

## Transitional Relief for Revised 5300 Forms

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Rulings and Agreements  
Employee Plans TE/GE  
Internal Revenue Service  
1750 Pennsylvania Ave., NW, Room 483  
Washington, DC 20224-0001

VIA FACSIMILE AND US MAIL: (202) 283-9654

Re: Transitional Relief for Revised 5300 Forms

Dear Mr. Shultz:

The American Society of Pension Actuaries hereby submits this letter as a follow up to the discussions we have had over the last several weeks. We believe that further transitional relief with respect to the deadline for using the newly revised 5300 Forms is appropriate. In light of the delayed release of the new forms, the cut-off date for using the old forms, as indicated in Announcement 2001-109, should be extended, at a minimum, an additional three months.

ASPPA is a national organization of approximately 4,500 members who provide actuarial, consulting, administrative, legal and other professional services for about one-third of the qualified retirement plans in the United States, the majority of which are maintained by small businesses. ASPPA's mission is to educate pension actuaries, consultants, administrators and other benefits professionals and to preserve and enhance the private retirement system as part of the development of a cohesive and coherent national retirement income policy. Its large and broad-based membership gives it unusual insight into current practical problems with ERISA and qualified retirement plans, with a particular focus on the issues faced by small employers.

### Introduction

Announcement 2001-77, issued in early July of this year, indicated that the Service was simplifying the application procedures for determination letters. In conjunction with these changes, the Announcement further indicated that the determination letter application forms were also being revised, and that the new forms were anticipated to be available in August 2001. Unfortunately, the final versions of the new forms were not available until late October.

Section I.G. of Announcement 2001-77 provided transitional relief with respect to using the new forms. For determination letter applications filed between July 23, 2001 and December 31, 2001, applicants could submit either the old forms or the revised forms. However, for determination letter applications filed on or after January 1, 2002, Announcement 2001-77 mandates that the revised forms must be used.

Announcement 2001-109, issued in November 2001, announced that the first four of the revised determination letter application forms, as well as a related schedule and revised instructions, were now available. Specifically, Forms 5300, 5307, 5309 and 6406 (as well as Schedule Q) could be downloaded from the IRS website, although it would be late November before the IRS distribution centers would have the revised forms.

### Transitional Relief Extension Request

Unfortunately, the late release of the revised forms has created the need for further transitional relief. Specifically, the cutoff deadline for using the old forms should be extended at least three months. The reasons for this modest extension are many.

Software providers were not able to begin the programming necessary to implement the revised forms until the final versions were available. Although the draft versions were available earlier, Announcement 2001-77 very specifically warned that the draft versions "are subject to substantive and formatting changes before final versions

are available." Programming resources for a software company are precious assets that need to be applied in a prudent manner. Hence, generally work on the new forms did not begin until the final versions were available (since it really did not save any time or effort to begin with the draft versions).

It will be a number of weeks before the new software is available for use by employee benefit practitioners and their plan sponsor clients. However, even then, there is a time lag between the time a form is prepared from the software and the time of submission to the Service. The plan sponsor often has to supply additional information to be included in the form. Finding the right person to review the submission package and sign the application form further slows the process. The net result is that it is likely that determination letter applications that are begun over the next six weeks will not be ready in time to meet a January 1, 2002, cutoff date for using the old forms.

In light of the delays that occurred in releasing the new forms, it would be fair and appropriate for the Service to take rather modest action which would provide for a great deal of relief to practitioners and plan sponsors alike.

Specifically, the ability to use the old determination letter application forms under the procedures outlined in Section I.G. of Announcement 2001-77 should be extended for at least 90 days. By granting this extension, those who are preparing determination letter applications would not have to shut down their work until the new forms are available in their software format. This should also allow those who are ready to update and submit to move forward with the process without the fear that their work will be wasted if the actual mailing date of the submission package gets delayed beyond December 31. Otherwise, practitioners will have no choice but to simply shut down the process until the software is ready. If that happens, that will further delay the inevitable onslaught of determination letter applications that will be forthcoming for the GUST remedial amendments.

#### **Prompt Action Required**

If relief is granted, it should be announced as soon as possible. This is a critical element of the relief in order to avoid the potential shutdown of practitioners preparing submission packages. By making the announcement as soon as possible the work may continue unabated by transitioning into the new forms.

We greatly appreciate your willingness to consider this matter. If you would like to discuss it further, please do not hesitate to contact us.

Sincerely,

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Senior Advisor, Gov't Affairs Committee

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CPH/k

CC VIA FACSIMILE

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