

Form **4461**
 (Rev. November 2018)
 Department of the Treasury
 Internal Revenue Service

Application for Approval of Standardized or Nonstandardized Pre-Approved Defined Contribution Plans

▶ Go to www.irs.gov/Form4461 for the latest information.

OMB No. 1545-0169

This Form Is Open to Public Inspection

File This Form With the Internal Revenue Service

For IRS Use Only

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

File folder number

Complete every applicable item on this form and Attachment 1 (see Rev. Proc. 2017-41, 2017-29 I.R.B. 92).

See instructions before completing this form.

1 Enter amount of user fee submitted \$			
2a Approval requested: <input type="checkbox"/> Initial application <input type="checkbox"/> Amendment—Enter file folder number in 2b and date of last letter issued in 2c.		2b File folder number	2c Date of last letter issued
3a Name of applicant Address (number, street, room or suite no.) (If a P.O. box, see instructions.) City _____ State _____ ZIP code _____		3b Employer identification number of applicant	
3d Type of applicant (see <i>Definitions</i> in the instructions): <input type="checkbox"/> Provider <input type="checkbox"/> Mass submitter		3c Applicant's telephone no.	
4a Name of person to be contacted		4b Telephone number	4c Fax number
4d Email address		4e If a power of attorney is attached, check the box <input type="checkbox"/>	
5a Basic plan document or single document plan number		5b Adoption agreement number, if applicable	
6 Form of plan: <input type="checkbox"/> Adoption agreement plan <input type="checkbox"/> Single document plan			
7 Type of plan (select all that apply): <input type="checkbox"/> Money purchase <input type="checkbox"/> Target benefit <input type="checkbox"/> ESOP <input type="checkbox"/> Governmental <input type="checkbox"/> Profit-sharing <input type="checkbox"/> Profit-sharing/401(k) <input type="checkbox"/> Nonelecting church			
8 Filing status of plan: <input type="checkbox"/> Standardized plan <input type="checkbox"/> Nonstandardized plan			

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 ▶ _____ Title ▶ _____ Date ▶ _____

For Paperwork Reduction Act Notice, see the instructions.

Cat. No. 41676M

Form **4461** (Rev. 11-2018)

	Yes	No
9 Procedural requirements:		
a Have the following been submitted as required by instructions—		
(1) Adoption agreement, if applicable?		
(2) Copy of plan?		
(3) Copy of Certification of Interim Amendments?		
b Do you have a procedure in place for the adoption and distribution of interim amendments made on behalf of adopting employers?		
c Is the plan patterned after, and substantially the same as, another plan submitted? (If “Yes,” see specific instructions.)		
d Provider (non-mass submitter) request. Complete (1) and (2) .		
(1) Do you have at least 15 employer-clients which are reasonably expected to adopt this plan’s basic plan document and adoption agreement or single document plan?		
(2) If you have more than one pre-approved plan, do you have at least 30 employer-clients in the aggregate which are reasonably expected to adopt at least one of the plans?		
e Mass submitter request. Complete (1) , (2) , and (3) .		
(1) Are applications on behalf of the requisite number of providers who are adopting the same basic plan document on a word-for-word identical basis included? If “No,” complete (2)		
(2) If “No” to (1) , enter the file folder number of the basic plan document for which the requisite number of adopting providers requirement is met. _____		
(3) If this is a flexible plan, answer (a) and (b) .		
(a) Have you bracketed and identified the optional provisions of the plan?		
(b) Have you included a copy of the written representation describing the choices available to providers and the coordination of optional provisions?		

Note: This application is designed to be used in conjunction with Rev. Proc. 2017-41. A List of Required Modifications (LRMs) is also recommended for use and may be obtained from the IRS website at www.irs.gov/ep.

November 14, 2018

INTERNAL USE ONLY

General Instructions

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

Future Developments

For the latest information about developments related to Form 4461, such as legislation enacted after the form was published, go to www.irs.gov/Form4461.

Purpose of Form

Form 4461 is used to apply for approval of standardized or nonstandardized pre-approved defined contribution plans.

Be sure to submit a complete and accurate application, including Form 4461 and Attachment 1 (see www.irs.gov/retirement-plans/preapproved-plan-submission-procedures or Rev. Proc. 2017-41, 2017-29 I.R.B. 92). Complete every applicable line on the application. If an item on Attachment 1 doesn't apply, check the "N/A" box or enter "N/A" on the line where indicated as an option. If your application isn't complete, we will return it without processing it. The first page must be typed. Unless otherwise noted, the questions on Form 4461 and Attachment 1 apply to both standardized and nonstandardized pre-approved defined contribution plans.

Requests for additional information. If a letter requesting additional information or changes to plan documents is sent to the pre-approved plan provider or an authorized representative, such information and/or changes must be received no later than 30 days from the date of the letter. Failure to respond timely may result in the application being considered withdrawn. An extension of the 30-day time limit will only be granted for good cause.

Inadequate submissions. We will return, without further action, plans that aren't in substantial compliance with the qualification requirements or plans that are so deficient that they can't be reviewed in a reasonable amount of time.

Who May File

A provider or mass submitter of a pre-approved defined contribution plan may file a Form 4461. See *Definitions*, later.

What To File

Submit one copy of Form 4461 and Attachment 1 for each separate adoption agreement or for each single document plan where no adoption agreement is utilized. For approval, file this application and each applicable document listed in line 9(a). A mass submitter should also

file Form(s) 4461-B, Application for Approval of Standardized or Nonstandardized Pre-Approved Plans, as needed.

Multiple adoption agreement plans. A provider may utilize one basic plan document for several plans. A provider may, for example, use one basic plan document for a money purchase plan other than a target benefit plan, a target benefit plan, and a profit-sharing plan. A separate adoption agreement and completed application may need to be provided for each such defined contribution plan. See section 9.06 of Rev. Proc. 2017-41 for more details, including special rules for ESOP, governmental, and nonelecting church plans. In the case of a simultaneous submission of plans using the same basic plan document, submit only one copy of the basic plan document. If the requests aren't simultaneous, submit separate basic plan documents and include a cover letter identifying the original submission. The number assigned to the basic plan document of a standardized or nonstandardized pre-approved plan must remain the same as in the prior submission. One basic plan document may not be used for both defined benefit and defined contribution plans.

Two or more single document plans. A provider may not combine different categories in a single document plan or application, except that only one single document plan and application is required for a profit-sharing plan, with or without a 401(k) arrangement and a money purchase plan. See section 9.07 of Rev. Proc. 2017-41 for more details, including special rules for ESOP, governmental, and nonelecting church plans.

Where To File

Send Form 4461 to:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
Room 6-403, Group 7521
P.O. Box 2508
Cincinnati, OH 45201-2508

If using Express Mail or a private delivery service, use this address:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
Room 6-403, Group 7521
550 Main Street
Cincinnati, OH 45202

Signature. The application must be signed by a partner or officer of the applicant who is authorized to sign or other person authorized by a power of attorney. The power of attorney should be filed with the application.

Disclosure requested by taxpayer. A taxpayer may request the IRS to disclose and discuss the return or return information with any person(s) the taxpayer designates in a written request. If you want to designate a person(s) to assist in an application for approval, you must provide the IRS office of jurisdiction with a written request that contains:

- The taxpayer's name, address, employer identification number, and plan number(s).
- The name, address, social security number, and telephone number(s) of the person or persons whom you are authorizing to receive return information.
- A paragraph that clearly describes the return or return information that you authorize the IRS to disclose.
- An authorized signature (see above).

As an alternative to providing the above statement, you may submit Form 2848, Power of Attorney and Declaration of Representative.

Definitions

Adoption agreement. The portion of the plan containing all the options that the adopting employer may select. The adoption agreement may include blanks or fill-in provisions for the employer to complete if it also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the qualification requirements. Each separate adoption agreement is treated as a separate plan and will receive its own opinion letter.

Basic plan document. The portion of the plan containing all the nonelective provisions applicable to all adopting employers. No options (including blanks to be completed) may be provided in the basic plan document except for options in flexible plans.

Single document plan. A single document plan may contain alternate paragraphs and options that may be selected by an adopting employer. A single document plan may include blanks or fill-in provisions for the employer to complete only if the plan also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the qualification requirements.

Flexible plan. A plan submitted by a mass submitter which contains certain optional provisions as allowed by section 10.03(1) of Rev. Proc. 2017-41. Providers which adopt a flexible plan may include or delete any optional provision designated as such in the mass submitter's plan. A flexible plan adopted by a provider which differs from the mass submitter plan only because of the deletion of certain optional provisions will be treated as a plan that is word-for-word identical to the mass submitter plan.

Mass submitter. As set forth in Rev. Proc. 2017-41, any entity that submits applications on behalf of at least 30 unaffiliated providers each of which is sponsoring, on a word-for-word identical basis, the same plan. A mass submitter is treated as a mass submitter with respect to all of its plans, provided the 30-unaffiliated-provider requirement is met with respect to at least one plan.

Affiliation is determined under sections 414(b) and (c). Additionally, the following will be considered to be affiliated: any law firm, accounting firm, consulting firm, etc., with its partners, members, associates, etc. For purposes of determining whether 30 unaffiliated providers sponsor on a word-for-word identical basis the same plan document, the mass submitter is treated as an unaffiliated provider.

Pre-approved plan. A pre-approved plan is a plan (including a plan covering self-employed individuals) that is made available by a provider for adoption by employers. The term pre-approved plan includes both standardized and nonstandardized plans. A pre-approved plan may be an adoption agreement plan or a single document plan. An adoption agreement plan consists of a basic plan document and an adoption agreement. A single document plan consists of a single plan document offered by a provider without an adoption agreement.

Provider. A provider is any person (including a mass submitter, if applicable) that (1) has an established place of business in the United States where it is accessible during every business day; and (2) represents to the IRS that it has at least 15 employer-clients, each of which is reasonably expected to adopt the same pre-approved plan of the provider.

A provider may request an opinion letter for more than one plan provided it represents to the IRS that it has at least 30 employer-clients in the aggregate, each of which is reasonably expected to adopt at least one of the provider's plans.

A provider also includes any person that has an established place of business in the United States where it is accessible during every business day and offers a plan as a word-for-word identical adopter or minor modifier adopter of a plan of a mass submitter, regardless of the number of employers that are expected to adopt the plan.

Standardized plan. A standardized plan is a pre-approved plan (other than an ESOP or statutory hybrid plan) that meets the requirements set forth in section 5.16 of Rev. Proc. 2017-41.

Nonstandardized plan. A nonstandardized plan is a pre-approved plan that isn't a standardized plan and that satisfies section 5.15 of Rev. Proc. 2017-41.

ESOP. An ESOP is an employee stock ownership plan within the meaning of section 4975(e)(7).

Statutory hybrid plan. A statutory hybrid plan is a defined benefit plan that contains a statutory hybrid benefit formula, as defined in Regulations section 1.411(a)(13)-1(d)(4). See section 6.03 of Rev. Proc. 2017-41 which limits the type of statutory hybrid plan to a cash balance plan.

Specific Instructions

Line 1. All applications submitted must be accompanied by the appropriate user fee and Form 8717-A, User Fee for Employee Plan Opinion Letter Request, as determined from the schedule in Rev. Proc. 2018-4, 2018-1 I.R.B. 146 (or the most recent version, updated annually). Applications submitted without the proper user fee won't be processed and will be returned to the applicant.

Line 3a. Enter the name and address of the applicant. If the Post Office doesn't deliver mail to the street address and the applicant has a P.O. box number, show the P.O. box number instead of the street address.

Line 4a. If the person to be contacted is other than an employee of the applicant, please enclose an authorized power of attorney. See *Disclosure requested by taxpayer*, earlier.

Line 4c. Enter a fax number to receive notice of preliminary approval of the applicable plan, subject to final approval by opinion letter.

Line 5a. Enter the two-digit number you have assigned to your single document plan or basic plan document that accompanies the adoption agreement for which you are requesting approval. If multiple adoption agreements are linked to the same basic plan document, the same two-digit basic plan document number should be used for all applications.

Line 5b. Enter the three-digit number you have assigned to the adoption agreement for which this application is submitted. Each different adoption agreement designed to accompany a single basic plan document should be given a different three-digit number beginning with "001." For example, if the first basic plan document of a provider has four separate adoption agreements, they should be numbered "001" through "004," and the provider should submit four separate Forms 4461. Adoption agreements submitted with the second or any subsequent basic plan documents (that aren't word-for-word identical to a previously submitted basic plan document) should be similarly numbered beginning with "001."

Line 9. Procedural requirements.

Submit a separate application for each different plan/adoption agreement combination or single document plan.

Line 9c. If you checked "Yes," submit a copy of such plan with language differences highlighted. Attach a cover letter which provides the name and file folder number of the plan (including the name and employer identification

number of the provider), a list of all plans written by the plan drafter which are substantially identical to the lead plan (including the information described above), a description of each place where the plan for which the application is being submitted isn't word-for-word identical to the language of the lead plan (including an explanation of the purpose and effect of each difference), and a certification, made under penalty of perjury by the plan drafter, that the information describing where the plan language isn't word-for-word identical is true and complete.

Line 9e. In addition to filing Form 4461, the mass submitter should use Form 4461-B when submitting applications on behalf of its adopting providers, and submit Form 8717-A.

Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to determine whether you meet the legal requirements for plan approval.

You aren't 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 content may become material in the administration of any Internal Revenue law. Generally, tax return 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 8 hr., 22 min.

Learning about the law or the form 1 hr., 42 min.

Preparing the form 4 hr., 42 min.

Copying, assembling, and sending the form to the IRS . 48 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 send us comments from www.irs.gov/FormComments. Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send Form 4461 to this address. Instead, see *Where To File*, earlier.

DRAFT AS CIRCULAR
 NOVEMBER 14, 2018