



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

7.11.2

JULY 28, 2023

EFFECTIVE DATE

(07-28-2023)

PURPOSE

- (1) This transmits revised IRM 7.11.2, Employee Plans Determinations Letter Program, EP Case Assignment Guide.

MATERIAL CHANGES

- (1) Updated IRM 7.11.2.5(2), GS-13 Case Grade Factors, to include Initial-amended or terminated IRC 403(b) plans, when sponsor employs 1,000 or more employees.
- (2) Updated IRM 7.11.2.5(3), GS-12 Case Grade Factors, to include Initial-amended or terminated IRC 403(b) plans, when sponsor employs fewer than 1,000 employees.
- (3) EP Examination Case Grading Criteria, formerly contained in IRM 7.11.2.6, has been removed. The criteria will be published in IRM 4.70.12.
- (4) Updated throughout for editorial and plain language changes.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 7.11.2 dated June 6, 2022, and TE/GE 07-0722-30 as applicable.

AUDIENCE

Tax Exempt and Government Entities
Employee Plans

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7.11.2

EP Case Assignment Guide

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7.11.2.1
(10-15-2018)
Program Scope and Objectives

- (1) **Purpose:** The Employee Plans (EP) Case Assignment Guide (CAG) is a classification tool for assigning Determination and Voluntary Compliance (VC) cases.
- (2) **Audience:** EP Determinations and VC staff.
- (3) **Policy Owner:** Director, EP.
- (4) **Program Owner:** EP.
- (5) **Program Goals:** EP's goals are to ensure that plans comply with the tax laws and to protect the public interest by applying the tax laws with integrity and fairness to all.

7.11.2.1.1
(10-15-2018)
Background

- (1) The CAG establishes a uniform rating system to help the Group Manager in assigning workload.
- (2) The criteria are intended to be consistent with the Office of Personnel Management (OPM) position classification standards used to classify Tax Law Specialist/Revenue Agent positions. However, because the CAG is an IRS internal guide, it shouldn't be cited as the basis for any official classification action or viewed as superseding OPM standards in any way.
- (3) The CAG must be broad in its approach to grading and assigning cases. It can't and doesn't cover all possibilities, or account for unusual or unique elements in a case.

7.11.2.1.2
(06-06-2022)
Acronyms

- (1) These acronyms are used in this IRM:

Acronym	Term
ABT	Average Benefits Test
CAG	Case Assignment Guide
DB	Defined Benefit
DC	Defined Contribution
DL	Determination Letter
DOL	Department of Labor
EBSA	Employee Benefits Security Administration
EP	Employee Plans
EPCRS	Employee Plans Compliance Resolution System
ESOP	Employee Stock Ownership Plan
FDIC	Federal Deposit Insurance Corporation
GT	General Test

Acronym	Term
KSOP	Plan that combines tradition IRC 401(k) plan with an Employee Stock Ownership Plan
OJI	On-The-Job-Instructor
OPM	Office of Personnel Management
PBGC	Pension Benefit Guaranty Corporation
RCCMS	Reporting Compliance Case Management System
RICS	TE/GE Returns Inventory and Classification System
SEP	Simplified Employee Pensions
SIMPLE IRA	Savings Incentive Match Plan for Employees Individual Retirement Account
TRASOP	Tax Reduction Act Stock Ownership Plan
TEDS	Tax Exempt Determination System
TE/GE	Tax Exempt and Government Entities
VC	Voluntary Compliance

7.11.2.2
(07-25-2008)
Case Grading

- (1) The procedures for grading Determination and VC cases are described below.

7.11.2.2.1
(10-15-2018)
Determination Cases

- (1) When a Determination Letter (DL) application is input onto the Tax Exempt Determination System (TEDS), the applicable program assigns a potential case grade by applying the criteria in IRM 7.11.2.5, EP Determination Case Grading Criteria.
- (2) EP Determinations specialists and Group Managers may change the case grade, if necessary, by applying the case grade adjustment factors in IRM 7.11.2.5.1, Case Grade Adjustments.

7.11.2.3
(10-15-2018)
Voluntary Compliance Cases

- (1) The VC screening groups assign case grades to VC applications by applying the criteria in IRM 7.11.2.6, EP Voluntary Compliance Case Grading Criteria.
- (2) During the processing of the VC case, the grade can be adjusted, using the factors in IRM 7.11.2.6.1, Case Grade Adjustments, if the case requires additional technical analysis.

7.11.2.4
(03-07-2014)
**Case Assignment
Requirements**

- (3) The grade of the VC case is not affected by the case grade of any DL application that may have been submitted with respect to the plan.

- (1) Determination and VC cases should generally be assigned to a specialist/agent whose grade is commensurate with the grade of the case.
- (2) Related plan cases should be assigned to a specialist/agent whose grade level is commensurate with the highest grade of the cases involved. However, this rule is not applicable to situations involving VC cases that have a related DL application.

Example: A GS-11 case and a related GS-12 case should be assigned to a GS-12 specialist/agent. However, if a GS-11 VC case is associated with a GS-13 DL application, both cases do not have to be assigned to a GS-13 specialist/agent.

- (3) Specialists/agents may be assigned cases above their grade level for developmental purposes.
 - a. Group Managers are responsible for keeping developmental assignments within the limits stated by the current National Agreement.
 - b. Assignment of developmental cases is governed by local circumstances.
- (4) Group Managers may assign a lower-graded case to a higher-graded specialist/agent if the potential impact of the case is significant or to meet operational needs. Such assignments do not raise the case grade.
- (5) To the extent that staffing considerations permit, appropriate measures should be taken to avoid consecutive assignment of cases that violates any of the following restrictions:
 - a. With respect to determination case assignments, the same specialist should not review the same employer's plan more than two times in succession to the extent possible. This should not be construed as meaning that a specialist could not review several plans of an employer at the same time. Using these measures will minimize the possibility of overlooking errors in plan design.
 - b. With respect to VC cases, the same VC specialist/agent should not review the same employer's plan more than two times in succession to the extent possible. This should not be construed as meaning that a specialist/agent could not review several plans of an employer at the same time. Using these measures will minimize the possibility of overlooking errors in VC case processing, the review of qualification failures, and proposed correction methodology.
- (6) Group Managers will monitor case assignments to ensure proper case rotation.

7.11.2.4.1
(07-25-2008)
Special Rule

- (1) The assignment of cases should comply with Policy Statement 4-5. See IRM 1.2.1.5.3.

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7.11.2.5
(07-28-2023)

EP Determination Case Grading Criteria

- (1) All factors need not be present to determine the case grade. Only one factor must be present to raise the grade of the application.
- (2) **GS-13: Factors include plans described below for Grade 13 plans.**
 - a. Multiemployer plans.
 - b. ESOP arrangements.
 - c. Second-level DB or DC specimen lead plans.
 - d. Cash balance conversions.
 - e. Ruling requests involving IRC 401(h)/420.
 - f. Plan participants >10,000.
 - g. Initial-amended or terminated IRC 403(b) plans, and sponsor employs 1,000 or more employees.
- (3) **GS-12: Factors include plans described below for Grade 12 plans without Grade 13 factors.**
 - a. DB safe harbor plans with permitted disparity (integrated).
 - b. DB non-design based safe harbor plans.
 - c. Multiple employer plans.
 - d. First-level DB or DC specimen.
 - e. DB plan terminations.
 - f. Partial termination requests.
 - g. Target benefit plans.
 - h. DB collectively bargained.
 - i. Pooled fund arrangements.
 - j. Governmental and church plans.
 - k. Initial cash balance plans (without conversion issues).
 - l. Initial-amended or terminated IRC 403(b) plans, and sponsor employs fewer than 1,000 employees.
- (4) **GS-11: Factors include plans described below for Grade 11 plans without Grade 13 and Grade 12 factors.**
 - a. DC plans with permitted disparity (integrated).
 - b. DC collectively bargained.
 - c. DC plan terminations.
 - d. DB safe-harbor plan without permitted disparity (non-integrated).
 - e. DC non-design based safe harbor plan.
 - f. IRC 401(k) arrangements- traditional or safe harbor.
 - g. IRC 401(m) arrangements- traditional or safe harbor.
 - h. Savings Incentive Match Plan for Employees Individual Retirement Account (SIMPLE IRA) plans.
 - i. All other plans not meeting the criteria for GS-12 or GS-13 specifications.

7.11.2.5.1
(07-25-2012)

Case Grade Adjustments

- (1) Some factors that may **increase** the case grade are the discovery of complicating factors, such as:
 - a. Spin-off terminations and termination/reestablishment.
 - b. Governmental plan at state level, or administered by statute, ordinance or other law absent a unitary plan document.
 - c. Cash balance plan.
 - d. Cross testing.
 - e. Change in type of plan, (for example, from DC to DB, or from DB to DC).
 - f. DC ABT/GT with a DB plan in the testing group.
 - g. Leave conversion arrangements.

h. International plans.

(2) Factors that may **decrease** the case grade include:

- a. Involvement of a field actuary, on-the-job-instructor (OJI), senior agent, or Group Manager.
- b. Agent's review does not include complicating issues justifying higher grade.
- c. Applications for adoptions of pre-approved documents where no coverage or nondiscrimination ruling is requested.

7.11.2.6
(03-07-2014)
**EP Voluntary
Compliance Case
Grading Criteria**

(1) All factors need not be present to determine the case grade. Only one factor must be present to raise the grade of the application.

(2) **GS-13: Factors include plans described below for Grade 13, for non-403(b) plans.**

- a. Group VCP Submissions - Defined Contribution (DC) plans.
- b. Group VCP Submissions - Defined Benefit (DB) plans.
- c. IRC 401(a) Governmental plans under IRC 414(d).
- d. Operational failures involving ESOP/TRASOP/KSOP plans.
- e. Operational failures involving Cash Balance plan conversions /Pension Equity Plans.
- f. Operational failures involving DB Hybrid plans.
- g. Operational failures involving Multiemployer plans.
- h. Any failures involving IRC 401(h) - Retiree Health Benefits.
- i. Any failures involving IRC 457(b) plans.
- j. Demographic failures whereby the plan failed to comply with IRC 401(a)(4), IRC 401(a)(26), and IRC 410(b) under the following circumstances:
 - i. The plan sponsor is part of any controlled group or affiliated service group (or has adverse employee leasing treatment).
 - ii. The demographic failures were affected by corporate mergers/acquisitions.
 - iii. Where it is necessary to review a GT that is using cross testing (or an ABT) when benefits are being tested on a DB basis.
- k. Miscellaneous plan document failures described in paragraphs c through i above, other than VCP submissions in which the sole failure addressed is a nonamender failure.
- l. VC cases involving employee leasing or independent contractors.
- m. VC cases with a high potential for adverse public relations and/or plans sponsored by high profile entities.

- n. VC cases requiring coordination with the IRS's Privacy, Governmental Liaison and Disclosure (PGLD) - cases involving coordination with other governmental agencies (for example, Employee Benefits Security Administration (EBSA), Federal Deposit Insurance Corporation (FDIC), DOL, or PBGC), inquiries/complaints from employees or plan participants, etc.

(3) GS-13: Factors include plans described below for Grade 13, for tax-sheltered annuity plans/arrangements under IRC 403(b).

- a. Operational/Demographic failure only or Operational/Demographic failure and Employer Eligibility failure where the IRC 403(b) plan is sponsored by:
 - i. Universities.
 - ii. Hospitals.
 - iii. Schools (public or private) that has 1,000 or more employees.
 - iv. University foundations.
 - v. Any other IRC 501(c)(3) organizations that sponsor a IRC 403(b) plan/arrangement that has 1,000 or more employees.

(4) GS-12: Factors include plans described below for Grade 12 plans for non-403(b) plans without Grade 13 factors.

- a. Operational failures involving Multiple Employer plans.
- b. Operational failures involving Target Benefit plans.
- c. Operational failures involving Cash Balance plans without conversion.
- d. Operational failures and miscellaneous plan document failures, other than nonamender failures involving all IRC 401(a) DC and DB plans that are not listed under the GS-13 factors or are in addition to those described in GS-11 factors. This includes profit sharing, IRC 401(k), money purchase, DB & stock bonus plans.
- e. Demographic failures involving all IRC 401(a) DC plans where correction and testing doesn't involve DB plans or cross testing where DC benefits are converted into DB benefits for ABT.
- f. Orphan plans as defined in the Employee Plans Compliance Resolution System (EPCRS) revenue procedure.
- g. Ineligible employer failures involving IRC 401(k) plans.
- h. Required minimum distributions not timely made in accordance with IRC 401(a)(9) in a DB plan.

(5) GS-12: Factors include plans described below for tax-sheltered annuity plans/arrangements under IRC 403(b) without Grade 13 factors.

- a. Operational/Demographic failures where the IRC 403(b) plan is sponsored by:

- i. Schools (public or private) with fewer than 1,000 employees.
- ii. Non-profit organizations with fewer than 1,000 employees.
- iii. Any other IRC 501(c)(3) organizations that sponsor a IRC 403(b) plan/arrangement with fewer than 1,000 employees.
- b. VC cases in which the sole failure addressed in the VC case is an Employer Eligibility failure or where the sole failure addressed in the VC case include an Employer Eligibility Failure and the failure to adopt a written IRC 403(b) plan timely.

(6) **GS-11: Factors include plans described below for Grade 11 plans.**

- a. Any qualified plan under IRC 401(a), even if it would otherwise contain GS-12 or GS-13 factors, where qualification failure(s) of the VC case are limited to nonamender failures.
- b. Any IRC 403(b) plan, even if it would otherwise contain GS-12 or GS-13 factors, where the sole failure addressed in the VC case is the failure to adopt a written IRC 403(b) plan on a timely basis.
- c. Failures in SEPs under IRC 408(k).
- d. Failures in SIMPLE IRA plans under IRC 408(p).
- e. Loan failures where participant loans did not comply with IRC 72(p) in form or in operation.
- f. Required minimum distribution not timely made in accordance with IRC 401(a)(9) in a DC plan.

(7) **GS-09 Factors include plans described below for Grade 09 (all plans).**

- a. Any VC case where the review is limited to an inspection of the submitted materials to determine whether the case is complete and has satisfied the administrative requirements under the EPCRS revenue procedure.
- b. Any VC case assigned to VC personnel where the sole purpose is to collect missing or incomplete items from the VCP applicant in order to perfect submissions that are otherwise not in compliance with the administrative requirements under the EPCRS revenue procedure. Examples include, but are not limited to, missing Model VCP Submission Compliance statement schedules, incorrect signatures, missing or unsigned penalty of perjury statements, missing enclosures, missing or incorrect compliance fees.
- c. Any VC case assigned where the VC Group Manager, or VC Program Coordinator, or higher graded specialist/agent has indicated the submission can be closed, and the actions left to be taken are limited to the administrative actions needed to close the VC case.

7.11.2.6.1
(03-07-2014)

Case Grade Adjustments

- (1) Factors that may **increase** the case grade include failure(s) and/or correction methods relating to:
 - a. The size of the plan.
 - b. Actuarial issues in DB plans, including failures to comply with the restrictions imposed by IRC 436 in operation.
 - c. Nondiscrimination issues (for example, GT, aggregation, restructuring, and cross testing).

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- d. Complex IRC 415 issues.
- e. Exclusive benefit requirements.
- f. The number of errors identified or multiple years of the same error.
- g. Correction proposal that isn't a correction method described in Appendix A or B of the EPCRS revenue procedure.
- h. Proposed correction method that involves a retroactive plan amendment to change the plan terms to conform to plan operation.
- i. Whether the cases will be or has the potential to close through use of a Closing Agreement outside of EPCRS (via Delegation Order 8-3).
- j. The relative sensitivity of the case, which can be affected by public scrutiny, DOL Investigations, potential fraud, and situations deemed abusive by the IRS.

(2) Factors that may **decrease** the case grade include:

- a. Significant involvement of a field actuary, OJI, VC Group Manager, VC Program Coordinator, or senior agent/specialist.
- b. Specialist review that does not include complicating issues justifying higher grade.
- c. Failure(s) corrected in accordance with the correction methods listed in Appendix A or B of the EPCRS revenue procedure.

7.11.2.7
(07-25-2008)

Group Manager Duties

- (1) The Group Manager may adjust the grade level upward or downward. Such changes should be based on factors not otherwise accounted for or accurately evaluated in the EP Case Assignment Guide.

Note: Reasons for changing the case grade upward or downward include, for example: an expectation that special or complex problems will be encountered; a combination of issues which impact on the complexity of the case; or, the scope of the review is limited.

- (2) For a case which can't be graded using IRM 7.11.2.5, EP Determination Case Grading Criteria, or IRM 7.11.2.6, EP Voluntary Compliance Case Grading Criteria, Group Managers should determine which grade level most appropriately matches the case difficulty.
- (3) The Group Manager is responsible for ensuring the final case grade is appropriate based upon all of the facts and circumstances.

Example: Before closing a case, the Group Manager may adjust the case grade upward, if complicating factors were found during review, or downward, if anticipated complexities did not develop.

- (4) Refer to IRM 7.11.2.4, Case Assignment Requirements, for more on the Group Manager's responsibility with respect to case assignment.

7.11.2.7.1
(07-25-2008)

Agent Responsibilities

- (1) The EP specialist/agent should notify the Group Manager immediately upon the discovery of a feature/issue which may result in an increase or decrease of the grade level. Until the manager approves the change, the case grade will not be considered changed.