

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

Improved M&P and Volume Submitter Plan Program Now Open for Business

The IRS has just released [Rev. Proc. 2005-16](#), announcing that it is accepting applications for opinion and advisory letters for defined contribution pre-approved plans (Master & Prototype (M&P) and Volume Submitter (VS) plans) that take into account the requirements of EGTRRA, and other changes in qualification requirements and guidance. The submission period for these plans ends on January 31, 2006. The IRS will review plan language for statutory changes and other guidance reflected on the [2004 Cumulative List](#). After the pre-approved documents have been reviewed, the IRS will announce the deadline for timely adoption by employers. The IRS intends to accept applications for determination letters for individually designed plans beginning on February 1, 2006 and applications for letters for pre-approved defined benefit plans beginning on February 1, 2007.

Keep in mind that the IRS will soon issue another revenue procedure describing the new six-year remedial amendment cycle for pre-approved plans and the staggered five-year remedial amendment cycle for individually designed plans. This means that sponsors and practitioners of pre-approved plans will only have to submit applications for opinion or advisory letters once every six years even though amendments to the plans may be required before that time.

In addition to opening the program for defined contribution pre-approved plans, the revenue procedure contains new streamlined procedures for both VS and M&P plans. Before this revenue procedure, the M&P and VS procedures for submitting applications for opinion and advisory letters were described separately. The IRS has consolidated some of the application procedures. In other words, the M&P and VS worlds are now much closer together, although they are still separate programs.

This revenue procedure was first issued in draft form in [Announcement 2004-33](#). Since that time, the IRS has consulted closely with mass submitters, sponsors and practitioners, as well as IRS staff in Cincinnati (who will now receive both M&P and VS submissions). The final revenue procedure incorporates many suggestions made by the M&P and VS communities.

The overview at the beginning of the revenue procedure (sections 3.02 and 3.03) lists the changes that have been made to the programs. Highlights of the changes include:

- 1) **Simplifying the structure of the M&P program:** For example, the M&P program now includes only two categories of plans – standardized and non-standardized. Non-standardized safe harbor plans and paired standardized plans are discontinued as separate categories.
- 2) **Simplifying procedures:** Applications for opinion and advisory letters will now be sent to the same address in Cincinnati, Ohio and soon, will be submitted on the same forms. Also, the IRS will begin issuing interim emails (that can't be relied on, however) for the convenience of sponsors, practitioners and mass submitters, before the letters are issued, stating that IRS review has been completed.

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3) **Expanding the scope of the VS and M&P programs:** More practitioners can qualify as VS practitioners because the IRS has lowered the threshold, in some cases, for the number of employers/clients that a VS practitioner must have (from 30 to 10) that are reasonably expected to adopt a money purchase pension plan. In addition, more types of plans can now qualify as VS plans, including certain plans with non safe-harbor hardship distributions under section 401(k) and defined benefit plans with employee contributions. For M&P plans, a non-standardized defined contribution plan can now include an allocation formula that uses cross-testing for nondiscrimination purposes, and an M&P sponsor or mass submitter may submit an unlimited number of trusts (with the payment of an additional user fee if there are more than 10 trusts). The amount of the user fee will be stated in the near future.

4) **Reliance and remedial amendment cycle changes for adopting employers:** VS practitioners may now amend the plan on behalf of adopting employers. Also, an adopting employer may now make certain changes to a plan without affecting its reliance, such as correcting typographical errors and cross-references, and adopting certain model, sample or good faith amendments. With the new six-year remedial amendment cycle, an employer can retain this cycle even if it has made certain modifications to the plan that would otherwise cause it to be treated as individually designed and subject to the five-year remedial amendment cycle.

The IRS expects to publish the Listing of Required Modifications (LRMs) containing sample language for use in drafting defined contribution M&P plans and sample language for M&P plans with cash or deferred arrangements in the near future. It is anticipated that these LRMs will be published on the EP web site by March 4, 2005.

The IRS is also revising forms to streamline the submission procedures. Forms [4461](#), [4461-A](#) and [4461-B](#) were used solely to request opinion letters for the various types of M&P plans. Due to the consolidation of some of the M&P and VS procedures and the need to standardize the submission process for the VS plans, the forms are being revised to accommodate advisory letter requests for VS plans as well as opinion letter requests for M&P plans. The IRS also intends to revise [Form 8717](#), relating to user fees, to apply to an opinion letter request. In the meantime, VS practitioners and M&P sponsors who submit their pre-approved plans for approval should follow the existing procedures. In other words, VS practitioners should submit their VS specimen plans for approval using a cover letter and M&P sponsors should submit their M&P plans for approval using the current versions of the Form 4461 series. Until Form 8717 is revised, an M&P request should continue to include the applicable user fee with the submission.♦

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