



Issue 2011-6
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employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

Master and Prototype Plan Sponsors

[Responsibilities and tips](#) to help your adopting employers

Employee Stock Ownership Plan Worksheet (revised 08/2011)

A [tool](#) to help you design ESOP plan documents

Retirement Plans News Widget

The [widget](#) displays recent retirement plans news on your website or blog

[Phone Forums](#)

- How to correct plan errors and 403(b) issues (EPCRS) on August 25, 2:00 EST
- Participant loans - taxability and prohibited transactions on September 12, 2:00 EST

Form 8955-SSA FAQs Revisions

- The IRS system for electronic filing of information returns (FIRE) will be down from December 16, 2011 through January 2, 2012, for programming updates. You will not be able to file Form 8955-SSA electronically during this time. [See Q&A 10](#)
- Electronic signatures are not required for electronically filed Forms 8955-SSA. [See Q&A 12](#)

Master and Prototype Plan Sponsors - Responsibilities and Tips

M&P plan sponsors must meet their responsibilities that include making diligent efforts to ensure that [adopting employers](#):

1. complete and sign new adoption agreements and signature pages when necessary (for example, when the plan has been restated, or when the plan sponsor changes adoption agreement choices);
2. are aware of and receive all plan documents and amendments (including an IRS-approved copy of the plan, subsequent amendments and the most recent opinion letter); and
3. timely amend their plan for law changes to remain qualified.

Additionally, M&P sponsors have recordkeeping responsibilities and must give the IRS a list of their adopting employers upon request.

Tips for M&P Sponsors

The IRS [Employee Plans Compliance Unit](#) recently conducted a review of how well M&P sponsors communicate with their adopting employers about compliance issues. Based on our review, we developed these 10 tips for M&P sponsors to address the potential concerns that may arise as they attempt to meet their responsibilities to adopting employers.

Tip	Potential Concerns
1. Encourage adopting employers to keep plan amendments and plan restatements (more)	<ul style="list-style-type: none"> • Adopting employer is merging and needs documentation • Adopting employer wants to terminate the plan and needs documentation • Adopting employer needs plan documents for a due diligence review • Adopting employer needs plan documents to file for a Determination Letter
2. Track communications with adopting employers (more)	<ul style="list-style-type: none"> • Adopting employer says they never received the interim or discretionary amendments • Amendments are in binder but not signed or dated • Plan operational practice does not match adoption agreement or trust
3. Provide clear instructions to adopting employers (more)	<ul style="list-style-type: none"> • An interim or discretionary amendment is not signed or dated • Adopting employer can't locate plan documents when audited • Adopting employer doesn't understand what to do
4. Track the return of executed documents (more)	<ul style="list-style-type: none"> • Adopting employer says they never received the interim or discretionary amendments • Adopting employer can't locate their documents
5. Encourage adopting employers to do an annual plan check-up (more)	<ul style="list-style-type: none"> • Adopting employer may miss an opportunity to self-correct or voluntarily correct plan form and operational errors • Financially troubled adopting employer does not take action to: <ul style="list-style-type: none"> ○ amend the plan, ○ freeze the plan, or ○ stop minimum funding deficiencies, risking incurring excise taxes

<p>6. Ensure adopting employers only choose approved elective plan provisions and stay within approved parameters (more)</p>	<ul style="list-style-type: none"> • Adopting employer writes in choices that deviate from the pre-approved language in the adoption agreement • Adopting employer completes a fill-in provision with language that strays beyond the parameters of the pre-approved plan • Adopting employer crosses out plan or trust language and adds new language
<p>7. Keep your sponsorship records updated (more)</p>	<ul style="list-style-type: none"> • M&P Sponsor does not secure new opinion letters when changing EIN • M&P Sponsor does not verify if any adopting employers are using their M&P plan document before discontinuing or abandoning it • The IRS may request that M&P Sponsors provide a list of current and past adopting employers with identifying information
<p>8. Communicate with the adopting employers (more)</p>	<ul style="list-style-type: none"> • If adopting employer misunderstands plan rules or doesn't have contact with M&P sponsor: <ul style="list-style-type: none"> ○ annual Form 5500 series return may not get filed ○ allocations may not get made ○ interim and discretionary amendments may not be executed timely ○ funding deficiencies may occur ○ administrative procedures prior to distributions may not be followed
<p>9. Use IRS Resources (more)</p>	<ul style="list-style-type: none"> • M&P Sponsor is unfamiliar with changes to retirement plan laws • M&P Sponsor fails to take advantage of available resources
<p>10. Use the Employee Plans Compliance Resolution System to avoid and correct plan errors (more)</p>	<ul style="list-style-type: none"> • Plan errors go undetected until an audit • M&P Sponsor is unfamiliar with IRS Fix-It Guides - Common Problems, Real Solutions

Form 5300 Applications for Employee Stock Ownership Plans

EP Determinations has taken numerous steps to expedite and improve our determination letter application processing for Employee Stock Ownership Plans, including forming a cadre of determination letter specialists dedicated to review these plans. We are changing some procedures for reviewing ESOPs submitted on Form 5300, *Application for Determination for Employee Benefit Plan*, during Cycles C-E:

- Practitioners who have submitted applications for multiple ESOPs, and who receive a letter from a determination specialist requesting plan amendments to a particular plan, may determine the applicability of that request to all other plans filed by the practitioner's firm and submit a single response that would apply to some or all of the amendments to the firm's pending ESOP Form 5300 applications. Include the letter from the determination specialist requesting the amendment(s) and provide a separate copy of the amendment to each affected plan, identifying the plans to which the proposed amendments apply.
- EP Determinations developed a revised, streamlined [worksheet \(rev. 08/11\)](#) to review ESOPs in their initial review stage. Plan sponsors and practitioners may use the worksheet as a tool to design ESOP plan documents.

Plan sponsors are reminded that if all the requested information is not received by the date stated in the letter, the application may be closed and returned to the sponsor without further review.

Retirement Plans News Widget

The [Retirement Plans News widget](#) provides your audience with the latest information about retirement plans. Embed the widget on your website, blog or social networking page so that your clients, members and partners can access the latest retirement plans articles pulled directly from our website. When the top three items change on www.irs.gov/retirement, so do the headlines and brief summaries displayed on the widget. Click any news item as it scrolls across the widget to access the full article.

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Form 8955-SSA FAQs Revisions

Q&A 10 - How does the IRS electronic filing system work?

Form 8955-SSA can be submitted electronically using third-party software and IRS' Filing Information Returns Electronically (FIRE) system. Filers submitting Form 8955-SSA electronically through FIRE will need:

- Software to create files in the proper format for filing electronically to the IRS.
- A Transmitter Control Code (TCC) obtained by submitting Form 4419 (Application for Filing Information Returns Electronically). Note that if the transmitter already uses FIRE for submitting other forms, the transmitter will need to get an additional TCC used only for Form 8955-SSA.
- A FIRE account to log into and use the FIRE system. Visit fire.irs.gov to create a FIRE account. If the transmitter already uses FIRE for submitting other forms, an additional FIRE account **is not** required.

The Filing Information Returns Electronically (FIRE) system will be down December 16, 2011 through January 2, 2012, for programming updates. It is not operational during this time for submissions.

More information available on the on the [Form 8955-SSA Resources](#) page (see Publication 4810).

Q&A 12 - On the Form 8955-SSA, there is a signature block for the plan administrator and a plan sponsor. If they are the same person, who signs?

If the plan administrator and the plan sponsor are the same person, only the signature as plan administrator needs to be included on the form.

Electronic signatures are not required for electronically filed Forms 8955-SSA. The name of the administrator or sponsor should be typed into the signature line. Administrators and sponsors are not required to have their own FIRE Transmitter Control Code, User ID or PIN.