

Instructions

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

Purpose of Form

Use this form instead of Form 1128 to request approval to change the plan/trust year of certain employee retirement plans.

Change in funding methods. Do not file Form 5308 to change your plan's funding method. See Rev. Proc. 2000-40, 2000-42 I.R.B. 357 (automatic approval for certain changes in funding method) and Rev. Proc. 2000-41, 2000-42 I.R.B. 371.

Who Must File

Except as described below, any employee retirement plan to which the minimum funding standards of section 412 apply (e.g. a defined benefit plan, money purchase pension plan, or target benefit plan) must file Form 5308 to request approval to change its plan year.

Any employees' trust forming a part of a qualified plan (whether or not the trust is part of a plan subject to section 412), must file Form 5308 to request approval to change its trust year.

Exceptions. The following plans do not have to file Form 5308 to request approval to change their plan year:

- Profit-sharing plans.
- Stock bonus plans.
- Insurance contract plans described in section 412(i).
- Governmental plans described in section 414(d).
- Church plans described in section 414(e) that have not made the election under section 410(d).
- Plans that have not, at any time after 9/2/74, provided for employer contributions.
- Certain plans established and maintained by fraternal benefit societies, orders, or associations (see section 412(h)(6)).
- Certain plans established and maintained by voluntary employee's beneficiary associations (see section 412(h)(6)).

Automatic approval. Instead of filing Form 5308, a plan or trust is granted automatic approval to change its plan/trust year if all the following requirements are met:

- All actions necessary to implement the change of plan year, including plan amendment and a resolution of the Board of Directors (if applicable), have been taken on or before the short period.
- No plan year is longer than 12 months.
- The change will not delay the time when the plan would otherwise have been required to conform to the requirements of any statute, regulation, or published position of the IRS.
- The trust, if any, retains its exempt status for the short period required to effect the change as well as for the taxable year immediately preceding the short period.
- The trust, if any, has no unrelated business taxable income under section 511 for the short period.
- No change of plan year has been made for any of the 4 preceding plan years.
- Defined benefit plan deductions are taken as described in section 5 of Rev. Proc. 87-27, 1987-1 C.B. 769.

See Rev. Proc. 87-27 for more information about changing a plan/trust year.

Address

Include the suite, room or other unit number after the street address. If the post office does not deliver mail to the street address and the plan has a P.O. box, show the box number instead of the street address.

When and Where To File

File this form **in duplicate** with the Internal Revenue Service, Commissioner, TE/GE, Attention: T:EP:RA, P.O. Box 27063, McPherson Station, Washington, DC 20038, on or before the last day of the end of the short period required to make the change.

On each attachment to Form 5308, write "Form 5308" and show the plan or trust's name, identifying number, address, and date of filing.

User Fee

All applications must be accompanied by the appropriate user fee. Applications submitted without the proper user fee will not be processed and will be returned to the applicant.

To determine the proper user fee, see Rev. Proc. 2001-8, 2001-1 I.R.B. 239 or the current superseding revenue procedure.

Information Requested

You must furnish all of the applicable information requested. Otherwise, your request may not be approved.

Signature

An application for a single employer plan must be signed by the employer. An application for a plan of more than one employer must be signed by the plan administrator.

If someone else is filing Form 5308 on behalf of a taxpayer, a power of attorney must be included specifically authorizing that person to represent the taxpayer. **Form 2848**, Power of Attorney and Declaration of Representative, may be used for this purpose.

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 if you may change your plan or trust year.

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

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 41 minutes.

If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **When and Where To File** above.

