

February 22, 2016

Mr. Rob Choi
Director, Employee Plans
Internal Revenue Service
999 North Capitol Street, NE
Washington, DC 20002

Re: Meeting Request to Collaborate on Revised Compliance Questions/Instructions

Dear Mr. Choi:

The American Retirement Association (ARA) is writing to request that the Internal Revenue Service (IRS) actively engage stakeholders to collaborate on refinements and enhancements to any future compliance question data collection; and to assist in providing clear and accurate instructions. We suggest a meeting be scheduled as soon as possible to discuss these matters. The ARA appreciates the recent IRS announcement that plan sponsors should not complete the compliance questions that were added to 2015 Forms 5500-EZ and 5500-SF, and to Form 5500 Schedules H, I and R. The ARA has previously expressed its concerns to both the Internal Revenue Service and Treasury Department as well as the Office of Management and Budget (OMB) about the compliance questions on the 2015 Form 5500 series reports, including the new proposed Form 5500-SUP¹.

The ARA is a national organization of more than 25,000 members who provide consulting and administrative services to American workers, savers and sponsors of retirement plans and IRAs. ARA members are a diverse group of retirement plan professionals of all disciplines including financial advisers, consultants, administrators, actuaries, accountants, and attorneys. The ARA is the coordinating entity for its four underlying affiliate organizations, the American Society of Pension Professionals and Actuaries (“ASPPA”), the National Association of Plan Advisors (“NAPA”), the National Tax-deferred Savings Association (“NTSA”) and the ASPPA College of Pension Actuaries (“ACOPA”). ARA members are diverse but united in a common dedication to America’s private retirement system.

It is important to recognize that many service providers and plan sponsors have expended considerable effort and resources in preparing to respond to the new 2015 compliance questions. It was only when

¹ ASPPA submitted written comments to the IRS on February 23, 2015 [<http://www.asppa.org/Portals/2/PDFs/GAC/Comment%20Letter/Comment%205500%20Letter2.23.15final.pdf>], regarding some of its concerns about the agency’s approach to the additional data collection required by the Form 5500-SUP and subsequently commented in its June 8, 2015 letter to OMB [<http://www.asppa.org/Portals/2/PDFs/GAC/Comment%20Letter/OMB6.8.15final.pdf>] about the burden to filers and their service providers in providing this data relative to the 2015 reporting year.

the final instructions for the 2015 forms were released in early December that it became clear that the new questions would not be mandatory. The most recent announcement in which the IRS advised that the questions should not be completed, even on an optional basis, is the latest twist in this saga that has been ongoing since the draft questions were first released in December of 2014.

The ARA remains very concerned since the IRS had previously indicated in “FAQs” on the “5500 Corner” website (now removed) that revisions are being made to the new questions and instructions. The revisions were said to be slated to be effective for 2016 plan year reports. Once again, plan sponsors, practitioners and software providers do not know what data should be collected and maintained for a plan year that is underway. Once again, the burdens of collection are being unnecessarily increased by this lack of certainty as to what will be required to be reported on the 2016 form. It is much more efficient to design data collection systems on a prospective basis than after the fact. Moreover, the IRS has not engaged in any meaningful dialog with stakeholders other than the formal notice and comment letters that were filed over a year ago. The ARA continues to believe a meeting at which we (and other stakeholders) could explain our concerns would be extremely beneficial to improving the data received and reducing the burdens of collection.

The ARA believes it is important that the process and timing of any revisions to the compliance questions and instructions take into account the realities faced by the industry in shifting resources. When multiple computerized systems are utilized and a range of service providers are engaged by a plan, such businesses must arrange to reprogram systems and to coordinate manual collection of the required information. As a practical matter, these businesses must wait until final forms and instructions are issued. It then generally takes at least 12 months for the necessary capital investments to be approved and technology, communication, and procedure changes to be developed, tested, and implemented.

Further, the ARA continues to urge the IRS to consider the processes described in OMB’s August 9, 2012 memo regarding *Testing and Simplifying Federal Forms*². ASPPA strongly recommends that any future compliance questions be effective a reasonable period of time after questions and instructions are finalized.

Because of the considerable time and expense involved in responding to new compliance questions, ARA respectfully requests a meeting with the IRS to collaborate on how to make the collection less complex, burdensome, and confusing, and to ensure that the agency collects the best data possible. We also continue to believe that any new questions should be delayed to and folded into the revisions the Department of Labor has announced they will be making in conjunction with their “modernization” efforts.³

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These comments were prepared by ASPPA’s Reporting and Disclosure Sub-committee of the Government Affairs Committee, Kizzy Gaul, Chair. Please contact Craig Hoffman, General

² See <https://www.whitehouse.gov/sites/default/files/omb/inforeg/memos/testing-and-simplifying-federal-forms.pdf>

³ See Department of Labor regulatory guidance plan at <http://resources.regulations.gov/public/custom/jsp/navigation/main.jsp>

Counsel and Director of Regulatory Affairs at ARA, at (703) 516-9300 ext. 128, to arrange a meeting and if you have any comments or questions regarding the matters discussed above.

Thank you for your time and consideration.

Sincerely,

/s/

Brian H. Graff, Esq., APM
Executive Director/CEO
American Retirement Assoc.

/s/

Judy A. Miller, MSPA
Executive Director, ACOFA

/s/

Craig P. Hoffman, Esq., APM
General Counsel
American Retirement Assoc.

/s/

Elizabeth T. Dold, Esq., Co-Chair
ASPPA Gov't Affairs Committee

/s/

Robert Kaplan, CPC, QPA, Co-Chair
ASPPA Gov't Affairs Committee

/s/

John Markley, FSPA, Co-Chair
ASPPA Gov't Affairs Committee

cc:

Mr. J. Mark Iwry
Senior Advisor to the Secretary of the Treasury
Deputy Assistant Secretary (Retirement and Health Policy)

Ms. Sunita B. Lough
TE/GE Commissioner
Internal Revenue Service

Mr. Louis J. Leslie
Senior Technical Advisor
Employees Plans
Internal Revenue Service

Mr. Seth Tievsky
Senior Technical Advisor
Employee Plans Rulings & Agreements
Internal Revenue Service

Mr. Robert Neis
Benefits Tax Counsel
Office of Tax Policy
U.S. Department of the Treasury

Mr. William Evans
Attorney-Advisor
Office of Benefits Tax Counsel
U.S. Department of the Treasury

Ms. Lisa Beard-Niemann
Director, Employee Plans Examinations
Internal Revenue Service

Ms. Karen Truss
Director, Employee Plans Rulings & Agreements
Internal Revenue Service