



# Important Approaching Deadlines

Please make note of these important approaching deadlines for calendar year plans:

## September 30, 2016:

- **9 months after plan year-end:** Deadline to distribute the 2015 Summary Annual Report (SAR) unless the Form 5500 filing was extended.

## October 14, 2016:

- **9 ½ months after plan year-end:** Deadline to correct a 2015 coverage test failure.

## October 17, 2016:

- **9 ½ months after plan year-end:** 2015 Form 5500, Form 5500-SF and Form 8955-SSA filing deadline if the deadline was extended by Form 5558.

## November 15, 2016:

- **45 days prior to 12 month deadline to complete testing:** Deadline for employer to submit census data to ensure completion of 2015 actual deferral percentage and actual contribution percentage testing before December 31, 2016.

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. 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.

October 2016

# Safe Harbor Plans

**Safe harbor plans allow an employer to provide a retirement plan to employees while also:**

- Ending the need for certain year-end nondiscrimination testing
- Eliminating many corrective refunds
- Allowing the company owners and highly compensated employees to defer the maximum dollar limit
- Providing for additional employer contributions

***If your plan year begins on January 1, 2017, and your plan includes safe harbor plan provisions that aren't being changed:***

- A safe harbor notice reminder mailing will be delivered to you via MSafe in late October 2016.
- You must distribute the safe harbor notice to plan participants by December 2, 2016.

***If your 401(k) or 403(b) plan is converting to a safe harbor plan or you are amending any of your plan's current safe harbor provisions, you must:***

- Request an amendment to your plan. In order to ensure timely preparation of the proper safe harbor notice and plan amendment, you must submit your request no later than November 14, 2016.
- Distribute the proper safe harbor notice to plan participants 30-90 days prior to the beginning of the plan year. December 2, 2016, is the last day to give the safe harbor notice for a plan that begins on January 1, 2017.

Please contact your plan manager if you have any questions about amending your plan to include safe harbor provisions or amending your plan's current safe harbor provisions.

# File Your Form 5500 and Form 8955-SSA Early

**Don't wait until your filing deadline to access the Department of Labor's (DOL's) ERISA Filing Acceptance System (EFAST2) to file your Form 5500 series return and/or the Internal Revenue Service's (IRS') Filing Information Returns Electronically (FIRE) system to file your Form 8955-SSA (if applicable).**

The main contact for your plan will receive an email from 5500Forms.RS@OneAmerica.com that indicates that the Form 5500 is ready to view and file. We have filed a Form 5558, Application for Extension of Time To File Certain Employee Plan Returns and checked 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. You can take advantage of the extended Form 5500 filing deadline of October 17, 2016; however, we recommend that calendar year plans file before October 1st.

Increased traffic to these websites on the deadline often results in delays and possible system downtime and increases your risk of submitting your filing and forms late. Failure to file timely subjects you to penalties including:

- The IRS penalty for late filing of a Form 5500 series return is \$25 per day, up to a maximum of \$15,000.
- The DOL penalty for late filing of a Form 5500 series return can be up to \$2,063 per day, with no maximum.
- The IRS penalty for late filing of a Form 8955-SSA includes:
  - \$1 for each participant not reported and for each day the failure continues up to \$5,000 for any plan year.
  - \$1 for each day for not filing a notification of change of status up to \$1,000.

Correction of a late filed Form 5500 or 5500-SF filing is available under the DOL's Delinquent Filer Voluntary Correction Program. Cost for filing is:

- Small Plan Filers (i.e., plans with fewer than 100 participants at the beginning of the plan year) - Applicable penalty amount is \$10 per day for each day the Form 5500 or Form 5500-SF is filed after the due date not to exceed \$750.
- Large Plan Filers (i.e., plans with 100 or more participants at the beginning of the plan year) - Applicable penalty amount is \$10 per day for each day the Form 5500 or Form 5500-SF is filed not to exceed \$2,000.

**Important:** You do not need to file your Form 8955-SSA and Form 5500 series return together. The Form 8955-SSA may take longer to process; therefore, we encourage you to file as soon as possible and not wait for completion of your plan audit (if applicable).

October 2016

# Required Minimum Distributions

**The Internal Revenue Service has rules regarding the timing and amount that must be distributed as a required minimum distribution each year.**

Retirement plan participants and IRA owners are responsible for ensuring that the correct amount is distributed timely each year. Failure to withdraw the correct required minimum distribution (RMD) amount or failure to withdraw the RMD on time will result in a 50 percent tax assessed against the individual on the amount not withdrawn. Further, these failures could result in plan disqualification.

The amount of the annual minimum distribution is based on the balance of the individual's account at the end of the preceding calendar year, the individual's life expectancy or the joint life expectancy of the individual and their beneficiary.

## *Traditional and rollover IRAs RMD rules*

The first RMD must be taken by April 1 of the year following the year the IRA owner turns 70½, then by December 31 of each year thereafter.

An IRA owner must calculate the RMD separately for each IRA that he or she owns, but can withdraw the total RMD amount from one or more of the IRAs.

## *Retirement plan RMD rules*

The RMD rules apply to all employer sponsored retirement plans including, profit sharing plans, 401(k) plans, 403(b) plans and 457(b) plans. The rules also apply to SEPs, SARSEPS and SIMPLE IRAs.

Generally, a retirement plan participant must take an RMD by the later of April 1 of the year following the year he or she reaches 70½ or April 1 of the year following the year in which they retire. However, if an individual is a more than 5 percent owner of the business sponsoring the retirement plan, the RMDs must begin by April 1 of the year following the year he or she reaches 70½, regardless of whether he or she is retired. The plan document may dictate that all RMDs must begin by April 1 of the year following the year the participant reaches age 70½. Please review your plan document to determine when RMDs must begin.

A 403(b) contract owner must calculate the RMD separately for each 403(b) contract that he or she owns, but can take the total amount from one or more of the 403(b) contracts.

RMDs required from other types of retirement plans, such as 401(k) plans and 457(b) plans, have to be taken separately from each plan.

For our full and limited service clients, all participants attaining age 70½ during 2016 or those participants over 70½ who have not started to receive their RMD will receive a letter by the end of October. The letter may include a distribution form and will include instructions to call our Customer Care Center for assistance with requesting the RMD for the 2016 calendar year.



See [Retirement Topics - Required Minimum Distributions \(RMDs\)](#) for additional information or contact your plan manager.

*October 2016*

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# Upcoming 403(b) Plan Document Restatement

**The final 403(b) regulations issued in 2007 required that all 403(b) plan sponsors adopt a written plan document by December 31, 2009.**

The regulations stated that a 403(b) plan must be maintained under a [written program](#) which contains all the terms and conditions for eligibility, benefits, limitations, the form and timing of distributions, contracts available under the plan and the party responsible for plan administration which satisfy Internal Revenue Code (IRC) section [403\(b\)](#) and the 403(b) final regulations.

All qualified plan documents need to be completely restated periodically to include specific language and provisions that comply with the Employee Retirement Income Security Act (ERISA), the IRC and the related regulations. Recently, we restated 401(a) plans (e.g., 401(k), profit sharing, money purchase, etc.) that use our pre-approved document.

We, along with other document providers, have been working to obtain approval for a pre-approved 403(b) document. The Internal Revenue Service has not formally announced a restatement date for 403(b) plans; however, it is expected that the restatement window for 403(b) plan sponsors will be from 2017 through 2019. Once we receive approval for our document, we will begin restating 403(b) plans that use our document services. Adopting a 403(b) pre-approved plan generally provides assurance that the plan document complies with IRC section 403(b) and the 403(b) final regulations.

We will provide updates and additional information as it becomes available. Please review the *Plan Sponsor Monthly* regularly for updates and additional information regarding the upcoming restatement.

October 2016

# Internal Revenue Service Issues Rollover Guidance

**The Internal Revenue Service (IRS) recently released Revenue Procedure (Rev. Proc.) 2016-47 to help individuals who missed the 60-day rollover window for retirement plan distributions.**

Distributions that are not rolled over are considered taxable income and possibly subject to early distribution penalties. Prior to the issuance of [Rev. Proc. 2016-47](#), individuals could usually obtain a waiver from the IRS by requesting a private letter ruling. The Rev. Proc. allows individuals to self-certify that they qualify for the waiver and this self-certification allows the plan administrator or trustee to accept the rollover. If the individual does not self-certify, the procedure allows the IRS to grant a waiver upon examination.

The Rev. Proc. includes a sample letter that can be used to notify the plan administrator or trustee of the retirement plan that they qualify for the waiver. There are several reasons or circumstances that are listed in the procedure as a reason the taxpayer cite as a reason for missing the 60-day deadline for rollover including:

- The distribution check was misplaced and never cashed
- The taxpayer's principal residence was severely damaged
- A member of the taxpayer's family died
- The taxpayer or a member of the taxpayer's family was seriously ill
- The taxpayer was incarcerated
- A postal error occurred

Please review the procedure for additional information.

# 403(b) Plans and Universal Availability

**While a 401(k) plan can prevent employees from deferring by applying eligibility conditions, a 403(b) plan cannot have any eligibility conditions for employee deferral contributions.**

Universal availability is a term specific to 403(b) plans. It refers to the fact that generally all employees must be given the opportunity to defer compensation upon hire into an organization that sponsors a 403(b) plan. This includes temporary and seasonal employees.

The Internal Revenue Service allows certain group of employees to not be given the opportunity to defer. These exclusions must be stated in your plan document and include:

- Nonresident alien employees
- Employees who normally work less than 20 hours per week
- Student employees performing services described in Internal Revenue Code section 3121(b)(10)
- Employees who are eligible to participate in another plan of the employer that is a 401(k) plan, a governmental 457(b) plan or another 403(b) plan

Eligible employees must be aware of their opportunity to defer. A best practice would be to notify those employees not making elective deferrals each year of their opportunity to defer.



# Have You Submitted Your Census Data Yet?

**If your plan year begins January 1, the deadline to complete the 2015 plan year actual deferral percentage and actual contribution percentage nondiscrimination testing and make corrective contributions or issue any necessary refunds is December 31, 2016.**

Your retirement plan faces possible loss of its qualified status if it fails any of the nondiscrimination tests and corrections (or refunds) are not made by the deadline. If you have not submitted your census data for the plan year ended December 31, 2015, we must receive your census data no later than November 1, 2016, in order to complete the testing and issue any refunds by the deadline.

For more information about plan disqualification, see [Tax Consequences of Plan Disqualification](#).

# Employer Contributions Not Yet Earned

**If your plan has a "last day" and/or "hours worked" requirement for employer contributions, you should wait until after a participant has satisfied the requirement(s) to make the contribution in order to comply with your plan document.**

Keep in mind that unearned employer contributions in an employee's account can impact nondiscrimination testing results and affect the plan's qualified status.

# Form 5500 and Form 8955-SSA Filing Reminder for Calendar Year Plans

**If you didn't file your Form 5500 filing and Form 8955-SSA (if applicable) by August 1, 2016, the extended due date is October 17, 2016. There are several things you should be thinking about now to ensure you are prepared to file by the deadline.**

As a reminder, if we provide Form 5500 series return services for your plan, we filed a Form 5558, Application for Extension of Time to File Certain Employee Plan Returns, 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 that the deadline has been extended by filing Form 5558.

## *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?
- 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 less than 100 participants), does it qualify for the audit exemption under the [Small Pension Plan Audit Waiver Regulation](#)? 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.

## *If we provide Form 5500 series return services for your plan, also consider the following:*

- 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?
- 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.
- You can take advantage of the extended Form 5500 filing deadline of October 17, 2016; however, we recommend that calendar year plans file before October 1<sup>st</sup>.

Beginning with the 2015 filing year, we are updating how we present your Form 5500 and related schedules to you. You will receive an email from [5500Forms.RS@OneAmerica.com](mailto:5500Forms.RS@OneAmerica.com) that indicates your Form 5500 is ready to view and file and also includes a revised Important Information filing guide. We trust that you will notice improved efficiency.



The Internal Revenue Service (IRS) added new compliance questions to the 2015 Form 5500. 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](#).

# Are You Using Prior Year Data to Pass Nondiscrimination Testing and Avoid Refunds?

**If you have elected the prior year testing method, the annual actual deferral percentage (ADP) and actual contribution percentage (ACP) tests compare the current year percentages of your highly compensated employees (HCEs) to the prior year percentages of your non-highly compensated employees (NHCEs).**

This means that you know in advance the maximum ADP and ACP percentages that your HCE group can have as an average in order to pass the ADP and ACP tests and avoid refunds.

The 2016 HCE Theoretical Maximum for the ADP and ACP tests were provided with your 2015 test results. Please review your Compliance Testing Summary for those amounts. If your plan is a new plan in 2016 and is an adoption of one of our 401(a) pre-approved plans, then the prior year NHCE percentage is deemed to be the greater of 3 percent or the NHCE actual percentage for the initial plan year. If your plan was with another recordkeeper in 2015, your prior recordkeeper should have provided your plan with the 2016 HCE theoretical maximum numbers.