



## IRS Provides Additional Guidance on Form 8955-SSA Returns and Form 5558 Filing Extension Requests

*The IRS allows plan sponsors or plan administrators to use Form 5558 to apply for a one-time extension of time to file certain employee benefit plan returns. The IRS recently reminded filers that it will not process lists of plans attached to a Form 5558 requesting filing extensions for Form 5500 series or Form 8955-SSA annual returns. The IRS also confirmed that plan administrators can combine data for plan years 2009 and 2010 on the 2009 Form 8955-SSA even though the 2010 Form 8955-SSA is now available.*

### Background

To satisfy Internal Revenue Code Section 6057(a), 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) must file with the Internal Revenue Service (IRS) an annual registration statement that identifies plan participants who separate from service with deferred vested benefits under the plan. Prior to the 2009 plan year, administrators reported the information on Schedule SSA of Form 5500 (*Annual Return/Report of Employee Benefit Plan*).

In [Announcement 2011-21](#), the IRS designated 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, and extended the filing dates for both the 2009 and 2010 Forms 8955-SSA. (See our June 10, 2011 [For Your Information](#).) The special filing due date for the 2009 and 2010 Forms 8955-SSA is the later of January 17, 2012 or the due date that generally applies for filing the Form 8955-SSA for the 2010 plan year.

**BUCK COMMENT.** *Each plan administrator required to file an annual registration statement under Code Section 6057(a) must also furnish an individual statement to each separated participant with deferred benefits describing the participant's deferred vested benefits. Because the individual statements must be furnished to the separated participants no later than the due date for filing Form 8955-SSA, the extension of the filing deadline for the 2009 and 2010 Forms 8955-SSA also extends the deadline to provide the individual statements.*

*Form 8955-SSA requires plan administrators, for the first time, to certify that an individual statement was furnished to each separated participant required to receive one. Plan administrators should review their plans' administrative procedures to make sure the statements are being provided in a timely manner.*

## Form 8955-SSA

[Instructions](#) for the [2009 Form 8955-SSA](#) and Frequently Asked Questions ([FAQs](#)) posted on the IRS website permit plan administrators to use the 2009 form to report information for the 2010 plan year, or to combine the information for the 2009 and 2010 plan years on a single 2009 Form 8955-SSA. [Instructions](#) for the [2010 Form 8955-SSA](#) direct plan administrators not to refile information for the 2010 plan year previously reported on a 2009 form, but require them to use the 2010 form to report information for plan year 2010 that was not previously reported.

The FAQs confirm that, even though the 2010 form is now available, plan administrators will still be permitted to use the 2009 Form 8955-SSA to report information for the 2010 plan year, or combine data for plan years 2009 and 2010 on a single 2009 form. The IRS states that it will treat the 2010 reportable employees as reported in 2009 if the plan administrator files one Form 8955-SSA covering both 2009 and 2010 reportable employees. In that case, the IRS advises, the plan administrator should enter the beginning and ending date for the 2009 plan year on the Form 8955-SSA. For example, a plan that reports on a calendar year basis and combines data for 2009 and 2010 should enter January 1, 2009 as the beginning date and December 31, 2009 as the ending date.

Form 8955-SSA generally can be submitted to the IRS in paper form or filed electronically using the IRS' Filing Information Returns Electronically (FIRE) system. The IRS has announced that the FIRE system will be down from 8 a.m. December 16, 2011 until the morning of January 4, 2012 for programming updates. Thus, electronic filing will not be possible during this period.

## Filing Extension Requests

Prior to the release of Form 8955-SSA, the IRS allowed a plan sponsor or plan administrator to use Form 5558 (*Application for Extension of Time to File Certain Employee Plan Returns*) to request a one-time extension of time to file the Form 5500 series or Form 5330 (*Return of Excise Taxes Related to Employee Benefit Plans*). In June 2011, the IRS revised [Form 5558](#) to also include requests for an extension of time to file Form 8955-SSA.

***BUCK COMMENT.*** *The IRS has confirmed that plans with an extended filing deadline of January 17, 2012 for both the 2009 and 2010 Forms 8955-SSA will not be eligible for further extensions by filing Form 5558. However, plans may use Form 5558 to request an extension if their due date for filing Form 8955-SSA (with or without extension) falls after January 17, 2012.*

The instructions to the revised Form 5558 state that a separate form generally is used for each return for which an extension is requested. However, if the employer maintains more than one single employer plan and the plan years end on the same date, the employer may file a single form to request extensions of time to file Form 5500 series returns/reports and/or Form 8955-SSA returns for up to three of these plans.

Form 5558 [reminders](#) posted on the IRS website make clear that Form 5558 filing extension requests are limited to three or fewer plans, and the IRS will not process Forms 5558 requesting extensions for more than three plans. Forms 5558 with attached lists of more than three plans that the IRS receives through July 31, 2012 will be

returned to the filer to submit a completed Form 5558 for all plans on the list requiring an extension. The IRS will not return or process lists of more than three plans it receives after July 31, 2012.

The IRS also provides a reminder that a Form 5558 request for a Form 5500 series return does not require a signature. However, requests for Form 5330 or Form 8955-SSA extensions must be signed by a plan administrator, employer, plan sponsor, or other authorized representative.

## Conclusion

The recent IRS guidance clarifies the Form 8955-SSA filing requirements for the 2009 and 2010 plan years, and provides important reminders about using Form 5558 to request filing extensions for certain benefit plan returns.

As the January 17, 2012 deadline approaches, plan administrators should ensure that they have assigned responsibility and have adequate processes in place for preparing both the Form 8955-SSA filing and individual statements to separated participants with deferred benefits. With respect to the Form 8955-SSA filing, plan administrators must determine whether to file separate Forms 8955-SSA for the 2009 and 2010 plan years or file a combined Form 8955-SSA. In addition, plan administrators must consider whether to submit paper forms or file electronically.

Buck's consultants would be pleased to discuss these requirements with you and assist in your filings.

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*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.*