



PENSION ANALYST COMPLIANCE BULLETIN



New law repeals Form 5500 deadline extension

On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation (FAST) Act. The new law funds highway and mass transit projects through fiscal year 2020. The new law also contains a provision that repeals the 3½-month automatic extension of the Form 5500 filing due dates, which was previously enacted in July 2015.

Background

Annually, pension and welfare benefit plans must generally file the Form 5500, the Annual Return/Report of Employee Benefit Plan, to report their financial condition, investments and operations. Small plans (plans with fewer than 100 participants at the beginning of the plan year) may be eligible to file the Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan, instead of the Form 5500. Plan sponsors must file these forms electronically using the ERISA Filing Acceptance System (EFAST2).

On July 31, 2015, President Obama signed into law the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"). The Act provided that for plan years beginning after December 31, 2015, the maximum automatic extension of the Form 5500 and Form 5500-SF filing dates is 3½ months, or November 15 for calendar year plans. The new extension would have applied to filings made in 2017.

Repeal of the deadline extension

Due to concerns raised by trade groups, the FAST Act repeals the automatic extension of the Form 5500 and Form 5500-SF filing dates. As a result, the maximum extension period for filing the Form 5500 and Form 5500-SF will not change. Plan sponsors must file Form 5500 by the end of the seventh month following the end of the plan year with a 2½-month extension available. For calendar-year plans, the due date is July 31, with an extension to October 15 for those plan sponsors that file Form 5558 Application for Extension of Time To File Certain Employee Plan Returns, on a timely basis. Plan sponsors must file this form with the IRS to apply for an extension of the filing deadline for Form 5500. Approval of the 2½-month extension for filing Form 5500 is automatic if a properly completed Form 5558 is filed before the Form 5500 due date.

The repeal of the automatic extension also means that the deadlines for Form 8955-SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits) and the Summary Annual Reports (SARs) will not change since the due dates of the Form 8955-SSA and SARs are related to the filing deadline for the annual return.

Next steps

The repeal of the automatic extension will have no impact on plan sponsors since the Form 5500 deadline and extension have not changed from the current deadline. As in years past, plan sponsors must continue to file Form 5500 by the end of the seventh month following the end of the plan year. They will need to file the Form 5558 in order to obtain the 2½-month extension.

Compliance Bulletin by Prudential Retirement

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