



## Disclaimer

*The information and opinions presented today are those of the presenters and do not necessarily represent the opinions or positions of ASPPA or the Department of Labor's Employee Benefit Security Administration (EBSA).*

Part I - Form 5500 for the 21st Century



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## EBSA Approach

- How does the Agency use Form 5500 data in developing its enforcement policies and initiatives?
- For every “DOL” item on the forms, does EBSA ask itself
  - Why do we need this data?
  - How are we using this information?
  - When was the last time we used this input?

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## P.L. 114-21 Extension Rules

- H.R. 3236, Surface Transportation and Veterans Health Care Choice Improvement Act of 2015
- Congress decided that a way to pay for the legislation was to change certain due dates associated with federal tax filings. *[The quest to change due dates was an AICPA initiative.]*
- Affects Form 5500 filings for years beginning after 2015.
  - Expect technical corrections in future legislation?

ASPPA asap 15-15

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Form	Entity	Due Date for Taxable Years that Begin		Extensions Available for Taxable Years that Begin	
		Through 12/31/2015	After 12/31/2015	Through 12/31/2015	After 12/31/2015
990	Tax-exempt Organizations - Trusts	15 <sup>th</sup> day of the 5 <sup>th</sup> month after tax year end (5/15 for CY** entities)	No change	3 months automatic, another 3 with approval on request	6 months automatic
	- Corporations			6 months automatic	6 months automatic
1120	C Corporations*	15 <sup>th</sup> day of third month after tax year end (3/15 for CY entities)	15 <sup>th</sup> day of fourth month after tax year end (4/15 for CY entities)	6 months (9/15 for CY entities)	5 months (9/15 for CY entities)
1120S	S Corporations	15 <sup>th</sup> day of third month after tax year end (3/15 for CY entities)	No change (3/15 for CY entities)	6 months (9/15 for CY entities)	No change (9/15 for CY entities)
1065	Partnerships	15 <sup>th</sup> day of fourth month after tax year end (4/15 for CY entities)	15 day of third month after tax year end (3/15 for CY entities)	5 months (9/15 for CY entities)	6 months (9/15 for CY entities)
5500	Employee Benefit Plans	Last day of 7 <sup>th</sup> month after plan year end (7/31 for CY entities)	No change (7/31 for CY entities)	2.5 months (10/15 for CY entities)	3.5 months (11/15 for CY entities)

\*Exception: Rules do not apply to C Corporations with a taxable year ending June 30 until taxable year after December 31, 2025.  
\*\* CY – Calendar Year

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## Unintended Consequences?

- How does this affect due date for DFE filers?
- Does the 3½ month extension apply to Form 8955-SSA too?
- The SAR must be distributed no later than 60 days after the latest date the Form 5500 may be filed...leading to a due date that could run beyond the end of the year following the year for which data is reported on the SAR.
  - 12/31/2016 filing; extend to 11/15/2017; SAR due 01/15/2018

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## Entity Control

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report.	4b EIN
	4c PN

- Goal: tie current year filing to prior year filing
  - Solution: revise line 4 to capture the **RefAckId** of prior year filing on every plan!
- 
- Software can capture without preparer intervention in most instances

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## Revenue Sharing Sees the Light!

- Industry is moving toward a new model for handling revenue sharing
  - Eliminating completely by negotiating for share classes with lower or no fees
  - Amounts moved into plan, then allocated to participants as income
  - Amounts moved into plan (Mr Revenue Sharing account), then used to pay plan expenses

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## You Tell Us!

- Are your clients moving away from “hidden” revenue sharing?
  - YES (orange)
  - NO (yellow)

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## Using Which Model?

- Eliminating completely by negotiating for share classes with lower or no fees (orange)
- Amounts moved into plan, then allocated to participants as income (yellow)
- Amounts moved into plan (Mr Revenue Sharing account), then used to pay plan expenses (pink)
- Other (blue)

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## You Tell Us!

- How are you reporting revenue sharing received by the plan as just described?
  - ADJUSTING FUND INCOME (orange)
  - REPORTING AS “OTHER” INCOME (yellow)
  - OTHER (blue)

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## Is More Better?

- What would DOL do with the information if all investment funds were required to disclose expense ratios on Schedule C?
  - Investment expenses already displayed in the ERISA 404(a)-5 and 408(b)(2) disclosures
  - Is it relevant on plans that are trustee directed rather than participant directed?

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## Schedule D

- How does EBSA use the information reported in Part I?
- Can the Agency require all DFEs – including PSA and CCT – to file Form 5500?

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## Schedule of Assets Held

- Why do we keep duplicating information that is in the audit report as supplemental schedules?
- Would the Agency benefit from a standardized format?
  - How would EBSA use that information?
  - Why would EBSA need that detail?
  - Can the Agency just not accept scanned PDFs?

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## You Tell Us!

- Do you think it should be necessary to duplicate the Schedule of Assets Held that is already part of the auditor's report attached to the filing?
  - YES (orange)
  - NO (yellow)

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## You Tell Us!

- Would you prefer a standardized format requiring more specific detail for the Schedule of Assets Held?
  - YES (orange)
  - NO (yellow)

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## You Tell Us!

- With regard to the Schedules of Assets Held and 5% Reportable Transactions, does your firm
  - CREATE IT FOR THE AUDITORS (orange)
  - USE WHAT AUDITORS DEVELOP (yellow)

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## You Tell Us!

- Assume you had to include ticker symbol / CUSIP for each investment held, would creating the Schedule of Assets Held be:
  - MORE DIFFICULT (orange)
  - EASIER (yellow)
  - NEUTRAL (blue)

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## You Tell Us!

- **Proposal:** Eliminate Schedule I and have small plan filers ineligible to file Form 5500-SF instead complete Schedule H, except Part III.
  - AGREE WITH PROPOSAL (orange)
  - DISAGREE WITH PROPOSAL (yellow)
  - NO OPINION (blue)

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## Schedule H Ideas

- Suggestions:
  - Expand asset categories
  - Further refine distribution categories (on Form 5500-SF, too!) to cover SUP need
  - Request more specific data about late deposits
  - Modify requirement to include report of independent accountant based on active participant count
  - Capture forfeited uncashed check values

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## You Tell Us!

- Do you think there should be more investment categories on Schedule H?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## Refine Distribution Categories

- Isolate Benefits Paid amounts by:
  - Age 70½ (whether or not in-service)
  - All other In-Service
  - All other Separated
  - Corrective
  - Deemed distributions of loans
  - AGREE (orange)
  - DISAGREE (yellow)
  - NO OPINION (blue)

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## Late Deposits

- Is this more useful information to collect?
  - Were the late deposits corrected by the date the Form 5500 was filed?
  - Did the corrective deposits include lost earnings?
  - Were lost earnings calculated using the DOL's online calculator?
  - What was the longest time (days) elapsed from date of withholding to date of deposit?

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## You Tell Us!

- **Proposal:** Were the late deposits corrected by the date the Form 5500 was filed?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## You Tell Us!

- **Proposal:** Did the corrective deposits include lost earnings?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## You Tell Us!

- **Proposal:** Were lost earnings calculated using the DOL's online calculator?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## You Tell Us!

- **Proposal:** What was the longest time (days) elapsed from date of withholding to date of deposit?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## Audit Requirement

- **Proposal:** Modify requirement to include report of independent accountant based on active participant count
  - What about frozen plans?
  - Perhaps has some validity for low participation 401(k) / 403(b) plans?
  - Limit scope of audit instead?

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## You Tell Us!

- **Proposal:** Would you favor a new line on Form 5500 series indicating the amount of uncashed checks that were treated as forfeitures during the year?
  - YES (orange)
  - NO (yellow)
  - NO OPINION (blue)

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## Practitioner-Filer Attachment

- Right now, EFAST2 FAQ 33a instructs filers whose practitioners assist with e-filing to include a copy of the signed Form 5500 series (but not schedules or attachments) as an attachment
- Can that be eliminated in favor of a checkbox on the face of the Form 5500 series (near the signature section) indicating that a signed copy is on file with the practitioner?

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## Let's Clean Up the SSA Database!

- See ASPPA letter dated September 10, 2007

5. As a plan ages, and as it changes service providers over the years, it becomes more difficult to maintain accurate information about which individuals have been previously reported on Schedule SSA. ASPPA recommends that IRS and SSA adapt Form SSA so that plan administrators have the ability on the face of Form SSA to request a list [either on paper or electronically] of the participants and beneficiaries currently "active" on the SSA system so that additions, deletions, or other corrections may be submitted. SSA should generate this information for the plan administrator to allow for more accuracy and eliminate letters being needlessly generated by SSA in instances where the benefits have been previously distributed.

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4. ASPPA recommends that IRS and SSA explore other options for plan administrators to easily report changes to SSA data it previously provided. To that end, IRS and SSA could adapt the Form SSA to allow plan administrators to report changes on a global level, in addition to the current individual data collection method. It might be possible to accomplish this with simple check-box questions on the face of the form.

- Example 1. A plan terminates and distributes all benefits to participants and beneficiaries. The plan administrator should be able to simply check a box on Form SSA to notify the SSA that all persons previously reported under a particular EIN (employer identification number) and PN (plan number) should no longer be considered "active" for Form SSA purposes. Alternatively, the SSA would send the plan administrator a listing of all persons considered "active" on its systems for that EIN/PN with the plan administrator to verify that all persons have received their benefits.
- Example 2. Plan A merges with Plan B, with Plan A being the surviving plan. Under current rules Plan B must report all individuals previously reported on Form SSA using code D (for delete) while Plan A must also report all of those individuals on Form SSA using code C (for change). Using a check-box format would provide an easy way for the plan administrator to alert SSA of the need to change the EIN and PN reference without providing all of the individual detail. Alternatively, the SSA would send the plan administrator of Plan B a listing of all persons considered "active" on its systems for that EIN/PN with the plan administrator to verify which persons have received their benefits and which participants' benefits are transferred to Plan A.

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## You Tell Us!

- Would it be of value to your clients to be able to “start over” with the SSA database?
  - YES (orange)
  - NO (yellow)

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## OMB Reports/Sources

- Reports dated
  - June 2005
  - November 2006
  - November 2009
  - November 2013
  - August 2014
- Memo dated August 9, 2012

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## Other Thoughts?

Thank you for attending!

Questions may be submitted to  
[questions@form5500help.com](mailto:questions@form5500help.com)

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