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Re: Update on New IRS Form 8955-SSA and Filing Deadline

Dear Clients and Other Friends:

On March 3, 2011 the IRS issued Announcement 2011-21, providing updated information on the new IRS Form 8955-SSA. This new Form, which is paired with but not filed with the Form 5500, will be used by employers to report participants with deferred vested benefits in the employer's retirement plan. Although the new Form 8955-SSA is not yet available, the IRS set a filing deadline for the 2009 and 2010 plan years. Generally, plan administrators should be prepared to file Form 8955-SSA for calendar year plans for the 2009 and 2010 plan years by August 1, 2011.

Background

Since the transition to the Department of Labor's EFAST2 electronic filing system, Schedule SSA has remained a lingering issue for plan administrators. Schedule SSA was the former attachment to the Form 5500, listing participants' names, social security numbers and the amounts of deferred vested benefits remaining in the employer's retirement plan. Schedule SSA was discontinued for plan years beginning on or after January 1, 2009 because electronically-filed Form 5500s are publicly available on the EFAST2 website and the DOL wanted to ensure the privacy of the participant information. Plan administrators were permitted, but not required, to file the Schedule SSA with the IRS until new guidance was issued.

New IRS Form 8955-SSA

The new IRS Form 8955-SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, is a stand-alone form that plan administrators must file with the IRS instead of the DOL. According to IRS Announcement, the 2009 Form 8955-SSA "is expected to be available for filing by plan administrators shortly" and the 2010 Form 8955-SSA will be available later this year.

Deadline to File

Forms 8955-SSA for the 2009 and 2010 plan years must be filed with the IRS by the later of: (1) seven months after the last day of the plan year that begins in 2010, or (2) August 1, 2011. In practical terms, plan administrators will need to file the 2009 and 2010 Form 8955-SSA when they file the annual Form 5500s.

A one-time extension may be requested using the Form 5558, Application for Extension of Time To File Certain Employee Plan Returns. The Form 5558 is currently being revised to permit filing extensions for the Form 8955-SSA. Also, if the plan year coincides with the employer's tax year and the employer obtains an extension of the deadline for filing its federal tax return, the deadline for filing Forms 5500 and 8955-SSA is automatically extended to the due date for filing the employer's federal tax return.

Special Relief If Schedule SSA Was Filed

Plan administrators who voluntarily filed the Schedule SSA with the IRS for the 2009 and/or 2010 plan years are granted administrative relief by this Announcement. The IRS will treat any 2009 or 2010 Schedule SSA that is filed no later than April 20, 2011 as satisfying the annual reporting requirements concerning participants with deferred vested benefits.

IRS Announcement 2011-21 is available at: <http://www.irs.gov/pub/irs-drop/a-11-21.pdf> and will be published in Internal Revenue Bulletin 2011-12 dated March 21, 2011.

We have extensive experience assisting plan administrators prepare and file Form 5500 annual returns, as well as navigating the new EFAST2 electronic filing system. Please contact us if we may help you.

Sincerely,

Holly A. Fistler