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[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c) (2) (A)).

Currently, the IRS is soliciting comments concerning the Annual Return/Report of Employee Benefit Plan.

DATES: Written comments should be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue N.W., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue N.W., Washington, DC 20224, or through the internet at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Annual Return/Report of Employee Benefit Plan.

OMB Number: 1545-1610.

Form Number: 5500 and Schedules

Abstract: The Annual Return/Report of Employee Benefit Plan is an annual information return filed by employee benefit plans. The IRS uses this information for a variety of matters, including ascertainment whether a qualified retirement plan appears to conform to requirements under the Internal Revenue Code or whether the plan should be audited for compliance.

Current Actions: PBGC, the Department of Labor (DOL), and the Internal Revenue Service (IRS) work together to produce the Form 5500 Annual Return/Report for Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report for Small Employee Benefit Plan (Form 5500 Series), through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans. The IRS produces Form 5500-SUP, a paper-only form, that is used by certain sponsors and administrators of retirement plans to satisfy certain of the reporting requirements of section 6058 of the Internal Revenue Code. Form 5500-SUP should be used only if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500-SF.

IRS Proposed Changes on the 2016 Form 5500 Series Returns

	Question on the 2015 Form 5500s	Form	Proposed 2016 Changes	Compliance and Use for
1	<p>a. Name of trust</p> <p>b. Trust's EIN</p> <p>c. Name of trustee or custodian</p> <p>d. Trustee's or custodian's telephone number</p>	Form 5500 Sch. H/I, 5500-SF, 5500-EZ, and 5500-SUP	<p>a. Name of trust</p> <p>b. Trust's EIN</p> <p>c. Name of trustee or custodian</p> <p>d. Trustee's or custodian's telephone number</p>	<ul style="list-style-type: none"> This question was approved by OMB for the 2015 Form 5500 Series. Requiring trust identifying information will assist the IRS in discharging its basic tax compliance and enforcement responsibilities with respect to tax-favored trusts. This question was on former Schedule P up to 2006 where it had been approved in an information collection.
2	<p>a. Preparer's name (including firm name, if applicable) and address (include room or suite number)</p> <p>b. Preparer's telephone number</p>	Forms 5500, 5500-SF, 5500-EZ, and 5500-Sup.	<p>a. Preparer's name (including firm name, if applicable) and address (include room or suite number)</p> <p>b. Preparer's telephone number</p>	<ul style="list-style-type: none"> This question was approved by OMB for the 2015 Form 5500 Series. Information on Form 5500 Series preparers will assist the IRS in identifying preparers who have engaged in patterns of noncompliance. Preparer questions were on Form 5500 through 2009 and after 2011 where they had been approved in an information collection.
3	<p>a. Is the plan a 401(k) plan? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. If "Yes," how does the 401(k) plan satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under sections 401(k)(3) and 401(m)(2)? (See instructions) <input type="checkbox"/> Design-based safe harbor method <input type="checkbox"/> ADP/ACP test</p> <p>c. If ADP/ACP test is used, did the 401(k) plan perform ADP/ACP testing for the plan year using the</p>	Form 5500 Sch R, 5500-SF, and 5500-SUP.	<p>a. Is the plan a 401(k) plan? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "No," skip b.</p> <p>b. How did the plan satisfy the nondiscrimination requirements for employee deferrals under sections 401(k)(3) for the plan year? Check all that apply: <input type="checkbox"/> Design-based safe harbor <input type="checkbox"/> "Prior year" ADP test <input type="checkbox"/> "Current year" ADP test <input type="checkbox"/> N/A</p>	<ul style="list-style-type: none"> This question seeks basic information on the method by which a 401(k) plan satisfied the nondiscrimination requirements for employee deferrals. This information is fundamental to IRS's ability to monitor plans for compliance with the nondiscrimination rules.

	<p>"current year testing method" for nonhighly compensated employees (Treas. Reg sections 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(2)(ii)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
4	<p>a. Check the box to indicate the method used by the plan to satisfy the coverage requirements under section 410(b):</p> <p><input type="checkbox"/> Ratio percentage test <input type="checkbox"/> Average benefit test</p> <p>b. Does the plan satisfy the coverage and nondiscrimination tests of sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	Form 5500 Sch R, 5500-SF, and 5500-SUP,	<p>a. What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year? Check all that apply:</p> <p><input type="checkbox"/> Ratio percentage test <input type="checkbox"/> Average benefit test <input type="checkbox"/> N/A</p> <p>b. Did the plan satisfy the coverage and nondiscrimination requirements of sections 410(b) and 401(a)(4) for the plan year by combining this plan with any other plan under the permissive aggregation rules?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> This question seeks basic information on the method by which a qualified plan satisfied the minimum coverage requirements on employee participation. This information is fundamental to IRS's ability to monitor plans for compliance with the minimum coverage rules. This question was on former Schedule T where it had been approved in an information collection.
5	<p>Were in-service distributions made during the plan year?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "Yes," enter amount _____</p>	Form 5500 Sch H/I, 5500-SF, 5500-EZ, and 5500-SUP	<p>Defined Benefit Plan or Money Purchase Pension Plan only:</p> <p>Were any distributions made during the plan year to an employee who attained age 62 and had not separated from service?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> This question should assist in the identification of whether distributions to employees are being made before otherwise permissible in a defined benefit or money purchase plan.
6	<p>Did the plan trust incur unrelated business taxable income?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>If Yes, enter amount _____</p>	Form 5500, Sch H/I, 5500-SF, 5500-EZ, and 5500-	Deleted	

		SUP		
7	<p>a. Has the Plan been timely amended for all required law changes?</p> <p>b. Date the last Plan amendment/restatement for the required law changes was adopted ___/___/____. Enter the applicable code ____ (See instructions for tax law changes and codes).</p> <p>c. If the plan sponsor is an adopter of a pre-approved master, prototype (M&P), or volume submitter plan that is subject to a favorable opinion or advisory letter from IRS, please enter the date of plan's last opinion or advisory letter ___/___/___ and a letter serial number _____.</p> <p>d. If the plan is an individually-designed plan and received a favorable determination letter from IRS, please enter the date of plan's last favorable determination letter ___/___/____.</p>	<p>Sch R Line 23a 5500-SF 17a 5500- SUP, Line 6a 5500- EZ, Line 13a</p>	<p>a. If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter ___/___/___ and the serial number _____.</p> <p>b. If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of the most recent determination letter ___/___/___.</p>	<ul style="list-style-type: none"> Whether and when a plan received a favorable opinion letter, advisory letter or determination letter from the IRS is a significant indicator of whether the form of the plan satisfies the qualification requirements under section 401(a).
8	<p>Were required minimum distributions made to 5% owners who have attained age 70 ½ (regardless of whether or not retired), as required under section 401(a)(9)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>N/A</p>	<p>Form 5500-SF and 5500-EZ only</p>	<p>Was any plan participant a 5% owner who had attained at least age 70 ½ during the prior plan year?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> This information identifies plans to which special rules apply that require minimum distributions to a participant regardless of whether he or she continues in employment. The information will assist the IRS to monitor plan compliance.

9	Is the Plan maintained in a U.S. territory (i.e., Puerto Rico (if no election under ERISA section 1022(i)(2) has been made), American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the U.S. Virgin Islands)?	Form 5500 Sch R 5500-SF and 5500-SUP.	Deleted	
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The aforementioned changes will generate a decrease in burden by 20,000 hours and decrease the estimated number of filers by 16,000 per year. The paper submission of this form will generate 500 responses and 208 burden hours per year.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals and households, not-for profit institutions, and farms.

Estimated Number of Respondents: 806,500.

Estimated Time Per Respondent: 23 minutes.

Estimated Total Annual Burden Hours: 320,208.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required

by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 24, 2016

Tuawana Pinkston,
IRS, Reports Clearance Officer.
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