

# Instructions for Form 5303

(Revised July 1998)

## Application for Determination for Collectively Bargained Plan

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



Department of the Treasury  
Internal Revenue Service

**Public Inspection.** Form 5303 is open to public inspection if there are more than 25 plan participants. The total number of participants must be shown on line 4e. See the instructions for line 4e for a definition of participant.

**Disclosure Request by Taxpayer.** The Tax Reform Act of 1976 permits a taxpayer to request 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. You may use **Form 2848**, Power of Attorney and Declaration of Representative, for this purpose.

**Signature.** The application must be signed by the employer, plan administrator, or an authorized representative.

### How To Get Forms and Publications

**By personal computer.** Visit the IRS's Internet Web Site at [www.irs.ustreas.gov](http://www.irs.ustreas.gov) to get:

- Forms and instructions
- Publications
- IRS press releases and fact sheets  
You can also reach us using:
- Telnet at [iris.irs.ustreas.gov](http://iris.irs.ustreas.gov)
- File Transfer Protocol at [ftp.irs.ustreas.gov](ftp://ftp.irs.ustreas.gov)
- Direct Dial (by modem) — Dial direct to the Internal Revenue Services (IRIS) by calling **703-321-8020** using your modem. IRIS is an on-line information service on FedWorld.

**CD—ROM.** A CD—ROM containing over 2,000 tax products (including many prior year forms) can be purchased from the Government Printing Office (GPO). To order the CD—ROM, call the Superintendent of Documents at **202-512-1800**, or go through GPO's Internet Web Site ([www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs)).

**By phone and in person.** To order forms and publications, call **1-800-TAX-FORM (1-800-829-3676)** between 7:30 a.m. and 5:30 p.m. on weekdays. You

can also get most forms and publications at your local IRS office.

**Note:** *You must file the pink copy of page one, Form 5303, which can not be downloaded.*

### General Instructions

#### A Change To Note

Governmental plans are not required to attach Schedule Q (Form 5300), Nondiscrimination Requirements.

#### Purpose of Form

Use Form 5303 to request a determination letter from the IRS for the qualification of a defined benefit or a defined contribution plan and the exempt status of any related trust. The form is also used to inform the IRS of a termination of a multi-employer plan covered by Pension Benefit Guaranty Corporation (PBGC) insurance or the partial termination of a plan.

#### Type Of Plan

- A **Defined contribution plan (DCP)** is a plan that provides an individual account for each participant and for benefits based only on the amount:

1. Contributed to the participant's account,

2. Any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to the participant's account.

- A **Defined benefit plan (DBP)** is any plan that is not a DCP.

**Note:** *A qualified plan must satisfy section 401(a) including, but not limited to, participation, vesting, nondiscriminatory contributions or benefits, distributions, and contribution and benefit limitations.*

#### Completing the Application

Applications are screened for completeness. Incomplete applications may be returned to the

applicant. For this reason, it is important that an appropriate response be entered for each line item (unless instructed otherwise). In completing the application, pay careful attention to the following:

- N/A (not applicable) is accepted as a response **only** if an N/A box is provided.
- If a number is requested, a number must be entered.
- If an item provides a choice of boxes to check, check only one box unless instructed otherwise.
- If an item provides a box to check, written responses are not acceptable.
- If a governmental plan or nonelecting church plan, certain lines do not have to be completed. See **What To File and Specific Plans—Additional Requirements.**
- The IRS may, at its discretion, require a plan restatement or additional information any time it is deemed necessary.

#### Who May File

This form may be filed by the employer or plan administrator of a plan maintained under a collective bargaining agreement (CBA) between employee representatives and one or more employers desiring a determination letter for:

- Initial qualification;
- Qualification of an entire plan as amended;
- Partial termination of a plan; or
- Termination of a multi-employer plan covered by PBGC insurance.

This form may also be filed to request a determination letter on the qualified status of a plan at any time subsequent to initial qualification even if the plan has not been amended.

#### What To File

All plans must attach the following:

- **Form 8717**, User Fee for Employee Plan Determination Letter Request. Please submit a separate check for each application. See **How To Get Forms and Publications** above, to get Form 8717.

- Attach a duplicate copy of Form 5303, page 1, to the pink copy of Form 5303. The duplicate copy may be a reproduction or carbon, however the signature must be original.

- **Schedule Q (Form 5300)**, Nondiscrimination Requirements, and any additional schedules or demonstrations required by these instructions or the instructions for Schedule Q. Governmental plans are not required to complete Schedule Q.

### Type of Determination Letter Requested

#### Initial Qualification

For **initial qualification** of a plan or when requesting a determination letter after initial qualification for a plan that has not been amended (for example, because of changes in employee demographics), file one copy of all instruments that make up the plan.

#### Entire Plan as Amended

When requesting a determination letter on the entire plan as amended after initial qualification, file:

1. One copy of the plan and trust plus all amendments made to date;
2. One copy of the latest determination letter, including caveats; and
3. A statement explaining how any amendments made since the last determination letter affect this or any other plan of the employer.

#### Restated Plan

A **restated plan** is required if four or more amendments have been made since the last restated plan was submitted. For restatement purposes, **do not** count an amendment making only minor plan changes as a plan amendment. For a restated plan, file Form 5303 as described under **Entire Plan as Amended** above.

#### Other Amendments

**Complex amendments.** Use Form 5300, as described under **Entire Plan as Amended** above, for complex amendments, including amendments with significant changes to plan benefits or coverage.

**Minor amendments.** Use **Form 6406**, Short Form Application for Determination for Minor Amendment of Employee Benefit Plan, instead of Form 5303 to request a determination letter on the effect of a minor

amendment on the qualification of a plan.

#### Partial Termination

For a **partial termination**, you must:

1. File the application form and the appropriate documents and statements.
2. Attach a statement indicating whether a partial termination may have occurred or might occur as a result of proposed actions.
3. Using the **Partial Termination Worksheet** format, submit a schedule of information for the plan year in which the partial (or potential partial) termination began. Also, submit a schedule for the next plan year, as well as for the 2 prior plan years, to the extent the information is available.

If this plan has more than one benefit computation formula, in addition to completing the Partial Termination Worksheet on this page for the entire plan, attach a sheet showing the information separately in the same format as lines 1a through 1f for each benefit computation formula.

4. Submit a description of the actions that may have resulted or might result in a partial termination.

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

#### Termination of Plan

For a **termination** of a plan, file **Form 5310**, Application for Determination for Terminating Plan, to request a determination letter for the complete termination of a DBP or a DCP. Form 5303 should be filed to request a

determination letter involving the complete termination of a multi-employer plan covered by the PBGC insurance program.

In addition, file:

1. One copy of the plan;
2. One copy of the latest determination letter, including caveats;
3. A copy of all actions taken to terminate the plan; and
4. If necessary, **Form 6088**, Distributable Benefits From Employee Pension Benefit Plans. Form 6088 is required if the plan is a DBP or if the plan is an underfunded DCP that benefits noncollectively bargained employees or more than 2% of the employees who are covered under a CBA are professional employees.

If you wish to stop benefit accruals or stop making contributions to your plan and your plan trust will continue, the plan will not be considered terminated. If you want to receive a determination letter, you must use Form 5303.

#### Specific Plans—Additional Requirements

##### Governmental or Nonelecting Church Plan

For a **governmental or nonelecting church plan**, file Form 5303 but skip lines 8 and 10a. A nonelecting church plan is a plan for which an election under section 410(d) has not been made.

Schedule Q should not be filed by a governmental plan. Electing church plans must complete all of the form including lines 8 and 10a.

Partial Termination Worksheet		Year -----	Year -----	Year of termination or 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 . . . . .				

## ESOP

For **ESOPS**, attach **Form 5309**, Application for Determinations of Employee Stock Ownership Plan.

### Where To File

Internal Revenue Service,  
P.O. Box 192,  
Covington, KY 41012-0192.

Requests shipped by Express Mail or a delivery service should be sent to:

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

### Private Delivery Services.

Applicants can use certain private delivery services designated by the IRS, the IRS publishes a list of the designated private delivery services in September of each year. The list published in September 1997, includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, Second Day Service.
- DHL Worldwide Express (DHL): DHL "Same Day" Service, DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M.

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

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## Specific Instructions

**Line 1a.** Enter the name, address, and telephone number of the plan sponsor. "Plan Sponsor" for a plan that is:

1. Covering the employees of one employer, the employer;
2. Maintained by two or more employers (other than a plan sponsored by a group of entities required to be combined under section 414(b), (c) or (m)), is the association, committee, joint board of trustees or other similar group of representatives of those who established or maintain the plan; or
3. Sponsored by two or more entities required to be combined under section 414(b), (c) or (m), is

one of the members participating in the plan.

The name of the plan sponsor/employer should be the same name that was used or will be used when the Form 5500 series returns/reports are filed for the plan.

**Address.** Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the plan has a P.O. box, show the box number instead of the street address.

**Line 1b. Employer Identification Number (EIN).**— Enter the 9-digit EIN assigned to the plan sponsor. This should be the same EIN that was or will be used when Form 5500 series returns/reports are filed for the plan.

For a multiple employer plan, the EIN should be the same EIN that was or will be used by the participating employer when Form 5500 is filed by the employer.

**Do not** use a social security number or the EIN of the trust. Use **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. Form SS-4 can be obtained at most IRS or Social Security Administration (SSA) offices or by calling 1-800-TAX-FORM (1-800-829-3676).

The plan of a group of entities required to be combined under section 414(b), (c) or (m) whose sponsor is more than one of the entities required to be combined should only enter the EIN of one of the sponsoring members. This EIN must be used in all subsequent filings of determination letter requests and annual returns/reports unless there is a change of sponsor.

**Line 1c.** Enter the two digits representing the month the employer's tax year ends. This is the employer whose EIN was used on line 1b. For plans of more than one employer, enter N/A.

**Line 2.** The contact person will receive copies of all correspondence as authorized in a power of attorney or other written designation. This line must be completed as described; a reference such as "see attached" is not acceptable.

**Line 3a.** In the box in the left margin, enter the number(s) that correspond to the request(s) being made.

**Enter 1** if the IRS has not issued a determination letter for this plan.

**Enter 2** if this application is for a plan for which the IRS has previously issued a determination letter.

If this application is for initial qualification or entire plan as amended, also enter the date the plan or amendment was signed. If a plan or amendment is proposed, enter 9/9/9999. Also enter effective dates where requested.

**Enter 3** if a determination letter is requested on the termination of a multi-employer plan covered by PBGC insurance. Also enter the date the termination is effective.

**Enter 4** if a determination letter is requested on the effect of a potential partial termination on the plan's qualification. Also, enter the date(s) the partial termination is effective.

"Date amendment effective," "Date termination effective," or "Date effective" means the date the plan, amendment, or partial termination becomes operative, takes effect, or changes.

**Line 3b.** If "Yes" is checked and you do not have a copy of the latest determination letter, explain this in the cover letter.

**Line 3c.** Section 3001 of ERISA requires the applicant to provide evidence that each employee who qualifies as an interested party has been notified of the filing of the application. If "Yes" is checked, it means that you have notified each employee as required by regulations under section 7476 or you have a one-person plan.

Rules defining "interested parties" and the form of notification are contained in Regulations section 1.7476-1. For an example of an acceptable format, see Rev. Proc. 98-6 1998-1 I.R.B. 183. If "No" is checked or this line is blank, your application will be returned.

**Note:** *Rev. Proc. 98-6 is updated annually and can be found in the Internal Revenue Bulletin.*

**Line 3e.** If this plan benefits noncollectively bargained employees or if more than 2% of the employees covered under a CBA are professional employees, check "Yes." See the instructions for Schedule Q (Form 5300) for the definition of collectively bargained employee and professional employee.

**Line 4a.** Enter a name for your plan.

**Line 4b.** Assign and enter a three-digit number, beginning with "001" and continuing in numerical order for each plan you adopt. This

numbering will differentiate your plans. The number assigned to a plan must not be changed or used for any other plan.

**Line 4c.** Plan year means the calendar, policy, or fiscal year on which the records of the plan are kept. Enter four digits in month-day order. For example, March 31 would be 0331.

**Line 4d.** Enter the year the plan originally became effective.

**Line 4e.** Enter the total of:

1. the number of employees participating in the plan. Include employees under a section 401(k) qualified cash or deferred arrangement who are eligible but do not make elective deferrals,

2. retirees and former employees who have a nonforfeitable right to benefits under the plan, and

3. any beneficiary of a deceased employee who is receiving or will in the future receive benefits under the plan. (This means one beneficiary for each deceased employee regardless of the number of individuals receiving benefits.)

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

**Line 5a.** If the plan is not described in 1, 2, or 3, enter 4 for "other" plan.

**Example:** If this is a cash balance plan, enter 4 and write "Cash Balance" where noted. A cash balance plan is a DBP that defines an employee's benefit by reference to hypothetical allocations and interest adjustments.

**Line 6. Type of Plan.**

**Enter 1** if this is a governmental plan.

**Enter 2** if this is a nonelecting church plan (i.e., the church plan has not made an election under section 410(d)).

**Enter 3** if this is a multiple-employer-collectively-bargained plan other than a multi-employer plan. Plans making the election in section 414(f)(5) should enter 3 in the space provided.

**Enter 4** if this is a multi-employer plan (as described in section 414(f)).

For this purpose, a multi-employer plan is one to which more than one employer is required to contribute and which is maintained under one or more collective bargaining agreements between one or more employee organizations and more than one employer.

**Enter 5** if this is a section 412(i) plan.

**Enter 6** if this plan is not one described above.

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## Miscellaneous

**Line 10a.** Section 411(d)(6) protected benefits include:

- The accrued benefits of a participant as of the later of the amendment's adoption date or effective date; and
- Any early retirement type subsidy or optional form of benefit for benefits from service before such amendment.

If the answer is "Yes" explain on an attachment how the amendment satisfies one of the exceptions to the prohibition on reduction or elimination of section 411(d)(6) protected benefits.

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## Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to have your plan approved by the IRS, you are required to give us the information. We need it to determine whether you meet the legal requirements for plan approval.

You are not 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.

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

<b>Recordkeeping</b> .....	22 hr., 14 min.
<b>Learning about the law or the form</b> .....	3 hr., 51 min.
<b>Preparing the form</b> .....	8 hr.
<b>Copying, assembling, and sending the form to the IRS.</b>	1 hr., 4 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 write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this office. Instead, see "Where To File" on page 3.