



Plan Sponsor Monthly

from
MCCREADY AND KEENE, INC.

Important Approaching Deadlines

April 30, 2016

- **Same date for all plan years:** Deadline to execute (i.e., sign and date) all documents that have been restated for the Pension Protection Act.

June 30, 2016

- **6 months after plan year-end:** Deadline for completion of corrective distributions for failed actual deferral percentage/actual contribution percentage plan testing for certain plans with an eligible automatic contribution arrangement to avoid IRS 10 percent excise tax assessed against the employer on the amounts distributed.

In order for a plan with an eligible automatic contribution arrangement to take advantage of the ability to delay refunds processing until six months after the end of the plan year without the 10 percent penalty, the eligible automatic contribution arrangement provisions must apply to all employees, not just employees hired after the eligible automatic contribution arrangement provisions were adopted.

July 28, 2016

- **210 days after plan year-end:** Deadline for distributing the Summary of Material Modification (SMM) if the plan was amended in 2015.

August 1, 2016

- **7 months after plan year-end:** Deadline for the employer to file the Form 5500, Form 5500-SF and Form 8955-SSA. You can take advantage of the extended Form 5500 filing deadline of October 17, 2016, that we requested for your plan. We have filed the Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on your behalf and marked Box D on the Form 5500 and Box C on both the Form 5500-SF and Form 8955-SSA (if applicable) to indicate the extended deadline.
- **Last day of the 7th month after the end of the tax year of the employer or other person who must file the return:** Deadline for employers to file Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, for excise tax due on nondeductible contributions and prohibited transactions (including the excise tax due as a result of late deposits).

If your plan year begins on a date other than January 1, please make adjustments to the dates to coincide with your plan year. Not all deadlines are based on the plan year.



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Examples of deadlines not based on the plan year include return of excess deferrals (April 15), required minimum distributions (April 1) and Form 5330 filing for prohibited transactions (last day of the 7th month after the end of the tax year of the employer or other person who must file the Form 5330.) Under Internal Revenue Code section 7503, when a deadline falls on a weekend (i.e., Saturday or Sunday) or a legal holiday, the performance of such acts shall be considered timely if completed the next business day. However, corrective distributions should be processed the day before the weekend or legal holiday.

May 2016



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April 30, 2016, is the Deadline to Execute Your Restated Document

All pre-approved defined contribution plans (e.g., plans using our volume submitter document) that have been restated for the Pension Protection Act must be executed (i.e., signed and dated) and returned by April 30, 2016. If you did not sign the documents electronically by November 23, 2015, documents that require signature were sent to you in a PDF format via email. Please:

- Print all documents
- Obtain all necessary signatures with dates (remember to sign the adoption agreement first or ensure all documents are signed the same day)
- Return to OneAmerica

Please review all documents for accuracy. You must sign the restated adoption agreement first or sign all documents (e.g., participating employer agreements, amendments, etc.) on the same day. In addition, please provide a copy of the updated summary plan description (SPD) to each active participant in the plan, each retired participant receiving benefits from the plan, each terminated participant entitled to a deferred vested benefit and each beneficiary receiving benefits from the plan. Best practice is to distribute the SPD within 90 days of the date the adoption agreement is signed. Each new participant who enrolls after the initial distribution of the SPD should receive a copy along with any summary of material modifications within 90 days after entering the plan.

Please see [IRS Deadline to Adopt Restated Pre-Approved DC Plans](#) for additional information and contact your plan manager if you have any questions.

May 2016



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Consider Fiduciary Liability Insurance in Addition to Your Fidelity Bond

Section 412 of the Employee Retirement Income Security Act of 1974 (ERISA) requires that fiduciaries and other persons who handle or are responsible for the assets of a qualified plan be bonded. The bond is to reimburse the plan if any plan assets are lost through the fraud or dishonesty of persons handling plan funds. Fraud or dishonesty includes such acts as:

- Theft
- Forgery
- Embezzlement
- Misappropriation or willful misapplication of plan assets

Under ERISA, fiduciaries may be personally liable for breach of certain responsibilities and subject to civil court action. With this in mind, you may want to consider fiduciary liability insurance (which is not the same as a fidelity bond) that would provide protection for the employer sponsoring the plan and the employer's officers, directors and employees from financial exposure due to fiduciary breaches.

For more information, contact the agent who provides the fidelity bonding coverage for your plan.

May 2016



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Correcting Late Deposits

We routinely remind plan sponsors of the importance of submitting contributions timely. However, in the event that employee contributions and loan repayments are submitted late, there is a correction method. The Department of Labor (DOL) created the Voluntary Fiduciary Correction Program (VFCP) to allow employers to correct certain fiduciary violations including late deposits. Sponsors that complete a VFCP application and satisfy the requirements will receive a "no action letter" from the DOL approving the correction and indicating that there will be no further investigation by the DOL. It's important to note that corrections must be completed before the error is discovered in an audit.

In order to receive a "no action letter," the employer must contribute lost earnings that would have been earned on the late remittances in addition to sending in the late deposits. The DOL created an online calculator that simplifies the calculation of lost earnings on late deposits. See [Voluntary Fiduciary Correction Program Online Calculator with Instructions, Examples and Manual Calculations](#). If additional requirements are met, using the VFCP will also provide relief from paying the prohibited transaction excise tax to the IRS.

The VFCP does not allow for self-correction. Some plan sponsors may be tempted to contribute the lost earnings to the plan and skip the VFCP filing. One reason may be that while the DOL does not charge a fee for the VFCP filing, the cost of having the sponsor's TPA, accountant or attorney prepare the VFCP application and filing may be prohibitive. If it is discovered that a late deposit violation was corrected but an application was not filed under the VFCP, DOL Regulation 2510.3-102(d)(3) requires that the earnings calculated for the correction be based on the greatest of:

- The earnings calculated using the VFCP online calculator
- The earnings based on the participant's investment election (for administrative convenience, the plan investment that had the highest rate of return in the plan can be used)
- The profits the employer made by the use of the late contributions

With the above in mind, you can see that failing to file for a no action letter under VFCP could prove to be more costly than filing under VFCP.

See the [Voluntary Fiduciary Correction Program Fact Sheet](#) for additional information.

May 2016



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Finding Lost Participants

Maintaining current addresses for plan participants after they terminate employment will help minimize costs and is important for the proper administration of your plan. Current addresses are necessary to distribute required reports and notices such as:

- Summary Annual Reports
- Funding Notices
- Summary Plan Descriptions
- Benefit Applications
- Fee Disclosures

For defined benefit plans, the Pension Benefit Guaranty Corporation premiums are based on participant counts. Further, administrative fees for both defined contribution and defined benefit plans are often based on participant count. Therefore, the ability to locate former participants and distribute their account balances or benefits is crucial for reducing administrative costs.

Timely distribution of small benefit or account balance cash-outs can help reduce the instances of lost participants. Small benefit cash-out rules are governed by the plan document. The IRS permits a plan document to include the following mandatory cash-out rules:

- Value of retirement benefit or account balance is \$1,000 or less: If the participant does not make an election regarding distribution of his or her benefit or account balance, the benefit or account balance should be distributed in cash without the participant's consent.
- Value of retirement benefit or account balance is \$1,001-\$5,000: If the participant does not make an election regarding distribution of his or her benefit or account balance, the plan should transfer the funds to an IRA established for the participant.

Review your plan document to see if it contains cash-out rule provisions and to determine whether amounts rolled over into the plan are included for purposes of calculating the value of a participant's account balance.

If you discover that you do not have a current address for a terminated participant, the following actions may prove helpful in locating lost participants:

- Review employer records.
- Write or call anyone listed as an emergency contact.
- Check beneficiary designations for relatives who may be able to help.



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- Check with other benefits providers to see if they have a different address on file.
- Ask the people that worked closely with the employee to see if anyone has kept in touch.
- Conduct an internet search using a search engine such as Google or social media websites (e.g., Facebook, Twitter, LinkedIn).
- Hire commercial locator services such as Intelius, <http://www.intelius.com/people-search.html> or the Berwyn Group, <http://www.berwyngroup.com> to conduct a search.

It's important to encourage participants to review and update their personal information frequently. In addition, you should ensure that you update participant statuses when they terminate employment so that the process of paying out the terminated participant's account balance or benefit can begin as soon as possible after termination.

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Have You Selected an Auditor For Your Plan?

Most plans with 100 or more participants and some plans with fewer than 100 participants must have an independent audit conducted as part of the Form 5500 filing obligation. The Department of Labor Employee Benefits Security Administration published an informational document that answers questions pertaining to:

- Selecting an auditor
- What you should know about the audit
- Reviewing the audit report
- Resources available

See [Selecting An Auditor For Your Employee Benefit Plan](#) for additional information.

May 2016



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Prepare for Your Form 5500 Filing

Form 5500 filings for calendar year plans are due without extension on August 1, 2016. With extension, filings are due October 17, 2016. There are several things you should be thinking about now to ensure you are prepared to file the Form 5500 by the deadline.

Consider the following:

- Have you obtained your credentials to file your Form 5500 or Form 5500-SF electronically?
- Have you remitted all of your contributions for the 2015 plan year?
- If your plan transitioned to OneAmerica/McCready during the 2015 plan year, have you provided us with prior Form 5500 filings as well as financial information for the period of time during the plan year that your plan was with your previous recordkeeper? We must receive all information by August 1, 2016, in order to complete your filing by the extended due date.
- Do you have a fidelity bond for your plan?
- If your plan is a large plan (i.e., a plan with 100 or more participants), have you made arrangements for an independent audit of your plan?
- If your plan is a small plan (i.e., a plan with fewer than 100 participants), does it satisfy the requirements under the [Small Pension Plan Audit Waiver Regulation](#) to file as a small plan? If not, have you made arrangements for an independent audit of your plan?
- Have you been remitting employee contributions and loan repayments timely? Information about late deposits must be reported and penalties may apply.
- Have you notified your plan manager of any changes to your address, phone and/or contact information? We will notify you by email when your Form 5500 is complete; therefore, accurate contact information is very important.

We will automatically file a Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on behalf of clients for whom we prepare a Form 5500 filing. We will mark Box D on the Form 5500 and Box C on both the Form 5500-SF and Form 8955-SSA (if applicable) to indicate the extended deadline. Therefore, you can take advantage of the extended Form 5500 filing deadline of October 17, 2016.

Beginning with the 2015 filing year, we are updating how we present your Form 5500 and related schedules to you. An updated filing guide will be sent to you via email that will outline how to access your 5500 package. We trust that you will find that this new process is more efficient.



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The IRS added new compliance questions to the 2015 Form 5500 schedules and 5500-SF. However, these questions were not approved by the Office of Management and Budget. The 2015 filing instructions state responding to these questions is optional for the 2015 plan year. On February 17, 2016, the IRS released an announcement stating the questions should not be completed for the 2015 plan year. See [IRS Compliance Questions on the 2015 Form 5500-Series Returns](#) which indicates which questions are new. Therefore, please be sure to leave these new questions blank.

May 2016