

Form **5316**

(April 2013)
Department of the Treasury
Internal Revenue Service

Application for Group or Pooled Trust Ruling

(Under section 401(a) and 501(a) of the Internal Revenue Code)
▶ Information about Form 5316 and its instructions is at www.irs.gov/5316.

OMB No. 1545-2166

Review the **Procedural Requirements Checklist** before submitted this application.

For Internal Use Only

1a Name of the trust sponsor

1b Address of trust sponsor (if a P.O. Box, **see instructions**)

1c City

1d State

1e Zip Code

1f Country

1g Trust sponsor's employer identification number (EIN)

1h Telephone number

1i Fax number

2a Person to contact if more information is needed, **see instructions**

(If a Power of Attorney is attached, check box and do not complete this line.)

Contact person's name

2b Contact person's address

2c City

2d State

2e Zip Code

2f Telephone number

2g 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 trust sponsor's name and EIN and identify each item.

3a Name of trust (If trust name exceeds 70 characters, including spaces, **see instructions**)

3b Enter date trust agreement was executed

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

- | | Yes | No | |
|----|--------------------------|--------------------------|--|
| 4 | <input type="checkbox"/> | <input type="checkbox"/> | Is the group trust adopted as part of each adopting group trust retiree benefit plan? (See instructions.) |
| 5 | <input type="checkbox"/> | <input type="checkbox"/> | Does the group trust instrument expressly limit participation to: pension, profit-sharing, and stock bonus trusts or custodial accounts qualifying under section 401(a) that are exempt under section 501(a); individual retirement accounts that are exempt under section 408(e); eligible governmental plan trusts or custodial accounts under section 457(b) that are exempt under section 457(g); custodial accounts under section 403(b)(7); retirement income accounts under section 403(b)(9); and section 401(a)(24) governmental plans? |
| 6 | <input type="checkbox"/> | <input type="checkbox"/> | Does the group trust instrument expressly prohibit any part of its corpus or income that equitably belongs to any adopting group trust retiree benefit plan from being used for, or diverted to, any purpose other than for the exclusive benefit of the participants and the beneficiaries of the group trust retiree benefit plan? |
| 7 | <input type="checkbox"/> | <input type="checkbox"/> | Is each group trust retiree benefit plan entity which adopts the group trust itself a trust, a custodial account, or a similar entity that is tax-exempt under section 408(e) or section 501(a) (or is treated as tax-exempt under section 501(a))? |
| 8 | <input type="checkbox"/> | <input type="checkbox"/> | Does each group trust retiree benefit plan which adopts the group trust expressly provide in its governing document that it is impossible for any part of the corpus or income of the group trust retiree benefit plan to be used for, or diverted to, purposes other than for the exclusive benefit of the plan participants and their beneficiaries? |
| 9 | <input type="checkbox"/> | <input type="checkbox"/> | Does the group trust instrument expressly limit the assets that may be held by the group trust to assets that are contributed by, or transferred from, a group trust retiree benefit plan to the group trust (and the earnings on such assets), and does the group trust instrument expressly provide for separate accounts (and appropriate records) to reflect the interest which each adopting group trust retiree benefit plan has in the group trust? |
| 10 | <input type="checkbox"/> | <input type="checkbox"/> | Does the group trust instrument expressly prohibit an assignment by an adopting group trust retiree benefit plan of any part of its equity or interest in the group trust? |
| 11 | <input type="checkbox"/> | <input type="checkbox"/> | Was the group trust created or organized in the United States and is the group trust maintained at all times as a domestic trust in the United States? |

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.

1. Is Form 8717, User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request, attached to your submission?
2. Is the appropriate user fee for your submission attached to Form 8717?
3. If appropriate, is Form 2848, Power of Attorney and Declaration of Representative, Form 8821, Tax Information Authorization, or a privately designated authorization attached? (For more information, see the *Disclosure Request by Taxpayer* in the instructions and Rev. Proc. 2012-4.)
4. Is a copy of your group trust's determination letter, if any, attached?
5. Have you included a copy of the group trust instrument and all amendments since your last determination letter?
6. Is the Employer Identification Number (EIN) of trust sponsor entered on line 1g?
7. Does line 3b provide the trust's original effective date?
8. Is the application signed and dated? (Stamped signatures are not acceptable; see Rev. Proc. 2012-4.)

What's New

This form was first issued in 2011. Prior to this form, a letter was submitted in lieu of a form. Review the Procedural Requirements Checklist and these instructions before completing the application.

Public inspection. The group trust application is open to public inspection.

Disclosure request by taxpayer. The Tax Reform Act of 1976 permits 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, if the representative is qualified to sign, or Form 8821, Tax Information Authorization, for this purpose. See Pub. 947, Practice Before the IRS and Power of Attorney, for more information.

Future Developments

For the latest information about developments related to Form 5316 and its instructions, a such as legislation enacted after they were published, go to www.irs.gov/form5316.

General Instructions

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

Purpose of Form

Group/pooled trust sponsors file this form to request a determination letter from the IRS for a determination that the trust is a group trust arrangement as described in Rev. Rul. 81-100, 1981-1 C.B. 326, as clarified and modified by Rev. Rul. 2004-67, 2004-2 C.B. 28, as modified by Rev. Rul. 2011-1, 2011-2 I.R.B. 251, available at www.irs.gov/irb/2011-02_IRB/ar08.html, and as modified by Notice 2012-6, 2012-3 I.R.B. 293, available at www.irs.gov/irb/2012-03_IRB/ar12.html.

Type of Trust

A group/pooled trust is a trust that meets the qualification requirements of Rev. Rul. 81-100 as modified and clarified by Rev. Rul. 2004-67, as modified by Rev. Rul. 2011-1 and as modified by Notice 2012-6.

Who May File

This form should be filed by the sponsor of a group/pooled trust.

Where To File

File Form 5316 at the address indicated below:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

Requests shipped by express mail or a delivery service should be sent to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

Private delivery services. In addition to the U.S. mail, you can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. The list of designated private delivery services includes only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

How To Complete the Application

Applications are screened for completeness. The application must be signed by the employer or plan administrator.



Stamped signatures are not acceptable; see Rev. Proc. 2012-4, 2012-1 I.R.B. 125, available at www.irs.gov/irb/2012-01_IRB/ar09.html.

Incomplete applications may be returned to the applicant. For this reason, it is important that an appropriate response be entered for each line item (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 to check, written responses are not acceptable.
- The IRS may, at its discretion, require a plan restatement or additional information any time it is deemed necessary.
- The application has formatted fields that will limit the number of characters entered per field.
- All data input will need to be entered in Courier 10 point font.
- Alpha characters should be entered in all capital letters.
- Enter spaces between any words. Spaces do count as characters.
- All date fields are entered as an 8-digit field (MMDDYYYY).

The IRS annually updates the revenue procedure which sets forth the procedures for issuing determination letters to qualified plans, including determination letters for group trusts. The annual revenue procedure may be found in the Internal Revenue Bulletin. For example, the revenue procedure for 2012 is Rev. Proc. 2012-6, 2012-1 I.R.B. 197, available at www.irs.gov/irb/2012-01_IRB/ar11.html.

What To File

1. A check for the appropriate user fee and Form 8717, User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request. Attach a check or money order payable to the "United States Treasury" for the full amount of the user fee.
2. A completed Form 5316.
3. A copy of the trust's latest determination letter.
4. The trust instrument and related documents.

Specific Instructions

Line 1a and 1b. Enter the name and address of the trust sponsor/employer.

Address should 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. The address should be the address of the sponsor/employer.

Line 1g. Enter the 9-digit trust employer identification number (EIN) assigned to the trust sponsor.

The trust sponsor/employer must have an EIN. To apply for an EIN:

- Mail or fax Form SS-4, Application for Employer Identification Number, obtained by calling 1-800-TAX-FORM (1-800-829-3676).
- Call 1-800-829-4933 to receive your EIN by telephone.
- Select the Online EIN Application link at IRS.gov. The EIN is issued immediately once the application information is validated.

Note. This EIN **must** be used in all subsequent filings of the trust determination letter requests.

Line 2a. Complete this line, or check the box and attach a power of attorney or other written designation. The contact person will receive copies of all correspondence as authorized. See instructions for Form 2848 or Form 8821.

Line 3a. Due to space restrictions this field is limited to 70 characters, including spaces. Please complete this item with how the trust name should read on the trust determination letter to the extent permitted. Due to this restriction, please keep in mind that "Employees" and "Trust" are not needed and will be left off if space does not permit.

Line 3b. Enter the date the trust agreement was executed.

Line 4. Each group trust retiree benefit plan must adopt the group trust as part of the plan. A group trust retiree benefit plan is defined as a pension, profit-sharing, and stock bonus trust or custodial account qualifying under section 401(a) that is exempt under section 501(a); an individual retirement account that is exempt under section 408(e); an eligible governmental plan trust or custodial account under section 457(b) that is exempt under section 457(g); a custodial account under section 403(b)(7); a retirement income account under section 403(b)(9); and a section 401(a)(24) governmental plan.

Line 5. The group trust instrument must expressly limit participation in the group trust to group trust retiree benefit plans. The group trust instrument may also limit participation in the group trust to certain types of group trust retiree benefit plans. For example, the group trust instrument may limit participation in the group trust to pension, profit-sharing, and stock bonus trusts qualifying under section 401(a) that are exempt under section 501(a), and individual retirement accounts exempt under section 408(e). See Rev. Rul. 2011-1, as modified by Notice 2012-6, for information on the assets of commingled trust funds.

Line 6. The group trust instrument must expressly prohibit any part of its corpus or income that equitably belongs to any adopting group trust retiree benefit plan from being used for, or diverted to, any purpose other than for the exclusive benefit of the participants and the beneficiaries of the group trust retiree benefit plan. Plan assets are treated as used for, or diverted to, a purpose other than for the exclusive benefit of the plan participants or beneficiaries if the assets of one group

trust retiree benefit plan are used to provide benefits under another group trust retiree benefit plan even if the plan participant or beneficiary receiving the benefits is a participant or beneficiary under both plans.

Line 7. A group trust retiree benefit plan that is a governmental plan for purposes of section 401(a)(24) is treated as meeting the requirement to be tax exempt if it is not subject to federal income taxation.

Line 8. Each group trust retiree benefit plan which adopts the group trust must expressly provide in its governing document that it is impossible for any part of the corpus or income of the group trust retiree benefit plan to be used for, or diverted to, purposes other than for the exclusive benefit of the plan participants and their beneficiaries. For more information see Rev. Rul. 2011-1 as modified by Notice 2012-6.

Line 9. The group trust instrument must expressly limit the assets that may be held by the group trust to assets that are contributed by, or transferred from, a group trust retiree benefit plan to the group trust (and the earnings on the assets), and the group trust instrument must expressly provide for the separate accounts (and appropriate records) to reflect the interest which each adopting group trust retiree benefit plan has in the group trust. This includes separate accounting for contributions to the group trust from the adopting plan, disbursements made from the adopting plan's account in the group trust, and investment experience of the group trust allocable to that account. A transaction or accounting method which has the effect of directly or indirectly transferring value from the account of one adopting plan into the account of another adopting plan violates this separate accounting requirement. However, a transaction that merely exchanges investments at fair market value between the accounts of one adopting plan to another account of that adopting plan does not violate this separate accounting requirement.

How To Get Forms, Publications, and Assistance

Internet. You can access the IRS website 24 hours a day, 7 days a week at IRS.gov to:

- Download forms, instructions, and publications;
- Order IRS products on-line;
- Research your tax questions on-line;
- Search publications on-line by topic or keyword; and
- Sign up to receive local and national tax news by email.

DVD of tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax Law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code — Title 26.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- The DVD is released twice during the year.
 - The first release will ship the beginning of January.
 - The final release will ship the beginning of March.

Purchase the DVD from the National Technical Information Service (NTIS) at www.irs.gov/cdorders for \$30 (no handling fee), or call 1-877-233-6767 toll-free to purchase the DVD for \$30 (plus a \$6 handling fee) (price subject to change).

By phone and in person. You can order forms and publications 24 hours a day, 7 days a week, by calling 1-800-TAX-FORM (1-800-829-3676). You can also get most forms and publications at your local IRS office.

For questions regarding this form, call the Employee Plans Customer Service, toll-free, at 1-877-829-5500.

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 group trust approved by the IRS, you are required to give us the information. We need it to determine whether you meet the legal requirements for the group trust approval.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

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

- Recordkeeping** 6 hr., 42 min.
- Learning about the law or the form** 3 hr., 2 min.
- Preparing, copying, assembling, and sending the form to the IRS** 9 hr., 15 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 Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do not send any of these forms or schedules to this address. Instead, see *Where To File*.

USE ONLY
DRAFT AS OF
JULY 24, 2012