



4245 North Fairfax Drive
Suite 750
Arlington, VA 22203
P 703.516.9300 F 703.516.9308
www.asppa.org

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Ms. Monika Templeman
Director of EP Examinations
Internal Revenue Service
31 Hopkins Plz., Ste. 1450
Baltimore, MD 21201-2836

Re: Revision of Due Date for Filing 2009 and 2010 Form 8955-SSA

The American Society of Pension Professionals & Actuaries (ASPPA) is writing to request a revision of the due date for filing the Form 8955-SSA for 2009 and 2010 plan years because of the delay in the release of the official forms and instructions. ASPPA appreciates the ongoing guidance provided by the Internal Revenue Service (IRS) regarding the new Form 8955-SSA and the revised Form 5558. However, as discussed below, it is impossible for filers to submit the large number of filings that are due within the currently provided time frame without the official forms, instructions, and ability to file the Form 8955-SSA electronically through the Filing Information Returns Electronically (FIRE) system. Because the deadline for filing Form 8955-SSA and Form 5558 is approaching very quickly, we respectfully request that you consider modifying the due date.

ASPPA is a national organization of more than 7,600 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, administrators, actuaries, accountants, and attorneys. ASPPA is particularly focused on the issues faced by small- to medium-sized employers. ASPPA's membership is diverse but united by a common dedication to the employer-based retirement plan system.

Summary

ASPPA proposes a revision of the due date for filing the 2009 and 2010 Form 8955-SSA, thereby eliminating the need to file Form 5558 to extend the due date of such filings, as follows:

- The filing deadline for the Form 8955-SSA for any plan year beginning in 2009 and 2010 should be changed to no earlier than 180 days following the date: (a) the IRS releases the official form and instruction to the public; and (b) the FIRE system is available to support receipt of Form 8955-SSA filings.
- Thereafter, such 2009 and 2010 plan year filings should be due by the due date, with extensions, for filing the related plan's 2010 Form 5500 series report.

Discussion

Beginning with the 2009 plan year, the Schedule SSA to Form 5500 has been eliminated as a part of the Form 5500, *Annual Return/Report of Employee Benefit Plan*, and has been replaced with Form 8955-SSA. Plan administrators must file this new form with the IRS and not through the EFAST2 filing system, which processes the Form 5500 series reports. The due date for filing the 2009 Form 8955-SSA was delayed to the due date for filing the related plan's 2010 Form 5500 series report. Once the IRS's FIRE system is ready to handle Form 8955-SSA filings, filers will be given the option to file a paper form or to file the data electronically using the FIRE system.

The IRS issued a draft of the new Form 8955-SSA and its instructions on November 1, 2010 and reissued the draft form but without instructions on April 29, 2011. The IRS also posted Announcement 2011-21 on March 6, 2011 to provide administrative, procedural, and certain miscellaneous information about the replacement of Schedule SSA with Form 8955-SSA. On May 2, 2011 the IRS began posting Frequently Asked Questions (FAQs) on its *Form 8955-SSA Resources* web page.

Without the official forms, instructions, and the ability to file the Form 8955-SSA electronically through the FIRE system, it is impossible for filers to submit the large number of filings that are due within the timeframe currently shown in Announcement 2011-21 and on the *Form 8955-SSA Resources* web page.

A revision of the due date for filing Form 8955-SSA for 2009 and 2010 plan years would benefit plan sponsors, practitioners and the IRS. As discussed in greater detail below, the revised due date would provide practitioners and plan administrators time to incorporate new software, to understand and prepare the new form itself, and to work through the FIRE process for the first time. For the IRS, a revised due date would eliminate the need to process the many Forms 5558 that are likely to be filed seeking an extension. A modified due date also would provide additional time for filers to adapt to the FIRE system, thereby providing IRS greater accuracy in SSA data collection and significant savings over manual processing of paper filings.

Due to the confidential nature of the information required to be reported, ASPPA anticipates that many filers will prefer using the electronic filing option. Software providers, preparers, and plan administrators need time to establish a FIRE account, obtain a Transmitter Control Code (TCC), and prepare the appropriate files for transmission. In addition, two years of administrative activity must be analyzed to determine the information to be reported. As part of this analysis, as to whether the information will be reported in a single report or in separate 2009 and 2010 plan year filings. This decision also affects the time by which participants being reported in the Form 8955-SSA filing must receive the notice required under Treasury Regulation §301.6057-1(e).

Software vendors currently are unable to fully develop their products as the forms are not currently available. This delay dramatically affects the practitioners who must have the systems in place to train staff and implement procedures to manage and deliver electronic filing services. Software vendors will have limited time to spend on testing/debugging software and it is unclear how quickly vendors can gain IRS approval of their barcode product thereby permitting filers choosing the paper option to prepare and file such reports.

Further, a modified due date would eliminate the expense and time required to file for extensions that will likely be necessary if the current due date is not changed. Frequently, this expense is borne by the plan and ultimately erodes the accounts of participants. Based upon FAQs posted in the *Form 8955-SSA Resources* web page, it is unclear how to extend the currently posted due date for filing Form 8955-SSA for 2009 and 2010 plan years and, to further confound the situation, the updated Form 5558 is not yet available. In addition, many filers have already submitted the current version of Form 5558 to extend the due date of their 2010 Form 5500 filing and it is unclear whether (a) another Form 5558 must be submitted when the revised form is officially available, and (b) whether a signature is required in order to extend the due date for filing Form 8955-SSA (as shown on the draft Form 5558 posted on the IRS web site on January 11, 2011).

ASPPA recommends that the IRS revise the due date for filing the 2009 and 2010 Form 8955-SSA, thereby eliminating the need to file Form 5558 to extend the due date of such filings, as follows:

- The filing deadline for the Form 8955-SSA for any plan year beginning in 2009 and 2010 should be changed to no earlier than 180 days following the date: (a) the IRS releases the official form and instruction to the public; and (b) the FIRE system is available to support receipt of Form 8955-SSA filings.
- Thereafter, such 2009 and 2010 plan year filings should be due by the due date, with extensions, for filing the related plan's 2010 Form 5500 series report.

ASPPA further requests that the IRS consider our request on an expedited basis as the deadline for filing Form 8955-SSA and/or Form 5558 is imminent.



These comments were prepared by ASPPA's Reporting and Disclosure Subcommittee of the Government Affairs Committee and primarily authored by Ross Solverud, CPC, QPA, QKA, Chair of the Reporting and Disclosure Subcommittee. We welcome the opportunity to discuss these issues. If you have any questions regarding the matters discussed herein, please contact Craig Hoffman, General Counsel and Director of Regulatory Affairs at (703) 516-9300.

Thank you for your time and consideration.

Sincerely,

/s/
Brian H. Graff, Esq., APM
Executive Director/CEO

/s/
Judy A. Miller, MSPA
Chief of Actuarial Issues

/s/
Craig P. Hoffman, Esq., APM
General Counsel

/s/
Mark Dunbar, MSPA, Co-Chair
Gov't Affairs Committee

/s/

Ilene H. Ferenczy, Esq., APM, Co-Chair
Gov't Affairs Committee

/s/

James Paul, Esq., APM, Co-Chair
Gov't Affairs Committee

cc: Robert S. Choi, Director, Employee Plans Examinations
Andrew Zuckerman, Director, Employee Plans Rulings & Agreements