
Multiple-employer plans should file only one Form 5500: ASPPA

By Editor Test *Thu, Jan 31, 2013*

"As might be expected, the lack of guidance on how to deal with this inconsistency has caused a great deal of consternation," said ASPPA counsel Craig Hoffman in an open letter to the DoL and IRS.

The American Society of Pension Professionals & Actuaries (ASPPA) has asked the federal government for "clarification and transitional relief" regarding filling of Forms 5500 and 8955-SSA for ERISA multiple employer plans (MEPs).

Attorneys for plan sponsors have interpreted two Department of Labor opinions issued last May to mean that many of today's MEPs may not qualify as single plans under Title I of ERISA and that each employer jointly sponsoring the MEP might have to file its own Form 5500.

But plan sponsors had relied on Revenue Procedure 2001-21 of the Internal Revenue Code to mean that only one Form 5500 need be filed for all sponsors of the MEP.

"It would appear that, for purposes of the reporting provisions of the IRC, MEPs should continue to file a single Form 5500 covering all the employers jointly sponsoring the plan," wrote ASPPA general counsel Craig P. Hoffman in a letter to the DoL and the IRS.

Hoffman's letter said that neither agency had yet shown sponsors of MEPs how to "resolve the inconsistent rules that apply to the singular reporting form (i.e., Form 5500) mandated by both agencies as the vehicle for satisfying a plan sponsor's statutory reporting obligation... As might be expected, the lack of guidance on how to deal with this inconsistency has caused a great deal of consternation."

ASPPA recommended that the DoL and IRS resolve the apparent inconsistency and that the IRS should make it clear that the plan administrator for any plan subject to IRC §413(c) need file only a single Form 8955-SSA under IRC §6057.

"Until clarified, transitional relief should be provided that would deem a plan sponsor participating in a MEP to have satisfied its reporting obligations under Title I of ERISA and the IRC if a Form 5500 has been filed for the MEP as a single plan," Hoffman wrote.

"The relief should be made available for any plan year that begins on or before formal coordinated guidance is issued by the Department and IRS. Affected plan sponsors should also be given the option to file individually prior to this deadline."

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