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Ms. Monika Templeman
Acting Director, Employee Plans
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Re: Extension for Filing 2009 Form 5500 Series Reports

The American Society of Pension Professionals & Actuaries (ASPPA) is writing to request a blanket extension for filing Form 5500 for 2009 plan years to provide additional time for implementation of EFAST2. Specifically, we ask that the deadline be extended without having to request an extension through the filing of Form 5558. ASPPA appreciates the ongoing guidance provided by the Department of Labor (DOL) regarding EFAST2 and the revised Form 5500, and proposes this blanket extension as consistent with DOL's existing efforts to ease transition to the new EFAST2 system. This blanket extension of the filing deadline for Form 5500 would be similar to the relief granted on March 22, 2000 for 1999 plan year filings made under the original EFAST system. Since the deadline for filing Form 5558 is approaching very quickly, we respectfully request that you consider granting the relief we are requesting on an expedited basis.

ASPPA is a national organization of more than 7,000 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines, including consultants, investment professionals, administrators, actuaries, accountants and attorneys. Our large and broad-based membership gives ASPPA a unique insight into current practical applications of ERISA and qualified retirement plans, with a particular focus on the issues faced by small-to-medium-sized employers. ASPPA's membership is diverse but united by a common dedication to the employer-sponsored retirement system.

Summary of Recommendations

ASPPA proposes a blanket extension of the filing date for 2009 Form 5500 series reports, and a waiver of the filing requirement for Form 8955-SSA for 2009 plan years, as follows:

- The filing deadline for 2009 Form 5500 or Form 5500-SF for any plan year beginning in 2009 should be extended to the later of (i) 9½ months after the end of the plan year, or (ii) October 15, 2010.
- Similarly, the filing deadline for 2009 Form 5500-EZ should be extended to the later of (i) 9½ months after the end of the plan year, (ii) October 15, 2010, or (iii) 120 days after the date the IRS makes the 2009 paper form available to the public in its distribution system.
- Form 8955-SSA filings should be optional for 2009 plan years. Any filer who chooses not to file the 2009 form would include any data reportable for the 2009 plan year on its 2010 Form 8955-SSA.

Discussion of Issue

A. Background

When the original EFAST program was implemented for 1999 filings, the Department of Labor, the Internal Revenue Service and the Pension Benefit Guaranty Corporation (the “Agencies”) quickly recognized the additional burden placed on practitioners and plan sponsors and on March 22, 2000, announced a blanket extension of the filing date for 1999 Form 5500 filings. The Agencies provided this relief early enough in the “filing season” to provide plan sponsors and practitioners with welcome certainty and flexibility in understanding the changes, and helped the industry achieve better compliance with the new format. The new mandatory EFAST2 electronic filing system for the 2009 Form 5500 represents a much larger change in both the filing system and Forms and associated Schedules than EFAST – it is arguably the greatest change in qualified plan reporting since the inception of Form 5500. The change from a paper-based to a mandatory electronic filing system alone eclipses the magnitude of the changes made by the original EFAST system.

B. Extended Filing Date Benefits Plan Sponsors, Practitioners and Agencies

A blanket extension of the filing date for Form 5500 benefits plan sponsors, practitioners and the Agencies. As discussed in greater detail below, the blanket extension will provide practitioners and plan sponsors additional time to incorporate new EFAST2

software and procedures, to understand the changes in the Form itself, related Schedules, and the new Form 5500-SF and, for 403(b) filers, to work through the process itself for the first time. A blanket filing extension would eliminate the expense and time required to file for extensions that will likely be necessary. Typically, this expense is borne by the plan and ultimately erodes the accounts of participants. For the Agencies, a blanket extension will eliminate the need to process the many Forms 5558 that are likely to be filed seeking an extension, and will provide additional time to evaluate 5500 Series Forms as they are filed and provide additional guidance as needed to ease the process for remaining filers.

Much of the burden of the transition from paper filings to EFAST2 will be shouldered by practitioners and plan sponsors. Software vendors have experienced delays in developing their systems. This dramatically affects the practitioners who must have the systems in place to train staff, configure secure web portals, and implement procedures to manage and deliver electronic filings services to the ultimate filers, plan sponsors.

Once a practitioner's internal systems are in place, practitioners and plan sponsors need additional time to work through the electronic filing system, including but not limited to the securing of appropriate signer credentials. In some instances, plan sponsors will be required to upload a prepared XML file to I-FILE and to complete their own electronic filing, a process that is completely new to the plan sponsor and one that will take some time to communicate and master.

In addition to changes in the method of filing, there also have been substantial changes in Form 5500 and related Schedules, as well as the introduction of the new Form 5500-SF. For example, all large plan filers must now collect more detailed data required for Schedule C, with some investment providers still completing their systems to provide this information to plan sponsors. Also, for the first time, 403(b) plan filers must collect sufficient data for both the 2008 and 2009 plan years to satisfy the expanded disclosure requirements. This is especially critical for large 403(b) plans unaccustomed to the delays inherent in the plan audit process.

The delayed release of the 2009 Forms 5500-EZ and 8955-SSA further complicates the filing process for plan sponsors and practitioners. Additionally, Form 5558 has not been revised to take into account Form 5500-SF or Form 8955-SSA; accordingly, there is technically no mechanism currently available to request an extension of time to file those reports. For short plan year filers, some plan sponsors have misunderstood the filing deadlines, due to a mis-interpretation of the application of the 90-day rule in FAQ #3.

The Agencies would also benefit from a blanket extension of the filing date. For the IRS, a blanket extension would eliminate the need for IRS to devote resources to processing the higher than usual volume of Form 5558 filings likely to be submitted, as well as related correspondence. For the DOL, a blanket extension would allow practitioners and

plan sponsors more time to analyze the guidance that continues to be released, ultimately improving the state of filings submitted. A blanket extension should also reduce the number of delinquent filers and requests for reasonable cause relief.

C. ASPPA Recommendation

ASPPA recommends that the Agencies provide a blanket extension of the filing date for Forms 5500, 5500-SF and Form 5500-EZ for 2009 plan years, and make the filing requirement for Form 8955-SSA optional for 2009 plan years. This blanket extension will benefit plan sponsors, practitioners and the Agencies, and will encourage better understanding of and compliance with the new filing system and forms. Since the deadline for filing Form 5558 will be soon be upon us, we respectfully request that you consider our request on an expedited basis.

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These comments were prepared by ASPPA's Reporting and Disclosure Sub-committee of the Government Affairs Committee, Peter Gould, Chair. Please contact Craig Hoffman, General Counsel and Director of Regulatory Affairs at ASPPA, at (703) 516-9300 ext. 128, if you have any comments or questions regarding the matters discussed above. Thank you for your consideration of this request.

Respectfully submitted,

/s/

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/s/

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