

**Internal Revenue Service  
TE/GE Employee Plans**

**Department of the Treasury**

**Date:**

**Taxpayer Identification Number:**

**Form Number:**

5330

**Name of Plan:**

**Plan Number:**

**Tax Year(s) Ended:**

**Person to Contact/ID Number:**

**Contact Telephone Number:**

**Fax Number:**

**E-Mail Address:**

Dear Sir or Madam:

Your Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, has been selected for examination for the above year(s). This selection does not imply that the information on your Form 5330 was incorrectly prepared. Most returns are randomly selected from the universe of Form 5330 returns filed for qualified plans or they are selected as part of a special project. Our objective is to insure compliance with the applicable laws and regulations governing retirement plans.

To make the examination as brief as possible, please send copies of the items that are listed on the attachment. You may also furnish any other documents or explanatory material that you believe will be helpful for our review.

Please send this information within 30 days from the date of this letter. Copies are acceptable as long as they are readable.

Enclosed you will find information Publication 4325, Qualified Retirement Plans Bookmark, which provides a simplified explanation of the audit process and your rights as a taxpayer. Additionally, Publication 1, Your Rights as a Taxpayer provides more comprehensive information.

If you would like someone else to represent the plan during this examination other than employees or officers of the company, you must submit a written power of attorney. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. If you do not provide a Form 2848, your representative will not be permitted to receive or discuss confidential information.

If you have any questions, please contact me at the telephone number shown above.

**Internal Revenue Service**  
**TE/GE Employee Plans**

**Department of the Treasury**

Thank you for your cooperation.

Sincerely,

EP Revenue Agent

Enclosures:

Copy of Form 5330

Publication 1

Publication 4325

List of Items Requested

## **Information and Document Request – Form 5330 (401(k) Plan)**

Each of the listed items has a purpose in the examination process, so all are important. If any requested information or document presents a problem for you, or is available in electronic or other form, please contact me to let me know and discuss possible alternatives.

Each request relates to the year(s) under examination unless otherwise specified.

Please feel free to contact me about any questions that arise when you are getting the information and documents together.

**A. To determine plan provisions, please provide:**

1. The plan document, the trust document, and all amendments that relate to the year(s) under examination.
2. The most recent IRS determination letter that applies to the year(s) under examination and any special demonstrations submitted with your determination letter application.
3. If you are using a prototype or volume submitter plan, a copy of the IRS opinion letter or advisory letter issued to the sponsor of the prototype or volume submitter plan, the plan document and adoption agreement.

**B. If the plan was intended to be a SIMPLE 401(k) plan, to verify that the requirements of Internal Revenue Code (IRC) section 401(k)(11) were satisfied, please provide the following:**

1. Records for the year preceding the year under examination that identify employees and employees' compensation.
2. A copy of the required notice given to employees.

**C. If the plan was intended to be a safe harbor plan, to verify that the requirements of IRC section 401(k) (12) were satisfied, please provide:**

1. A copy of the required notice given to eligible employees.

**D. To demonstrate that the plan is in compliance with the nondiscrimination requirements , please provide:**

1. The employer's records that were used to determine employees' eligibility to take part in the plan for the year(s) under examination; such as payroll records, time cards, personnel records, and employment contracts. Also include a copy of the Forms W-2, *Wage and Tax Statement*; and related Forms W-3, *Transmittal of Income and Tax Statements*.

**These records must show the dates of hire, date of birth, dates of participation and hours worked during the eligibility computation period.**

2. A list of all plan participants for the plan year(s) ending \_\_\_\_\_, as well as a list of all employees employed during the year who are not participating in the plan and the reason why they are not in the plan.
3. Identification/documentation of any controlled group members or other related entities.
4. Provide a list of the Highly Compensated Employees as defined in IRC section 414(q).
5. A complete copy of the Average Deferral Percentage (ADP) test. (IRC section 401(k)(3)).
6. A complete copy of the Actual Contribution Percentage (ACP) test. (IRC section 401(m)(2)) if applicable.
7. For items 3 and 4 above, the ADP and ACP tests should include all **eligible** employees, whether the plan is using a **current** year or **prior** year testing method, whether the testing method was changed, how the figures on the tests correspond to the compensation and deferrals listed on the Forms W-2 and how the compensation is nondiscriminatory per IRC section 414(s).
8. For items 5 and 6 above, if corrective measures were taken in order to satisfy the ADP or ACP tests please provide calculations that demonstrate how correction was made. Also, provide copies on any Forms 1099-R issued.
9. Copies of any calculations used to determine the amount of IRC 4979 Excise Tax reflected on the 200612 Form 5330.