



# Instructions for Form 5300

(Rev. January 2017)

## Application for Determination for Employee Benefit Plan

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

### Future Developments

For the latest information about developments related to Form 5300 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/form5300](http://www.irs.gov/form5300).

### What's New

**Revised form.** The form and instructions have undergone major revisions in format and information required.

**Note.** Filers permitted to submit from 2/1/16 to 1/31/17 (Cycle A3 filers) should use the prior version of Form 5300 (Rev. December 2013).

Many of the revisions reflect the changes affecting individually designed plans described in Rev. Proc. 2016-37, 2016-29 I.R.B. 136, available at [www.irs.gov/irb/2016-29\\_IRB/ar10.html](http://www.irs.gov/irb/2016-29_IRB/ar10.html), including (1) eliminating 5-year remedial amendment cycles, and (2) generally limiting determination letter (DL) requests to initial plan qualification and qualification on plan termination, effective January 1, 2017. In addition, sponsors may submit requests for determinations on partial termination regardless of their ability to request DLs on their plan document. Many other changes are intended to reduce burdens on filers.

**Note.** The DL program is administered under Rev. Proc. 2016-6, 2016-1 I.R.B. 200, 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.

Review these documents before completing the application.

**Defined benefit plan.** New information is requested for defined benefit plans in connection with Notice 2015-49, 2015-30 I.R.B. 79. See item 7 under *What To File* and include the information in your submission.

**Multiple employer plans.** A DL applicant for a multiple employer plan must request a letter for the plan in the name of the controlling member. An applicant requesting a letter for the plan

submits one Form 5300 application for the plan in the name of the controlling member. Any application for an employer wishing to receive its own determination letter must be submitted with the application of the controlling member.

**Disclosure request by taxpayer.** A taxpayer can authorize 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, or Form 8821, Tax Information Authorization, for this purpose. See Pub. 947, Practice Before the IRS and Power of Attorney, for more information.

**Public inspection.** Form 5300 is open to public inspection if there are more than 25 plan participants. The total number of participants must be shown on line 3e. See the instructions for line 3e for a definition of "participant."

## General Instructions

### Purpose of Form

File Form 5300 to request a DL 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.

### Type of Plan

A **DC plan** is a plan that provides an individual account for each participant and for benefits based only on:

1. The amount contributed to the participant's account; and
2. Any income, expenses, gains and losses, and any forfeiture of accounts of other participants that may be allocated to the participant's account.

A **DB plan** is any plan that isn't a DC plan.

**Note.** A DB plan can't be amended to become a DC plan. If a sponsor of a DB plan attempts to amend the plan to become a DC plan, or if the merger of a DB plan with a DC plan results solely in

a DC plan, the DB plan is considered terminated.

**Terminating plan.** If the plan is a terminating plan, file Form 5310, Application for Determination for Terminating Plan. If benefit accruals or contributions have ceased, the plan and trust won't be considered terminated until formal action has been taken to terminate the plan.

### Who May File

This form may be filed by:

- **Individually Designed Plans.** This form may be filed by the employer, (including a sole proprietor, partnership, or corporation) or plan administrator to request a DL for an individually designed plan that:

1. Has never received a DL, regardless of when the plan was adopted;

2. Has previously received a DL and is specifically authorized to apply for a new DL under current IRS guidance.

- **Volume Submitter and Master & Prototype Plans.** An application for a DL for a volume submitter (VS) plan or master & prototype (M&P) plan may be filed on Form 5300 by an employer or plan administrator, if otherwise permissible under Rev. Proc. 2016-37, during the period announced in IRS guidance.

If this is a VS plan that has made limited modifications to an approved specimen plan (that doesn't convert the plan into an individually designed plan), file Form 5307, Application for Determination for Adopters of Modified Volume Submitter (VS) Plans, instead of Form 5300. The plan will be reviewed on the basis of the Cumulative List that was considered in issuing the advisory letter for the VS plan.

**Note.** If no changes have been made by an adopting employer other than to select among options in the adoption agreement or make other permitted changes as specified in section 19.03 of Rev. Proc. 2015-36, 2015-27 I.R.B. 20, available at [www.irs.gov/irb/2015-27\\_IRB/ar08.html](http://www.irs.gov/irb/2015-27_IRB/ar08.html), the adopting employer must rely on the opinion or advisory letter for the M&P or VS plan.

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## Where To File

File Form 5300 at the address indicated below.

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

**Private delivery services.** The organization can use only the IRS-designated private delivery services below to meet the “timely mailing as timely filing/paying” rule for tax returns and payments. These private delivery services include only the following.

- DHL Express 9:00, DHL Express 10:30, DHL Express 12:00, DHL Express Worldwide, DHL Express Envelope, DHL Import Express 10:30, DHL Import Express 12:00, and DHL Import Express Worldwide.
- Federal Express (FedEx): FedEx First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Next Flight Out, FedEx International Priority, FedEx International First, and FedEx International Economy.
- United Parcel Service (UPS): UPS Next Day Air Early AM, UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air AM, UPS Worldwide Express Plus, and UPS Worldwide Express.

For private delivery services, deliver the return to:

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

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



*Private delivery services can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box.*

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## How To Complete the Application

The application must be completed and signed by the employer, plan administrator, or authorized representative.

**Note.** Stamped signatures aren't acceptable. It is important that an appropriate response be entered for each line item (unless instructed

otherwise). When completing the application, use the following guidelines.

- 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 mark, mark only one box unless instructed otherwise.
- If an item provides a box to mark, written responses aren't permitted.
- The application has formatted fields that will limit the number of characters entered per field.
- All responses should be entered in Courier 10 point font.
- Alpha characters should be entered in capital letters.
- Enter a space between each word. Spaces count as characters.
- All date fields are entered as an eight-digit field (MM/DD/YYYY).
- Any required attachment should refer to the form and the line item.
- The IRS may require additional information.

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## What To File

See the instructions under line 4a for Partial Termination Request.

All applications (including applications for M&P or VS plans, unless otherwise noted) must contain an original signature and be accompanied by the following.

1. A completed Form 5300, including the procedural requirements checklist.

2. A Form 8717, User Fee for Employee Plan Determination Letter Request, and a check for the appropriate user fee (unless payment was made through [www.pay.gov](http://www.pay.gov)). Submit a separate check for each application. Make checks payable to “United States Treasury.”

**Note.** If the user fee is paid using [www.pay.gov](http://www.pay.gov), a copy of the payment confirmation must be submitted along with the paper Form 8717.

3. Form 8905, Certification of Intent To Adopt a Pre-Approved Plan, if applicable.

4. A copy of the current plan document and prior plan document(s), if the plan has been restated.

5. Copies of all signed and dated plan amendments. If the plan was amended, include a copy of the last favorable DL and any amendments since the last favorable DL. The plan

should be updated based on the Required Amendments List that was issued during the second calendar year preceding the submission of the DL application (and prior Required Amendments List). However, plans submitted for initial qualification during the 2017 calendar year will be reviewed based on the 2015 Cumulative List. See Rev. Proc. 2016-37.

6. A copy of any Voluntary Correction Program compliance statement or Audit Closing Agreement Program closing agreement regarding the plan.

7. For a DB plan, include one of the following paragraphs in the cover letter to your application indicating whether the plan provides for lump-sum risk transfers, as described in Notice 2015-49, 2015-30 I.R.B. 79.

a. If **not** provided in the plan, add the following paragraph: “The plan doesn't provide for lump-sum risk transfers, as described in Notice 2015-49.”

b. If **provided** in the plan, add the following paragraph: “The plan provides for lump-sum risk transfers, as described in section II of Notice 2015-49. This provision (satisfies) (doesn't satisfy) one of the four conditions for Pre-Notice Acceleration described in section IV of Notice 2015-49.” (If you state that the plan “satisfies” one of the four conditions for Pre-Notice Acceleration, describe in detail how the plan complies with the conditions.)

8. For an adopting employer of a M&P or VS plan, attach a statement explaining why the 5300 is being filed, and include a copy of the opinion or advisory letter for the plan. Do not include any interim amendments adopted by the employer, except in the case of a VS plan that doesn't authorize the practitioner with respect to a M&P or VS plan to amend the plan on behalf of adopting employers. The plan will be reviewed on the basis of the Cumulative List that was considered in issuing the opinion or advisory letter for the M&P or VS plan. See section 20 of Rev. Proc. 2016-37.

9. For an employee stock ownership plan (ESOP), attach:

a. Form 5309, Application for Determination of Employee Stock Ownership Plan;

b. A statement indicating whether the employer is a C corporation or an S corporation; and

c. An explanation if the employer's corporate status changed after the ESOP was originally adopted.

**Note.** Do not use staples (except to attach the check to the Form 8717), paper clips, binders, or sticky notes. Do not punch holes in the documents.

**Note.** See the Procedural Requirements Checklist to ensure that the application package is complete before submitting it. Incomplete applications may be closed if required items aren't included in the submission. If the application package is closed as incomplete, the application won't be returned and any user fee paid with the application won't be refunded. (See Rev. Proc. 2016-6.)



*Do not use a social security number or the EIN of the trust.*

The plan sponsor/employer must have an EIN. A plan sponsor/employer without an EIN can apply for one.

- Online—Generally, a plan sponsor/employer can receive an EIN by Internet and use it immediately to file a return. Go to the IRS website at [www.irs.gov/businesses/small](http://www.irs.gov/businesses/small) and click on Employer ID Numbers (EINs).
- By mail or fax—Send in a completed Form SS-4, Application for Employer Identification Number, to apply for an EIN.

**Lines 1g and 1h.** Enter the telephone and fax numbers of the plan sponsor.

**Line 1i.** Enter the two digits representing the month the plan sponsor/employer's tax year ends.

**Lines 1j through 1m.** If a foreign entity, follow the country's practice for entering the name of the city or town, province/country, and the postal code.

**Line 2.** If Form 2848 or Form 8821 is attached, check the box only. If not attached, enter a contact person. The contact person listed on line 2 will receive copies of all correspondence.

**Lines 2h through 2k.** If a foreign contact, follow the country's practice for entering the name of the city or town, province/country, and the postal code.

**Line 3a.** This field is limited to 70 characters, including spaces. Fill in the plan name as it should appear on the DL. If the plan name contains more than 70 characters, abbreviations should be used.

**Line 3b.** Enter the three-digit plan number, beginning with "001" and continuing in numerical order for each plan you adopt (001–499). The numbering will differentiate your plans. The number assigned to a plan must not be changed or used for any other plan. This should be the same number that is used on the Form 5500 series annual return/report for the plan.

**Line 3c.** Plan month means the month in which the plan year ends. Enter the two-digit month (MM).

**Line 3d.** Enter the plan's original effective date.

**Line 3e.** Enter the total number of participants. A participant is:

1. Any employee participating in the plan, including employees under a section 401(k) qualified cash or deferred

arrangement who are eligible but don't make elective deferrals;

2. Retirees and other former employees who have a nonforfeitable right to benefits under the plan; and

3. The beneficiary of a deceased employee who is receiving or will in the future receive benefits under the plan. Include one beneficiary for each deceased employee regardless of the number of individuals receiving benefits.

**Example.** Payment of a deceased employee's benefit to three children is considered a payment to one beneficiary.

**Lines 3f and 3g.** See Notice 2011-86, 2011-45 I.R.B. 698 (or later guidance) for further details, including how to determine compensation.

**Line 4a.** Enter the number that corresponds to the request being made (enter one number only).

**Enter 1** if the plan is a new plan that's being submitted within its initial remedial amendment period described under Regulations section 1.401(b)-1(d)(1) or as extended in other guidance. See Rev. Proc. 2016-37.

**Enter 2** if this plan is an existing plan that has never received a favorable DL.

**Enter 3** if neither 1 nor 2 apply and the plan is specifically authorized to apply for a DL under applicable IRS guidance. Include an attachment that cites the applicable IRS guidance and explain how the plan meets the criteria for a DL submission.

**Partial termination request.** Enter 3 if requesting a determination with respect to a partial termination. Employers and plan administrators that request a determination on a potential partial termination may not request a DL on their entire plan unless the plan is otherwise eligible for a DL. Indicate in the cover letter if a partial termination may have occurred or might occur as a result of proposed actions. If the submission is only for a partial termination request, only complete lines 1–5 and submit the Form 8717 with the user fee. **DO NOT** submit the other items under *What To File*.

Provide detailed information regarding the partial termination, including data specified on the Partial Termination Worksheet in these instructions.

1. Using the format in the Partial Termination Worksheet, submit a schedule of information for the plan year in which the partial (or potential partial)

## Specific Instructions

**Line 1.** Enter the name, address, and telephone and fax numbers of the plan sponsor/employer.

A plan sponsor means:

1. In the case of a plan that covers the employees of one employer, the employer;
2. In the case of a plan sponsored by two or more entities required to be combined under section 414(b), (c), or (m), one of the members participating in the plan; or
3. In the case of a plan that covers the employees and/or partner(s) of a partnership, the partnership.

**Note.** The name of the plan sponsor/employer should be the same name that is used when the Form 5500, Annual Return/Report of Employee Benefit Plan, series annual return/report is filed for the plan. Line 1a is limited to 70 characters.

**Line 1f.** Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer. This should be the same EIN that is used when the Form 5500 series annual return/report is filed for the plan.

The plan of a group of entities combined under section 414(b), (c), or (m), whose sponsor is more than one of the combined entities, should only enter the EIN of one of the sponsoring members.

This EIN must be used in all subsequent filings of DL requests for the plan, and annual returns/reports for the plan, unless there is a change of sponsor.



termination began along with the following plan year, and for the 2 prior plan years, to the extent information is available.

2. If the plan has more than one benefit computation formula, provide a schedule of information in the same format as lines 1a through 1f of the worksheet for each benefit computation formula.

3. Include an explanation of how the plan meets the requirements of section 411(d)(3).

**Special ruling requests.** See Rev. Proc. 2016-37 and successors to Rev. Proc. 2016-6 for other types of issues for which a Form 5300 may be filed.

**Line 4b.** If line 4a is "1," enter the date the plan was originally adopted. If the initial plan is a proposed plan document, enter "09/09/9999."

**Line 5.** A "pension equity plan" (PEP) is a DB plan which, rather than or in addition to expressing the accrued benefit as a life annuity commencing at normal retirement age, defines benefits for each employee as an amount equal to an accumulated percentage of final pay. Benefits are generally described as a percentage of final average pay, with the percentage determined as the accumulation of percentage points or lump-sum credits received for each year of service. Generally, the accumulated percentage points or lump-sum credits are multiplied by final average or career average compensation to determine the lump-sum amount.

A "cash balance" plan is a DB plan which, rather than or in addition to expressing the accrued benefit as a life annuity commencing at normal retirement age, defines benefits for each employee in terms more common to a DC plan, that is, as a single-sum amount equal to the employee's hypothetical account balance. Benefits consist of accumulated hypothetical allocation credits in an account plus accumulated hypothetical interest credits for the account.

**Note.** If this is only a request for a partial termination, DO NOT complete the rest of the application.

**Line 6.** Check "Yes" if the plan is a governmental plan under section 414(d).

**Line 7.** Check "Yes" if the plan is a church plan under section 414(e) that hasn't made a section 410(d) election.

**Line 8.** Check "Yes" if the plan benefits any collectively bargained employees

	Partial Termination Worksheet	Year	Year	Year of partial termination	Year
1	Participants employed:				
a	Number at beginning of plan year				
b	Number added during the plan year				
c	Total, add lines a and b				
d	Number dropped during the plan year				
e	Number at end of plan year, subtract d from c				
f	Total number of participants in this plan separated from service without full vesting				
2	Present value (as of month __ / __ day) during the year of				
a	Plan assets				
b	Accrued benefits				
c	Vested benefits				
3	Submit a description of the actions that may have resulted (or might result) in a partial termination. Include an explanation of how the plan meets the requirements of section 411(d)(3).				

under Regulations section 1.410(b)-6(d) (2).

**Line 9.** Check "Yes" if the plan is an insurance contract plan under section 412(e)(3).

**Line 10.** Check "Yes" if the plan is a multiemployer collectively bargained plan under section 414(f).

**Line 11.** Check "Yes" if the plan is a multiple employer plan under section 413(c).

**Line 12.** Section 3001 of the Employee Retirement Income Security Act of 1974 requires that applicants subject to section 410 provide evidence that each employee who qualifies as an interested party has been notified of the filing of the application. If "Yes" is marked, it means that each employee has been notified as required by Regulations section 1.7476-1. If this is a one-person plan or if this plan isn't subject to section 410, a copy of the notice isn't required to be attached to this application. If "No" is marked or this line is blank, the application will be returned. Rules defining "interested parties" and the form of notification are in Regulations section 1.7476-1. See Part II of Rev. Proc. 2016-6.

**Line 13.** If "Yes," attach a statement identifying the plan sections that satisfy the safe harbor (including, if applicable, permitted disparity requirements) and specify which of the following regulations is intended to be satisfied.

- 1.401(a)(4)-2(b)(2) DC plan with uniform allocation formula.

- 1.401(a)(4)-3(b)(3) unit credit DB plan.
- 1.401(a)(4)-3(b)(4)(i)(C)(1) unit credit DB fractional rule plan.
- 1.401(a)(4)-3(b)(4)(i)(C)(2) flat benefit DB plan.
- 1.401(a)(4)-3(b)(5) insurance contract plan.

**Line 14.** Check "Yes" if the plan utilizes the permitted disparity rules of 401(l).

**Line 15.** If "Yes," attach a statement providing the plan name, EIN of the plan sponsor/employer, plan type of the other plan, and a copy of pertinent provisions from the other plan regarding the offset.

**Line 16.** If this is a request for an individually designed plan that consists of a DB plan and a qualified cash or deferred arrangement, submit two Forms 5300 and two applicable user fees and provide an attachment with the plan sponsor/employer EIN and plan number of the other plan.

**Line 17.** Attach a statement that provides the following.

1. Name of plans involved.
2. Type of plan.
3. Date of merger, consolidation, spinoff, or transfer of plan assets or liabilities.
4. Verification that each plan involved was qualified at the time of the merger, consolidation, spinoff, or transfer of plan assets or liabilities.

If the plan previously obtained a DL, only provide information on a

transaction that occurred after the most recent DL was issued.

**Note.** Verification includes (1) a copy of a prior DL, opinion or advisory letter; (2) plan document and/or adoption agreement; and (3) interim and discretionary amendments.

**Note.** For individually designed plans, interim amendments only apply if the adoption deadline is before January 1, 2017. See Rev. Proc. 2016-37.

If applicable, file Form 5310-A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, 30 days prior to the merger, consolidation, or transfer of assets or liabilities.

**Line 18.** If the plan has been restated to change the type of plan under Regulations section 1.401-1, check “Yes” and attach a statement explaining the change.

**Line 19.** Check “Yes” and attach an explanation if the plan has any matter pending before:

1. The Internal Revenue Service (including the Voluntary Compliance Program),
2. The Department of Labor,
3. The Pension Benefit Guaranty Corporation (PBGC), or
4. Any court (including bankruptcy court).

The attachment should include a contact person's name and telephone number and agency or court.

## How To Get Tax Help

If you have questions about a tax issue, need help preparing your tax return, or want to download free publications, forms, or instructions, go to [IRS.gov](http://IRS.gov) and find resources that can help you right away.



**Getting answers to your tax law questions.** On [IRS.gov](http://IRS.gov) get answers to your tax questions anytime, anywhere.

- Go to [IRS.gov/help](http://IRS.gov/help) or [IRS.gov/letushelp](http://IRS.gov/letushelp) pages for a variety of tools that

will help you get answers to some of the most common tax questions.

- Go to [IRS.gov/ita](http://IRS.gov/ita) for the Interactive Tax Assistant, a tool that will ask you questions on a number of tax law topics and provide answers. You can print the entire interview.
- You may also be able to access tax law information in your electronic filing software.

## Getting tax forms and publications.

Go to [IRS.gov/forms](http://IRS.gov/forms) to view, download, or print all of the forms and publications you may need. You can also download and view popular tax publications and instructions (including the 1040 instructions) on mobile devices as an eBook at no charge. Or, you can go to [IRS.gov/orderforms](http://IRS.gov/orderforms) to place an order and have forms mailed to you within 10 business days.

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

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**Privacy Act and Paperwork Reduction Act Notice.** We ask for information on this form to carry out the Internal Revenue laws of the United States. We use this information to determine whether the plan complies with these laws. You aren't required to request a determination letter; however, if you do so, sections 6001, 6011, 6058(a), and 6109 require you to provide the information requested. Failure to provide this information in a timely manner, or providing false or fraudulent information, may subject you to penalties.

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 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. However, section 6104(b) makes certain information contained in this form publicly available. We may also give it to the Department of Labor or the Pension Benefit Guaranty Corporation (PBGC) for administration of ERISA, the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a treaty, to federal and state agencies to enforce federal non-tax criminal laws, and to federal law enforcement and intelligence agencies to combat terrorism.

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

	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form
Form 5300	33 hr., 57 min.	10 hr., 7 min.	17 hr., 38 min.	1 hr., 52 min.

We welcome your comments about this publication and your suggestions for future editions. You can send us comments from [irs.gov/formspubs](http://irs.gov/formspubs). Click on “More Information” and then on “Give us feedback.”

Or you can write to:

Internal Revenue Service  
Tax Forms and Publications  
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*, earlier.

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