

Form **6043**  
(March 2010)Department of the Treasury — Internal Revenue Service  
**Employee Plan Deficiency Checksheet**  
**Attachment #4 — Miscellaneous**

Date

<i>For IRS Use</i>	Please furnish the amendment(s) requested in the section(s) checked below.
402 I.a.	The plan must contain an express provision that, in the event of its termination or partial termination (or in the case of profit sharing, stock bonus, or other plan described in IRC section 412(h), a complete discontinuance of contributions), a participant's interest under the plan as of such date is nonforfeitable to the extent funded. IRC section 411(d)(3) and Regs. section 1.411(d)-2.
403 I.b.	Section _____ of the plan should be amended to provide that in case of a merger or consolidation with, or transfer of assets or liabilities to, any other plan, each participant shall (if the plan then terminated) receive a benefit immediately after the merger, etc., which is equal to or greater than the benefit he or she was entitled to immediately before the merger, etc., (if the plan had then terminated). IRC sections 401(a)(12), 414(l), and Rev. Rul. 86-48, 1986-1 C.B. 216.
405 I.c.	Please advise whether any of the participants in this plan have been covered by another defined benefit plan of the employer which has been, or is to be, terminated with excess plan assets having been, or to be, returned to the employer.
406 I.c.i.	Please demonstrate whether or not lump sum distributions or guaranteed annuity contracts have been provided for all accrued benefits of all participants in the terminating plan. Implementation Guidelines, Treasury News Release dated May 24, 1984.
407 I.c.ii.	If the plan grants credit for past service for the period during which an employee was covered by the terminated plan (subject to the limitations of Code section 415), please demonstrate that the IRS has granted approval for a change in funding method in connection with the unfunded past service liability for this plan. Implementation Guidelines, Treasury News Release dated May 24, 1984.
408 I.d.	Please furnish information indicating whether the plan has received or transferred assets or liabilities subject to Code section 414(l), in a transaction with another defined benefit plan which has been, or is to be, terminated with excess plan assets having been, or to be, returned to the employer. Regs. section 1.414(l)-1 and Implementation Guidelines, Treasury News Release dated May 24, 1984.
409 I.d.i.	Section _____ of the plan should be amended to provide that the accrued benefits of all participants in this plan are fully vested and nonforfeitable as of the date of termination of the other plan. Implementation Guidelines, Treasury News Release dated May 24, 1984.
410 I.d.ii.	Please demonstrate whether or not guaranteed annuity contracts have been purchased to provide for all accrued benefits of all participants in this plan as of the date of termination of the other plan. Implementation Guidelines, Treasury News Release dated May 24, 1984.
411 I.d.iii.	Please demonstrate that the IRS granted approval for a change in funding method for this plan, as of the date of termination of the other plan. Implementation Guidelines, Treasury News Release dated May 24, 1984.
412, 413 I.c.i. & iii. I.d.i., ii. & iii.	An employer may not recover surplus assets in a transaction in which it splits an overfunded defined benefit plan into two defined benefit plans, terminates one of the plans and receives the excess assets ("spinoff/ termination" transaction), unless the following conditions are satisfied: (i) the benefits of all employees (including those employees covered by the ongoing plan) must be fully vested and nonforfeitable as of the date of termination; (ii) all benefits accrued as of the date of termination for all employees (including those employees covered by the ongoing plan) must be provided for by the purchase of guaranteed annuity contracts; and (iii) in the case of the ongoing plan, the funding method for such plan must be changed on the date of termination by combining and offsetting amortization bases in accordance with Code section 412(b)(4). The amortization period for this base will be the lesser of the combined amortization period or the weighted average future remaining working lifetime of all covered employees. The employer must request and obtain IRS approval for this change in funding method. Please provide information demonstrating whether the conditions listed above have been satisfied. Implementation Guidelines, Treasury News Release dated May 24, 1984.

415	Please advise whether the employer, in the past 15 years, previously received a reversion of assets upon termination of a defined benefit plan which covered some or all of the same employees who are covered by this plan. Regs. section 1.401-1(b)(2) and Implementation Guidelines, Treasury News Release dated May 24, 1984.
I.e.	
421	Section _____ of the plan should be amended to provide that benefits under the plan may not be assigned or alienated except to the extent allowable under IRC sections 401(a)(13) and 414(p).
II.a.	
422	Section _____ of the plan should be amended to provide that, unless the participant otherwise elects, benefits will commence within the time specified by IRC section 401(a)(14) and Regs. section 1.401 (a)-14.
II.b.	
424	Section _____ of the plan should be amended to prevent distributions from being made before the attainment of age 62 or, if earlier, normal retirement age, termination of service, death or disability. Regs. section 1.401-1(b)(1)(i), Rev. Rul. 56-693, 1956-2 C.B. 282, and IRC section 401(a)(36).
II.c.	
425	Since the plan provides for payment of an early retirement benefit upon the completion of a stated period of service and the attainment of a stated age, section _____ of the plan must be amended to provide that a participant who meets the service requirement for early retirement upon termination of employment and who is entitled to receive a vested benefit, will commence to receive a benefit which is not less than the reduced normal retirement benefit upon satisfaction of the age requirement. IRC section 401(a)(14) and Regs. section 1.401(a)-14(c).
II.d.	
426	Section _____ of the plan should be amended to provide that distributees may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan specified by the distributee. IRC section 401(a)(31) and Regs. section 1.401(a)(31)-1.
II.e.	
427	Section _____ of the plan should be amended to provide for automatic rollovers of mandatory distributions of more than \$1,000 if the distributee does not elect a direct rollover to an eligible retirement plan or to receive the distribution directly. 401(a)(31)(B), Notice 2005-5, and Notice 2005-95.
II.f.	
[insert para. #] II.h.	Section _____ of the plan should be amended to allow a nonspouse designated beneficiary to directly roll over any portion of a plan distribution to an inherited IRA. IRC section 402(c)(11).
431	Section _____ of the plan should be amended to delete the provision for reversion of funds to the employer. However, certain reversions are permitted if (1) the contribution is conditioned upon the initial qualification of the plan, a timely determination letter request is filed, and the plan receives an adverse determination; or (2) the reversion is due to a good faith mistake of fact; or (3) the contribution is conditioned on its deductibility under section 404 of the Code. IRC section 401(a)(2), Regs. section 1.401-2(b)(1), and Rev. Rul. 91-4, 1991-1 C.B. 5.
III.a.	
432	Section _____ of the plan should be amended to provide that an employee's right to his or her normal retirement benefit is nonforfeitable on attainment of normal retirement age, as defined in Code section 411(a)(8). IRC sections 411(a), 411(a)(8) and Regs. section 1.411(a)-7(b).
III.b.	
433	A profit sharing plan must have a predetermined formula for allocating employer contributions that precludes employer discretion. Section _____ of the plan should be amended accordingly. Regs. Section 1.401-1(b)(1)(ii).
III.c.	
434	Section _____ of the plan should be amended to provide an express formula to determine employee benefits which does not involve employer discretion. Regs. section 1.401-1 (b)(1)(i) and Rev. Rul. 74-385, 1974-2 C.B. 130.
III.d.	
436	Section _____ of the plan should be amended to expressly state the actuarial assumptions (for example, interest and mortality) or other methods (such as the conversion rates applied in a particular insurance contract) that will be used to determine the amount or level of any optional benefit forms that are the actuarial equivalent of the normal retirement benefit payable under the plan. IRC section 401(a)(25), Regs. section 1.401-1(b)(1)(i), and Rev. Rul. 79-90, 1979-1 C.B. 155.
III.e.	

437	The preretirement death benefits provided by the plan must be "incidental" within the meaning of Regs. section 1.401-1(b)(1), taking into account the qualified preretirement survivor annuity, under Code section 401(a)(11). IRC section 401(a)(11) and 417(c), Regs. sections 1.401-1(b)(1)(i) & (ii), and Rev. Rul. 60-83, 1960-1 C.B. 157, Rev. Rul. 60-84, 1960-1 C.B. 159, Rev. Rul. 66-143, 1966-1 C.B. 79, Rev. Rul. 68-31, 1968-1 C.B. 151, Rev. Rul. 70-611, 1970-2 C.B. 89, Rev. Rul. 74-307, 1974-2 C.B. 126 and Rev. Rul. 85-15, 1985-1 C.B. 132.
III.f.	
438	Section _____ of the plan should be amended to provide that benefits under the plan may not be assigned or alienated except to the extent allowable under IRS sections 401(a)(13) and 414(p).
III.g.	
439	All defined contribution plans must provide for a valuation of investments held by the trust at least once a year on a specified inventory date, in accordance with a method consistently followed and uniformly applied. The fair market value on the inventory date is to be used for this purpose and the respective accounts of participants are to be adjusted in accordance with the valuation. Rev. Rul. 80-155, 1980-1 C.B. 84.
III.i.	
440	Please show that the amendment to the plan that was adopted on or that is proposed to be adopted, satisfies the conditions described in section 1.401(a)(4)-11(g)(3) and (4) of the regulations relating to corrective amendments that may be given retroactive effect for purposes of satisfying the minimum coverage and discrimination requirements.
III.j.	
441	Section _____ of the plan should be amended to (choose on or both below, as applicable) (i) restrict the commingling of deemed IRA assets with non-plan assets and (ii) provide that the trust must maintain a separate account for each deemed IRA.
III.k.	
442	Section _____ of the plan should be amended to limit the compensation that may be taken into account in determining contributions on behalf of any employee to no more than \$200,000 (as adjusted) (or the other applicable limits for plan years beginning before January 1, 2002). IRC section 401(a)(17) and Regs. section 1.401(a)(17)-1.
IV.a.	
445	The plan should be amended so that the accrued benefit of a section 401(a)(17) employee within the meaning of section 1.401(a)(17)-1(e)(2)(i) of the regulations is determined under the rules described in section 1.401(a)(17)-1(e) of the regulations or indicate that there are no section 401(a)(17) employees. IRC section 401(a)(17) and Regs. section 1.401(a)(17)-1(e).
IV.b.	
446	The plan should be amended to formally designate itself an ESOP.
V.a.	
447	The plan should be amended to state that it is designed to invest primarily in qualifying employer securities.
V.a.	
448	The plan should be amended to provide that the proceeds of an exempt loan must only be used for: (i) the acquisition of qualifying employer securities, (ii) to repay such loan and/or (iii) to repay a prior loan.
V.b.	
449	The plan should be amended to provide that the exempt loan must be without recourse against the ESOP and that the only assets that may be given as collateral on such loan are qualifying employer securities of two classes, (i) those acquired with the proceeds of an exempt loan, and (ii) those that were used as collateral on a prior exempt loan and repaid with the proceeds of the current exempt loan.
V.c.	
450	The plan should be amended to provide that the exempt loan must bear a reasonable interest rate and must be for a definite period of time and cannot be payable at the demand of any person, except in the case of default.
V.d.	

451	The plan should be amended to provide that if a portion of the account is forfeited, qualifying securities must be forfeited only after other assets.
V.e.	
452	The plan should be amended to provide that the employer securities acquired by the ESOP with the proceeds of an exempt loan must be added to and maintained in a suspense account in conformance with section 54.4975-11(c) of the regulations.
V.f.	
453	The plan should be amended to provide for the release from encumbrance qualifying employer securities under either the "general rule" or "special rule" as described in section 54.4975-7(b)(8) of the regulations.
V.g.	
454	The plan should be amended to provide that each participant is entitled to direct the plan trustee in the manner in which securities allocated to his account are to be voted.
V.h.	
455	The plan should be amended to provide that, with regard to non-registration securities, each participant is entitled to direct the plan trustee to vote the allocated securities with respect to the corporate matters specified in IRC section 409(e)(3).
V.h.	
456	The plan should be amended so that a participant has a right to demand distributions in the form of employer securities as required by IRC section 409(h)(1)(B).
V.i.	
457	The plan should be amended to provide the participant with the right to receive distributions in cash as required by IRC section 409(h)(2)(B).
V.i.	
458	Section _____ of the plan should be amended to provide that where a participant is entitled to a distribution from the plan of securities that are not readily tradable on an established securities market, the employer will repurchase the securities within the periods, and in accordance with the methods described in IRC sections 409(h)(5) and (6).
V.j.	
459	The plan should be amended to provide that valuations of employer securities which are not readily tradable on an established market are made by an independent appraiser, who meets requirements similar to the requirements of the regulations prescribed under IRC section 170(a)(1). IRC section 401(a)(28)(C).
V.k.	
460	The plan should be amended to provide that a participant is entitled to elect to diversify a portion of his or her account's investment in employer securities as required under IRC section 401(a)(28)(B). Section _____ of the plan should be amended to provide applicable individuals with the right to divest employer securities in their account and to reinvest those amounts in certain diversified investments. See Notice 2006-107, 2006-2 C.B. 1114, for guidance and transitional rules with respect to the diversification requirements of section 401(a)(35).
V.l.	
461	The plan should be amended to provide that a participant is entitled to elect to commence distribution of his or her account balance not later than required by IRC section 409(o).
V.m.	
462	The plan should be amended to provide in accordance with IRC section 415(c)(6) that forfeitures and interest payments on an exempt loan may be excluded only if no more than 1/3 of the employer contributions deductible under IRC section 404(a)(9) for the year are allocated to highly compensated employees (as described in IRC section 414(q)).
V.n.	
463	Section _____ of the plan should be amended to provide that the assets of the plan attributable to employer securities acquired by the plan in a sale to which IRC section 1042 applies cannot accrue for the benefit of persons specified in IRC section 409(n) during the non-allocation period.
V.o.	
464	The plan should be amended to provide (in accordance with IRC section 409(p)(1)) that no portion of the plan attributable to (or allocable in lieu of such stock may, during a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer qualified under IRC section 401(a)) for the benefit of any disqualified person.
V.p.	

465	The plan should be amended to include a definition for “nonallocation year” in conformance with IRC section 409(p)(3) and section 1.409(p)-1(c) of the regulations.
V.q.	
466	The plan should be amended to include a definition for “disqualified person” in conformance with IRC section 409(p)(4)(A) and sections 1.409(p)-1(d)(1)(i)-(iv) of the regulations.
V.q.	
467	The plan should be amended to include a definition for “deemed-owned shares” in conformance with IRC section 409(p)(4)(C) and section 1.409(p)-1(e) of the regulations.
V.q.	
468	The plan should be amended to include a definition for “synthetic equity” in conformance with IRC section 409(p)(6)(C) and sections 1.409(p)-1(f)(2)(i)-(iv) of the regulations.
V.q.	
469	The plan should be amended to provide an election for the participants between (a) either (i) the payment of dividends in cash to participants or (ii) the payment to the plan and distribution in cash to participants not later than 90 days after the close of the plan year in which the dividends are paid by the employer and the payment of dividends to the plan and reinvestment in employer securities.
V.r.	