

Application for Determination of Employee Stock Ownership Plan

(Under section 409A or 4975(e)(7) of the Internal Revenue Code)
 File in conjunction with Form 5301, 5303 or 5307 whichever is applicable

For IRS Use Only

File folder
 number ▶

1 Name, address and ZIP code of employer	2 Employer's identification number			
<hr style="border-top: 1px dashed black;"/> <hr style="border-top: 1px dashed black;"/>	3 Date plan was adopted			
<div style="border: 1px solid black; display: inline-block; padding: 2px;">Telephone number ▶ ()</div>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;">Mo.</td> <td style="width: 33%; text-align: center;">Day</td> <td style="width: 33%; text-align: center;">Yr.</td> </tr> </table>	Mo.	Day	Yr.
Mo.	Day	Yr.		

- 4** This application is for (complete one):
- (a) An employee stock ownership plan under section 409A
 - (b) A leveraged employee stock ownership plan under section 4975(e)(7)

- 5** Type of plan:
- (a) Profit-sharing
 - (b) Stock bonus
 - (c) Money purchase
 - (d) Money purchase and stock bonus

Indicate the section and page number where the following plan provisions will be found.

	Section and Page Number
6 Complete this question for all plans:	
(a) Plan is designed to invest primarily in employer securities	
(b) Each participant must be entitled to direct the plan to vote the allocated securities as required in section 409A(e)	
(c) A participant entitled to a distribution from the plan has a right to demand the distribution in employer securities and if the securities are not readily marketable the employer will repurchase the securities under a fair valuation formula	
7 Only plans applying under section 409A complete this question:	
(a) All employer securities transferred to or purchased by the plan because of the requirements of section 48(n)(1)(A) shall be allocated for the plan year to the accounts of all participants who are entitled to share in such allocations	
(b) (i) The allocation to each participant of the employer securities transferred or purchased because of section 48(n)(1)(A) is in substantially the same proportion that such employee's compensation bears to the total compensation of all participants. For the purpose of this allocation, compensation of any participant in excess of the first \$100,000 per year shall be disregarded	
(ii) The allocation of the employer securities transferred or purchased because of section 48(n)(1)(B) is in an amount equal to the matching employee contributions for the year	
(c) No allocated securities as described in section 409A(d) may be distributed to any participant before the end of the 84th month after the month of allocation of such securities except in the case of separation from service, death or disability	
(d) The right of all participants to the securities allocated to them must be nonforfeitable	
(e) If any part of the ESOP credit is recaptured or redetermined, amounts transferred to the plan (because the requirements of section 48(n)(1)) shall remain in the plan (and if allocated, shall remain allocated)	
8 Only plans applying under section 4975(e)(7) complete this question:	
(a) Plan is designated as a leveraged employee stock ownership plan within the meaning of section 4975(e)(7)	
(b) The establishment and maintenance of a suspense account as required under section 54.4975-11(c) of the Regulations	
(c) The protection of participants' rights with respect to plan assets acquired by use of the exempt loan as specified in section 54.4975-11(a)(3)(i) and (ii) of the Regulations	

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct and complete.

Signature ▶	Title ▶	Date ▶
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Instructions

General Information

Use this form to apply for an advanced determination letter for either an Employee Stock Ownership Plan (ESOP) that meets the requirements of section 409A, or an Leveraged Employee Stock Ownership Plan (LESOP) that meets the requirements of section 4975 (e)(7). Use the form in conjunction with Form 5301, 5303, or 5307, whichever is applicable.

The plan you establish must be designed to invest primarily in employer securities. For a definition of employer securities as it pertains to your plan, see section 409A(l) (for ESOP) or section 4975(e)(8) (for LESOP). Also see section 1.46-8(d) of the Income Tax Regulations for the formal plan requirements.

General Instructions

A. Who May File

1. Any corporate employer, who has elected the basic ESOP percentage credit under section 48(n)(1)(A) and established a plan intended to meet the requirements under section 409A.

2. Any corporate employer who has established a LESOP intended to meet the requirements under section 4975(e)(7).

B. What to File

1. For initial determination or amendment regarding a plan intended to meet the requirements under section 409A or 4975(e)(7) file Forms 5309 and 5301, 5303 or 5307 plus a copy of all documents and statements required by such forms.

2. To amend a plan previously qualified under section 401(a) so that it also meets the requirements of section 409A or 4975(e)(7) submit completed Forms 5309 and 5301, 5303 or 5307 plus all the documents and statements required by such forms.

C. Where to File

1. An employer other than employers described in 2 below must file with the District Director for the district in which the principal place of business of the employer is located.

2. For plans of more than one employer, file with the District Director for the district in which the principal place of business of the plan administrator is located.

D. Signature

The application must be signed by the principal officer authorized to sign.