



GAC alert

Erroneous Form 5500 Penalty Notices

In our August 19, 2013 [GAC Alert](#), ASPPA GAC notified you that approximately 4,000 plan sponsors had received notices that erroneously inform them that the IRS is assessing a penalty due to their “filing a late or incomplete” Form 8955-SSA. ASPPA GAC worked with the IRS to get this issue resolved. ASPPA GAC has been notified by numerous ASPPA members that their clients have received notices from the IRS informing them that they are being assessed a penalty because their Form 5500 and/or Form 8955-SSA were not timely filed. Most of the situations appear to follow a consistent pattern: first, the Form 5558 was filed in late July 2013 (the due date is July 31, 2013); the Form 5500 and/or Form 8955-SSA was then filed in the early part of August 2013 (typically, within the first 2 weeks of the month); and, finally, the plan sponsor received a penalty notice.

We have been speaking with a representative of the IRS regarding this issue. The representative stated that the issue seems to stem from the timing of the submission of the various forms. The Form 5500 and Form 5558 are processed through different computer programs. Because the Form 5500 has a lower number, it is processed first. Then, the Form 5558 is processed. If the Form 5500 (which was submitted in early August) is processed before the Form 5558 (which was timely submitted in late July), then an erroneous penalty notice will be produced and sent to the plan sponsor.

According to the representative, plan sponsors or their representatives can contact the IRS regarding the issue and the penalty will be abated (assuming the Form 5558 was timely filed). The IRS representative also recommended that if practitioners and plan sponsors are going to file the Form 5558 in late July, then they should **not** file the Form 5500 and/or Form 8955-SSA in the first part of August.