Employee Plans News

Issue 2014-16, October 15, 2014

New single distribution rule – allows participants to send the pre-tax amount of their distribution to one destination and after-tax to another

Canadian retirement plan participants – qualify for tax deferred contributions to certain plans

Mandatory electronic filing for Form 8955-SSA and 5500-series – for filers who have to file at least 250 returns during the calendar year

Fidelity bonds and depositing plan contributions – EPCU Virgin Island retirement plans project results

Form 5500-EZ Pilot Penalty Relief Program – watch video for details (2.11 min)

IRS Nationwide Tax Forums online – seminars include two videos, slides and transcripts on retirement plan topics

The Advisory Committee on Tax-Exempt & Government Entities (ACT) – is accepting applications including two for Employee Plans - apply by Nov. 3

PBGC

HATFA premium guidance – effect of the Highway and Transportation Funding Act of 2014 on PBGC premiums

Premium payments – instructions and contact information to ensure your payments are posted accurately

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New Single Distribution Rule for Retirement Plans

Beginning January 1, 2015, when participants choose to direct their retirement plan distribution to go to multiple destinations, the amounts will be treated as a single distribution for allocating pre-tax and after-tax basis (Notice 2014-54 and REG-105739-11). This will allow qualified, 403(b) and 457(b) governmental retirement plan participants to:

- roll over amounts to both a Roth IRA and a non-Roth IRA,
- allocate the pre-tax amount of the distribution to the non-Roth IRA and the after-tax amount to the Roth IRA, and
- avoid having to pay income tax on pre-tax amounts rolled over to the non-Roth IRA.

Current separate distributions rule

Under current rules, each destination of a retirement plan distribution (for example, a distribution split between a direct rollover to an IRA and an actual distribution of funds) is considered a separate distribution. If a participant's account balance contains both pre-tax and after-tax amounts, each distribution includes a pro rata share of both. A participant can't choose to transfer the pre-tax amount to a traditional IRA and the after-tax amount to a Roth IRA.

Transition rules

The new single distribution allocation rules aren't mandatory for plan distributions prior to January 2015, however, plan sponsors may apply this allocation rule to distributions made on or after September 18, 2014, and apply a reasonable interpretation of the allocation rules for distributions made prior to September 18.

Additional resources

- Rollovers of retirement plan and IRA distributions
- Rollover chart
- Individual Retirement Arrangements (IRAs)
- Types of retirement plans

Mandatory Electronic Filing for Certain Form 8955-SSA and 5500-series Returns

- Final Regulations issued under Internal Revenue Code Sections 6057, 6058 and 6059 (T.D. 9695) generally require filers who have to file at least 250 returns with the IRS during the calendar year to file Form 5500-series returns and Form 8955-SSA electronically.

- The preamble to the regulations notes that the IRS anticipates adding items on the 2015 Forms 5500 and 5500-SF that relate solely to the Internal Revenue Code requirements and providing an optional paper-only form containing those Code-related items to filers who aren't required to file electronically.

If you don't file electronically when required to do so, you'll be considered to not have filed the return, and you may incur appropriate penalties.

Effective date

- **Form 8955-SSA**, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*, must be filed electronically for plan

years beginning on or after January 1, **2014**, but only for returns with a filing date on or after July 31, 2015 (not including extensions).
- **Form 5500 series returns** must be filed electronically for plan years that begin on or after January 1, **2015**, but only for returns with a filing deadline (not including extensions) after December 31, 2015.

Electronic filing systems

Use EFAST2 (ERISA Filing Acceptance System) to electronically file:
- **Form 5500**, *Annual Return/Report of Employee Benefit Plan*, and
- **Form 5500-SF**, *Short Form Annual Return/Report of Small Employee Benefit Plan*.

Use FIRE (Filing Information Returns Electronically) to electronically file **Form 8955-SSA**.

One-participant plans

Electronic filing isn't available for **Form 5500-EZ**, *Annual Return of One-Participant (Owners and their Spouses) Retirement Plan*. However, Form 5500-EZ filers required to file their returns electronically under the final regulations, who would otherwise file a paper Form 5500-EZ, must instead file **Form 5500-SF** electronically through EFAST2, but aren't required to attach:
- Schedule SB, *Single-Employer Defined Benefit Plan Actuarial Information*, or
- Schedule MB, *Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information*.

250-return threshold

When determining the 250-return threshold, aggregate all returns, including information returns. For example, include the following returns:
- Forms W-2 and 1099-R; and
- income, employment and excise tax returns.

Certain delinquent returns

Late filers who want relief under the following programs must file paper returns and meet other program requirements:
- Penalty Relief Program for Form 5500-EZ Late Filers
- Changes to IRS Penalty Relief for DOL DFVC Filers of Late Annual Reports

Additional resources

- Form 5500 Corner
- Form 8955-SSA Resources

Fidelity Bonds and Depositing Plan Contributions

The Employee Plans Compliance Unit (EPCU) looked at the compliance rate of Virgin Island plan sponsors on two issues IRS discovered during limited audits of these plan and found that most of the sampled plans sponsors complied with their bonding and contribution deposit requirements. However, the EPCU did find a few plan sponsors who either:

- didn't have adequate fidelity bonding, or
- didn't deposit contributions by the required deadlines.

Fidelity bonds

Under ERISA, plan sponsors are required to secure fidelity bonds to protect the plan against loss because of fraud or dishonesty by any plan fiduciary or someone who handles the plan's assets.

Everyone who meets the bonding requirement is required to secure a bond for at least 10% of the amount of funds handled during a plan year ($1,000 minimum and $500,000 maximum per plan). The Department of Labor increased the maximum required bond to $1,000,000 for officials of plans that hold employer securities for plan years beginning on or after January 1, 2008. For more guidance on ERISA fidelity bonding requirements, see DOL Field Assistance Bulletin 2008-04.

Contribution deposits

Plan sponsors are required to keep employee contributions and salary deferral contributions separate from the company's general funds. The DOL requires that the employer must deposit contributions into the trust as soon as administratively possible.

Rules for when an employer must deposit matching or other contributions are different from those for elective deferrals. To obtain a current tax deduction, the employer must deposit matching contributions by the employer's income tax return filing deadline, including extensions.

If the employer doesn't make the contribution deposits by the required deadline the plan may have operational mistakes that may lead to prohibited transactions or plan disqualification. Although an employer can correct certain operational mistakes under the Employee Plans Compliance Resolution System, an employer can't correct prohibited transactions using this program. Employers may resolve prohibited transactions using the DOL Voluntary Fiduciary Correction Program (VFCP). If the plan document contains language for the timing of salary deferral deposits, an employer may correct failures to follow the plan document terms under EPCRS.

Planning tips

Review your plan's administrative procedures so these mistakes don't happen and consult with your benefits professional to ensure that you have administrative procedures in place to prevent these operational errors. If you find errors, take prompt action to correct them.

We have many resources to help you monitor compliance with your retirement plan. If you find a mistake or problem in your retirement plan, learn how to fix plan errors and avoid future errors.

Contact us

If you have questions about this project, email us and include “Virgin Islands” in the subject line. Make sure to include your telephone number so we can contact you with answers.

Additional resources

- Information for International Taxpayers and International Businesses
- International Issues Affecting Retirement Plans
- Check-Ups
- Fix-It Guides
- Fixing Common Plan Mistakes
- A Guide to Common Qualified Plan Requirements
- “Maintaining Your Plan” Video
- Form 5500 Corner