

# Application for Approval of Prototype Simplified Employee Pension-SEP

(Under Section 408(k) of the Internal Revenue Code)

**1** Enter amount of user fee submitted (see **Specific Instructions**) ▶ \$

**Part I Identifying Information** (see instructions before completing this part)

<b>2</b> Approval requested (check one box): <input type="checkbox"/> Initial Application Amendment - enter date and file folder number of last opinion letter issued ▶	Date of last opinion letter issued:	File folder number
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**3** If the plan contains elective deferral provisions, check this box ▶

<b>4a</b> Name of applicant	<b>4b</b> Applicant's employer identification number
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Number, street, and room or suite no. (If a P.O. box, see instructions on page 2.)

City or town, state, and ZIP code

<b>5a</b> Name of person to contact	<b>5b</b> Telephone number ( )
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**6** Type of submission (check one box): a  Not a mass submitter b  Mass submitter  
c  Identical adoption of a mass submitter d  Minor modification of a mass submitter

**7a** If 6c or 6d is checked, enter the mass submitter's name \_\_\_\_\_

**b** File folder number of the mass submitter's SEP on which this submission is based: \_\_\_\_\_

**8** Type of sponsoring organization:

a <input type="checkbox"/> Insurance company	e <input type="checkbox"/> Regulated investment company
b <input type="checkbox"/> Trade or professional organization	f <input type="checkbox"/> Federally insured credit union
c <input type="checkbox"/> Savings and loan association that qualifies as a bank	g <input type="checkbox"/> Approved non-bank trustee
d <input type="checkbox"/> Bank	

**Part II Plan Information** (see **Specific Instructions**)

Attach a copy of the SEP documents and indicate the article or section and the page number where the following provisions appear. If any item does not apply, write "N/A."

	Article or section	Page number	For IRS Use Only
<b>9a Participation requirements:</b>			
(1) The SEP covers each employee (see instructions) who has reached age 21, performed service for the employer during 3 of the immediately preceding 5 years, and received at least \$400 in compensation (adjusted for cost-of-living) for the year (see <b>Specific Instructions</b> ) . . . . .			1
(2) The SEP excludes nonresident alien employees and/or employees covered by a collective-bargaining agreement whose retirement benefits were the subject of good-faith bargaining with the employer . . . . .			1
<b>b Definite written allocation formula:</b>			
(1) Requirement that each eligible employee must share in an allocation . . . . .			2
(2) Statement on how the amount allocated is figured . . . . .			3
(3) Provision that the allocation formula allows permitted disparity . . . . .			3
<b>10 Miscellaneous provisions:</b>			
a The SEP provides for restrictions on which employers can use this SEP . . . . .			4
b There is a provision that requires that the SEP be used with a prototype IRA that has a favorable opinion letter from the IRS or an IRS model IRA . . . . .			5
c The SEP does not impose prohibitions on withdrawals (other than those permitted to insure compliance with deferral limitations in the case of a SEP that contains elective deferral provisions) . . . . .			6
d There is a provision that only \$160,000 (adjusted for cost-of-living) of each employee's compensation be used in the allocation formula (see instructions) . . . . .			7
e The SEP defines "compensation" in a manner that satisfies one of the safe harbor definitions under section 414(s) . . . . .			7

**Please Sign Here**

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 of officer	Date	Title
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## General Instructions

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

**Purpose of form.**—Form 5306-SEP is used by program sponsors who want to get IRS approval of their prototype simplified employee pension agreements.

**Who may file.**—Use Form 5306-SEP to request a favorable opinion letter if:

- You are a bank, federally insured credit union, savings and loan association that qualifies as a bank, insurance company, regulated investment company, or trade or professional society or association (other than an employee association); and
- You want to get a favorable opinion letter that a SEP agreement to be used by more than one employer is acceptable in form.

**Who does not need to file.**—Instead of designing their own SEP, sponsors of programs may use IRS **Form 5305-SEP**, Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement, to establish a SEP. Sponsors who use Form 5305-SEP or Form 5305A-SEP with individual retirement accounts or annuities for which the IRS has issued a favorable opinion or ruling letter, or with model individual retirement accounts issued by the IRS, are considered to have established a SEP that meets the requirements of section 408(k). This applies even if you have reproduced the provisions of Form 5305-SEP on your own letterhead or in pamphlets that omit all references to the IRS or its forms. Do not file Form 5306-SEP if you use Form 5305-SEP.

**Note:** *The IRS will not issue an opinion letter on a document submitted with Form 5306-SEP that is a combination of a prototype SEP and a prototype individual retirement account or annuity.*

**What to file.**—File this application and one copy of all documents that make up the SEP agreement. If this is an amendment, include a copy of the amendment and an explanation of its effect on the SEP agreement.

**Where to file.**—File this application with the Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service, Attention: CP:E:EP, P.O. Box 14073, Ben Franklin Station, Washington, DC 20044.

**Address.**—Include the suite, room, or other unit number after the street number. If the Post Office does not deliver mail to the street address and you have a P.O. box, show the box number instead of the street address.

**Signature.**—An officer who is authorized to sign or another person authorized under a power of attorney must sign this application. (Send the power of attorney with this application when you file it.)

## Specific Instructions

**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. 98-8, 1998-1 I.R.B. 225, or the current superseding revenue procedure.

**Line 2.**—If you are amending your previously approved SEP, enter the date and the file folder number from the latest opinion letter you received for your SEP.

**Line 3.**—If this SEP provides for elective deferrals intended to meet the requirements of section 408(k)(6), check the box.

**Note:** *The Small Business Job Protection Act of 1996 (P.L. 104-188) repealed Code section 408(k)(6), effective December 31, 1996, except with respect to a SEP of an employer if the terms of the SEPs of such employer, as in effect on December 31, 1996, provided for elective deferrals.*

**Line 9a.**—The term “employees” includes all employees of a controlled group of corporations (section 414(b)); a group of businesses under common control (section 414(c)); an affiliated service group (section 414(m)); certain leased employees required to be treated as the employer’s own employees under section 414(n); and all employees required to be aggregated under section 414(o).

**Line 9a(1).**—This amount is adjusted annually for increases in the cost of living. In 1998, the compensation received must be at least \$400.

**Line 10d.**—The 1998 compensation amount under section 408(k)(3)(C) is \$160,000.

**Note:** *The cost-of-living adjustment, if any, applicable to the dollar limitations on lines 9a(1) and 10d are released before the beginning of each year in a news announcement, in the Internal Revenue Bulletin, and on the IRS’s Internet Web Site at [www.irs.ustreas.gov](http://www.irs.ustreas.gov).*

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to determine if your prototype simplified employee pension (SEP) meets the requirements of section 408(k). If you want this approval, you are required to give us the information.

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 Code section 6103.

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

<b>Recordkeeping</b> . . . . .	8 hr., 8 min.
<b>Learning about the law or the form</b> . . . . .	1 hr., 10 min.
<b>Preparing the form</b> . . . . .	2 hr., 17 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	16 min.

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

