



June 8, 2015

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Re: OMB Control No: 1545-1610; Annual Return/Report of Employee Benefit Plan (Form 5500 Series)

The American Society of Pension Professionals & Actuaries (ASPPA) is writing to express its concerns about certain representations made by the Internal Revenue Service (IRS) in its submission to your office regarding the 2015 Form 5500 series reports, including the new Form 5500-SUP. As noted in the ICR Documents section of the submission, ASPPA submitted written comments to the IRS on February 23, 2015, regarding some of its concerns about the agency's approach to the additional data collection required by the Form 5500-SUP.

ASPPA is a national organization of 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, the retirement plans they sponsor and the compliance challenges they face. ASPPA is now part of the American Retirement Association whose total membership of more than 20,000 retirement plan professionals is diverse but united by a common dedication to the employer-based retirement plan system.

The proposed Form 5500-SUP is a paper form which may be used by certain filers to provide specific compliance information; however, the IRS also has arrayed the compliance lines across the electronically filed Form 5500 series as an alternative method for all filers to comply with the disclosure requirement. For purposes of this discussion, we will refer to the data collection as "SUP-data" without regard to the filing method.

ASPPA believes that the burden associated with the new SUP-data collection in terms of both time and cost has been materially understated. The impact of any added cost burden is important to America's workers, because the costs of retirement plan administration and compliance are typically borne by the plan participants.

ASPPA agrees with the IRS's assumption that few filers will provide the SUP-data utilizing a paper filing. Since the introduction of EFAST2 by the Department of Labor beginning with Form 5500 series filings for 2009 plan years, service providers and filers have embraced electronic filing methods. Not only is the electronic filing process more efficient for filers, it also ensures timely filing of such returns. From the perspective of the service provider, completing a paper filing would create additional administrative complexity that is unnecessary and unproductive.

However, ASPPA questions the validity of the time and cost burden presented by the IRS in its submission because it does not appear to take into account the additional time needed to collect and report the SUP-data if the data is part of the electronically filed Form 5500 series.

In the "Burden Computation - Business Forms" for the SUP (see brdn_busi.pdf in IC), the IRS has estimated the following time burdens:

Paperwork Reduction Act Notice		
Time Per Response	Average Hours Per Response	Average Time Per Response
14.28		
Recordkeeping.....	6.46	6 hrs. , 27 min.
Learning.....	3.77	3 hrs. , 46 min.
Preparing.....	4.05	4 hrs. , 03 min.
Sending.....	0.00	0 hrs. , 00 min.

The total time burden projected by the IRS, therefore, totals 14.28 hours per filer. Since the SUP-data is required of all retirement plan filers, ASPPA believes it is appropriate to apply the additional time/cost burden across all filers, regardless of the method by which the data is provided to the agency. Instead, the IRS shows **no increase** in time/cost burden. It appears the IRS failed to calculate any additional time burden for capturing the SUP-data in the *2015 Instructions for Form 5500* series or to highlight this distinction in its submission to OMB.¹

The IRS estimates the SUP-data must be reported by 822,500 filers. Assuming each filer expends 14.28 hours to provide the SUP-data, the additional time burden would be a whopping 11,745,300 hours (14.28 X 822,500). Applying an average \$100 hourly billing rate to that total, the result is an **increased cost of providing the SUP-data equal to \$1,174, 530,000.**

That is over a billion dollars per year - most of which will be borne by working Americans (plan participants and beneficiaries).

¹ The estimated average times to complete the Form 5500 and its Schedules are, in fact, identical in the 2014 and 2015 *Instructions for Form 5500*. This is also true for the 2014 and 2015 *Instructions for Form 5500-SF*.

The IC Supporting Statement, in item 5 ("Methods To Minimize Burden On Small Businesses Or Other Small Entities") fails to acknowledge the additional burden that will be borne by the plans of small businesses (14.28 hours X \$100 billing rate = \$1,428.00 per plan). Of the 822,500 filings, the IRS has indicated that 650,000 will be from small entities (see IRS burden 2007-2015.xls in IC). Since 79% of the burden will fall on small entities, ASPPA does not understand and takes issue with the IRS's certification that the proposed collection of information "reduces the burden on small entities."

From the service provider perspective - and a cost burden not accounted for in the IRS submission - the SUP-data generally involves information that is not currently being maintained in a format that is readily accessible to input to the Form 5500 series report. Most of the information has either never before been required to be reported, or has not been required since 2004. Recordkeeping systems are the primary source for most data required for preparation of the current Form 5500 series; however, the SUP-data often resides in compliance systems that may be maintained by a different service provider or may not be tracked at all (which would require manual compilation). Coordination or integration of these systems, accumulation of information from other providers, and development of a mechanism to gather data that is not being tracked, will be required in order to accurately provide the SUP-data. Some of the larger service providers have responsibility for more than 10,000 plans and the time and costs to reprogram systems and to manually collect the information required will be substantial. As a practical matter, service providers generally do not gear up for systems changes based on draft or proposed changes; instead, these businesses must wait until final forms and instructions are issued. It then generally takes 6-12 months for the necessary capital investments to be approved and technology, communication, and procedure changes to be developed and implemented.

As of this date, no official guidance is available to the public which would allow service providers to take action to facilitate the SUP-data initiative. Given the enormity of the manual data collection required, and the systems changes that are inevitably linked to the capture and maintain such data for reporting purposes, service providers need adequate time to put in place sufficient mechanisms to respond to this initiative. The implementation of these changes should be delayed until at least the 2016 plan year. A later effective date would also provide additional time: for the IRS to incorporate input from stakeholders; to make refinements and enhancements to the SUP-data; and to provide clear and accurate instructions.

It is important to note that service providers currently have technical staff and resources devoted to the restatement of defined contribution plan documents in order to meet the IRS-imposed deadline of April 30, 2016. This work severely limits the resources that might otherwise be available and will further delay the industry's ability to effectively respond to the SUP-data collection requirements.

Because of the serious time and cost burden presented by the IRS proposed changes, ASPPA respectfully requests a meeting with OMB to further discuss this matter. Please contact Craig Hoffman, General Counsel at (703) 516-9300 or by email at CHoffman@USARetirement.org.

Thank you for your time and consideration.

Sincerely,

/s/

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/s/

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