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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:

Erik Pienkos, Compensation and Benefits Consulting Senior Manager, Grant Thornton, Chicago
Carol Czarnecki, Tax Senior Associate, Compensation and Benefits Consulting, Grant Thornton, Chicago
Mickie Murphy, Senior Manager, Employee Benefits Services Group, Clifton Gunderson, Joliet, Ill.

Penny Wagnon, Senior Manager, ERISA Compliance and Consulting, BDO USA, Atlanta

Susan Mehlman, Director, Moss Adams, Seattle

For this program, attendees must listen to the audio over the telephone.

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Part III – Administrative, Procedural and Miscellaneous

Replacement of Schedule SSA with Form 8955-SSA

Announcement 2011-21

This announcement designates Form 8955-SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, as the form to be used to satisfy the reporting requirements of § 6057(a) of the Internal Revenue Code for plan years beginning on or after January 1, 2009, and sets forth the due dates for filing the Form 8955-SSA for the 2009 plan year and subsequent plan years.

Section 6057(a) requires the plan administrator of a plan that is subject to the vesting standards of section 203 of the Employee Retirement Income Security Act of 1974 (ERISA) to report certain information relating to each plan participant with a deferred vested benefit in accordance with regulations prescribed by the Secretary of Treasury. Schedule SSA, an attachment to the Annual Return/Report of Employee Benefit Plan (Form 5500 Series), has been the form used by plan administrators to comply with the reporting requirements of § 6057(a).

In 2007, the Department of Labor (DOL) published a final rule requiring plans subject to the annual reporting requirements of Title I of ERISA to electronically file the Form 5500 annual return/report (72 Fed. Reg. 64710). The

DOL electronic filing mandate is effective for plan years beginning on or after January 1, 2009, but does not apply to the reporting requirements imposed by § 6057(a). In order to accommodate the DOL's mandate for electronic filing of the Form 5500 annual return/report, a number of changes were made to the Form 5500 Series and accompanying schedules and attachments. One of these changes was the removal of Schedule SSA from the Form 5500 annual return/report beginning with filings covering a plan year that begins on or after January 1, 2009.

The Internal Revenue Service (IRS), in coordination with the Social Security Administration, has developed Form 8955-SSA, a stand-alone form to be filed with the IRS, as the successor to the Schedule SSA (Form 5500). For plan years beginning on or after January 1, 2009, the Form 8955-SSA should be used to comply with the reporting requirements of § 6057(a). Form 8955-SSA for the 2009 plan year is expected to be available for filing by plan administrators shortly. Form 8955-SSA for the 2010 plan year is being developed and is expected to be available for filing later this year. Plan administrators are permitted to report information that would otherwise be required to be reported on the 2010 Form 8955-SSA using a 2009 Form 8955-SSA. The IRS has also developed a voluntary electronic filing system for filing Form 8955-SSA for the 2009 plan year and subsequent plan years. This system is ready to accept filings of Form 8955-SSA when the form becomes available for filing.

In general, as with Schedule SSA (Form 5500), if a Form 8955-SSA must be filed for a plan year, it must be filed by the last day of the seventh month

following the last day of that plan year (plus extensions). Thus, for example, for plans on a calendar year, any 2011 Form 8955-SSA that is required to be filed under § 6057(a) must be filed with the IRS by July 31, 2012. However, in order to provide plan administrators with additional time to complete and file the new Form 8955-SSA, this announcement provides that the due date for filing the Form 8955-SSA for the 2009 and the 2010 plan years is the later of (1) the due date that generally applies for filing the Form 8955-SSA for the 2010 plan year, and (2) August 1, 2011. For example, in the case of a 2009 plan year or a short 2010 plan year, the Form 8955-SSA is not required to be filed before August 1, 2011.

The rules applicable to the extension of time for filing Form 8955-SSA are the same as those applicable to the extension of time for filing Schedule SSA (Form 5500). Thus, for example, Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, may be used to file for a one-time extension of time to file the Form 8955-SSA. The IRS is revising the Form 5558 to enable filers to obtain extensions of the time to file Form 8955-SSA and expects to have the revised Form 5558 available soon. Also, plan administrators are granted an automatic extension of time to file Form 8955-SSA (without filing a Form 5558) until the due date of the federal income tax return of the employer if certain conditions are satisfied. See Part II of the General Instructions to the Form 5558.

Some plan administrators have submitted a Schedule SSA to the IRS for the 2009 plan year or may be in the process of completing the Schedule SSA for

the 2009 and/or 2010 plan year. In order to reduce the burdens on these plan administrators, the IRS will treat a Schedule SSA that is filed with the IRS for the 2009 or 2010 plan year no later than April 20, 2011, as satisfying the reporting requirements of § 6057 (and no Form 8955-SSA is required to be filed for the 2009 or 2010 plan year if a Schedule SSA for the applicable plan year is filed with the IRS by this date).

Section 6057(b) requires the plan administrator of a plan that is subject to the vesting standards of section 203 of the Employee Retirement Income Security Act of 1974 (ERISA) to notify the Secretary of the Treasury of certain changes relating to the plan and plan administrator. These changes are reported on the plan's Form 5500 annual return/report. Neither the removal of the Schedule SSA from the Form 5500 annual return/report nor the creation of the Form 8955-SSA affect this requirement. Therefore, a plan administrator should continue to report changes in plan status on the Form 5500 annual return/report for the plan year in which the change occurs in accordance with the applicable instructions.

DRAFTING INFORMATION

The principal authors of this announcement are Robert M. Walsh of the Employee Plans, Tax Exempt and Government Entities Division and William Gibbs of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this announcement, please call the Employee Plans taxpayer assistance number at (877) 829-5500 (a toll-free number) or email Mr. Walsh at retirementplanquestions@irs.gov.