

Form **8386**
(Rev. July 2006)

Employee Leasing
(Worksheet Number 8 — Determination of Qualification)

Instructions — All items must be completed unless otherwise indicated. In the absence of further instructions, a “Yes” answer generally indicates a favorable conclusion is warranted (subject to Part V), while a “No” answer indicates a problem exists. Please use the space on the worksheet to explain any “No” answer. (Numbers in brackets refer to EDS paragraph numbers). See Publication 7003 Explanation 8, for guidance in completing this form.

The technical principles reflected in this worksheet may be changed by future regulations or guidelines.

Name of Plan

I. Required Information	Plan Reference	Yes	No	N/A
a. Does the employer’s plan provide that all leased employees within the meaning of section 414(n)(2) are treated as common law employees for all purposes under the plan? <i>(If the answer is “Yes”, go to Part V of this worksheet.)</i>				
b. Has the applicant submitted all of the information needed for a determination covering section 414(n) of the Code? <i>(If the answer is “No”, go to Part V of this worksheet.)</i> [813, 814, 815]				
II. Applicability of Section 414(n)				
a. Are services performed for the plan sponsor, or for an entity that must be aggregated with the sponsor, by a person or persons who are not employees of such plan sponsor or aggregated entity?				
b. Are such services performed pursuant to an agreement between the plan sponsor and any other person? [802]				
c. Have such services been performed for the plan sponsor or aggregated entity, or for the plan sponsor or aggregated entity and a related person, on a substantially full-time basis for a period of at least a year? [803]				
d. Are services performed under the primary direction or control of the plan sponsor? [804] <i>(If the answer to question a, b, c or d is “No,” go to Part V of this worksheet.)</i>				
III. Safe Harbor				
a. Does the leasing organization (see explanation) maintain a qualified money purchase pension plan? (805, 806)				
b. If so, does such plan provide for:				
(1) A nonintegrated employer contribution rate for each participant of at least 10 percent of compensation? [805, 806]				
(2) Immediate participation by each employee other than:				
(A) Employees who perform substantially all of their services for the leasing organization, and				
(B) Employees whose compensation from the leasing organization in each plan year during the 4-year period ending with the plan year is less than \$1,000? [805, 806]				
3. Full and immediate vesting? [805, 806]				
c. Do leased employees constitute 20 percent or less of the recipient’s nonhighly compensated work force?				

(If the answers to questions a, (b)1, (b)2, (b)3, and c above are “Yes,” go to Part V of this worksheet.)

IV. Requirements	Plan Reference	Yes	No	N/A
a. Does the recipient's plan specifically provide how leased employees will be treated under the plan? [818]				
b. Is each leased employee considered in determining whether the plan meets the coverage and other requirements? [836, 837]				
c. For purposes of the applicable requirements under section 414(n)(3), is the entire period for which the employee has performed services for the recipient (whether as a leased employee or otherwise) taken into account, including any period for which the employee would have been a leased employee but for the requirement that the person has performed services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least one year? [812]				
d. Does the recipient's plan meet the requirements as to:				
(1) Participation, including the minimum participation requirements?				
(2) Vesting, including the special rules for top-heavy plans?				
(3) Nondiscrimination?				
(4) Limitations on benefits and contributions?				
(5) IRC 401(a)(17) limit on compensation?				
V. Professional Employer Organizations				
a. Is the plan a plan other than a defined contribution plan? <i>(If the answer is "Yes", do not complete the rest of this worksheet.)</i>				
b. <i>If the answer to question a is "No":</i> Is the plan a professional employer organization retirement plan?				
c. <i>If the answer to question b is "Yes":</i> Were remedial actions taken in accordance with section 5 of Rev. Proc. 2002-21 as amplified by Rev. Proc. 2003-86?				

Comments: