



AMERICAN ACADEMY *of* ACTUARIES

September 23, 2013

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

**RE: Comment Request for the Annual Return / Report of Employee Benefit Plan
Federal Register /Vol. 78, No. 145 /Monday, July 29, 2013 /Notices**

Dear Ms. Lawrence:

The American Academy of Actuaries¹ Pension Committee (Committee) respectfully asks for your consideration of its response to the Internal Revenue Service's request for comment for the Annual Return / Report of Employee Benefit Plan (Form 5500), as published in the Federal Register on Monday, July 29, 2013.

Employers who sponsor tax-qualified employee benefit plans began mandatory electronic filing of Form 5500 after January 1, 2010. As set forth in the Department of Labor's description of the requirement, the electronic filing mandate has many advantages including reduced error rates, reduced burden of correspondence, and fewer resubmissions.² In addition, since electronic filing became mandatory, the speed and completeness with which data is made publicly available have been enhanced. We applaud the Department of Labor and the Internal Revenue Service in this effort.

However, as with many changes, making improvements can cause some new challenges can arise. The committee's concerns specifically relate to the electronic submission of the data on Schedules SB and MB, and on no other issues. Schedules SB and MB contain the actuarial information for the single-employer and multiemployer defined benefit plans and, as such, are prepared, carefully reviewed, and signed by the plan's Enrolled Actuary. All members of this committee are Enrolled Actuaries.

It is not uncommon for the plan sponsor to retain a firm separate from that employing the Enrolled Actuary to prepare all of its Forms 5500 in their entirety (the Form 5500 for the DB plan is likely to be only one of several tax-qualified employee benefit plan forms that must be

¹ The American Academy of Actuaries is a 17,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States

² Form 5500 E-Filing Requirements: <http://www.dol.gov/ebsa/newsroom/fsEFAST2.html>

filed). As an example, the plan sponsor may employ its tax compliance vendor or benefits administrator to electronically prepare and /or submit the Form 5500.

In order to achieve a complete electronic file, very often the vendor preparing Form 5500 must re-type the Schedule SB/MB information provided by the plan's Enrolled Actuary into the Form 5500. This is of grave concern to the committee as it threatens the integrity of the certified actuarial valuation results because of the possibility of a manual input error; the Enrolled Actuary does not have the ability to review that information before it is submitted as final through E-FAST. The plan sponsor would only be made aware of the error at a later date when it receives a letter from the IRS that the actuarial valuation results are nonsensical or corrupt. As you know, there is a significant investment of time and expense to correct these types of unnecessary errors.

The above issues lead the committee to be concerned as to whether the information contained in the electronically filed Schedules SB / MB is reliable and accurate. We suggest that a sample of plans' electronic filings be reviewed by the agencies against the portable document file (pdf) versions of the Schedules SB / MB which are also included in the filing packet.

If the sample review demonstrates a level of discrepancy beyond which the reviewing agency is comfortable, we suggest consideration of a system that would allow the actuary to directly submit schedules SB / MB. A system similar to either the *e-4010* or *My PAA* technologies currently used to collect filings by PBGC might accomplish this goal. This technology can also be used to provide feedback when a schedule SB is filed, which can prevent fraudulent use of an Enrolled Actuaries number by vendors and in fact can help verify that an actuary was aware of any inappropriate use of his number.

We acknowledge that the committee's proposal will require additional scrutiny by the agencies, and that the extent of the incidence of these errors is yet to be determined. We are glad to discuss alternatives once all of the comments are received.

We appreciate the Treasury Department and the Internal Revenue Service giving consideration to these comments. Please contact David Goldfarb, the Academy's pension policy analyst (202-785-7868 or goldfarb@actuary.org) if you have any questions or would like to discuss these items further.

Respectfully submitted,

Michael F. Pollack, MAAA, FSA, FCA, EA
Chairperson, Pension Committee
American Academy of Actuaries