

SUPPORTING STATEMENT  
Internal Revenue Service  
Opinion Letter Applications for Pre-Approved Plans  
Forms 4461, 4461-A, 4461-B, and 4461-C

OMB Control Number 1545-0169

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Treasury Regulations section 601.201, as authorized by 5 U.S.C. 301 and 5 U.S.C. 552, provides that it is the practice of the Internal Revenue Service (IRS) 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. Under the Pre-Approved Plans program, the IRS will issue opinion letters regarding the qualification in form of standardized and non-standardized plans with respect to the requirements of Internal Revenue Code (IRC) sections 401, 403(a), 403(b), and 4975(e)(7). 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 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 and allows the provider to make retroactive changes to the form of the plan to conform to recent changes in statutory requirements.

IRC sections 401, 403(a), 403(b), and 4975(e)(7) provide the requirements for certain employee benefit plans. Revenue Procedure 2017-41 sets forth the procedures for issuing opinion letters on pre-approved plans under IRC sections 401, 403(a), and 4975(e)(7). Revenue Procedure 2021-37 sets forth the procedures for issuing opinion letters on pre-approved plans under IRC section 403(b).

Forms 4461, 4461-A, 4461-B, and 4461-C are used by providers or mass submitters to apply for an opinion letter under the Pre-Approved Plans program. Applicants using Form 4461 must file Attachment I with the application, which includes specific questions regarding the plan qualifications. If the plan includes an employee stock ownership plan (ESOP), the applicant must also file Attachment I for ESOP Provisions with their Form 4461. Applicants using Form 4461-A must file Attachment I-A with the application, which includes specific questions regarding the plan qualifications.

2. USE OF DATA

The IRS uses the information provided on Forms 4461, 4461-A, 4461-B, and 4461-C to determine if a plan meets the qualification in form under IRC sections 401, 403(a), 403(b), and 4975(e)(7). The IRS will issue an opinion letter based on the information provided by the applicant.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing is currently available for all documents in this collection.

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

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

A less frequent collection will not allow the IRS to determine if a plan meets the qualification in form under IRC sections 401, 403(a), 403(b), and 4975(e)(7) and issue an opinion letter. This could result in the IRS being unable to meet its mission and serve the public.

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

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

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

We received no comments during the public comment period in response to the Federal Register notice (86 FR 60107), dated October 29, 2021.

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 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Employee Plans Exempt Organization Determination System" and a Privacy Act System of Records notice (SORN) has been issued for these systems under Treasury/IRS 34.037-IRS Audit Trail and Security Records System; Treasury/IRS 50.001-Employee

Plans/Exempt Organizations Correspondence Control Records; Treasury/IRS 50.003-Employee Plans/Exempt Organizations, Reports of Significant Matters; Treasury/IRS 50.222-Tax Exempt/Government Entities (TE/GE) Case Management Records. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/privacy-disclosure/privacy-impact-assessments-pia>.

Title 26 U.S.C. 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

Forms 4461, 4461-A, 4461-B, and 4461-C are used by providers or mass submitters to apply for an opinion letter under the Pre-Approved Plans program. The time needed to complete and file the forms will vary depending on individual circumstances. The IRS anticipates that there will be 2,925 respondents annually, for a total estimated burden of 39,153 hours annually.

The burden estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
26 CFR 601.201	Form 4461	175	1	175	58.17	10,180
26 CFR 601.201	Attachment I for ESOP Provisions	25	1	25	16.41	410
26 CFR 601.201	Form 4461-A	75	1	75	52.90	3,968
26 CFR 601.201	Form 4461-B	2,500	1	2,500	9.04	22,600
26 CFR 601.201	Form 4461-C	150	1	150	13.30	1,995
<b>Totals</b>		<b>2,925</b>		<b>2,925</b>		<b>39,153</b>

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated October 29, 2021, 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. No comments were received. However, to ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the 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 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 startup expenses, operating and maintenance expenses, and distribution of the product that collects the information. These costs do not include any activities such as taxpayer assistance and enforcement.

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.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>	<u>Printing and Distribution</u>	<u>Government Cost Estimate per Product</u>
Form 4461	\$32,194	\$0	\$32,194
Form 4461-A	\$32,194	\$0	\$32,194
Form 4461-B	\$19,024	\$0	\$19,024
<b>Grand Total</b>	<b>\$83,412</b>	<b>\$0</b>	<b>\$83,412</b>
Table costs are based on 2021 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

15. REASONS FOR CHANGE IN BURDEN

The change in burden reflects the addition of Form 4461-C, which allows providers and mass submitters to apply for an opinion letter on pre-approved plans under IRC section 403(b) as outlined in Revenue Procedure 2021-37. This increases the burden by 150 responses and 1,995 hours due to Agency Discretion. Form 4461-A was revised to conform with procedural changes made in Revenue Procedure 2017-41 to reduce the burden on applicants and the government. This reduces the burden by 240 hours due to Agency Discretion. Combined, this results in a burden increase of 150 responses and 1,755 hours due to Agency Discretion.

The burden for Forms 4461, 4461-A, and 4461-B has changed due to better estimates based on the number of providers filing the forms and the per-response burden for filing each form. This decreases the burden by 525 responses and increases the burden by 1,552 hours due to adjustment in Agency Estimates.

	<u>Total Approved</u>	<u>Change Due to New Statute</u>	<u>Change Due to Agency Discretion</u>	<u>Change Due to Adjustment in Estimate</u>	<u>Change Due to Potential Violation of the PRA</u>	<u>Previously Approved</u>
Annual Number of Responses	2,925	0	150	-525	0	3,300
Annual Time Burden (Hr)	39,153	0	1,755	1,552	0	35,846

1. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

2. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

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

3. 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 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.