Form 5500 Update

Janice M Wegesin, form5500help.com

Forms, etc.

- Update on changes to forms and processing for 2011 Form 5500 series reports
  - EFAST2 processing updates
- Form 8955-SSA and **FIRE**
- Adopting multiple plans to avoid benefit plan audit fees
- Other common issues

Useful Links

- IRS Form 5500 Corner
- http://www.irs.gov/retirement/article/0,,id=117588,00.html
- Draft tax forms
- http://www.irs.gov/app/picklist/list/draftTaxForms.html
- www.efast.dol.gov

How to Get Help

- EFAST2 Website www.efast.dol.gov
  - FAQ and User Guides
  - Most Common Errors
- EFAST2 Help Desk
  - Call 1.866.GO-EFAST (1.866.463.3278). Live assistance 8am-8pm (Eastern) excluding weekends and holidays
  - Phone lines most busy 11am-3pm (Eastern)
  - Send email to efast2@dol.gov
- Software providers

2011 Plan Year Filing Issues

- Most changes are to Schedule SB instructions
- Defined benefit plans paying PBGC premiums from assets will move that back to the expense section of Schedule H rather than showing as a "transfer out"
- New web page for Form 945
  www.irs.gov/form945

2011 Form 5500-EZ

- Draft posted on IRS web site November 29, 2011
  - Form released March 2012
  - Modest changes to the instructions; none to form itself.
- May be time to shift to filing Form 5500-SF for one-participant plans.
  - One-participant filings masked from Public Disclosure Website as of 01/01/2012.
- Late filer program could be coming soon!

Short 2012 Plan Year Filings

- DOL expects Form 5500 updates to be released about December 20 each year, so 2012 forms will not be available until January 1, 2013
- Until then, filers may use the 2011 report to file a short 2012 plan year filing

Form 5558 - FAQs

- Current version posted July 8, 2011
  - Must complete both lines 1 and 2 in Part II to extend both Form 5500 and Form 8955-SSA if that's what you need

Part II **Extension of Time To File Form 5500 Series, and/or Form 8955-SSA**

1 I request an extension of time until _____/_____/_____ to file Form 5500 series (see instructions).
Note. A signature IS NOT required if you are requesting an extension to file Form 5500 series.

2 I request an extension of time until _____/_____/_____ to file Form 8955-SSA (see instructions).
Note. A signature IS required if you are requesting an extension to file Form 8955-SSA.

  - Do you insert 15th or actual extended due date?
  - Who may sign the form?
  - Do not attach list of plans to extend; only 3 names may appear on a single form.

EFAST2 FAQ Updates

- September 2011 FAQ updates include
  - Added FAQ 26a to address how to use the *Special Extension* box (think disaster areas)
  - Modifies FAQs 28 and 29 to require attachments to be right side up and not upside-down or sideways

Other EFAST2 Changes

- New account registration modified so credentials not provided until entire set up process is completed
- Login to EFAST2 website will no longer be case sensitive
  - Passwords can be 8 characters (instead of 10) and must include upper and lower case letters, special characters, and numbers.
  - Password history will be visible.
- AckIDs will be visible in search page results; will help with amended filings!

Attachment Review

- Attachments will be reviewed prior to posting on the Public Disclosure Website to ensure that sensitive private information is not disclosed.
- Filing will appear immediately with notation that attachments are being reviewed.

E-Signature Option

- FAQ #33a. Also separate FAQ series on efast.dol.gov
- Allows practitioners with proper written *annual* authorization to electronically sign and file on behalf of their clients.
- Manual signatures must be attached to e-filing and will appear on public disclosure web site.
  - New attachment type in 2012 – attach as *ESignatureAlternative*
- In 2012, NO filing can be processed through EFAST2 if not properly electronically signed.

Watch the Plan Year Being Filed!

Note: You Must File on the Correct Year Form for the Plan or DFE Year for Which You Are Filing

- For all Employee Benefit Plans and Group Insurance Arrangements:
- *If the plan year began in 2010, select the 2010 form.*
- *If the plan year began in 2009, select the 2009 form.*
- *If the plan year began prior to 2009, select the 2011 form 5500 and attach appropriate year schedules* (see EFAST2 FAQ #4)

Amending Filings

- File electronically with EFAST2 for years prior to 2009 – see FAQs #4 and #4a (use most current form year available)
- After original report e-filed, perhaps because of deficiencies
  - Do not check amended box if initial filing attempt was unsuccessful or unprocessable;
  - Do check amended if prior filing status was filing stopped, filing error, or filing received
  - If known and possible, insert AckID in amended filing if amendment is prepared by different preparer/ software. Your software provider may be able to help.

Amended Filings [continued]

- After original report e-filed, if eligible (per Form 5500-SF instructions)
  - May amend from SF to full Form 5500
  - May amend from full Form 5500 to SF
  - May amend from EZ to SF (if determined plan is not a one-participant plan); or SF to EZ for legitimate one-participant plan filer
  - Paper EZ filing may only be amended as a paper EZ
- Amended filing should be substituted on electronic public disclosure website for original filing
  - If original filing still shows, it is because of AckID.

Fixing an EIN / PN Error

- This is tricky (and very common!)
- Line 4 references last year's filing, not the same year's filing
- Example: PN 003 used this year; PN 001 used in prior years (and is the correct PN) and did not complete line 4
  - Amend this year's filing and complete line 4 to show PN 001 (leave 003 in line 1b)
  - Amend this year's filing; insert 001 on line 1b and show nothing in line 4
  - On next year's filing, insert 001 on line 1b and report 003 on line 4

Form 5500 Version Selection Tool

- What to File for Prior Year Form 5500s or to Amend Prior Year Filings

- The Form 5500 Version Selection Tool will help you to determine which version of the Form 5500 and which schedules you should use. For informational copies of the Forms, visit www.dol.gov/ebsa/5500main.html. To file, go to www.efast.dol.gov. For more information on filing electronically, visit the EFAST2 FAQs.

Form 5500 Version Selection Tool

Use the Form 5500 Version Selection Tool to determine which forms you will need to complete your filing.

Enter the beginning date of the plan year for which you are filing:
(mm/dd/yyyy)

- Check box if filing an amended return/report
- Check only one box, if applicable: Check this box if filing for an Internal Revenue Code 403(b) arrangement
- Check this box if filing for a DFE (other than a GIA)

DFVC or Reasonable Cause

- See FAQs #4 and 4a at efast.dol.gov
- Also see http://www.dol.gov/ebsa/FAQs/faq_DFVC.html
  - Status of Web site update?
- How do the agencies currently view *reasonable cause* submissions?

DFVC Tips

- Penalty stops when the filer submits Form 5500 electronically (EFAST2)
  - If paying by check, calculate amount based on original due date of filing up to EFAST2 acceptance date.
  - Effective March 29, 2011, the address for the DFVCP lockbox changed to:

    DFVC DOL, PO Box 71361,

    Philadelphia, PA 19176-1361.

There is no overnight delivery address. Note that payments to the DFVCP also can be made electronically.

- No attachment to Form 5500 required; just check the DFVC box at Line D

Adopting Multiple Plans to Avoid Benefit Plan Audit Fees

- Does it work?
  - Sure, but is it a short term fix?
- Issues in the cost/benefit analysis
  - Are the plans completely separate or are assets commingled (no change in account number, etc.)?
  - Have you – perhaps, inadvertently – established a master trust and created additional reporting requirements?
    - Master trust definition

Adopting Multiple Plans to Avoid Benefit Plan Audit Fees

- Does [trust] documentation support investment approach?
  - Use of prototype may be impossible
- Eligibility for separate plans
  - Avoid schemes that would cause participants to move back and forth between plans
  - Can payroll easily support different plans and the resulting deferral and loan repayment allocation issues?

403(b) Plan Filings

- Common question – can a filer "adopt" the reporting rules outlined in FAB 2009-02 and 2010-01 after filing the 2009 Form 5500?
  - Those rules allow the filer to omit information about certain pre-2009 contracts.
- Answer: per DOL…No!

SAS 70 No More!

- In June 2010, the AICPA issued *Statement of Standards for Attestation Engagements No. 16* (SSAE 16)
- Effectively replaces SAS 70 for reporting periods ending on or after June 15, 2011.
- Will look much like a SAS 70, but also will include a description of significant system changes during the audit period.

Form 8955-SSA Filings

- Resources provided on Form 5500 Corner on IRS web site
  - http://www.irs.gov/retirement/article/0,,id=117588,00.html
  - http://www.irs.gov/form8955ssa
- No filing due if no data to report.

No Need to Report…

- No need to report terminated participant who
  - Is paid some or all of the deferred vested benefit prior to the time the participant is required to be reported
  - Returns to service covered by the plan and/or accrues additional benefits
  - Forfeits all of the deferred vested benefit

Janice's FAQ #1

- Do Code D (delete) names have to be submitted?
- It's certainly best practice!
  - Treasury Regulation §301.6057-1(c)(2)(ii) clearly makes it optional.
  - Instructions seem to require it on plan termination.

Final Plan Year

- If 20XX was final plan year, instructions say *"the 20XX Form 8955-SSA must report information on deferred vested participants, including reporting that previously reported deferred vested participants are no longer deferred participants."*
- However, code "D" reporting is not required under Treasury Regulation §301.6057-1(c)(2)(ii)

Janice's FAQ #2

- What if you aren't sure if someone was ever reported as Code A (add) – should you report them as Code D anyway?
- YES! Reporting D's helps clean up the participant list at SSA and minimize the chance that a participant will be notified by SSA at some point in the future that they "may have a benefit" under the plan.

Janice's FAQ #3

- Should Code D (delete) entries be counted on line 6a or 6b?
- Line 6a count should include anyone reported with codes B, C, or D *(in addition to required Code A persons)*.
  - Think of it this way: any changes to a previously reported code A person is "required."

Participant Count at Lines 6-7

6	a. Participants who separated with a deferred vested benefit required to be reported on this Form 8955-SSA	6a	
	b. Participants who separated with a deferred vested benefit voluntarily reported on this Form 8955-SSA in the same year as the separation occurred	6b	
7	Total number of participants reported on lines 6a and 6b	7	

- Line 6a reports the number of persons required to be reported
- Line 6b reports the number of persons voluntarily reported.
- Line 7 is total reported on form (6a + 6b)

Janice's FAQ #4

- May the preparer file Form 8955-SSA electronically without written authorization (similar to the EFAST2 requirement) from the plan administrator?
- YES!

Janice's FAQ #5

- Does the Plan Administrator have to sign an electronic filing of Form 8955-SSA?
- NO! See [IRS] FAQ #12. On the **FIRE** system, it is optional to insert the name(s) of the signer(s).
  - It may be "best practice" to ask the plan administrator to sign a paper copy to keep in its files, but not required.

Signature Requirements

- For paper filings, both plan sponsor and plan administrator must sign and date.
- If same person, then only plan administrator must sign and date.

Under penalties of perjury, I declare that I have examined this statement, and to the best of my knowledge and belief, it is true, correct, and complete.				
Sign Here ▶	Signature of plan sponsor	Date signed	Signature of plan administrator	Date signed

Janice's FAQ #6

- How do I file 2012 data if the filing is due before the 2012 form is issued?
- Use the 2011 Form 8955-SSA until IRS releases the 2012 form.
  - In general, for any plan year the Form 8955-SSA must be filed by the last day of the seventh month following the last day of the plan year (plus extensions).

How to File

- On paper
  - Complete fillable PDF form online, print, sign and mail. Available at www.irs.gov/formspubs/
  - Approved third-party software (with or without barcodes)
  - With non-standardized attachments
- File electronically using FIRE [discussed later]

Non-standardized Attachments

- Appears that IRS/SSA will accept attachments in lieu of page 2 so long as the columnar sequence/format is precisely the same as page 2.
- Instructions warn that *"Filing a nonstandard page 2 may result in correspondence and delay processing the form."*

Where to File

- On paper,
  Department of the Treasury
  Internal Revenue Service Center
  Ogden, UT 84201-0024
- Do *not* file with Form 5500 (EFAST2)

Choose to **FIRE** Your Clients!

- Electronic filing of Form 8955-SSA may prove a viable solution for many of your clients
  - *No signature requirements*!
  - You can resolve any issues
  - Third party software options may include either
    - Creation of a file suitable for you to initiate filing on FIRE, or
    - A service that automatically initiates the FIRE filing upon your request

FIRE Notes

- See Rev. Proc. 2011-31
- To initiate submission, a Transmitter Control Code (TCC) must be requested using Form 4419
  - If you already have TCC, must request separate TCC specifically for filing Form 8955-SSA
  - One TCC may be used for all client filings
  - No TCC needed if third-party software provider initiates filing

More **FIRE** Notes

- Plan administrators should retain a copy of the filing or have the ability to reconstruct the data for at least 3 years from the due date of the return.
  - Best practice: provide a copy (paper or PDF) of the filing to the plan administrator for its records.
- Filing status: GOOD-RELEASED, GOOD-RELEASED WITH ERRORS, BAD, or NOT YET PROCESSED
  - May take up to 5 business days to get email regarding status. Currently taking about 48 hours.

Sample **FIRE** Status Page

Filename	Date	Time	Count	Results		Your Filename
ORIG.60039.0001	10/3/2011	12:31 PM	6	*Good, Released*		SILVEREDGE_861709_2010.ZIP
ORIG.60039.0002	10/12/2011	11:55 AM	1815	*Good, Released*		HNI_923409_2009.ZIP
ORIG.60039.0003	10/12/2011	3:06 PM	11	*Good, Released*		DEERFIELD_927359_2009.ZIP
ORIG.60039.0004	10/19/2011	10:48 AM	47	*Good, Released*		ATC_1027569_2009.ZIP
ORIG.60039.0005	10/19/2011	11:46 AM	72	*Good, Released*		ATCPENSION_1029725_2009.ZIP

1

FIRE Filing Status

- *Good, Released* – file has been released to mainline processing.
- *Good, Released with Error Status* – file has been released but contains minor errors.
- *Bad* – click on filename to view error message(s); correct and resubmit file as "original."
- *Not yet processed* – file received, pending processing.

- If timely submitted file is *Bad*, filer has up to 60 days to submit an acceptable original file.

Amended Filings

- Use Form 8955-SSA for any year (including years for which Schedule SSA was filed)
  - Check the box at Line B to indicate if filing is correcting previously submitted data
  - Enter the plan year dates at the top of the form
- Appears all data previously reported must be re-submitted on paper filing, even data that was correct
  - Rev. Proc. 2011-31 says amended electronic filings must include all data previously submitted even if not being changed.

Processing Tips

- Do not mark on or near the barcode.
- Make sure forms are signed and dated.
- Paper filings should be clean without glue or other sticky substances.
- Do not staple forms; use binder clips or other fasteners that do not perforate the paper.
- Round to nearest dollar (do not report cents)

Penalties

- Failure to file, including a failure to report all required participants
  - $1 for each participant and for each day multiplied by the number of days the failure persists, up to $5,000.
- Failure to furnish notice required under Code §6057(e) [regulation at §301.6057-1(e)]
  - $50 per participant
  - Imposed on the person required to report or to furnish the statement for each *willful failure*

SSA Filings for 403(b) Plans

- See new FAQs on Form 8955-SSA Resources page
  - For 2009 plan years, only report persons who terminated in 2008 and who have not received a distribution by the filing date
  - Do not worry about persons whose accounts are not included in Form 5500 reporting per FAB 2009-02.

SCHEDULE A

In General

- Schedule A is a less than perfect vehicle for reporting today's insurance products
- Content has remained constant for more than 20 years (format has been modified to accommodate electronic filing)
- Slim instructions
- Is the purpose really just to disclose commissions and fees?

Schedule A Content

- Part I – Data about contract coverage, fees, and commissions
- Part II – Investment and annuity information
- Part III – Welfare benefit contract information
  - Report life insurance premiums paid by retirement plans here, too
- Part IV – Voluntary provision of data

Life Insurance in Retirement Plans

- More often in defined contribution than defined benefit plans, but may be held in either
- By definition, are *unallocated* contracts
- Examples in prior year Form 5500 instructions indicated *plan feature code* 4B should appear at line 8b
  - One can infer that related premiums should be reported in Part III (not Part II)

General Accounts vs Separate Accounts

- A general account investment
  - Is part of general assets of insurance company; plan does not own underlying assets.
  - Usually provides a guarantee of principal and accumulated interest
  - Guarantees interest rates for one year (or shorter) periods
  - May impose restrictions on transfers

General Accounts vs Separate Accounts

- A separate account investment is
  - A pooled group of pension assets commingled to create a larger, well-diversified portfolio.
  - Intended to have lower costs (i.e., fees and expenses) through economies of scale.
  - An entity separate from the insurance company and maintains its own books and records
  - Sold in units of the fund; plan does own not the underlying assets

Allocated vs. Unallocated

- For ERISA reporting purposes
- Allocated contracts are uncommon in most of today's pension plans
  - By definition, must provide a specific guaranteed benefit to a specific individual at retirement
- Unallocated contracts are those that do not meet the definition of *allocated* described above

Other Schedule A Notes

- Most contracts for smaller plans are *not* fully benefit responsive, as that term is used in SOP 94-4-1 (now referenced under ASC 962)
  - Carrier / contract generally describes
  - Discussed in some detail in audit packages and related FAQs
  - Requires certain values to be reported at fair (market) value rather than contract (book) value.

Basic Schedule A Rules

- Schedule A is prepared on a cash basis
- Insurance company general account investments include
  - Guaranteed interest accounts and
  - Cash Account, if any
  - Combined values and activity reported on Schedule A at lines 4 and 7

Contract Value vs. Market Value

Q. Contract Assets at the end of the current reporting year:

		Contract Value	Fair Market Value
(i)	In Guaranteed Interest Accounts	$66695.08	$68311.14
(ii)	In sub-accounts	$6668844.86	$6668844.86
(iii)	In Loan Security Accounts	$38930.87	$38930.87
(iv)	In Cash Account	$0.00	$0.00
	Total	$6774470.81	$6776086.87

- Fair market value reported at lines 4 and 5
- Contract value reported at line 7
- Loans reflected only in activity at line 7, if applicable.

Basic Schedule A Rules

- Separate accounts [pooled separate accounts]
  - Reported at line 5
  - Should tie to values reported on Schedule D
- Generally, no reporting at line 6 – group annuity contracts for 401(k) type plans are not "allocated" for ERISA reporting purposes.

Part II	Investment and Annuity Contract Information Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.		
4	Current value of plan's interest under this contract in the general account at year end	4	68311
5	Current value of plan's interest under this contract in separate accounts at year end	5	6668845

b	Balance at the end of the previous year			7b	75507
c	Additions: (1) Contributions deposited during the year	7c(1)	5020		
	(2) Dividends and credits	7c(2)			
	(3) Interest credited during the year	7c(3)	2159		
	(4) Transferred from separate account	7c(4)			
	(5) Other (specify below)	7c(5)	16		
	▸ RECAPTURE PERA				
	(6)Total additions			7c(6)	7195
d	Total of balance and additions (add b and c(6))			7d	82702
e	Deductions:				
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)	5187		
	(2) Administration charge made by carrier	7e(2)			
	(3) Transferred to separate account	7e(3)	10814		
	(4) Other (specify below)	7e(4)	6		
	▸ MARKET VALUE ADJUSTMENT				
	(5) Total deductions			7e(5)	16007
f	Balance at the end of the current year (subtract e(5) from d)			7f	66695

Schedule A and Form 5500-SF

- No Schedule A is attached to Form 5500-SF
  - Line 10e must report any fees or commissions paid to brokers, agents, etc. that would be shown on lines 2 and 3 of Schedule A if it were attached
  - Hard expenses are reported at line 8f, *Administrative service providers (salaries, fees, and commissions)*

Thanks!

Submit questions to
questions@form5500help.com