section 409(n) with respect to transactions under section 1042, does the plan provide that the assets of the plan attributable to employer securities acquired by the plan (in a sale to which section 1042 applies) cannot accrue for the benefit of the persons specified in section 409(n) during the nonallocation period?		
<b>10</b> Does the plan provide that no portion of the assets attributable to employer securities in an S corporation may, during a nonallocation year, accrue to the benefit of a disqualified person? (See section 409(p).)		

**Sign Here**

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title