

Exceptions from the Electronic Filing Requirements for Certain Filers of Forms 8955-SSA and 5500-EZ

Rev. Proc. 2023-31

SECTION 1. PURPOSE

With respect to a Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits*, or Form 5500-EZ, *Annual Return of A One Participant (Owners/Partners and Their Spouses) Retirement Plan or A Foreign Plan*, required to be filed for a plan year beginning on or after January 1, 2024, this revenue procedure supersedes Rev. Proc. 2015-47, 2015-39 IRB 419 (which provides procedures for requesting a hardship waiver of the requirement to file these forms electronically), and refers filers to applicable Internal Revenue Service (IRS) publications, forms, instructions, or other guidance, including postings on the IRS.gov website, for the procedures to request a hardship waiver. This revenue procedure also addresses the availability of an administrative exemption from the requirement to file Form 8955-SSA electronically, and refers filers to applicable publications, forms, instructions, or other guidance, including postings on the IRS.gov website, for the procedures for claiming the administrative exemption.

SECTION 2. BACKGROUND

.01 Prior to enactment of the Taxpayer First Act (TFA), Pub. L. 116-25, 133 Stat. 981 (2019), § 6011(e) of the Internal Revenue Code (Code) authorized the Secretary to

issue regulations that require a taxpayer to file returns electronically if the taxpayer is required to file at least 250 returns during the calendar year.

.02 In 2014, pursuant to § 6011(e), the Department of the Treasury (Treasury Department) and the IRS issued final regulations under several sections of the Procedure and Administration Regulations, including §§ 301.6057-3 and 301.6058-2 (TD 9695, 79 FR 58256) (2014 electronic filing regulations). The 2014 electronic filing regulations require certain taxpayers to file Form 8955-SSA and Form 5500 series returns electronically.¹ Form 8955-SSA registration statements that are filed electronically are filed using the Filing Information Returns Electronically (FIRE) system. Form 5500 series returns that are filed electronically are filed using EFAST2.

.03 The 2014 electronic filing regulations provide that the Commissioner of the IRS (Commissioner) may waive the electronic filing requirement in cases of undue economic hardship, and that a request for a waiver must be made in accordance with applicable published guidance, publications, forms, instructions, or other guidance on the IRS.gov website. In 2015, the Treasury Department and the IRS published Rev. Proc. 2015-47, which sets forth procedures for taxpayers that are required to file Form 8955-SSA or Form 5500-EZ electronically to request a waiver of the electronic filing requirement due to undue economic hardship.²

¹ Form 5500 series returns include Form 5500, *Annual Return/Report of Employee Benefit Plan*, Form 5500-SF, *Short Form Annual Return/Report of Small Employee Benefit Plan*, and Form 5500-EZ. The Department of Labor (DOL) requires that Forms 5500 and 5500-SF be filed electronically through its computerized ERISA Filing Acceptance System (EFAST2), without providing any process for waivers or exemptions.

² Because DOL mandates that Forms 5500 and 5500-SF be filed electronically through EFAST2 without exception, Rev. Proc. 2015-47 does not provide procedures for requesting waivers of the electronic filing requirement for those forms.

.04 In part, section 2301 of TFA amended § 6011(e) of the Code so that the Secretary is authorized to prescribe regulations requiring a taxpayer that is required to file at least 10 returns during a calendar year to file Forms 8955-SSA and 5500-EZ, among other forms, electronically.

.05 On February 23, 2023, TD 9972, *Electronic-Filing Requirements for Specified Returns and Other Documents* (the TFA electronic filing regulations), was published in the **Federal Register** (88 FR 11754). The TFA electronic filing regulations implement the 10-return mandatory electronic filing threshold with respect to Forms 8955-SSA and 5500-EZ, among other forms, that are required to be filed for plan years beginning on or after January 1, 2024.³

.06 Similar to the 2014 electronic filing regulations, §§ 301.6057-3 and 301.6058-2 of the TFA electronic filing regulations provide that the Commissioner may grant waivers of the electronic filing requirement in cases of undue hardship or undue economic hardship, respectively. The TFA electronic filing regulations provide that a request for a waiver must be made in accordance with applicable IRS revenue procedures, publications, forms, instructions, or other guidance, including postings to the IRS.gov website.

.07 In addition to a hardship waiver, § 301.6057-3(b)(2) of the TFA electronic filing regulations states that the Commissioner may provide an exemption from the requirement to file Form 8955-SSA electronically to promote effective and efficient tax

³ Although the 2014 electronic filing regulations and the TFA electronic filing regulations generally require electronic filing for taxpayers that meet the applicable mandatory electronic filing threshold of returns, Notice 2014-35, 2014-23 IRB 1072, which provides relief from certain late filing penalties for delinquent filers participating in DOL's Delinquent Filer Voluntary Compliance Program, requires filers to file late Form 8955-SSA registration statements on paper. In addition, Rev. Proc. 2015-32, 2015-24 IRB 1063, which provides relief from certain late filing penalties for delinquent filers of Form 5500-EZ returns, requires filers to submit the late Form 5500-EZ returns on paper.

administration. The TFA electronic filing regulations provide that a submission claiming an exemption must be made in accordance with applicable IRS revenue procedures, publications, forms, instructions, or other guidance, including postings to the IRS.gov website.⁴

SECTION 3. SCOPE

.01 Under the TFA electronic filing regulations, the Commissioner may grant hardship waivers of the electronic filing requirement with respect to both Forms 8955-SSA and 5500-EZ. However, the Commissioner may provide an exemption from the electronic filing requirement for the purpose of promoting effective and efficient tax administration only with respect to Form 8955-SSA. Thus, this revenue procedure addresses hardship waiver procedures with respect to both Forms 8955-SSA and 5500-EZ, and administrative exemption procedures with respect to Form 8955-SSA.

.02 As under Rev. Proc. 2015-47, the Commissioner will not provide hardship waiver procedures for any electronic filing requirement for Forms 5500 and 5500-SF (which are required by DOL to be filed electronically through EFAST2). Accordingly, the instructions provided in section 4 of this revenue procedure relating to requests for hardship waivers apply only to filings of Forms 8955-SSA and 5500-EZ.

SECTION 4. PROCEDURES RELATING TO EXCEPTIONS FROM THE ELECTRONIC FILING REQUIREMENTS FOR FORMS 8955-SSA AND 5500-EZ

.01 For filings submitted with respect to plan years beginning on or after January 1, 2024, the procedures for seeking an undue hardship waiver of, or administrative exemption from, the electronic filing requirements for Form 8955-SSA generally will be

⁴ Section 301.6057-3(b)(3) of the TFA electronic filing regulations also provides that taxpayers will not be required to file Form 8955-SSA electronically if the IRS's systems do not support electronic filing.

available in the instructions to Form 8955-SSA, or in applicable IRS publications, forms, or other guidance, including postings to the IRS.gov website.

.02 For filings submitted with respect to plan years beginning on or after January 1, 2024, the procedures for seeking an undue economic hardship waiver of the electronic filing requirements for Form 5500-EZ generally will be available in the instructions to Form 5500-EZ, or in applicable IRS publications, forms, or other guidance, including postings to the IRS.gov website.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2015-47 is superseded with respect to Forms 8955-SSA and 5500-EZ required to be filed for plan years beginning on or after January 1, 2024.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective with respect to Forms 8955-SSA and 5500-EZ required to be filed for plan years beginning on or after January 1, 2024.

SECTION 7. PAPERWORK REDUCTION ACT

Any collection requirements imposed with respect to requesting a waiver or exemption with respect to the requirement to file Form 8955-SSA electronically or requesting a waiver of the requirement to file Form 5500-EZ electronically will generally be included in the instructions to those forms, or in applicable publications, forms, or other guidance, including postings to the IRS.gov website. This revenue procedure is not creating or revising any collections of information.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Jessica Weinberger of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and

Employment Taxes). For further information regarding this revenue procedure, contact Ms. Weinberger at 202-317-6349 (not a toll-free number).

SECTION 9. OTHER INFORMATION

For questions concerning a request for a mandatory electronic filing waiver with respect to Forms 8955-SSA and 5500-EZ, or a request for a mandatory electronic filing exemption with respect to Form 8955-SSA, please contact the IRS taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number).

For information regarding the FIRE system, see the FIRE system website at [http://www.irs.gov/Tax-Professionals/e-File-Providers-&Partners/Filing-Information-Returns-Electronically-\(FIRE\)](http://www.irs.gov/Tax-Professionals/e-File-Providers-&Partners/Filing-Information-Returns-Electronically-(FIRE)). For information regarding EFAST2, see the EFAST2 filing website maintained by the DOL at <http://www.efast.dol.gov/welcome.html>.