

APPENDIX C PART II, SCHEDULE 5
Plan Loan Failures
(Qualified Plans and 403(b) Plans)

Plan Name: _____ **EIN:** _____ **Plan #:** _____
(Please include the plan name, Applicant's EIN, and plan number information on each page of the submission.)

SECTION I. IDENTIFICATION OF FAILURE

The plan identified above did not comply with the requirements of § 72(p)(2) of the Internal Revenue Code. (Note: The conditions of § 72(p)(2) must be satisfied for a participant loan to be exempt from being treated as a distribution to the participant under § 72(p)(1).) The failure occurred for the following reason(s) (check applicable boxes and provide the information requested):

☐ **A. The loan(s) exceeded the limit under § 72(p)(2)(A)**

Plan Year	Number of participants affected	Total number of loans issued that violated § 72(p)(2)(A)

☐ **B. Loan terms did not satisfy the limits on the duration of the loan under § 72(p)(2)(B)**

Plan Year	Number of participants affected	Total number of loans issued that violated § 72(p)(2)(B)

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- ☐ **C. Loan terms did not satisfy § 72(p)(2)(C) relating to the frequency and amortization of payments**

Plan Year	Number of participants affected	Total number of loans issued that violated § 72(p)(2)(C)

- ☐ **D. Defaulted loan(s) (where the loan terms satisfied the requirements of § 72(p)(2), but default(s) occurred because loan payments were not made in accordance with the terms of the loan)**

Plan Year of loan defaults	Number of participants affected	Total number of loans in default

SECTION II. ELIGIBILITY FOR USE OF APPENDIX C, SCHEDULE 5

- Yes No**
- A. ☐ ☐ Is any affected participant either a key employee (as defined in § 416(i)(1)) or an owner-employee (as defined in § 401(c)(3))?
- If "Yes," proceed to Section II B.
- If "No," skip Section II B and proceed to Section II C.

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Yes No
B. ☐ ☐

Is the purpose of this request limited to permitting the Plan Sponsor to report the loan as a deemed distribution in the year of correction instead of the year of the failure?

If "Yes," complete Section III and then proceed directly to Section IV D.
(Sections IV A, B, and C do not apply.)

If "No," STOP - do NOT use this schedule. Any request for relief should be made by filing a detailed written attachment describing the relief requested and the reasons why such relief should be granted.

Yes No
C. ☐ ☐

Will correction be completed before the maximum period for repayment of the loan (pursuant to § 72(p)(2)(B)) has expired? (Note: The maximum period is determined from the original date of the loan. Generally, this period is five years from the original date of the loan, except for home loans as described in § 72(p)(2)(B)(ii).)

If "Yes," and the Plan Sponsor wants relief from reporting the loan as a deemed distribution, complete Section III and then answer applicable questions in Sections IV A through IV C.

If "No," complete Section III and then proceed to Section IV D.

SECTION III. EXPLANATION OF HOW AND WHY THE PLAN LOAN FAILURES OCCURRED

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SECTION IV. DESCRIPTION OF PROPOSED METHOD OF CORRECTION

If the Plan Sponsor is requesting relief from reporting loans as deemed distributions, then complete Sections IV A, B, or C, as applicable.

If the Plan Sponsor is only requesting postponement of reporting loans as deemed distributions on Form 1099-R, then proceed directly to Section IV D.

A. Correction for Loans in Excess of § 72(p)(2)(A)

Any participant affected by this failure will make a corrective repayment to the plan. After repaying the excess of the loan amount over the maximum loan amount under § 72(p)(2)(A) (the "excess loan amount"), the remaining balance of the loan will be repaid over the remaining period of the original loan (not beyond the period permitted under § 72(p)(2)(B), determined from the original date of the loan) in a manner that complies with the frequency and level payment requirements of § 72(p)(2)(C). The excess loan amount that will be repaid by the participant is determined based on how previously made payments have been applied to the loan. The previous loan payments were applied as follows (check applicable box, and complete necessary information)

- ☐ Prior loan payments were made in accordance with an amortization schedule that complied with the requirements of § 72(p)(2)(B) relating to the terms of the loan and § 72(p)(2)(C) relating to frequency, and level loan payments. For the purpose of determining the excess loan amount and the remaining outstanding amount of the loan to be repaid over the remaining period of the loan, the previously made loan payments will be applied as follows (check box that applies)
- ☐ 1. Solely to reduce the portion of the loan that did not exceed the maximum loan amount under § 72(p)(2)(A). Result: The corrective repayment would equal the excess loan amount plus interest thereon.
- ☐ 2. To reduce the excess loan amount to the extent of the interest thereon, with the remainder of the repayments applied to reduce the portion of the loan that did not exceed the maximum loan amount under § 72(p)(2)(A). Result: The corrective repayment would equal the excess loan amount.
- ☐ 3. Pro rata against the excess loan amount and the maximum loan amount under § 72(p)(2)(A). Result: The corrective repayment would equal the outstanding balance remaining on the excess loan amount on the date that corrective repayment is made.
- ☐ Prior loan payments were not made in accordance with an amortization schedule that complied with the requirements of § 72(p)(2)(B) or (C).

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Methodology for determining the excess loan amount that will be repaid and the remaining outstanding balance of the loan that will be amortized over the remaining period of the loan:

After the corrective repayment is made:
(Check one of the two options listed below)

- ☐ **Option 1:** The remaining loan balance will be repaid according to the original amortization schedule. (This option is available only if the original amortization schedule would result in the loan being repaid within the maximum period permitted under §72(p)(2)(B) determined from the original date of the loan.)
- ☐ **Option 2:** The loan will be reformed to amortize the remaining principal balance as of the date of repayment over the remaining period of the original loan, provided that the recalculated payments over the remaining period comply with the requirements of § 72(p)(2)(B) determined from the original date of the loan.

B. Correction for loans with terms that: (i) provided for a repayment period that exceeded the period permitted under § 72(p)(2)(B) and/or (ii) provided for payments that did not provide for substantially level amortization with payments not less frequently than quarterly, as provided under § 72(p)(2)(C):

(check the box that applies)

- ☐ 1. The loan balance will be reamortized with payments made on a substantially level basis (per § 72(p)(2)(C)), made at least quarterly.
- ☐ 2. The reamortized loan balance will be paid over a remaining period that does not extend beyond five years from the date of the original loan (per § 72(p)(2)(B)).

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C. Correction for defaulted loans with terms that complied with the requirements of § 72(p)(2)(A), (B), and (C):
(check the box that applies)

- ☐ 1. A lump sum repayment will be made to the plan in an amount equal to the additional repayments that the affected participant would have made to the plan if there had been no failure to repay the plan, plus interest accrued on the missed repayments.
- ☐ 2. The outstanding balance of the loan, including accrued interest, will be reamortized over a remaining period that does not extend beyond five years from the date of the original loan.
- ☐ 3. The Applicant will use a combination of the methods described in #1 and #2 above, as follows:

Determination of Interest Accrued on Missed Repayments:

(check the box that applies)

- ☐ Plan loan rate [insert rate]
- ☐ Rate of return of investments under plan [insert rate]

Note: This option may only be used if the rate of investment return under the plan equals or exceeds the plan loan rate.

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The interest rate for missed payments was determined as follows:

The additional unpaid interest (☐ will be / ☐ has been (check one)) paid by the:
(check the box that applies)

- ☐ Plan Sponsor
- ☐ Affected participants

(Note: Irrespective of the Plan Sponsor's election to have the affected participants pay the unpaid interest, in accordance with section 6.02(6) of Rev. Proc. 2013-12, the Service may, based on the facts and circumstances, determine that the Plan Sponsor should pay all or a portion of the additional unpaid interest. If the Service makes this determination, the Plan Sponsor will be requested to revise this submission.)

D. Correction for Deemed Distributions

(check if applicable)

- ☐ The Plan Sponsor is not eligible to or will not correct in accordance with Parts IV A through IV C of this Appendix C, Part II Schedule 5. The Plan Sponsor proposes that the loans be reported as deemed distributions (using Form 1099 R) for the year of correction instead of the year of the failure. The Plan Sponsor shall pay any applicable income tax withholding amount that was required to be paid in connection with the failure. (See Income Tax Regulations § 1.72(p)-1, Q&A-15.)

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SECTION V. DESCRIPTION OF STEPS TAKEN TO ENSURE THAT THE FAILURE DOES NOT RECUR

SECTION VI. REQUEST FOR RELIEF

Yes No

☐☐

The Plan Sponsor requests relief from reporting participant loans as deemed distributions.

☐☐

The Plan Sponsor requests that the plan be permitted to report the participant loans as deemed distributions in the year of correction instead of the year of the failure.

SECTION VII. ENCLOSURES

In addition to the applicable items listed on the Procedural Requirements Checklist for Form 8950, the Plan Sponsor encloses the following with this submission:

- Loan amortization schedules for affected participants. (A sample representation may be provided if there are multiple participants affected.)
- Specific calculations for each affected employee or a representative sample of affected employees. (The sample calculations must be sufficient to demonstrate each aspect of the correction method proposed (e.g., for a failure with respect to a loan that exceeds the maximum amount permitted by § 72(p)(2)(A), the calculations must include the amounts of the excess loan amounts that will be repaid to the plan, determination of the outstanding loan balance, and the proposed method of repayment of the outstanding loan balance; for the correction of a defaulted loan, the enclosure should set forth the periods of such loan defaults.)