

## Application for Approval of Master or Prototype or Volume Submitter Defined Contribution Plans

OMB No. 1545-0169

This Form Is Open to Public Inspection

**File This Form With the Internal Revenue Service**

**For IRS Use Only**

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

File folder number

**Complete every applicable item on this form and Attachment 1 (see Rev. Proc. 2011-49, 2011-44 I.R.B. 608).**

**See instructions before completing this form.**

<b>1</b> Enter amount of user fee submitted \$			
<b>2a</b> Approval requested: <input type="checkbox"/> Initial application <input type="checkbox"/> Amendment—Enter file folder number or letter serial number and date of last letter issued ▶		<b>2b</b> M&P - File folder number or VS - Letter serial number	<b>2c</b> Date of last letter issued
<b>3a</b> Name of applicant  Address (number, street, room or suite no.) (If a P.O. box, see instructions.)  City State ZIP code		<b>3b</b> Employer identification number of applicant	
<b>3d</b> Type of applicant (see Definitions in the instructions): <input type="checkbox"/> M&P sponsor <input type="checkbox"/> M&P mass submitter		<input type="checkbox"/> Volume submitter practitioner <input type="checkbox"/> Volume submitter mass submitter	
<b>4a</b> Name of person to be contacted		<b>4b</b> Telephone number	
<b>4c</b> Email address		<b>4d</b> If a power of attorney is attached, check box . . . . ▶ <input type="checkbox"/>	
<b>5a</b> Basic plan document number		<b>5b</b> Adoption agreement number	
<b>6</b> Form of plan: <input type="checkbox"/> Prototype plan <input type="checkbox"/> Master plan <input type="checkbox"/> Volume submitter plan			
<b>Note:</b> A master plan has only one trust or custodial account for all adopting employers.			
<b>7</b> Type of plan: <input type="checkbox"/> Money purchase <input type="checkbox"/> Target benefit <input type="checkbox"/> Profit-sharing <input type="checkbox"/> Profit-sharing/401(k)			
<b>8</b> Filing status of plan: <input type="checkbox"/> Standardized plan <input type="checkbox"/> Volume submitter governmental plan (i.e., described in section 414(d)) <input type="checkbox"/> Nonstandardized plan <input type="checkbox"/> Volume submitter nongovernmental plan			

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature ▶ Title ▶ Date ▶

**For Paperwork Reduction Act Notice, see the instructions.**

Cat. No. 41676M

Form **4461** (Rev. 1-2012)

		Yes	No
<b>9</b>	Procedural requirements:		
<b>a</b>	Have the following been submitted as required by instructions—		
	(1) Adoption agreement? . . . . .		
	(2) Copy of plan? . . . . .		
	(3) Copy of trust indenture or custodial agreement? . . . . .		
	(4) Copy of Certification of Interim Amendments? . . . . .		
<b>b</b>	For all M&P sponsors and those VS practitioners who are choosing to include a provision in their specimen plans that allows them to amend on behalf of their adopting employers, will you advise those employers who cannot or do not adopt the plan providing for such authority that they may not continue to participate under the M&P plan or the VS plan? . . . . .		
<b>c</b>	For all M&P sponsors and those VS practitioners who are choosing to include a provision in their specimen plans that allows them to amend on behalf of their adopting employers, is there a procedure in place for the adoption and distribution of the amendments? . . . . .		
<b>d</b>	Is the plan and trust (or custodial agreement) patterned after and substantially the same as another plan and trust (or custodial agreement) on which a favorable letter has been received? (If “Yes,” see specific instructions.) . . . . .		
<b>e</b>	Non-mass submitter request ( <b>M&amp;P</b> complete (1) and (2). <b>VS</b> complete (3).)		
	(1) Do you have at least 30 employer-clients which are reasonably expected to adopt this plan’s basic plan document and one or more of the adoption agreements associated with this basic plan document? If “No,” complete (2) . . . . .		
	(2) If “No” to (1), enter the file folder number of the basic plan document for which the requisite number of adopting employer-clients requirement is met: _____		
	(3) If you are a VS (non-mass submitter) practitioner, do you have at least 30 employer-clients reasonably expected to adopt a plan that is substantially similar to the VS practitioner specimen plan (or 10 employer-clients reasonably expected to adopt a money purchase pension plan (MP), if you have a specimen MP and at least one other type of specimen plan that satisfies the 30 employer-client requirement)? . . . . .		
<b>f</b>	Mass submitter request ( <b>M&amp;P</b> mass submitter complete (1), (2), and (3); <b>VS</b> mass submitter complete (4)):		
	(1) Are applications on behalf of the requisite number of sponsors who are adopting the same basic plan document on a word-for-word identical basis included? If “No,” complete (2) . . . . .		
	(2) If “No” to (1), enter the file folder number of the basic plan document for which the requisite number of adopting sponsors requirement is met: _____		
	(3) If this is a flexible plan, answer (a) and (b):		
	(a) Have you bracketed and identified the optional provisions of the plan? . . . . .		
	(b) Have you included a copy of the written representation describing the choices available to sponsors and the coordination of optional provisions? . . . . .		
	(4) For a VS mass submitter, are applications on behalf of at least 30 unaffiliated practitioners sponsoring the same specimen plan on a word-for-word identical basis included? . . . . .		

**Note:** This application is designed to be used in conjunction with Rev. Proc. 2011-49. A List of Required Modifications (LRMs) is also recommended for use and may be obtained from the IRS website at [www.irs.gov/ep](http://www.irs.gov/ep).

## General Instructions

### Purpose of Form

Form 4461 is used to apply for approval of Master or Prototype (M&P) or Volume Submitter (VS) defined contribution plans.

Be sure to submit a complete and accurate application, including Form 4461 and Attachment 1 (see [www.irs.gov/pub/irs-tege/form4461\\_attachment.pdf](http://www.irs.gov/pub/irs-tege/form4461_attachment.pdf) or Rev. Proc. 2011-49, 2011-44 I.R.B. 608). Complete every applicable line on the application. If an item on Attachment 1 does not apply, check the "N/A" box or enter "N/A" on the line where indicated as an option. If your application is not complete, we will return it without processing it. The first page must be typed. Unless otherwise noted, the questions on Form 4461 and Attachment 1 apply to both M&P and VS defined contribution plans.

**Requests for additional information.** If a letter requesting additional information or changes to plan documents is sent to the sponsor or VS practitioner or an authorized representative, such information and/or changes must be received no later than 30 days from the date of the letter. Failure to respond timely may result in the application being considered withdrawn. An extension of the 30-day time limit will only be granted for good cause.

**Inadequate submissions.** We will return, without further action, plans that are not in substantial compliance with the qualification requirements or plans that are so deficient that they cannot be reviewed in a reasonable amount of time.

### Who May File

**Master or prototype plans.** Sponsors and mass submitters (see *Definitions* later).

**Volume submitter plans.** Practitioners and mass submitters (see *Definitions* later).

### What To File

Submit one copy of Form 4461 and Attachment 1 for each separate adoption agreement or for each separate specimen plan where no adoption agreement is utilized.

For approval, file this application and each applicable document listed in line 9(a).

**Multiple plans.** A sponsor may utilize one basic plan document for several plans. A sponsor may, for example, use one basic plan document for a money purchase plan other than a target benefit plan, a target benefit plan, and a profit-sharing plan. A separate adoption

agreement and completed application must be provided for each such defined contribution plan. In the case of a simultaneous submission of plans using the same basic plan document, submit only one copy of the basic plan document. If the requests are not simultaneous, submit separate basic plan documents and include a cover letter identifying the original submission. The number assigned to the basic plan document of a master or prototype plan must remain the same as in the prior submission. One basic plan document may not be used for both defined benefit and defined contribution plans.

A VS practitioner may not combine different categories in a single specimen plan or application, except that only one specimen plan and application is required for a VS profit-sharing plan, with or without a 401(k) arrangement. In addition, you may not use the same basic plan document for governmental plans (i.e., plans described in section 414(d)) and nongovernmental plans (i.e., plans not described in section 414(d)).

### Where To File

Send applications for opinion and advisory letters to:

Internal Revenue Service  
P.O. Box 2508; Room 5106  
Cincinnati, OH 45201

Add "Attn: Pre-approved Plans Coordinator."

For both types of applications, send a request shipped by Express Mail or a delivery service to the attention of the Pre-approved Plans Coordinator to:

Internal Revenue Service  
550 Main Street  
P.O. Box 2508; Room 5106  
Cincinnati, OH 45202

**Signature.** The application must be signed by a partner or officer of the applicant who is authorized to sign or other person authorized by a power of attorney. The power of attorney should be filed with the application.

**Disclosure requested by taxpayer.** A taxpayer may request the IRS to disclose and discuss the return or return information with any person(s) the taxpayer designates in a written request. If you want to designate a person(s) to assist in an application for approval, you must provide the IRS office of jurisdiction with a written request that contains:

- The taxpayer's name, address, employer identification number, and plan number(s).
- The name, address, social security number, and telephone number(s) of the person or persons whom you are authorizing to receive return information.

- A paragraph that clearly describes the return or return information that you authorize the IRS to disclose.
- An authorized signature (see above).

As an alternative to providing the above statement, you may submit Form 2848, Power of Attorney and Declaration of Representative.

### Definitions

**Adoption agreement.** The portion of the plan containing all the options that the adopting employer may select. The adoption agreement may include blanks or fill-in provisions for the employer to complete if it also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the qualification requirements. Each separate adoption agreement is treated as a separate plan and will receive its own opinion or advisory letter.

**Basic plan document.** The portion of the plan containing all the nonelective provisions applicable to all adopting employers. No options (including blanks to be completed) may be provided in the basic plan document except for options in flexible plans.

**Volume Submitters without Adoption Agreements.** A VS specimen plan may include blanks or fill-in provisions for the employer to complete only if the plan also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the qualification requirements.

**Flexible plan.** A plan submitted by an M&P mass submitter which contains certain optional provisions as allowed by section 12.03(1) of Rev. Proc. 2011-49. Sponsors which adopt a flexible plan may include or delete any optional provision designated as such in the mass submitter's plan. A flexible plan adopted by a sponsor which differs from the mass submitter plan only because of the deletion of certain optional provisions will be treated as a word-for-word identical plan to the mass submitter plan.

**Mass submitter.** As set forth in Rev. Proc. 2011-49, any entity that submits applications on behalf of at least 30 unaffiliated sponsors or practitioners each of which is sponsoring, on a word-for-word identical basis, the same basic plan document and one or more of the adoption agreements associated with that basic plan document or, in the case of VS plans, one or more of the same lead specimen plans. For a mass submitter of an M&P, once the mass submitter has submitted applications on

behalf of 30 unaffiliated sponsors with respect to any basic plan document, it will be treated as a mass submitter with respect to all the other basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of identical adopters of such other plans. A mass submitter of a VS plan will be treated as such with respect to each specimen plan for which the 30-unaffiliated-practitioners requirement is separately met.

Notwithstanding the above, for an M&P plan, any entity that received a favorable TRA '86 opinion letter for a plan as a mass submitter under Rev. Proc. 89-9, 1989-1 C.B. 780, will continue to be treated as a mass submitter if it submits applications on behalf of at least 10 sponsors (regardless of affiliation) each of which is sponsoring, on a word-for-word identical basis, the same basic plan document and one or more of the adoption agreements associated with that basic plan document. Once the mass submitter has submitted applications on behalf of 10 sponsors with respect to any basic plan document, it will be treated as a mass submitter with respect to all the other basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of identical adopters of such other plans.

Affiliation is determined under sections 414(b) and (c) of the Code. Additionally, the following will be considered to be affiliated: any law, accounting, consulting firm, etc. with its partners, members, associates, etc. For purposes of determining whether 30 (or 10, if applicable) unaffiliated sponsors or practitioners sponsor on a word-for-word identical basis the same basic plan document or the same specimen plan, the mass submitter is treated as an unaffiliated sponsor or practitioner.

**Master plan.** A form of plan that is made available by a sponsor for adoption by employers for which a single funding medium (for example, a trust or custodial account, see section 4.01 of Rev. Proc. 2011-49) is established, as part of the plan, for the joint use of all adopting employers. A master plan consists of a basic plan document, an adoption agreement, and, unless included in the basic plan document, a trust or custodial account document.

**Prototype plan.** A form of plan that is made available by a sponsor for adoption by employers under which a separate funding medium is established for each adopting employer. A prototype plan consists of a basic plan document, an adoption agreement, and, unless the

basic plan document incorporates a trust or custodial account agreement the provisions of which are applicable to all adopting employers, a trust or custodial account document.

**Specimen plan.** A specimen plan is a sample plan, including the related trust or custodial account, of a VS practitioner (rather than the actual plan of an employer). A specimen plan may include an adoption agreement.

**Sponsor.** Any person that has an established place of business in the United States where it is accessible during every business day and represents to the IRS that it has at least 30 employer-clients each of which is reasonably expected to adopt the sponsor's basic plan document and one or more of the adoption agreements associated with that basic plan document. Once a person represents to the Service that at least 30 employers are reasonably expected to adopt its basic plan document, it will be treated as a sponsor with respect to all the basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of employers that are expected to adopt such other plans. Notwithstanding the above, any person that has an established place of business in the United States where it is accessible during every business day and is a word-for-word identical adopter or minor modifier adopter of an M&P plan of a mass submitter will be treated as a sponsor with respect to such plan, regardless of the number of employers that are expected to adopt such plan.

**Practitioner.** Any person that has an established place of business in the United States where it is accessible during every business day and represents to the Service that it has at least 30 employer-clients each of which is reasonably expected to adopt a plan that is substantially similar to the VS practitioner's specimen plan.

The required number of employer-clients is reduced to 10 for a money purchase pension specimen plan in the case of a VS practitioner that has specimen plans for two or more separate categories of plans (profit sharing, money purchase, target benefit), one of which is a money purchase plan, and the 30 employer-clients requirement has been satisfied with respect to the other specimen plan.

A VS practitioner may submit any number of specimen plans for advisory letters provided that the 30 employer-clients requirement (or 10, if applicable) is separately satisfied with respect to each specimen plan. For this purpose, where an adoption format is used, each

adoption agreement is treated as one specimen plan. Notwithstanding the above, any person that has an established place of business in the United States where it is accessible during every business day may sponsor a specimen plan as a word-for-word identical adopter of a specimen plan of a VS mass submitter, regardless of the number of employers that are expected to adopt the plan.

**M&P Standardized plan.** A plan which meets the specific requirements of Attachment 1, line 11. (See [www.irs.gov/pub/irs-tege/form4461\\_attachment.pdf](http://www.irs.gov/pub/irs-tege/form4461_attachment.pdf) or Rev. Proc. 2011-49, 2011-44 I.R.B. 615.)

## Specific Instructions

**Line 1.** All applications submitted must be accompanied by the appropriate user fee and Form 8717, User Fee for Employee Plan Determination, Opinion and Advisory Letter Request, as determined from the schedule in Rev. Proc. 2012-8, 2012-1 I.R.B. 235, (or the most recent version, updated annually). Applications submitted without the proper user fee will not be processed and will be returned to the applicant.

**Line 3a.** Enter the name and address of the applicant. If the Post Office does not deliver mail to the street address and the applicant has a P.O. box number, show the P.O. box number instead of the street address.

**Line 4a.** If the person to be contacted is other than an employee of the applicant, please enclose an authorized power of attorney. See *Disclosure requested by taxpayer*, earlier.

**Line 4c.** The applicant should include an email address in order for the Service to send an email of preliminary approval notifying the applicant that review of the applicable plan has been completed, subject to final approval by opinion or advisory letter.

**Line 5a.** Enter the two-digit basic plan document number you have assigned to the specimen plan or basic plan document that accompanies (if applicable) the adoption agreement for which you are requesting approval. All basic or specimen plan documents from one sponsor or practitioner that are the same (word-for-word) should use the same two-digit number on all applications. The first basic plan document submitted should be numbered "01," the second, "02," etc. The first specimen plan document submitted should be numbered "01," the second, "02," etc.

**Line 5b.** Enter the three-digit number you have assigned to the adoption agreement for which this application is submitted. Each different adoption agreement designed to accompany a single basic plan document should be given a different three-digit number beginning with "001." For example, if the first basic plan document of a sponsor has four separate adoption agreements, they should be numbered "001" through "004," and the sponsor should submit four separate Forms 4461. Adoption agreements submitted with the second or any subsequent basic plan documents (that are not word-for-word identical to a previously submitted basic plan document) should be similarly numbered beginning with "001."

**Line 9. Procedural requirements.**

Submit a separate application for each different plan/adoption agreement combination.

In the case of a VS plan, submit a separate application for each type of plan, except that only one specimen plan and application is required for a VS profit-sharing plan, either with or without a 401(k) arrangement.

**Line 9d.** If you checked "Yes," submit a copy of such plan with language differences highlighted. Attach a cover letter which provides the name and file folder number of the plan (including the name and employee identification number of the sponsor), a list of all plans written by the plan drafter which are substantially identical to the lead plan (including the information described above), a description of each place where the plan for which the application is being submitted is not word-for-word identical to the language of the lead plan (including an explanation of the purpose and effect of each difference), and a certification, made under penalty of perjury by the plan drafter, that the information describing where the plan language is not word-for-word identical is true and complete.

**Line 9f.** The mass submitter should use Form 4461-B, Application for Approval of Master or Prototype or Volume Submitter Plans, Mass Submitter Adopting Sponsor or Practitioner, when submitting applications on behalf of its adopting sponsors, and submit Form 8717.

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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. 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 content may become material in the administration of any Internal Revenue law. Generally, tax return and return information are confidential, as required by Code section 6103.

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

**Recordkeeping** . . . . 8 hr., 22 min.

**Learning about the law or the form** . . . . 1 hr., 42 min.

**Preparing the form** . . . 4 hr., 42 min.

**Copying, assembling, and sending the form to the IRS** . 48 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 Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this office. Instead, see *Where To File* earlier.