

## **SUPPORTING STATEMENT Revenue Procedure 2005-16**

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 601.201(a)(1) of the Statement of Procedural Rules (26 C.F.R. section 601.201(a)(1)) provides that it is the practice of the Internal Revenue Service (“Service”) to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions. The master and prototype (M& P) program is an administrative program of the Service initially created in the 1960s as a method of lessening the administrative burdens (including costs) on employers (as well as the Service) through the issuance of opinion letters that approved an M&P plan as to form. The issuance of the opinion letter allows the sponsor to make retroactive changes to the form of the plan to conform to recent changes in statutory requirements. As a result of the Employee Retirement Income Security Act of 1974, the demand by employers for M&P plans increased. Moreover, the types of entities that might sponsor M&P plans was expanded. In addition, a separate administrative program containing a different pre-approved plan that evolved from a uniform plan to a regional prototype plan to a volume submitter (VS) plan was created.

The two programs (M&P and VS) originated to serve different purposes and each has had its own set of rules. While the Service continues to maintain the two programs separately, statutory and regulatory changes have resulted in the narrowing of the differences between the programs made it appropriate to set forth the rules for both programs in one revenue procedure.

The issuance of an opinion letter in the instance of an M&P plan or an advisory letter in the instance of a VS plan by the Employee Plans function of the Tax Exempt and Government Entities Division approves a plan as to form. Typically, once a plan is submitted for an opinion letter or an advisory letter, the entity that submits the plan (the “sponsor”) will begin marketing the plan for its adoption by various employers. The issuance of the opinion letter or advisory letter allows the sponsor to make retroactive changes to the form of the plan to conform to recent changes in statutory requirements.

### 2. USE OF DATA

The data will be used by the Employee Plans function to determine whether it is appropriate to issue an opinion letter.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

In the employee plans area, administrative programs have been established whereby certain businesses can initially obtain approval of the form of a plan, e.g., a master or prototype plan. Those businesses will then market the form of the plan to other businesses. These programs tend to lessen the administrative costs to small businesses of adopting and maintaining employee retirement plans.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 C.F.R. 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Revenue Procedure 2000-20 was published in the **Internal Revenue Bulletin** on February 7, 2000 (2001 C.B. 553). Revenue Procedure 2005-16 (2005-10 I.R.B. 674), was published on March 7, 2005. Revenue Procedure 2000-20 was modified and superseded by Revenue Procedure 2005-16.

In response to the Federal Register notice (74 FR 25810), published on May 29, 2009, 2006, we received no comments during the comment period regarding Revenue Procedure 2005-16.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO

RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

In general, the submissions under this revenue procedure are disclosable under 26 U.S.C. section 6104.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

This revenue procedure involves the collection of six types of information.

Section 5.11 requires employers adopting master and prototype plans to complete and sign new adoption agreements in order to restate their plans for recent changes in the law. We estimate that 250,000 employers will complete and sign new adoption agreements annually as a result of this requirement. The estimated burden per respondent is from one-half to two hours, with an average of 1 hour, for a total estimated burden of 250,000 hours annually.

Section 14.05 requires employers adopting volume submitter plans to complete and sign new adoption agreements in order to restate their plans for recent changes in the law. We estimate that 40,000 employers will complete and sign new adoption agreements annually as a result of this requirement. The estimated burden per respondent is from one to three hours, with an average of two hours, for a total estimated burden of 80,000 hours annually.

Sections 8.02, 11.02, and 15.02 require sponsors of master and prototype plans and sponsors of volume submitter plans to furnish copies of their plans to the Service's Employee Plans Determinations office, maintain records of employers that have adopted their plans, make reasonable and diligent efforts to ensure that employers restate their plans when necessary, and notify employers if the sponsor concludes that employers' plans are no longer qualified. We estimate that these requirements will apply to 6,700 sponsors annually. The estimated burden per respondent is from eight to 2000 hours, with an average of 106.5 hours, for a total estimated burden of 713,550 hours annually.

Sections 12 and 18 provides that mass submitters must keep records of their user fees. This allows mass submitters to certify to the number of other practitioners seeking

approval of the identical specimen plan. We estimate that 50 practitioners will maintain such records. The estimated burden per respondent is from 2 hours to 17 hours, with an average of 9.5 hours, for a total estimated burden of 475 hours annually.

Section 24 requires an employer to execute a certificate of intent to adopt an M&P or VS plan. We estimate that 29,000 employers will make such certifications annually. The estimated burden per respondent is from 15 minutes to 45 minutes, with an average of .5 hours, for a total estimated burden of 14,500 hours annually.

Section 24 describes procedures for sponsors and those with a power of attorney to request an extension of the remedial amendment period. We estimate that 50 sponsors and those with a power of attorney will make such requests annually. The estimated burden per respondent is from two to ten hours, with an average of 6.5 hours, for a total estimated burden of 325 hours annually.

The total burden for this submission is 325,800 responses by 296,750 respondents and 1,058,850 hours.

[The 29,000 employers in section 24 are part of the 250,000 making a response to section 5.11 or section 14.05. The 50 sponsors and those with a power of attorney in section 24 are part the 6,700 sponsors making a response to section 8.02, 11.02 or 15.02.]

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time. These various burdens do not necessarily represent a net additional burden to taxpayers, since obtaining opinion letters can save taxpayers time that would otherwise be spent obtaining determination letters on individually designed plans.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS

As suggested by OMB, our **Federal Register** notice, dated May 29, 2009, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it would cause confusion by leading taxpayers to believe that the revenue procedure sunsets as of the expiration date. Taxpayers may not be aware that, if needed, the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

**Note:** The following paragraph applies to all of the collections of information in this submission.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential as required by 26 U.S.C. section 6103.