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IRS Form 8955-SSA Replaces Schedule SSA for Plan Years Beginning on or after January 1, 2009

The IRS redesigned the form utilized and procedures for pension plans to report deferred vested participants. Although final forms are not yet available, IRS Announcement 2011-21, a set of Frequently Asked Questions, a draft Form 8955-SSA, and IRS Revenue Procedure 2011-31 allow plan administrators and their service providers to prepare for the upcoming changes.

Background

Internal Revenue Code (Code) Section 6057(a) requires plan administrators of 401(k), pension, and other retirement plans subject to the vesting requirements of Section 203 of the Employee Retirement Income Security Act (ERISA) to annually file with the Internal Revenue Service (IRS) information relating to each plan participant who separates from service and is entitled to a deferred vested retirement benefit under the plan (regardless of whether the benefit is subject to forfeiture). The filing requirement does not apply to governmental or church plans.

Prior to the 2009 plan year, the plan administrator had to file this information on Schedule SSA as an attachment to the Annual Return/Report of Employee Benefit Plan (Form 5500 Series). In conjunction with the Department of Labor's (DOL) electronic filing mandate for the Form 5500 Series and EFAST2 electronic filing system, the DOL changed certain schedules. Among the changes were the following:

- Elimination of Schedule SSA from the Form 5500 filing beginning with returns for the 2009 plan year; and
- Deferral of the reporting requirement for information previously reported on Schedule SSA pending IRS issuance of a replacement form.

BUCK COMMENT. *The Schedule SSA contained confidential information, which was inconsistent with the public posting of the Form 5500.*

Form 8955-SSA

IRS Announcement 2011-21

[IRS Announcement 2011-21](#) designates Form 8955-SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, to replace the Form 5500 Schedule SSA for plan years beginning on

or after January 1, 2009. To satisfy Code Section 6057(a) reporting requirements, plans must file the new stand-alone Form 8955-SSA in place of the Schedule SSA for 2009 and subsequent plan years. Form 8955-SSA must be filed with the IRS directly (either by paper copy or electronically), not through the DOL's EFAST2 filing system.

Form 8955-SSA for the 2009 plan year is not yet available for filing, but a draft version of the form was released on April 28, 2011. The IRS is expected to issue the final version of Form 8955-SSA for the 2009 plan year very shortly, while the 2010 form will not be available until later this year.

Plan administrators may use the 2009 Form 8955-SSA to report information that would otherwise have to be reported on the 2010 Form. Frequently Asked Questions ([FAQs](#)) posted on the IRS website state that a plan may prepare one Form 8955-SSA encompassing both 2009 and 2010 reportable employees using the 2009 plan year Form 8955-SSA. In that event, the plan would not need to file a 2010 Form 8955-SSA.

IRS Revenue Procedure 2011-31

On May 31, 2011, the IRS published [Revenue Procedure 2011-31](#) to provide guidance on filing Form 8955-SSA electronically through the Filing Information Returns Electronically (FIRE) System. Use of the FIRE System is voluntary but, if utilized, eliminates the need to submit paper filings to the IRS. Revenue Procedure 2011-31 provides detailed guidance on record formats and layouts, along with other electronic filing requirements.

Filing Due Dates

Generally, the filing due date for the Form 8955-SSA is the same as the due date previously applicable to the Schedule SSA (i.e., the last day of the seventh month following the end of the plan year plus any extensions). However, to provide plan administrators additional time to complete and file the new form, Announcement 2011-21 provides a transitional rule with respect to filings for the 2009 and 2010 plan years.

For both the 2009 and 2010 plan years, the filing due date is the regular due date applicable to 2010 Form 8955-SSA or August 1, 2011, whichever date is later. Thus, for a 2009 plan year or a short 2010 plan year, a plan will not have to file the Form 8955-SSA before August 1, 2011. A calendar year plan that is required to file a 2011 Form 8955-SSA will have to file with the IRS by July 31, 2012.

BUCK COMMENT. *The special due date for Form 8955-SSA does not extend the time for filing the Form 5500 or Form 5500-SF for the 2009 plan year through EFAST2. Plan administrators should continue to use the Form 5500 to report the plan status change information required by Code Section 6057(b).*

Plans that filed a Schedule SSA for the 2009 and/or 2010 plan year with the IRS by April 20, 2011 are not required to file Form 8955-SSA for the 2009 and/or 2010 plan year. After that date, Schedule SSA filings will not satisfy Code Section 6057(a) reporting requirements. The FAQs clarify that after April 20, 2011 a plan should file a Form 8955-SSA, even for reporting plan years prior to 2009.

Extension of Filing Deadline

The same rules that apply to the extension of time for filing Schedule SSA (Form 5500) will apply to the extension for filing Form 8955-SSA. 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 to file the Form 8955-SSA. A revised Form 5558 is expected to be available soon. Also, if certain conditions are met, plan administrators may be able to secure an automatic extension of the filing deadline for Form 8955-SSA until the due date of the employer's federal tax return.

BUCK COMMENT. *The FAQs confirm that, by timely filing a Form 5558, the August 1, 2011 deadline can be extended to October 15, 2011 for both the 2009 and 2010 Form 8955-SSA.*

Conclusion

As we await the release of the finalized 2009 Form 8955-SSA, Buck's consultants are available to assist you in better understanding the changes taking place and preparing for the new filing.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.