

## Employee Plans News

Issue 2013-4, September 18, 2013

[Modified Favorable Determination Letter 2002](#) won't include the adoption dates for plan documents or amendments for certain applications

[DB Mass Submitter Plan deadline is extended](#) - to January 31, 2014

[Proposed Regulations would require electronic filing for Forms 5500 and 8955-SSA](#) for filers submitting 250 or more returns

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### Form 5300 Applications - Modified Favorable Determination Letter 2002

Employee Plans Determinations has modified the Favorable Determination Letter 2002 for Form 5300 applications that meet updated review criteria. The modified letter will not include the dates of adoption for plan documents or amendments. Otherwise, it is identical to the currently issued Letter 2002, including a reference to the applicable cumulative list and an expiration date. For now, we'll include an insert explaining the change to Letter 2002 for cases meeting the updated review criteria.

[Revenue Procedure 2013-6](#) describes the procedures for issuing determination letters. Section 21.01 notes that determination letters are based on the facts and demonstrations presented to the IRS in connection with the determination letter application. Therefore, our processing change does not affect the scope of or reliance on a determination letter.

As with all favorable determination letters, applicants should retain Form 5300 and all documents they submit with their application.

You can email us your questions or comments at [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov).

#### Additional resources

- [Determination, Opinion and Advisory Letters](#)
- [Publication 794](#), *Favorable Determination Letter*

## **Proposed Regulations Will Require Electronic Filing of Forms 5500 and 8955-SSA When Filers Have 250 or More Returns**

The [proposed regulations](#) NPRM Reg-111837-13 (August 30, 2013) ([PDF](#)) would generally require electronic filing of Form 5500 series returns and Form 8955-SSA for filers who have to file at least 250 returns during the year. The effective date of the change would be for plan years beginning on or after January 1, 2014, but only for filings with a filing date after December 31, 2014. When determining the 250-return threshold, all returns, including information returns, must be aggregated. Returns include W-2's, 1099-R's, income tax returns, and employment tax returns.

Plan sponsors and plan administrators are already required to file Forms 5500 and 5500-SF electronically using the Department of Labor's ERISA Filing Acceptance system. When DOL first implemented the mandatory electronic filing system, the IRS couldn't mandate that filers include certain Internal Revenue Code (IRC) items in their electronic filing and these IRC items were removed from Form 5500 series returns. However, in coordination with DOL, the IRS anticipates adding IRC-related items to EFAST 2 when the regulations become final. The IRS plans to offer a paper-only form containing these IRC-related items to those filers who aren't subject to the new electronic filing requirements.

Comments may be provided on the proposed regulations until October 29, 2013.