

A woman with long dark hair, wearing a black sleeveless top, stands at a podium in a conference room. She is gesturing with her right hand raised and her left hand open, looking towards the audience. The room has a white wall with a grid pattern. In the foreground, the blurred backs of several audience members' heads are visible.

Form 5500 Update: New Issues and Best Practices for the 2015 Filing Season

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Agenda

- Purpose of Form 5500
- Information reported on Form 5500
- Plans & Entities that file Form 5500
- Filing deadline
- Required Signature on Form 5500
- Record Retention
- Extensions
- Late filing penalties
- Form 5500 series
- Amending Form 5500

Agenda

- Audited Financial Statements – Large/Small Plans
- Filing Errors / Edit Checks
- DFVCP
- Form 8955-SSA
- DOL Enforcement
- Schedule C
- Schedule H
- DFEs
- Changes to 2015 Form 5500
- Proposed Changes to 2016 Form 5500
- Emerging Issues
- Other developments

Form 5500 Series

What is the Form 5500?

- Annual report of employee benefit plans and certain direct filing entities
- Primary source of information about employee benefit plans
- Used by DOL, IRS & PBGC
- Used for enforcement, research and disclosure to participants and beneficiaries
- Publicly available

What type of information is reported on the Form 5500?

- Name, address, telephone number, and employer identification number of plan sponsor/plan administrator
- Basic information (plan name & number, effective date of plan, etc.)
- Plan benefits and features provided under the plan
- Actuarial information (defined benefit plans and certain defined contribution plans)
- Information about participating employers in a multiple-employer pension and welfare benefit plans
- Financial information
- Fees paid to service providers
- Retirement information (plan distributions, funding, amendments, ESOPs, etc.)
- Detailed information about direct filing entities
- Information about insurance contracts held in the plan

Who files the Form 5500?

- **Pension Plans**
 - Defined benefit (traditional DB, cash-balance, pension equity)
 - Defined contribution (profit-sharing, 401(k), 403(b), money purchase, target benefit, stock bonus, ESOP, IRA)
- **Welfare Plans**
 - Medical, dental, vision, life, disability, certain severance plans and EAPs, etc.
 - Medical flexible spending accounts
- **Direct filing entities (DFEs)**
 - Master Trust Investment Account
 - Common/Collective Trust
 - Pooled Separate Account
 - 103-12 Investment Entity
 - Group Insurance Arrangement

When is the Form 5500 due?

- **Plans and GIAs**
 - Last day of the 7th month after year end
 - May be extended to 9½ months after year end
- **DFEs other than GIAs**
 - 9 ½ months after the DFE year end
 - No extensions
 - If filing due date is Saturday, Sunday or Federal holiday, filing due on next business day
- **Form 5500 filing deadline is based on plan administrator's time zone and not return preparer's time zone**
 - File Form 5500 for plan/GIA based on year in which plan/GIA year began
 - File Form 5500 for DFE (other than a GIA) based on year in which DFE year ended
 - Example: If plan and DFE year is 7/1/14 – 6/30/15, use 2014 Form 5500 for the plan and 2015 Form 5500 for the DFE

Who is required to sign Form 5500?

- Although the Internal Revenue Code permits either the plan sponsor/employer or plan administrator to sign the plan filing, **under ERISA, the signature of the plan administrator is required.** *If the filing is not electronically signed by the plan administrator, it will be subject to rejection and civil penalties under Title I of ERISA.*
 - If the plan administrator is an entity, the electronic signature must be in the name of the person authorized to sign on behalf of the plan administrator
- Signature of the person authorized to sign on behalf of the DFE is required for a DFE filing
- Plan administrators must keep a manually signed copy of the Form 5500, with all required schedules and attachments, as part of the plan's records

Can service providers sign the Form 5500?

- Plan Administrators can elect to have a service provider who manages the filing process sign the filing electronically. When this E-Signature alternative is used, the service provider should:
 - Obtain written authorization from the plan admin/sponsor
 - Keep a copy of the authorization for the service provider's records
 - Attach PDF copy of manual signature on Form 5500/SF
 - Notify plan admin/sponsor that image of signature will be seen on DOL website
 - Communicate any inquiries and information received from EFAST2, DOL, IRS or PBGC
- **The instructions for Form 5500 warn service providers to consider implications of IRS tax return preparer rules**

How long should the Form 5500 be kept?

- The rules and regulations for records retention come from three distinct sources: DOL, IRS, and PBGC
 - Under Section 107 of ERISA, the DOL requires employers that file Form 5500 keep all related records to support the filing for at least six years following the date the Form 5500 is filed. However, if there was any information reported on prior Form 5500 filings relating to the determination of benefits for participants and their beneficiaries, this information should be retained indefinitely (*for example, Schedule SSA, which was part of the Form 5500 filings prior to the 2009 plan year*)
 - The IRS rules on the length of time plan fiduciaries should keep plan records mirror the length of time the IRS have the ability to audit them. For qualified retirement plans, plan fiduciaries must keep records associated with any plan filing for at least three years from the date it was filed
 - According to informal guidance from the IRS, if issues are discovered in an audit, the IRS could extend their audit authority to filings occurring more than three years in the past. If a substantial error is identified, the IRS generally will not go back more than the last six years
 - PBGC regulations require that all records that validate the insurance premiums paid to the PBGC must be kept for at least six years after the premiums were due. In addition, the plan sponsor of a terminated plan must maintain records to demonstrate compliance with the plan termination provisions for six years after the date the post-distribution certification is filed with the PBGC

Extensions

- **File Form 5558 with IRS**
 - Must be submitted to the IRS no later than the filing deadline for Form 5500
 - 2 ½ months extension for plans and GIAs (15th day of third month after normal filing deadline)
 - Signature or explanation not required if filing for an extension for Form 5500 and/or Form 8955-SSA
- **Automatic extension**
 - Sponsor receives an automatic extension to file Form 5500 and/or 8955-SSA if
 - Plan year and plan sponsor's tax year are the same
 - Plan sponsor has been granted an extension of time to file its federal income tax return to a date later than normal due date for Form 5500 series
 - Must retain copy of application for extension of time to file federal income tax return with records
 - Usually the automatic extension grants the Plan/GIA only 1-½ months extra time to file Form 5500 and/or 8955-SSA (not the 2-½ months granted by filing Form 5558)

Extension requests are no longer required to be attached to Form 5500



Extensions

- A law was passed on July 31, 2015 (The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015) that gave filers an extra month to file form 5500 for calendar year end returns (November 15 instead of October 15)
 - This law extended the Form 5500 filing deadline for IRS purposes but not for DOL purposes
 - Another law was passed on December 4, 2015 (Fixing America's Surface Transportation Act) repealing the changes so the Form 5500 filing deadline for calendar year end plans remains at October 15

Form 5558

- Used to extend Form 5500 Series, Form 8955-SSA, or Form 5330
- Must use the most current version (August 2012)
- Must file separate Form 5558 for each plan
 - May use a single Form 5558 to extend the Form 5500 and Form 8955-SSA for the same plan
 - **Lists attached to the form will no longer be processed**
- Checkbox added for recently adopted plans that are requesting an extension for a plan that will be filing a Form 5500 Series for the first time
- Must file Form 5558 (by paper) with the IRS in Ogden, Utah
 - Plan sponsor should obtain proof of mailing
- Do not file with the DOL

Form 5558

- Copies of extension request when used for Form 5500 Series or Form 8955-SSA will not be returned to filers
 - Keep a copy of extension request for your records
- If Form 5558 is filed, plan sponsor may receive one of the following Notices from the IRS:
 - CP 216F (Application for Extension of Time to File an Employee Plan Return – *Approved*)
 - No action required – retain with records
 - CP 216G (Application for Extension of Time to File an Employee Plan Return – *Denied, No Signature*)
 - Only applies to request for filing extension for Form 5330
 - CP 216H (Application for Extension of Time to File an Employee Plan Return – *Denied Not Timely Filed*)
 - Need to provide proof to the IRS Form 5558 was timely filed

Not all plan sponsors have reported receiving this notice from the IRS

It is important to check the IRS notices for errors

Form 5558

- IRS is requesting comments on the Form 5558 (published in the Federal Register on April 26, 2016)
 - **The request for comment period ends on June 27, 2016**

When the Form 5558 is not enough

- If the audited financials are not ready on October 15...
- Can submit Form 5500 filing without required accountant's report, however, filing considered incomplete and may be subject to further review or rejection and assessment of civil penalties
 - If required accountant's report is not attached leave line 3 of the Schedule H (Form 5500) blank
 - If filing without required accountant's report, submit amended filing with report as soon as possible (the DOL is sending to plan administrators a notice of rejection, which gives the plan administrator **45 days** to correct the filing)

What are the late filing penalties for the Form 5500?

- **Penalties**

- **DOL Penalties**

- **Late filers** – may be assessed up to \$50 per day, with no limit (if filed voluntarily), for the period the plan administrator failed to file, determined without regard to any extensions for filing
- **Non-filers** – may be assessed a penalty of \$300 per day (if discovered by DOL), up to \$30,000 per year, until a complete annual report is filed
- **Civil Penalty** – up to \$1,100 per day if plan administrator fails or refuses to file annual report.
- **Deficient Filing Penalties** – missing or deficient audit report - \$150 per day capped at \$50,000
- **Criminal penalties** - intentional violation of ERISA

- **IRS Penalties**

- \$25 per day (up to \$15,000) for failure to file complete annual return/report
- \$1,000 for not filing Schedule SB or MB (Actuarial Statement)

One or more of the above penalties may apply to a single filing

Which form should be used?

- **Form 5500**

- Used by large pension and welfare benefit plans with 100 or more participants (or not relying on 80-120 participant rule) and DFEs

- **Form 5500-SF**

- Form 5500-EZ filer option for one participant and foreign plans. However, mandatory for certain one participant and foreign plans commencing with the 2015 plan year if filer filed more than 250 returns during the calendar year
- Pension plans and funded welfare benefit plans with fewer than 100 participants as of the beginning of the plan year (or relying on 80-120 participant rule)
- 403(b) filers may file if under 100

- **Form 5500-EZ (not electronically filed)**

- Used by one-participant plans with \$250,000 or more in assets as of beginning of plan year
 - Form 5500-EZ must be filed for each of the employer's one-participant plans, including those with \$250,000 or less in assets at the end of the plan year, once the over \$250,000 threshold is satisfied by the combined plans
 - Includes owners or partners and spouses – No employees covered
- Used by certain foreign pension plans maintained outside the U.S. primarily for non-resident aliens. Sponsors of foreign pension plans file Form 5500-EZ if the employer is a domestic or foreign employer with income derived from sources within the U.S. (including foreign subsidiaries of domestic employers), and contributions to the plan are deducted on its U.S. income tax return

Form 5500-EZ

- Must be filed by foreign plans that cover US citizens and residents
- Form 5500-EZ is filed on paper with IRS
- Must be filed for final plan year for one participant plans even if assets were less than \$250,000 as of the beginning of the plan year
- If plan administrator wants to file electronically, may file condensed version of Form 5500-SF
 - Form 5500-EZ filers may not file electronically using Form 5500
- Form 5500-SF filings with "One-Participant Plan" or "Foreign Plan" box checked are blocked from public access
- Mandatory Form 5500-SF electronic filing instead of paper Form 5500-EZ filers effective for plans years that begin on or after 01/01/2015 with filing deadlines after 12/31/2015
 - if filed at least 250 information returns with IRS
 - Economic hardship waivers available
 - Filers must submit a request to IRS for a waiver of the electronic filing requirement on or before the due date (including any extensions) for filing Form 5500-EZ
 - Filers are encouraged to file the waiver request at least 45 days before the due date (including extensions) of the Form 5500-EZ

Form 5500-SF

- A 2-½ page form
- Includes basic identifying information and financial information similar to Schedule I
- No schedules are required except for Schedule SB for defined benefit plans
- Filed electronically with DOL

Who may file Form 5500-SF?

- Small pension and funded welfare plans with < 100 participants (80 to 120 rule applies)
- Plan must be eligible for small plan audit waiver (not with enhanced bonding)
- No employer securities
- All assets must have readily determinable FMV
 - Plan assets that have a readily determinable FMV include mutual funds, investment contracts with insurance companies and banks, publicly traded securities held by registered broker dealer, cash and cash equivalents held by a bank, loans to participants, etc.
 - Plan assets invested in alternative investments, which include financial assets such as real estate, limited partnerships, hedge funds, venture capital, private equities and/or collectibles such as gold, art, antiques, coins, or stamps do not have a readily determinable fair market value
- Not available for multiemployer plans
- Multiple employer welfare benefit plans not required to Form M-1

Direct filing entities are not eligible to file Form 5500-SF

Amended Forms 5500

- All amended returns must be filed electronically through EFAST2 – even if originally filed on paper
- If amending a filing for a plan year prior to 2012 use current year's Form 5500 and Schedules A, D, G, H, I if required for that year
- For defined benefit plans, must use the correct year Schedule B, Schedule SB, or Schedule MB
- Must use correct year Schedules E, P, R and T, if required for that year
- May use the Schedule C for correct year rather than the current year form
- Cannot file Form 5500-SF for a 2008 or prior plan year amended return/report
- If the prior year schedule is not listed on line 10, then there is nothing to check on that line (include as an attachment)
- DOL's EBSA website has Form 5500 version selection tool to assist in determining which Form 5500 and schedules to use. Check out the online Form Selection tool at: <http://askebsa.dol.gov/FormSelector/>
- DOL's EFAST2 FAQ 4 can help guide you

Amended Forms 5500

- **403(b) plans covered by Title I of ERISA**
 - Streamlined pension plan reporting option for 2008 and prior plan years
 - Only need to complete lines 1-4, and line 8 on current year's Form 5500
 - No schedules or attachments needed (e.g., audited financial statements for large 403(b) plans)
- **Entire 5500, including all schedules and attachments, must be resubmitted when filing an amended return**
- **Form 8955-SSA**
 - **Do not attach to any Form 5500 filing submitted to the DOL**
 - Filed separately with the IRS

Changes to 2015 Form 5500

2015 Forms changes

- New questions were added to Form 5500/5500-SF and Schedules H, I, and R. The IRS has decided not to require plan sponsors to complete these questions for the 2015 plan year. **The instructions were revised to alert plan sponsors to skip these questions when completing the form.**
 - Schedule H
Lines 4o-p, 6c-d
 - Schedule I
Lines 4o-p, 6c-d
 - Schedule R
New Part VII (Lines 20a-c, 21a-b, 22a-d, and 23)
 - Form 5500-SF
Lines 10j, 14c, 14d, and New Part IX (Lines 15a-c, 16a-b, 17a-d, 18, 19, and 20)
 - Form 5500-EZ
Lines 13a-d, 14, 15, and 16

2015 Forms changes

Schedules H and I

Line 4I of Schedules H and I asks if the plan failed to provide any benefits when due under the plan. The instructions for line 4I were revised to indicate this would include minimum required distributions to 5% owners who have attained 70-½ whether or not retired and/or non-5% owners who have attained 70-½ and have retired or separated from service, as per Section 401(a)(9) of the Code. **The instructions for this question was not changed on Forms 5500-SF and 5500-EZ because it was a separate IRS compliance question that was rescinded by the IRS**

IRS Electronic Filing Requirements

Commencing with the 2015 plan year, filers who filed at least 250 returns of any type during the calendar year that includes the first day of the applicable plan year must file the Form 5500 series electronically

Schedule SB

Instructions were modified to simplify the alternative age/service scatters that cash balance plans with 1,000 or more active participants have an option to report on an attachment to line 26

Form 5500 final Return/Report for Plans Trusteed by PBGC

The instructions for final return/report were modified to add a statement that a filer for a terminated defined benefit plan for which PBGC has been appointed trustee may contact the DOL at PBGCTrusteedPlan@dol.gov for further information

2015 Forms changes

Schedule MB Changes

Reversed Lines 4a and 4b

Line 4b – Plan At-Risk Status

New value of "D" = Critical and Declining

Required per the Multiemployer Pension Reform Act to capture plans that are in Critical and Declining Status

2014

4 Information on plan status:

a Enter code to indicate plan's status (see instructions for attachment of supporting evidence of plan's status). If code is "N," go to line 5.

b Funded percentage for monitoring plan's status (line 1b(2) divided by line 1c(3))

4a	<input type="text"/>
4b	<input type="text"/> %

2015

4 Information on plan status:

a Funded percentage for monitoring plan's status (line 1b(2) divided by line 1c(3))

b Enter code to indicate plan's status (see instructions for attachment of supporting evidence of plan's status). If code is "N," go to line 5

4a	<input type="text"/> %
4b	<input type="text"/>

2015 Forms changes

Schedule MB Changes

Lines 4d and 4f – Added wording for new “critical and declining” status

2014

d If the plan is in critical status, were any adjustable benefits reduced? Yes No

e If line d is “Yes,” enter the reduction in liability resulting from the reduction in adjustable benefits, measured as of the valuation date.....

f If the rehabilitation plan projects emergence from critical status, enter the plan year in which it is projected to emerge.
If the rehabilitation plan is based on forestalling possible insolvency, enter the plan year in which insolvency is expected and check here

4e	<input type="text"/>
4f	<input type="text"/>

2015

d If the plan is in critical status or critical and declining status, were any benefits reduced (see instructions)? Yes No

e If line d is “Yes,” enter the reduction in liability resulting from the reduction in benefits (see instructions), measured as of the valuation date

f If the rehabilitation plan projects emergence from critical status or critical and declining status, enter the plan year in which it is projected to emerge.
If the rehabilitation plan is based on forestalling possible insolvency, enter the plan year in which insolvency is expected and check here

4e	<input type="text"/>
4f	<input type="text"/>

2015 Forms changes

Line 8 New and renumbered lines

2014

8 Miscellaneous information:

a If a waiver of a funding deficiency has been approved for this plan year, enter the date (MM-DD-YYYY) of the ruling letter granting the approval.....	8a	<input type="text"/>
b Is the plan required to provide a Schedule of Active Participant Data? (See the instructions.) If "Yes," attach schedule.		<input type="checkbox"/> Yes <input type="checkbox"/> No
c Are any of the plan's amortization bases operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d) of the Code?.....		<input type="checkbox"/> Yes <input type="checkbox"/> No

2015

8 Miscellaneous information:

a If a waiver of a funding deficiency has been approved for this plan year, enter the date (MM-DD-YYYY) of the ruling letter granting the approval.....	8a	<input type="text"/>
b(1) Is the plan required to provide a projection of expected benefit payments? (See the instructions.) If "Yes," attach a schedule.....		<input type="checkbox"/> Yes <input type="checkbox"/> No
b(2) Is the plan required to provide a Schedule of Active Participant Data? (See the instructions.) If "Yes," attach a schedule.		<input type="checkbox"/> Yes <input type="checkbox"/> No
c Are any of the plan's amortization bases operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d) of the Code?.....		<input type="checkbox"/> Yes <input type="checkbox"/> No

Questions Still Optional on 2015 Form 5500 Series

- Form 5500/5500-SF/5500-EZ
Preparer Information
- Schedule H
Trust Information - Lines 6a & 6b (Schedules H and I) and lines 14a and 14b of Form 5500-SF

Proposed Changes to 2016 Form 5500

Proposed IRS compliance questions

- IRS requested comments to proposed changes on the 2016 Form 5500 series (March 31, 2016, Federal Register)
 - The request for comment period ended on May 31, 2016
 - The IRS compliance questions which were indicated on the 2015 Forms 5500/5500/SF/5500-EZ, and Schedules H, I, and R were modified to better explain the questions or were eliminated

Proposed Form 5500-SUP

- The IRS request for comments on the compliance questions mentioned Form 5500-SUP, which was scheduled to be effective for the 2015 plan year. Since the compliance questions were rescinded by the IRS for the 2015 plan year, the IRS has put a hold on the issuance of Form 5500-SUP. However, this form most likely will be issued when the compliance questions become mandatory
- Form 5500-SUP (Annual Return of Employee Benefit Plan Supplemental Information)
 - Most recent draft dated March 31, 2015
- Form 5500-SUP may be used by plan administrators/plan sponsors who
 - Are required to file Form 5500 or Form 5500-SF
 - Filed fewer than 250 tax returns of any type, including information returns, during the calendar year that includes the first day of the plan year; and
 - Choose not to answer the IRS compliance questions electronically on the Form 5500/5500-SF filed electronically through the DOL's EFAST2 system
- Form 5500-SUP filed by paper to the IRS and not submitted electronically to the DOL
- Plan sponsors who file Form 5500-EZ will not need to file Form 5500-SUP because the compliance questions will already be on the Form 5500-EZ

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500s	Compliance and Use For
<ul style="list-style-type: none"> a. Name of trust b. Trust's EIN c. Name of trustee or custodian d. Trustee's or custodian's telephone number 	Form 5500 Schedule H/I, 5500-SF, 5500-EZ and 5500-SUP	<ul style="list-style-type: none"> a. Name of Trust b. Trust's EIN c. Name of Trustee or custodian d. Trustee's or custodian's telephone number 	<ul style="list-style-type: none"> • If plan used more than one trust or custodian account, enter the primarily trust or custodial account in which the greatest dollar amount or largest percentage of the plan assets as of the end of the plan year. • If the trust does not have an EIN use the EIN reported on Form 1099-R 	<ul style="list-style-type: none"> • This question was approved by OMB for the 2015 Form 5500 Series. • Requiring trust identifying information will assist the IRS in discarding its basic tax compliance and enforcement responsibilities with respect to tax-favored trusts. • This question was on former Schedule P up to 2006 where it had been approved in an information collection.

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Forms 5500	Compliance and Use For
<p>a. Preparer's name (including firm name, if applicable) and address (include room or suite number)</p> <p>b. Preparer's telephone number</p>	<p>Forms 5500, 5500-SF, 5500-EZ, and 5500-SUP</p>	<p>a. Preparer's name (including firm name, if applicable) and address (include room or suite number)</p> <p>b. Preparer's telephone number</p>	<ul style="list-style-type: none"> • A preparer is any person who prepares an annual return/report for compensation or who employs one or more persons to prepare for compensation • If the person who prepared the annual/report is not the employer or plan administrator, you may enter the name of the person who prepared the filing • If there are several people who prepare the Form 5500 and applicable schedules, you should indicate the name of the person who was primarily responsible for the preparation of the annual/return report 	<ul style="list-style-type: none"> • This question was approved by OMB for the 2015 Form 5500 Series • Information on Form 5500 Series preparers will assist the IRS in identifying preparers who have engage in patterns of noncompliance. • Preparer questions were on Form 5500 through 2009 and after 2011 where they had been approved in an information collection.

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Forms 5500	Compliance and Use For
<p>a. Is the plan a 401(k) Plan?</p> <p>b. If “Yes” how does the 401(k) plan satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable under sections 401(k)(3) and 401(m)(2)?</p> <p> ___ Designed-based safe harbor method ___ ADP/ACP test</p> <p>c. If ADP/ACP test is used, did the 401(k) plan perform ADP/ACP testing for the plan year using the “current year testing method” for nonhighly compensated employees (Treasury Regulation Sections 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(2)(ii)?</p> <p> ___ Yes ___ No</p>	<p>Form 5500 Sch R, 5500-SF and 5500-SUB</p>	<p>a. Is this plan a 401(k) Plan?</p> <p> ___ Yes ___ No If “No” skip b</p> <p>b. How did the plan satisfy the nondiscrimination requirements for employee deferrals under sections 401(k)(3) for the plan year? Check all that apply</p> <p> ___ Design-based safe harbor ___ Prior year ADP test ___ Current year ADP test ___ N/A</p>	<ul style="list-style-type: none"> • Provide a definition of safe harbor 401(k) plan and the nondiscrimination tests applicable to safe harbor 401(k) plan • Clarification of the testing method for 401(k) plans that do not satisfy the safe harbor method 	<p>This question seeks basic information on the method by which a 401(k) plan satisfied the nondiscrimination requirements for employee deferrals. This information is fundamental to IRS’ ability to monitor plans for compliance with the nondiscrimination rules.</p>

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500	Compliance and Use For
<p>a. Check the box to indicated the method used by the plan to satisfy the coverage requirements under section 410(b)</p> <p>____ ratio percentage test</p> <p>____ average benefit test</p> <p>b. Does the plan satisfy the coverage and nondiscrimination tests of sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules?</p> <p>____ Yes ____ No</p>	<p>Form 5500, Sch R, 5500-SF, 5500-SUB</p>	<p>a. What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year? Check all that apply:</p> <p>____ Ratio percentage test</p> <p>____ Average benefit test</p> <p>____ N/A</p> <p>b. Did the plan satisfy the coverage and nondiscrimination requirements of sections 410(b) and 401(a)(4) for the plan year by combining this plan with any other plan under the permissive aggregation rules?</p> <p>____ Yes ____ No</p>	<ul style="list-style-type: none"> • Check ‘N/A’ if the plan is deemed to satisfy section 410(b) automatically, such as a plan in which no highly compensated employees benefitting • Check all boxes that apply to a plan that test different groups of employees on a disaggregated basis • Instructions clarified the permissively aggregation rules under the Code and regulations 	<ul style="list-style-type: none"> • This question seeks basic information on the method by which a qualified plan satisfied the minimum coverage requirements on employee participation. This information is fundamental to IRS’s ability to monitor plans for compliance with the minimum coverage rules. • This question was on former Schedule T where it had been approved in an information collection.

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500	Compliance and Use For
<p>Were in-service distributions made during the plan year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "Yes" enter amount \$ _____</p>	<p>Form 5500, Sch H/I, 5500-SF, 5500-EZ, and 5500-SUB</p>	<p>Defined benefit plan or money purchase pension plan only: Were any distributions made during the plan year to an employee who attained age 62 and had not separated from service? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> • This is for a defined benefit plan or a money purchase pension plan only. • Check "Yes" if the plan made any distributions during the plan year to employees who have attained age 62 and who were not separated from service when the distributions were made, as permitted under Code Section 401(a)(36) 	<p>This question should assist in the identification of whether distributions to employees are being made before otherwise permissible in a defined benefit or money purchase plan</p>

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500	Compliance and Use For
<p>Were required minimum distributions made to 5% owners who have attained age 70-1/2 (regardless of whether or not retired), as required under Section 401(a)(9)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>	<p>Form 5500-SF and 5500-EZ only</p>	<p>Was any plan participant a 5% owner who had attained at least age 70-1/2 during the prior plan year?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> Code Section 401(a)(9) requires that minimum distributions must be made to a 5% owner who attained at least 70-1/2 in the prior plan year, regardless of whether he/she had retired. 	<p>This information identifies plans to which special rules apply that require minimum distributions to a participant regardless of whether he or she continues in employment. The information will assist the IRS to monitor plan compliance.</p>

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500	Compliance and Use For
<p>a. Has the plan been timely amended for all required changes?</p> <p>b. Date the last plan amendment/restatement for the required law changes was adopted ___/___/___.</p> <p>Enter the applicable code (see instructions for tax law changes and codes).</p> <p>c. If the plan sponsor is an adopter of a pre-approved master, prototype (M&P), or volume submitter plan that is subject to a favorable opinion or advisory letter from IRS, please enter the date of the plan's last opinion or advisory letter ___/___/___ and a letter serial number _____.</p> <p>d. If the plan is an individually-designed plan and received a favorable determination letter from IRS, please enter the date of the plan's last favorable determination letter ___/___/___.</p>	<p>Sch R Line 23a; 5500-SF line 17a; 5500-SUB, Line 6a; 5500-EZ, Line 13a</p>	<p>a. If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter ___/___/___ and the serial number _____</p> <p>b. If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of the most recent determination letter ___/___/___</p>	<ul style="list-style-type: none"> If a plan sponsor or an employer adopted a pre-approved plan that includes a master & prototype plan (a standardized or nonstandardized M&P) or a volume submitter plan, enter the date of the most recent favorable opinion or advisory letter issued by the IRS and the serial number listed on that favorable letter If an individually-designed plan never received a favorable determination letter leave this question blank. 	<p>Whether and when a plan received a favorable opinion letter, advisory letter or determination letter from the IRS is a significant indicator of whether the form of the plan satisfies the qualification requirements under section 401(a).</p>

Proposed IRS compliance questions

Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Proposed instructions 2016 Form 5500	Compliance and Use For
<p>Did the trust incur unrelated business taxable income? ____ Yes ____ No ____ N/A If "Yes" enter amount \$_____</p>	<p>Form 5500, Sch H/I, 5500-SF, 5500-EZ, and 5500-SUB</p>	<p>Deleted</p>	<p>Not included in the proposed instructions</p>	<p>N/A</p>
<p>Is the Plan maintained in a U.S. territory (<i>i.e.</i>, Puerto Rico (if no election under ERISA section 1022(i)(2) has been made), American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the U.S. Virgin Islands)?</p>	<p>Form 5500 Sch R, 5500-SF and 5500-SUP</p>	<p>Deleted</p>	<p>Not included in the proposed instructions</p>	<p>N/A</p>

Questions?

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