

**APPENDIX D  
VCP SUBMISSION**

**Plan Name:** \_\_\_\_\_ **EIN:** \_\_\_\_\_ **Plan #:** \_\_\_\_\_  
 (Please include the plan name, EIN, and plan number information on each page of the submission.)

**PART 1 – PLAN INFORMATION**

1. APPLICANT'S NAME \_\_\_\_\_

2. APPLICANT'S ADDRESS  
 \_\_\_\_\_  
 \_\_\_\_\_

3. APPLICANT'S TELEPHONE NO. \_\_\_\_\_ 4. FAX NO. \_\_\_\_\_  
 (optional) (optional)

5. APPLICANT'S EIN \_\_\_\_\_ 6. PLAN NO. \_\_\_\_\_  
 (do not use Social Security Number)

7. PLAN NAME \_\_\_\_\_

8. TYPE OF SUBMISSION

|                          |   |
|--------------------------|---|
| <input type="checkbox"/> | REGULAR SUBMISSION                          |
| <input type="checkbox"/> | REGULAR SUBMISSION - ANONYMOUS              |
| <input type="checkbox"/> | REGULAR SUBMISSION – MULTI-EMPLOYER PLAN    |
| <input type="checkbox"/> | REGULAR SUBMISSION – MULTIPLE EMPLOYER PLAN |
| <input type="checkbox"/> | GROUP SUBMISSION                            |

9. TYPE OF PLAN (CHECK ONE ONLY):

|                          |    |                 |                          |    |                                  |
|--------------------------|----|-----------------|--------------------------|----|----------------------------------|
| <input type="checkbox"/> | 01 | PROFIT SHARING  | <input type="checkbox"/> | 10 | GOV'T. DEFINED BENEFIT - 414(d)  |
| <input type="checkbox"/> | 02 | 401(k)          | <input type="checkbox"/> | 20 | GOV'T. DEFINED CONTRIB. - 414(d) |
| <input type="checkbox"/> | 03 | MONEY PURCHASE  | <input type="checkbox"/> | 11 | SEP                              |
| <input type="checkbox"/> | 04 | DEFINED BENEFIT | <input type="checkbox"/> | 12 | SARSEP                           |
| <input type="checkbox"/> | 05 | ESOP            | <input type="checkbox"/> | 13 | SIMPLE                           |
| <input type="checkbox"/> | 06 | TARGET BENEFIT  | <input type="checkbox"/> | 14 | STOCK BONUS                      |
| <input type="checkbox"/> | 07 | 403(b)          | <input type="checkbox"/> | 15 | KSOP                             |
| <input type="checkbox"/> | 09 | CASH BALANCE    | <input type="checkbox"/> |    | OTHER (specify):                 |

10. DATE (month and day) ON WHICH PLAN YEAR ENDS \_\_\_\_\_

11. NUMBER OF PARTICIPANTS IN THE PLAN AS PROVIDED ON THE MOST RECENTLY FILED FORM 5500 SERIES (See Rev. Proc. 2008-50, section 12.07.) (or, if not filed, or not required to file, the most recent data available to the Plan Sponsor): \_\_\_\_\_

12. ASSETS IN THE PLAN AS PROVIDED ON THE MOST RECENTLY FILED FORM 5500 SERIES (ROUND TO NEAREST DOLLAR) (See Rev. Proc. 2008-50, section 12.07.) (or, if not filed, or not required to file, the most recent data available to the Plan Sponsor): \$ \_\_\_\_\_

Plan Name: \_\_\_\_\_

EIN: \_\_\_\_\_

Plan #: \_\_\_\_\_

**If the Applicant is being represented by someone in connection with this matter or wishes to authorize someone to receive information from us in connection with this matter, submit a completed Form 2848 or Form 8821, and complete items 13 through 18.**

13. NAME OF APPLICANT'S REPRESENTATIVE \_\_\_\_\_

14. NAME OF REPRESENTATIVE'S FIRM \_\_\_\_\_

15. REPRESENTATIVE'S ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_

16. REPRESENTATIVE'S PHONE NO. \_\_\_\_\_ 17. FAX NO. \_\_\_\_\_

18. REPRESENTATIVE'S E-MAIL ADDRESS \_\_\_\_\_

(optional)

## **PART II. APPLICANT'S DESCRIPTION OF FAILURES**

Attach additional pages, as needed. Label attachment "PART II. APPLICANT'S DESCRIPTION OF FAILURES." List and number each failure separately.

## **PART III. APPLICANT'S DESCRIPTION OF THE PROPOSED METHOD OF CORRECTION**

Attach additional pages, as needed. Label attachment "PART III. APPLICANT'S DESCRIPTION OF THE PROPOSED METHOD OF CORRECTION." Describe the correction method applicable to each failure listed in Part II.

## **PART IV. APPLICANT'S PROPOSED REVISION TO ADMINISTRATIVE PROCEDURES**

Attach additional pages, as needed. Label attachment "PART IV. APPLICANT'S PROPOSED REVISION TO ADMINISTRATIVE PROCEDURES." Please include an explanation of how and why the failures arose and a description of the measures that will be implemented to ensure that the same failures will not occur.

## **PART V. REQUESTS RELATED TO EXCISE TAXES, ADDITIONAL TAX, AND TAX REPORTING**

The Applicant requests that the Service not pursue the following taxes under the Internal Revenue Code (attach supporting rationale as required by Section 6.09), labeled "PART V. REQUESTS RELATED TO EXCISE TAX, ADDITIONAL TAX, AND TAX REPORTING.")

Excise tax under § 4972 with respect to failure(s) # \_\_\_\_\_.

Excise tax under § 4973 with respect to failure(s) # \_\_\_\_\_.

Excise tax under § 4974 with respect to failure(s) # \_\_\_\_\_.

Excise tax under § 4979 with respect to failure(s) # \_\_\_\_\_.

Imposition of additional tax under § 72(t) with respect to failure(s) # \_\_\_\_\_.

The Applicant requests that the Service grant the following with respect to plan loan failures as described in section 6.07 of Rev. Proc. 2008-50:

Plan Name: \_\_\_\_\_

EIN: \_\_\_\_\_

Plan #: \_\_\_\_\_

- With respect to failure(s) # \_\_\_\_\_, that a deemed distribution corrected pursuant to this VCP submission not be required to be reported on Form 1099-R and that repayments made by such correction not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan.
- With respect to failure(s) # \_\_\_\_\_, that a deemed distribution be reported on Form 1099-R with respect to affected participant(s) for the year of correction instead of the year of the failure.

**PART VI. APPLICANT'S REPRESENTATIONS**

(Note: Since the representations include the penalty of perjury statement, the representations under Part VI of this Appendix D must be signed by the Plan Sponsor, not the plan representative.)

A. Under Examination

To the best of my knowledge:

- 1) The subject plan is not currently under examination of either an Employee Plans Form 5500 series return or other Employee Plans examination,
- 2) The Plan Sponsor is not under an Exempt Organizations examination (that is, an examination of a Form 990 series return or other Exempt Organizations examination),
- 3) Neither the Plan Sponsor nor any of its representatives has received verbal or written notification from the Tax Exempt and Government Entities Division of the Internal Revenue Service of an impending examination or of any impending referral for such examination, nor is the plan in Appeals or litigation for any issues raised in such an examination, and
- 4) The subject plan is not currently under investigation by the Criminal Investigation Division of the Internal Revenue Service.

B. Abusive tax avoidance transaction (check box that applies)

- Neither the plan nor the Plan Sponsor has been a party to an abusive tax avoidance transaction as defined in section 4.13(2) of Rev. Proc. 2008-50.
- The plan or the Plan Sponsor has been a party to an abusive tax avoidance transaction. Details of the transaction(s) are provided in a separate statement which has been included with the submission.

C. Compliance Fee

The Applicant will neither attempt to amortize, deduct, or recover from the Internal Revenue Service any compliance fee paid in connection with this compliance statement nor receive any Federal tax benefit on account of payment of such compliance fee.

D. Penalties of Perjury

Under penalties of perjury, I declare that I have examined this submission, including accompanying documents and representations. To the best of my knowledge and belief, the facts and information presented in support of this submission are true, correct, and complete.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name (printed): \_\_\_\_\_ Title: \_\_\_\_\_

**PART VII. ENFORCEMENT RESOLUTION (to be completed by IRS only)**

The Service will not pursue the sanction of revoking the tax-favored status of the plan under §§ 401(a), 403(b), 408(k) or 408(p) on account of the failure(s) described in this submission. This compliance statement considers only the acceptability of the correction method(s) and the revision(s) of administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application. In no event may this compliance statement be relied on for the purpose of concluding that the plan or Plan Sponsor (as defined in Rev. Proc. 2008-50) was not a party to an abusive tax avoidance transaction. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission and (2) the completion of all corrections described within one hundred fifty (150) days of the date of the compliance statement.

- The Service will treat the failure to adopt interim amendments or amendments for optional law changes, as described in section 6.05(3)(a) of Rev. Proc. 2008-50 as if they had been adopted timely for the purpose of making available the extended remedial amendment period currently set forth in Revenue Procedure 2007-44, 2007-28 I.R.B. 54, or its successors. However, this compliance statement does not constitute a determination as to whether any such plan amendments, as drafted, comply with the applicable changes in qualification requirements.
- The Service will not pursue the following on account of the qualification failure(s) described in this submission:
- Excise tax under § 4972.
  - Excise tax under § 4973.
  - Excise tax under § 4974.
  - Excise tax under § 4979.
- With respect to the loan failure(s) described in this submission:
- The Service will not require deemed distributions under § 72(p) to be reported on Forms 1099-R with respect to the participant(s) affected by the failure(s), and repayments made pursuant to the correction of such loan(s) will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to such participant(s).
  - The Service will require deemed distributions under § 72(p) to be reported on Form 1099-R with respect to the participant(s) affected by the failure(s). However, the plan will be permitted to report deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.
- With respect to the Overpayment failures described in this submission that were corrected by removing improper distributions from the IRA(s) of the affected participant(s) and returning those distributions to the plan, the Service will not pursue \_\_\_\_\_ % of the 10% additional income tax under § 72(t).

Approved: \_\_\_\_\_  
Manager, Employee Plans Voluntary Compliance  
Tax Exempt and Government Entities Division

Date: \_\_\_\_\_.