

## **SUPPORTING STATEMENT**

Internal Revenue Service  
Employee Plans Determination Letter Program  
OMB # **1545-0197**

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code sections 401(a) and 501(a), respectively, set out requirements for qualification of employee benefit trusts and the tax-exempt status of these trusts.

The EP Determination Letter Program is a way plan sponsors may submit their retirement plans to the IRS for review. Determination specialists decide if retirement plans satisfy the qualification requirements. The Determination Letter program is administered under Rev. Proc. 2016-6, 2016-1 I.R.B. 200 (OMB # 1545-1520), available at [www.irs.gov/irb/2016-01\\_IRB/ar12.html](http://www.irs.gov/irb/2016-01_IRB/ar12.html). (updated annually), and Rev. Proc. 2016-37. This revenue procedure sets forth the procedures of the Internal Revenue Service for issuing determination letters on the qualified status of pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans (ESOPs) under §§ 401, 403(a), 409 and 4975(e)(7) of the Internal Revenue Code of 1986, and the status for exemption of any related trusts or custodial accounts under § 501(a).

Rev. Proc. 2016-37 sets forth the procedures for the determination letter program for individually designed plans and the six-year remedial amendment cycle system for pre-approved plans. (Rev. Proc. 2007-44 was clarified, modified, and superseded. Sections 2.07 and 24.03 of Rev. Proc. 2015-36 were modified. Sections I and III of Notice 2015-84 were modified).

The requirements of sections 401(a) and 501(a) (and the regulations there under) are reviewed by the IRS for retirement plans submitted on Form 5300. File Form 5300 to request a determination letter from the IRS for the qualification of a defined benefit (DB) or a defined contribution (DC) plan and the exempt status of any related trust. This request is intended to cover the burden associated with completing and filing Form 5300.

### 2. USE OF DATA

The Form 5300 provides the IRS with the information necessary to verify that the sponsor (employer) has a qualified plan and may make tax deductible contributions to it. The data is shared with other internal IRS systems to validate the final resolution of the applications.

### 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. The Employee Plans-Exempt Organizations Determination System (EDS) consists of two applications, the Employee Plans / Exempt Organizations Determination System (EDS)

and the TE/GE Rulings and Agreements Control (TRAC). This system does not use social media channels, privacy-sensitive technologies such as mobile, global position system (GPS), biometrics, RFID, etc., cloud computing, or interact with the public.

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

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small businesses.

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

A less frequent collection of information required under this approval number could lead to increased noncompliance, and the IRS being unable to verify that the sponsor (employer) has a qualified plan hindering IRS in meeting its mission.

2. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

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

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

Revenue Procedure 2016-6, 2016-1 I.R.B. 203, is a general update of Rev. Proc. 2015-6, 2015-1 I.R.B 194, which contains the Service's general procedures for employee plans determination letter requests. We received no comments during the comment period in response to the **Federal Register** notice (85 FR 20809), dated April 14, 2020.

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

No payment or gift has been provided to any respondents.

5. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

6. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “EP/EO/GE AIMS Report Processing System, (EARP)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treasury/IRS 50.222 *Tax Exempt/Government Entities (TE/GE) Case Management Records*, Treasury/IRS 34.037 *IRS Audit Trail & Security Records System*, and Treasury/IRS 42.008 *Audit Information Management System*. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

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

7. ESTIMATED BURDEN OF INFORMATION COLLECTION

Taxpayers file Form 5300 to request a determination letter from the IRS for the qualification of a defined benefit (DB) or a defined contribution (DC) plan and the exempt status of any related trust.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC §§ 401(a) & 501(a)	Form 5300	85,000	1	85,000	84.72	7,201,200
<b>Totals</b>		<b>85,000</b>		<b>85,000</b>		<b>7,201,200</b>

The associated reporting and recordkeeping burden associated with RP 2016-6 is reported under 1545-1520.

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-0197 to this regulation.

1.401-1

1.401(b)-1

1.7476-1

1.7476-2

8. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated April 14, 2020, 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 responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available currently.

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.

9. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<b>Product</b>	<b><u>Aggregate Cost per Product (factor applied)</u></b>	<b><u>Printing and Distribution</u></b>	<b><u>Government Cost Estimate per Product</u></b>
5300	\$ 13,670	\$ 0	\$ 13,670
Instr. for 5300	\$ 3,645	\$ 0	\$ 3,645
<b>Grand Total</b>	<b>017,315</b>	<b>\$ 0</b>	<b>0 17,315</b>
Table costs are based on 2018 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

10. REASONS FOR CHANGE IN BURDEN

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

making this submission to renew the OMB approval.

11. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

12. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

13. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all 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 a 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. 6103.