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New Form 8955-SSA:

Preparing for Compliance in 2011

Navigating the IRS Requirements for Plan Sponsor Data and E-Filing

WEDNESDAY, MARCH 16, 2011

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

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New Form 8955-SSA: Preparing for Compliance in 2011 Webinar

March 16, 2011

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Today's Program

Form 8955-SSA: Background
[Penny Wagnon]

Slide 7 - Slide 12

Form 8955-SSA: Key Details
[Carol Czarnecki and Mickie Murphy]

Slide 13 - Slide 32

Form 8955-SSA: Filing Procedures
[Susan Mehlman]

Slide 33 - Slide 44

Penny Wagnon, BDO USA

FORM 8955-SSA: BACKGROUND

Annual Registration Requirement

Internal Revenue Code Sect. 6057(a)

- Has been around for many years
- Requires administrators of certain plans to report information related to participants with a deferred vested benefit
 - Name and SSN of participant
 - Type of benefit, amount and form of payment
- Penalty for failure to file the information: \$1 a day (up to \$5,000) for each participant for whom a registration statement is required but not filed

What's It For?

Information is forwarded to the Social Security Administration

- A “Potential Private Pension Benefit Information” is sent to Social Security benefit applicants.
 - Adding Notice may also be sent to the spouse as well as an ex-spouse.
 - Notice will also go to participants who have already cashed out their account, if a deletion of their record was not reported to Social Security.
- Adding participants is mandatory but in the past, deleting participants who start receiving payments and/or cashed out has been optional.

In The Past ...

- Prior to 1999, the Form 5500, Schedule SSA was sent to the IRS with the Form 5500 filing.
 - A simple printout of required information in any format was generally acceptable
 - Many plan sponsors did not delete participants when they cashed out.
- Beginning in 1999, the Form 5500 was filed with the Department of Labor on barcoded forms.
 - Initially, a simple printout was acceptable; then, use of EFAST bar-coded forms became expected.
 - Barcoded forms were cumbersome for large plans, because only four participants could be listed per page.

What's Changed

EFAST2 changed everything in 2009

- The Department of Labor moved to a new all-electronic filing system.
 - 5500 now available on the Internet, so
 - Schedule SSA was dropped from the Form 5500 filing.
- IRS has been working on an alternative method of filing: New Form 8955-SSA
 - Originally drafted May 24, 2010
 - Released on Nov. 1, 2010 with request for comments
 - Announcement 2011-21, issued on March 6, 2011, provides a little additional guidance.

What To Do Now?

- Form and instructions have not been finalized, but per Announcement 2011-21, they will be issued “shortly.”
- Information on electronic file formats has not been made available.
- Third-party software vendors will need time to make revisions and test electronic filing.
- Until the new forms are issued:
 - The due date for 2009 Schedule SSA has been extended.
 - Schedule SSA information for plan years prior to 2009 should be submitted on paper to the IRS in Ogden, UT.

Carol Czarnecki, Grant Thornton
Mickie Murphy, Clifton Gunderson

FORM 8955-SSA: KEY DETAILS

Form 8955-SSA

- The IRS released a draft of the Form 8955-SSA in November 2010.
- Topics to cover
 - When should a participant be reported?
 - What are the different entry codes?
 - What information should be reported?
 - Filling out the actual Form 8955-SSA

When Should A Participant Be Reported?

- Typically, participants must be reported when they separate from service covered by the plan in a plan year and are entitled to a deferred vested benefit under the plan.
- Participants should be reported no later than the plan year following the plan year in which the separation occurred. If the participant starts receiving his deferred vested benefit in the same year as its separation from service, he will not be reported on the Form 8955-SSA.
- Example:
- John Doe separates from ABC Company with a deferred vested benefit in the company's 401(k) plan on April 1, 2010. Assuming the plan uses a calendar plan year, and John has not received any portion of his benefit as of 12/31/2011, he could be reported on either the 2010 or 2011 Form 8955-SSA.

When Should A Participant Be Reported? (Cont.)

- If John Doe is reported on the 2010 Form 8955-SSA, then the plan sponsor would be using the current year method to report separated participants.
- If John Doe is reported on the 2011 Form 8955-SSA, then the plan sponsor would be using the lag year method to report separated participants.
- Plan sponsors should choose one method of reporting and keep that method year over year, to ensure that all participants are reported accurately.
 - Most plan sponsors choose the lag year method, since it typically reduces the number of participants to report each year.
 - The examples in the following slides assume the lag year method is used for reporting purposes.

Entry Code A

- When a participant separates from service and is entitled to a deferred vested benefit under the plan, the participant is reported using Code “A.”
- Code A indicates that the participant has not been previously reported on a Form 8955-SSA for the plan in question.
- The participant and the information on his deferred vested benefit is recorded in the SSA’s database.

Entry Codes B And C

- If a participant has been reported as a Code A in a prior year Form 8955-SSA, but the plan sponsor notices that the information reported was incorrect, the participant is reported using Code “B.”
- Along with Code B, the participant’s corrected information is reported.
- If a participant has been reported as a Code A on another plan’s Form 8955-SSA, but will now be receiving those benefits under the plan in question, the participant is reported using Code “C.”
- Code Cs are prevalent when there is a plan merger.

Entry Code D

- If a participant has been reported as a Code A in a prior year Form 8955-SSA and has either started collecting his benefit or is no longer entitled to those deferred vested benefits, then the participant is reported using Code “D.”
- Code D participants have their information taken off the SSA’s database.
- Many plan sponsors correctly report participants as Code A, B or C but fail to code them as D when they ultimately collect their benefit. This can create a large administrative burden for plan sponsors.

What Information Should Be Reported?

- The information reported depends on the participant's entry code.
- Typically, this information will come from the recordkeeper or actuary of the plan.

Entry Code	A	B	C	D
Social Security Number	X	X	X	X
Name (First, MI, Last)	X	X	X	X
Incomplete Records?	X	X	X	X
Type of Annuity	X	X		
Payment Frequency	X	X		
DB Plan Periodic Payment	X	X		
DC Plan Value of Account	X	X		
Previous Sponsor's EIN			X	
Previous Plan Number			X	

Filling Out The Form

- Part I: Annual Statement Identification Information

PART I Annual Statement Identification Information	
For the plan year beginning	, and ending
A	<input type="checkbox"/> Check here if plan is a government, church, or other plan that elects to voluntarily file Form 8955-SSA. (See instructions.)
B	<input type="checkbox"/> Check here if this is an amended registration statement.
C	Check the appropriate box if filing under: <input type="checkbox"/> Form 5558 <input type="checkbox"/> Automatic extension <input type="checkbox"/> Special extension (enter description)

Filling Out The Form (Cont.)

- Part II: Basic Plan Information
 - Plan name and number
 - Plan sponsor information

PART II Basic Plan Information - enter all requested information			
1a Name of plan		1b Three-digit Plan Number (PN)	
Plan Sponsor Information			
2a Plan sponsor's name		2b Employer Identification Number (EIN)	
2c Trade name (if different from plan sponsor name)		2d Plan sponsor's phone number	
2e In care of name			
2f Mailing address (room, apt., suite no. and street, or P.O. Box)		2g City	2h State 2i ZIP code
2j Foreign province (or state)		2k Country	2l Foreign postal code

Filling Out The Form (Cont.)

- Part II: Basic Plan Information (Cont.)
 - Plan administrator information

Plan Administrator Information			
3a Plan administrator's name (if other than plan sponsor)		3b Employer Identification Number (EIN)	
3c In care of name		3d Plan administrator's phone number	
3e Mailing address (room, apt., suite no. and street, or P.O. Box)		3f City	3g State
			3h ZIP code
3i Foreign province (or state)		3j Country	3k Foreign postal code
4 If the name or EIN of the plan administrator has changed since the last return filed for this plan, enter the name and EIN from the last filed return:			
Plan administrator's name		EIN	
5 If the name or EIN of the plan sponsor has changed since the last return filed for this plan, enter the name, EIN, and plan number from that return:			
Plan sponsor's name		EIN	Three-digit Plan Number

Filling Out The Form (Cont.)

- Part II: Basic Plan Information (Cont.)
 - Participant count information and other questions
 - Signatures

6	a. How many participants who separated with a deferred vested benefit are required to be reported on this Form 8955-SSA	6a	
	b. How many participants who separated with a deferred vested benefit are voluntarily reported on this Form 8955-SSA in the same year as the separation occurred	6b	
7	What is the number of total participants reported on this Form 8955-SSA	7	
8	Did the plan administrator provide an individual statement to each participant required to receive a statement	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Under penalties of perjury, I declare that I have examined this statement, and to the best of my knowledge and belief, it is true, correct, and complete. Incomplete or missing information may cause a delay in processing and result in correspondence.			
Sign Here		Signature of plan sponsor	Date signed
		Signature of plan administrator	Date signed

Issues Pending With Draft Instructions

- Requirement to file 8955-SSA
 - Prior Schedule SSA was filed with Form 5500
 - Did not require a filing if there was no data to report
 - Form 8955-SSA proposed instructions are unclear.
 - Instructions appear to require a terminated plan to file regardless of data to report.
 - Instructions do not state clearly when filing is not required.
 - Proposed instructions also seem to indicate that the Code D filing is mandatory where previously considered optional. How about terminated plans?

Issues Pending With Draft Instructions (Cont.)

- Ability to combine 2009 and 2010 data in one filing

 - Conflicting information on proposed instructions
 - Page 1
 - Separate forms for 2009 and 2010
 - Page 3
 - For non-terminated plans, include 2009 on 2010 form
 - Announcement 2011-21 says that 2010 data may be reported on the 2009 form.
 - Different instructions for plans terminated in 2009
 - If 2009 was final, then Form 5500 filing, 8955-SSA filing deadline is later of:
 - Last day of seventh month following the last day of the plan year, or
 - March 31, 2011 per draft instructions
 - Announcement 2011-21 says Aug. 1, 2011

Issues Pending With Draft Instructions (Cont.)

- Instructions for extensions inconsistent
 - Use corporate extension
 - File Form 8955-SSA with copy of extension attached
 - File Form 5558 - Extension of Time to File Certain Employee Plan Returns
 - No indication that a copy of the extension should be attached
 - IRS has the information for either kind of extension and has not required a copy of the extension for 2009 Form 5500 filings. Need clarification here
- Announcement 2011-21 says the IRS will accept Schedule SSA for 2009 or 2010 plan years no later than April 20, 2011 as satisfying the reporting requirements.

Issues Pending With Draft Instructions (Cont.)

- What value is to be reported on Line 9, Column (g)?
 - For a defined contribution plan, instructions say “enter the value of the participant’s account at the time of separation.”
 - Practitioners have requested clarification that it may be either:
 - Value at time of termination, or
 - Value at the end of the plan year to which the Form 8955-SSA relates
- Proposed instructions are not clear on the definition of “employer.”
 - Instructions go into detail regarding single employer, controlled group, multi-employer and multiple-employer; and are confusing in regard to how many forms must be filed.
 - Form 8955-SSA should be filed in the same manner as Form 5500. Lines 2 and 3 on the 8955-SSA should mirror the plan sponsor information on Form 5500.

Issues Pending With Draft Instructions (Cont.)

- Proposed instructions appear to indicate that there is a difference in reporting for single-employer plan, controlled group plan, multi-employer plan and multiple-employer plan, as defined for Form 8955-SSA.
- Wording now says that “a separate Form 8955-SSA must be filed by each employer participating in a plan or program of benefits in which the funds attributable to each employer are available to pay benefits only for that employer’s employees, even if the plan is maintained by a controlled group.”
- Instructions also indicate in reference to each of the above entities, “one Form 8955-SSA is generally filed for each plan or entity described in these instructions.”
- Instructions should be clarified to show that no more than one Form 8955-SSA would be filed for any year by any Form 5500 filer.

Issues Pending With Draft Instructions (Cont.)

- Line 8: Did the plan administrator provide an individual statement to each participant required to receive a statement? Yes No
 - Regulation dates back to the 70s.
 - From IRC §6057(e): Requires that each participant reported on the SSA be furnished with “an individual statement setting forth the information with respect to such participant required to be contained in such registration statement. Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.”
 - From regulation at §301.6057-1(e): “The description provided the participant must include the information filed with respect to the participant on the Schedule SSA.” The statement is to be delivered to the participant by the due date of the form.

Issues Pending With Draft Instructions (Cont.)

- Enforcement is new.
 - Penalty is \$50 per participant per failure to comply.
- Concern that existing participant statements typically do not supply all information reported on Form 8955-SSA
 - Type of annuity and payment frequency
 - Amount of the periodic benefit payment or value of the participant's account as of the date of termination
 - Benefits forfeitable if the participant dies before a particular date.
- The regulation is silent about what constitutes an acceptable disclosure.
 - How will we meet this requirement going forward?
 - Will service providers need to expand information provided on participant statements?

Susan Mehlman, Moss Adams

FORM 8955-SSA: FILING PROCEDURES

As Of Today ...

- Still waiting for final forms and instructions

When To File

- In general, the SSA information is due by the last day of the seventh month following the end of the plan year.
- Extension of time may be requested
- Special rules apply for the 2009 and 2010 plan years - the SSA is due the later of:
 - The filing due date under the general rules, or Aug. 1, has been around for many years; or
 - Aug. 1, 2011
 - 2009 plan information may not be combined with 2010 plan information for reporting purposes. You must use separate forms for each year.

Extension Of Time

- A Form 5558 may be used to apply for an extension of time.
- A new Form 5558 has been drafted but has not yet been issued.
- A draft extension requires separate election and signature for extension of Form 8955-SSA.

Part II Extension of Time To File Form 5500 series, and/or Form 8955-SSA

1 I request an extension of time until ____ / ____ / ____ to file Form 5500 series (see instructions).

Note. A signature IS NOT required if you are requesting an extension to file Form 5500 series.

2 I request an extension of time until ____ / ____ / ____ to file Form 8955-SSA (see instructions).

The application is **automatically approved** to the date shown on line 1 and/or line 2 (above) if: **(a)** the Form 5558 is filed on or before the normal due date of Form 5500 series, and/or Form 8955-SSA for which this extension is requested, and **(b)** the date on line 1 and/or line 2 (above) is not later than the 15th day of the third month after the normal due date.

Note. A signature IS required if you are requesting an extension to file Form 8955-SSA.

- An automatic extension may be available, based on the due date of the corporate tax return.

Whom To Report Or Not Report

- Participants that terminate service and are entitled to a deferred vested benefit:
 - May be reported on the Form 8955-SSA for the plan year in which they terminate, OR
 - They must be reported no later than no later than the Form 8955-SSA for the plan year following the year in which the separation of service occurred.
- Participants that are paid some or all of the deferred vested benefit prior to the due date of the 8955-SSA do not need to be reported.
- Special rules may apply to plans with one than one employer.

What's New On Form 8955-SSA

- Questions regarding Plan Sponsor and Administrator:

4 If the name or EIN of the plan administrator has changed since the last return filed for this plan, enter the name and EIN from the last filed return:		
Plan administrator's name	EIN	
5 If the name or EIN of the plan sponsor has changed since the last return filed for this plan, enter the name, EIN, and plan number from that return:		
Plan sponsor's name	EIN	Three-digit Plan Number

- Breakout of who is being reported (required vs. voluntary):

6 a. How many participants who separated with a deferred vested benefit are required to be reported on this Form 8955-SSA	6a	
b. How many participants who separated with a deferred vested benefit are voluntarily reported on this Form 8955-SSA in the same year as the separation occurred	6b	
7 What is the number of total participants reported on this Form 8955-SSA	7	

- Information regarding individual benefit statements:

8 Did the plan administrator provide an individual statement to each participant required to receive a statement Yes No

What's New On Form 8955-SSA (Cont.)

- Employees of plan sponsor who perform administrative functions are generally not considered plan administrators, UNLESS specifically so designated in plan document.
- If an employee is designated in a plan document as a plan administrator, then he must obtain an EIN for reporting purposes.
- Report changes in plan sponsor as previously reported: Mergers, buyouts or plan terminations
- Participants with deferred vested benefit: Required reporting vs. voluntary reporting - total reported on line 7
- Previously reported participants: Now, paid out and being re-reported with Code D will be reported on 8955-SSA; instructions unclear

What's The Same?

- Basic participant information remains the same as in prior years
 - Entry codes
 - Participant SSN
 - First name
 - Middle initial
 - Last name
 - Type of annuity
 - Payment frequency
 - Amount of benefit (periodic DB benefit or DC plan account value)
 - Previous plan information (for plan transfer/merger)

Participant Transfers And Plan Mergers

- Participants whose previously reported deferred vested benefit is transferred or merged into another plan need to be reported twice.
- On the new plan's SSA, using:
 - A entry code of "C" when the original information is available
 - An entry code of "A" if original information is not available
- On the old plan's SSA, using an entry code of "D"

Revising SSA Or 8955-SSA Forms

- Revising and/or amending prior registration statements
- Use 2009 Form 8955-SSA, once issued, to report revisions to information and file with IRS
- Do not use previous year's Schedule SSA Form and file with DOL
- Important to always file revised SSA information, as SSA notifies participant of benefit information on file when participant applies for Social Security benefits

How To File

- Paper submission: File by completing the 2009 Form 8955-SSA (once issued) and send to:

Department of Treasury
Internal Revenue Service
Ogden, UT 84201-0027

- Private delivery or other secure method of delivery is suggested.
- Electric submission: Filing electronically is voluntary and can be done using the filing information returns electronically (FIRE) system, if you have software that can produce the information in a specified file format.
- Information on the FIRE format has not been released but is expected to be available shortly after the Form 8955-SSA is finalized for use.

8955-SSA For 403(b) Plans

- How will 403(b) plans be handled?
 - 2009 was the first time they were subject to the full annual reporting requirements.
 - 403(b) plans need to report participants with a deferred vested benefits beginning with the 2009 plan year.
- - What if they have done a carve-out of the plan?
 - Plan administrators may need to review 403(b) individual contracts for proper reporting, if the are reported as plan assets on Form 5500.

Q&A

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To exit the queue, press *1 again.

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