

January 21, 2014

Yvette Lawrence
Internal Revenue Service
Room 6129
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Proposed Information Collection Comments
Form 8955-SSA

Dear Ms. Lawrence:

The Pension Rights Center appreciates this opportunity to comment on the collection of information required by Form 8955-SSA. The Center is a nonprofit consumer organization that has been working since 1976 to protect and promote the retirement security of American workers, retirees, and their families.

The information required to be collected by Form 8955-SSA is necessary for the proper performance of the functions of both the Internal Revenue Service and the Social Security Administration, and has great practical utility. To the extent that the information is, or may be, shared with the Pension Benefit Guaranty Corporation and the Department of Labor, it is also helpful in carrying out their functions. The burden of the information collection is minimal, most likely considerably less than the 49 minutes currently estimated. We recommend below that the utility of the Form could be enhanced by adding an additional statutorily required question.

The information collected by the Form 8955-SSA is the basis for two statements required by the Internal Revenue Code that are critically important to retirement plan participants and beneficiaries, the “deferred vested statement” and the “Notice of Potential Private Benefits.” The information is also useful to government agencies interested in locating businesses and plans that have changed names and locations.

Form 8955-SSA, the “Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits,” is required by IRC Section 6057(a) to include the name of the plan, name and address of the plan administrator, name and tax identification number (Social Security number) of each participant who left the plan with an entitlement to a deferred vested benefit that was not paid during the plan year, and “the nature, amount, and form of the deferred vested benefit to which such participant is entitled.” This information in the Form 8955-SSA directly affects the information required to be given to participants by IRC Section 6057(e) in their “**deferred vested statements**,” and the information participants and

beneficiaries receive as a result of IRC Section 6057(d) in their Social Security “**Notice of Potential Private Benefits**” statements. These individualized statements, issued at different times, help ensure that participants and their beneficiaries receive the benefits they have earned. Additionally, Form 8955-SSA asks the plan administrator or sponsor whether an individual statement, the deferred vested statement, was sent to each participant who was entitled to receive it. The plan sponsor and the plan administrator must answer all questions truthfully and completely under penalty of perjury.

Deferred vested statements. Deferred vested statements are given to participants separating from employment who have not received the vested benefits to which they are entitled. Deferred vested statements tell separating participants what they have earned under a plan. Section 6057(e) provides that the deferred vested statement be an “individual statement” “setting forth the information with respect to a participant “required to be contained in [the] registration statement.” Since deferred vested statements are provided shortly after employment ends, participants are still in touch with their employers and can request clarifications or corrections. The statements can be used by participants at a later time to establish their entitlement to benefits.

Notice of Potential Private Benefits. The second participant notice is the “Notice of Potential Private Benefits” which is sent by the Social Security Administration to participants and beneficiaries when they apply for Social Security benefits. This notice alerts participants to benefits they may have earned years ago and provides beneficiaries the documentation and data they need to collect benefits owed to them after the death of a spouse.

Question 8 on the Form 8955-SSA. We wish to emphasize the importance of Question 8 on Form 8955-SSA to participants separating from employment who have not received the benefits to which they are entitled. Question 8 asks the plan sponsor and plan administrator to state that individual deferred vested benefit statements were provided to each participant entitled to receive them. Since these statements are required by law, Question 8 serves as an important reminder to plan sponsors and administrators of their obligation to provide the statements and discourages them from neglecting this obligation.¹

¹ In this connection, we would like to note that we have previously communicated to the IRS our concerns about a troubling Frequently Asked Question issued by the IRS on April 4, 2012 titled “Retirement Plan FAQs Regarding Form 8955-SSA – What are the requirements for answering “yes” to question 8 on Form 8955-SSA?” http://www.pensionrights.org/sites/default/files/docs/120924_pension_rights_center_deferred_vested_comments.pdf Question 21 of the FAQ, asks whether plan administrators can declare, in response to Question 8 of the Form 8955-SSA, that they have met the requirements of Section 6057(e) to furnish an individual statement to separated participants with a deferred benefit if, rather than an individual statement, they used “other notices such as benefit statements and distribution forms” and if they included notices that did not include “all the information on the Form 8955-SSA.” The IRS response was that a “plan administrator may answer “yes” to Question 8 if the required information is timely furnished to participants in other documentation such as benefit statements or distribution forms. A separate statement designed specifically to satisfy this requirement is not required.” The Pension Rights Center, joined by AARP and the Pension Action Center, has asked the IRS to withdraw FAQ 21 which denies participants and beneficiaries their statutory right to a single, accurate, and timely statement of the benefits they have earned.

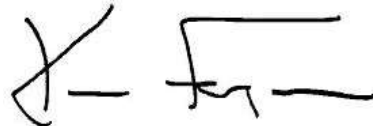
Absence of statutorily required change-of-status question. Form 8955-SSA also includes two change-of-status questions, Questions 4 and 5. These questions ask if either the name or EIN of the plan sponsor or plan administrator has changed since the last return filed. Notification of change in status is required by Section 6057(b). However, in addition to name and EIN changes, Section 6057(b)(2) also requires notification of any change in address and subsections (3) and (4) require notification of any plan termination, merger or consolidation with another plan, or its division into two or more plans. We recommend that the IRS add a question to Form 8955-SSA that asks whether there has been a change of address, and also whether the plan was terminated, merged or consolidated, or divided since the last return filed for the plan. The information provided by a complete set of change-of-status questions would be invaluable to the IRS and other agencies in enforcement actions. If made available to the public through a “lost pension plan registry” established by a government agency, as contemplated in proposed legislation, the information could be extremely helpful to participants and beneficiaries who have been unable to apply for benefits because they have not been able to locate their former employers’ retirement plans.²

Continued collection and enhancement of the information included in Form 8955-SSA is essential to the efficient implementation of Section 6057 and to the ability of retirement plan participants to receive the benefits they have earned. If you have any questions about these comments, please do not hesitate to contact Jane Smith at 202-296-3776 or jsmith@pensionrights.org.

Sincerely yours,



Jane T. Smith
Policy Analyst



Karen W. Ferguson
Director

² Section 306 of H.R. 2117, the Retirement Plan Simplification and Enhancement Act of 2013