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ASPPA Urges IRS to Clarify Circular 230 Requirements *Guidance Recommended for Tax Preparers Filing Form 5500*

ARLINGTON, VA (October 7, 2010) – *The following is a statement by Robert Richter, president-elect of the American Society of Pension Professionals & Actuaries (ASPPA), in preparation for testimony regarding recommendations to modify Circular 230 (31 CFR part 10 §REG-138637-07) before a [hearing](#) of the Internal Revenue Service (IRS) on Friday October 8 at 10:00 am.*

“ASPPA supports the IRS Commissioner’s efforts to promote competency and professionalism in the preparation of tax returns—however, we request clarification on whether these rules apply to the preparation of Form 5500 which is largely an informational return versus the standard income tax return, Form 1040.

New IRS regulations require each paid tax preparer to register under the [Preparer Tax Identification Number \(PTIN\)](#) program and meet competency standards in order to practice before the IRS by January 1, 2011. However, it is not clear that the definition of tax preparer under §IRC 6109 is the same as that contained in Section 6694 which has led to confusion about who should be registered in the program.

Many of ASPPA’s members are third party administrators (TPAs) who use a team approach to prepare the annual Form 5500 report as required under ERISA. The preparation of a single Form 5500 typically requires many individuals gather information from sources such as investment providers, plan administrators, actuaries, and other service providers. If registration is mandated—it is possible that each of these individuals would need to be registered as paid preparers even though their focus may be very limited. As a result, this could increase the costs associated with the preparation of the form, which ultimately may be borne by plan participants.

We believe that a balance should be struck between the benefits and the costs associated with being subject to the registration requirements.

Assuming these requirements apply to Form 5500, we recommend IRS consider the following:

- Designate a single preparer (the individual with supervisory authority) to register on behalf of the firm as the preparer for purposes of filing Form 5500 and issue guidance on which components of Form 5500 have sufficient impact on tax returns to require registration.

In conclusion, if the IRS proposed rules are to apply to the Form 5500 they must not be applied in an overbroad way which could translate into increased expense to participants and retirees.”

Read our comment letter on the issue [here](#) and watch our video on the topic [here](#).

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About ASPPA: The American Society of Pension Professionals & Actuaries (ASPPA) is a national organization of more than 7,300 retirement plan and benefits professionals that serves as the educator, voice, and advocate for the employer-based retirement system. ASPPA members are administrators, actuaries, advisors, attorneys, accountants, and other financial services professionals who provide consulting and administrative services for qualified retirement plans.