

Legacy Advisor

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BENEFIT PLANS

Record Retention Guidelines



Eric Baertsch, CPA

How long do I need to keep that? This seemingly simple question is not always so simple and finding guidance on it can be difficult. Because benefit plans must comply with several regulatory authorities, there can be different requirements for the same document. The majority of plans are required to comply with Employee Retirement Income Security Act of 1974 (ERISA), Department of Labor (DOL) and Internal Revenue Service (IRS) requirements. In addition, plans may also be required to comply with other agencies or state guidelines.

ERISA requires that individual benefit records must be retained as long as a possibility exists that they might be relevant to determining the benefits of a participant or beneficiary. In addition, ERISA also requires that records that support the annual reporting and disclosure must be kept for a period of at least six years after the due date of the form. The IRS has a similar requirement in that records needed to document compliance with the Internal Revenue Code must be retained. IRS Form 990 specifically asks whether or not your organization has a written record retention and document destruction policy.

Although we recommend that you consult with your legal counsel regarding your plan's precise record retention guidelines, we have developed the following general guidance based on the requirements of regulatory authorities and best practices:

Permanent records:

- Trust document and amendments
- Plan document and amendments
- IRS determination letters
- Meeting minutes
- Collective bargaining agreements
- Form 990 and 990T
- Form 5500
- General Ledger
- Legal correspondence
- Investment guidelines
- Correspondence from regulatory agencies
- Participant records including benefit election forms, etc.

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Legacy News

We are all settled into the Firm's new Chicago office. Our new address is 311 South Wacker Drive, Suite 4000, Chicago, IL 60606. Our phone and fax numbers remain the same, as do all of our email addresses.



Eileen Brassil, CPA

We continue to grow our practice and are always interested in your referrals. One of the areas where we have seen an increase in demand in the new economy is compliance auditing. In addition, we are now working with a number of 403(b) plans as well.

As part of our commitment to keeping our professionals up to date and on top of the issues facing employee benefit plans, an in-house training seminar for our benefit plan practice group, as well as compliance audit team, was recently held. Thanks to guest speaker, Tom Noonan, who presented at the seminar. Tom put together an article covering the topic of investments for our readers that can be found on page 3 of this issue.

Guest speakers and authors are always welcome. Article ideas, submissions, and topics should be sent to Julie Tucek at jtucek@legacypas.com.

This issue was edited by Eileen E. Brassil, CPA, Partner. Eileen can be reached at ebraasil@legacypas.com or 312-384-4207.

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E-signature for Form 5500



Jim Giemzik, CPA

Beginning with the filing of the 2009 Form 5500, trustees must now “sign” the form electronically. The good news is that there is no cost when applying for this digital signature. Additionally, you can apply for the e-signature on any computer, and once obtained, you can use the signature for multiple benefit plans. Confirmation of your e-signature is almost instantaneous, so you will not have to wonder if your application information was accepted.

To apply for the Form 5500 e-signature, go to www.efast.dol.gov and follow the instructions. Application takes less than five minutes. If we can be of any assistance, please do not hesitate to contact us.

*By Jim Giemzik, CPA, Partner, Chicago office
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Legacy Attends National Conference on Employee Benefit Plans

We place high value in the ongoing education of our partners and professionals so that we can continue to provide superior service. In order to ensure that we are up-to-date on all of the issues and changes affecting the industry, our personnel regularly attend conferences and training seminars at state and national levels.

Annually we attend the National Conference on Employee Benefit Plans, a premiere conference for accountants who serve benefit plan clients, presented by the American Institute of Certified Public Accountants (AICPA). Partners Eileen Brassil, Bob Cann, and Tom Theis represented Legacy this year at the conference in May.

The conference offered the opportunity to hear about significant changes and current issues directly from industry experts and authorities from the AICPA, Department of Labor, and Internal Revenue Service, all of whom delivered updates on the latest rules, regulations, and implementation guidelines. Question and answer sessions with regulatory officials and industry experts provided invaluable insight.

Hot topics at this year's conference included discussions on the impact of the state of the economy on benefit plans; legislative developments affecting pension funding, COBRA payments, health care reform, and financial services; various accounting updates affecting the required disclosures of a benefit plan, especially with regard to investments and their respective fair values; and numerous regulatory changes including the requirement for 403(b) plans to file Form 5500, electronic filing of Form 5500, and changes to Form 5500 Schedule C.

After hearing from the experts at the three-day National Conference, Legacy shared the information during full-day in-house training seminars with professionals from all three offices. Frequent internal updates on economic, accounting, auditing, and regulatory developments equip our professionals with a robust understanding of the environment in which our benefit plan clients operate, enabling us to provide exceptional client support.



Fair Value Disclosure Discussed at IFEBP Conference

Eileen Brassil spoke at the International Foundation of Employee Benefit Plans' (IFEFP) Professionals Institute for Accountants on June 15, 2010 in San Diego, California. She spoke on the topic of “Investment Auditing - Beyond the Basics.” Eileen also moderated two sessions at the Trustees and Administrators Institute entitled “Selecting and Moderating Your Plan Professionals” and “Filing Forms: You Want to Sign What?”

In the Accountants session, Eileen discussed the recent updates to fair value disclosures related to Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* (now codified under the FASB Accounting Standards Codification as

ASC 820). You may have noticed that your financial statements' footnote related to this topic is growing longer and more complex. Eileen explained the reasons for this, which primarily include the fact that the Financial Accounting Standards Board (FASB) is issuing updates to respond to the growing demand for transparency, especially for those assets falling under Levels 2 and 3 in the fair value hierarchy, at the same time that benefit plans are increasing the concentration of investments in more complex non-readily marketable assets.

For further information on this topic, IFEFP's Benefits & Compensation Digest will be running an article written by Eileen Brassil in its October 2010 issue.

Understanding Financial Markets



Thomas R. Noonan

Tom Noonan recently spoke at our staff employee benefits seminar. Below is a summary of some of the information he presented.

There is a common denominator in unsuccessful investing. During the last decade, investment returns have been near zero for many individuals, pension plans and other retirement plans. There is a basic explanation for that fact. The markets usually accommodate the least amount of people. In other words, the majority of people buy when they should be selling, and they sell when they should be buying. Investment

decisions are made where it seems comfortable and others are doing the same thing.

Remember the 90s? Growth was the only game in town. Dot coms ruled! Investment managers proclaimed it was a whole new market. It was different this time. Most investors found out that it wasn't different this time and it wasn't a whole new market. The markets just accommodated the least amount of people.

Remember the mid-2000s? Your neighbors and friends boasted of all the houses they were purchasing or already owned. Retirement plans increased their exposure to real estate. It was the safest and fastest road to positive returns. What happened? The market just accommodated the least amount of people.

Now I want you to fast forward to July 2010. What markets are accommodating the least amount of people? Number one would be residential real estate. They are giving away real estate throughout most of the United States. Banks are throwing houses away. Owners are walking away from homes. Experts say it will be many years, if ever, for prices to rebound (these were the same experts that owned multiple homes themselves a few years ago).

Two things to remember; there will not be any more land created and the markets usually accommodate the least amount of people. Where then, is everyone putting their money? Money from all over the world is gushing into U.S. Government bonds. Investors are gobbling up 30 year investments with annual yields of 3.9%. Is this a safe place to put money? The principle is guaranteed by the U.S. Government. What isn't guaranteed is what the market value of the bond investments will be worth over the next 30 years until maturity. The United States has a \$13+ trillion deficit and climbing. History has shown that one of the few ways to get out from under big deficits is to inflate our way out. Pay back our debts with future dollars that are worth less. Should that happen, as it did in 1980-81, those investors flocking into 30 year government bonds could discover that more than half of their market value has disappeared.

All the experts say there is no inflation in sight and bond yields will remain low for many years to come. Remember, when all the experts say the same thing and all the investors do the same thing, something happens. The markets usually accommodate the least amount of people.

Thomas R. Noonan is the owner of Thomas R. Noonan Inc., a Registered Investment Advisory company and where he offers investment advisory services. He specializes in educational and training sessions for trustees and other pension plan participants. Tom can be reached at tnoonan1@bellsouth.net.

The views expressed in this article do not represent the views of Legacy Professionals LLP. Readers are cautioned that investments involve risks and uncertainties, and that actual results may differ materially from those contemplated by forward-looking statements.

Record Retention Guidelines *continued from page 1*

Seven years:

- Bank reconciliations, bank statements, cancelled checks
- Check registers
- Invoices
- Insurance policies and surety bonds
- Payroll records and summaries, including payments to pensioners (Forms W-2, 1099, 941 and 940)

Six years:

- Year end investment statements

Three years:

- Deposit slips
- Expired insurance contracts
- General correspondence

Please note that the above list is not all inclusive but rather shows the most common documents retained by plans.

It is important for all organizations to establish a document retention and destruction policy and to follow it. Under investigation, the IRS or the DOL can require the plan to recreate any records not retained.

*By Eric Baertsch, CPA, Senior Manager, Minnesota office
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New Form 8955-SSA

The Schedule SSA of Form 5500 has been eliminated beginning with returns for the 2009 plan year and has been replaced with Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*. The information reported on the new form will be similar to the information previously required for Schedule SSA. Plan administrators will be required to file this new form with the IRS; however, it will not be electronically filed with Form 5500 through the EFAST2 filing system.

Plan administrators are not required to file the Form 8955-SSA for the 2009 plan year and subsequent years until guidance is issued

by the IRS. The IRS anticipates the guidance will establish a special due date, expected to occur in 2011, for the 2009 Form 8955-SSA. After Form 8955-SSA and related instructions are available for filing, plan administrators should expect to have a reasonable amount of time to complete and file the form by the special due date.

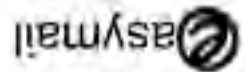
The special due date for Form 8955-SSA will not affect the timeframe for filing the applicable Form 5500 or Form 5500-SF for the 2009 plan year through EFAST2.

By Bob Cann, CPA, Partner, Director of Compliance Services
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