

SUPPORTING STATEMENT
Internal Revenue Service
Pre-Approved Plans Program
Revenue Procedure 2017-41 (modifying Rev. Proc. 2015-36)
1545-1674

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 provider 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 maintained the two programs separately, statutory and regulatory changes resulted in the narrowing of the differences between the programs that made it appropriate to set forth the rules for both programs in one revenue procedure. As a result of a continuing narrowing of differences between the programs and in response to requests from practitioners, the Service has concluded that it is appropriate to merge the two programs into one pre-approved program.

The issuance of an opinion letter for a pre-approved 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 the entity that submits the plan (the “provider”) will begin marketing the plan for its adoption by various employers. The issuance of the opinion letter allows the provider to make retroactive changes to the form of the plan to conform to recent changes in statutory requirements. Form 4461, Form 4461-A, and Form 4461-B are used by providers to apply for approval of their employee benefit plans under section 401(a).

Revenue procedure 2017-41 sets forth the procedures of the Internal Revenue Service for issuing Opinion Letters regarding the qualification in form of Pre-approved Plans under §§ 401, 403 (a), and 4975 (e) (7) of the Internal Revenue Code (Code). In addition, this revenue procedure modifies the IRS pre-approved letter program by combining the master and prototype (M&P) and volume submitter (VS) programs into a new Opinion Letter program. The M&P and VS Programs are combined and replaced by a single Opinion Letter program involving two types of plans: Standardized Plans and Nonstandardized Plans.

2. USE OF DATA

The data and attachments associated with Forms 4461, 4461-A, and 4461-B will be used by the Employee Plans function to determine if an employee benefit plan is qualified under section 401(a) and whether it is appropriate to issue an opinion letter.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Blank forms 4461, 4461-A and 4461-B are available electronically.

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. We intend to offer electronic filing to the extent it is practicable however in this case it isn't practicable to accept completed forms because of the evaluative nature of the determination.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

Consequences of less frequent collection would result in the IRS not being able to verify the requirements for qualifications of certain employee benefit plan under section 401(a). In addition, the IRS would not be able to determine if the related trust is entitled to tax-exempt treatment under section 501(a).

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Forms 4461, 4461-A, and 4461-B.

Revenue Procedure 2000-20 was published in the Internal Revenue Bulletin on February 7, 2000 (2001 C.B. 553). Revenue Procedure 2000-20 was modified and superseded by Revenue Procedure 2005-16(2005-10 I.R.B. 674). Revenue Procedure 2005-16 was modified and superseded by Revenue Procedure 2011-49 (2011-44 I.R.B. 608). Revenue Procedure 2011-49 was modified and superseded by Revenue Procedure 2015-36 (2015-27 I.R.B. 20). Revenue Procedure 2015-36 was published in the Internal Revenue Bulletin on July 6, 2015 (2015-27 I.R.B. 20) Revenue Procedure 2015-36 was also published in the Federal Register on September 15, 2015 and November 27, 2015.

This Revenue Procedure 2017-41 modifies and supersedes Rev. Proc. 2015-36. Section 3 describes the changes to Rev. Proc. 2015-36 made by this revenue procedure.

Revenue Procedure 2017-41 was published in the Federal Register 82 FR 40230 on August 24, 2017. We received no comments regarding Revenue Procedure 2017-41.

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

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “ Reporting Compliance Case Management System, RCCMS ” and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 34.037-IRS Audit Trail and Security Records System; IRS 50.222, Tax Exempt/Government Entities (TE/GE) Case Management Records. The IRS PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>

The taxpayer’s SSN or EIN (not both) is used to identify who is the owner of the business if

they file with an EIN. Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

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

Section 5.09 requires employers adopting pre-approved plans to complete and sign new signature pages or new adoption agreements, as applicable, in order to restate their plans for recent changes in the law. We estimate that 310,590 employers will complete and sign new signature pages or 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 310,590 hours annually.

Rev. Proc. 2017-41 Section 5.09	Respondents	Responses per Respondent	Time per response	Total burden
	310,590	1	1 hr.	310,590 hrs.

Sections 8.01, 8.02, and 18 require providers of pre-approved plans to furnish copies of their plans to the Service's Employee Plans Determinations office, maintain records of employers that have adopted their plans, prepare and communicate any necessary interim amendments to adopting employers, make reasonable and diligent efforts to ensure that employers restate their plans when necessary, and notify employers if the provider concludes that employers' plans are no longer qualified. We estimate that these requirements will apply to 4,350 providers annually. The estimated burden per respondent is from 40 to 2000 hours, with an average of 180 hours, for a total estimated burden of 783,000 hours annually.

Rev. Proc. 2017-41 Section 8.01 Section 8.02 Section 18	Respondents	Responses per Respondent	Time per response	Total burden
	4,350	1	180 hrs.	783,000 hrs.

Form 4461, Form 4461-A, and Form 4461-B are used by providers to apply for approval of their employee benefit plans under section 401(a) and the burden for the Form is reported under OMB Control number 1545-0169. However, Section 9.03 requires that providers of plans that request an opinion letter complete these forms and submit them to the Service along with the plan. We estimate that this requirement will result in 6550 responses with a total estimated burden of 14,525 hours. The burden associated with the opinion letter associated with the Forms Form 4461, Form 4461-A, and Form 4461-B are covered by OMB Control Number 1545-1674.

Forms	Respondents	Responses per Respondent	Time per Response	Total burden

Rev Proc 2017-41	Opinion Letters			
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461	450	1	15.50 hrs.	6,975 hrs.
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461-A	100	1	15.50 hrs.	1,550 hrs.
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461-B	6,000	1	1 hr.	6,000 hrs.
Total	6,550			14,525 hrs.

Section 10 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 pre-approved plan. In addition, mass submitters must prepare and communicate to the word for word identical adopters any necessary interim amendments. We estimate that 10 practitioners will maintain such records. The estimated burden per respondent is from 2 hours to 20 hours, with an average of 11 hours, for a total estimated burden of 110 hours annually.

Rev. Proc. 2017-41 Section 10	Respondents	Responses per Respondent	Time per response	Total burden
	10	1	11 hrs.	110 hrs.

[The certificate of intent to adopt and M&P or VS plan is no longer required by this revenue procedure, accordingly, the paragraph referring to Section 24 which included numbers related to this certificate has been deleted.]

The total burden for this submission is 321,500 responses by 321,500 respondents and 1,108,225 hours.

Authority Rev. Proc. Section	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
Rev Proc 2017-41 Section 5.09	Signature for restatement	310,590	1	1	1	310,590
Rev Proc 2017-41 Section 8.01, 8.02, & 18	Furnish copies	4,350	1	1	180	783,000
Rev Proc 2017-41 Section 10	Keep records	10	1	1	11	110
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461	Reporting	450	1	1	15,50	6,975
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461-A	Reporting	100	1	1	15.50	1,550
Rev Proc 2017-41 Section 9.03 Opinion letters Form 4461-B	Reporting	6,000	1	1	1	6,000
Totals		321,500				1,108,225

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 RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the form is \$3,187.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the burden previously approved by OMB.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement.

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.