

**Federal Register Comments on the Proposed Plan Year 2009 and 2010 Form 8955-SSA
Comments received 2011- Responses to comments were included in the 2009 and
2010 Form 8955-SSA and Instructions.**

Comment / Response	
1.	<p>Preferable that 2009 information be able to be included with the 2010 form (rather than filing a 2009 form).</p> <p>Response: IRS agreed with and implemented this suggestion. It is documented on the webpage under Frequently Asked Questions (FAQ) #3 and in the instructions, line 6. The FAQ stated: Yes, plan administrators can continue to use the PY 2009 form for the combined 2009 and 2010 data even though the 2010 form has been released. As stated in the Instructions to the 2009 Form 8955-SSA, plan administrators may use a PY 2009 form to report information for the 2010 plan year, or combine the information for the 2009 and 2010 plan years on a single PY 2009 form. The release of the 2010 form does not affect this rule.</p> <p>If you file one Form 8955-SSA covering both 2009 and 2010 reportable employees, the 2010 reportable employees are treated as reported in 2009. Enter the beginning and ending date for the 2009 plan year on the Form 8955-SSA when combining information for the 2009 and 2010 plan years. For example, a plan that reports on a calendar year basis and combines information for the 2009 and 2010 plan years should enter January 1, 2009 as the beginning date and December 31, 2009 as the ending date.</p>
2.	<p>Require filing only for years in which there is data to report (Could add check box on p.1 to indicate no data to report).</p> <p>Response: IRS agreed with and implemented this suggestion. It is documented in the on the webpage as FAQ#4. On the webpage it was stated as: “4) Must I file a Form 8955-SSA for a year in which there is no information to file? No.”</p>
3.	<p>Reporting of participants using Code D should be voluntary; Line 6a and 6b – requirement to separate mandatorily reported participants from voluntarily reported participants is unnecessarily burdensome to employers and service providers. (Comment received 4 times).</p> <p>Response: This comment is under consideration as part of a regulation project that is on the 2014-2015 Priority Guidance Plan. The separation of lines 6a and 6b is intended to allow us to impose penalties for late filing. Including voluntary reporting would defeat this purpose.</p>
4.	<p>F8955-SSA lines 1-3 should mirror data reported by the plan on F5500 No more than one F8955-SSA should be filed by any F5500 filer (clarify in instructions).</p> <p>Response: The Form 8955-SSA lines 1-3 do mirror the Form 5500.</p>
5.	<p>Due date for filing 2009-2010 filings 180 days after FIRE system available – clarify “approved software” procedures.</p> <p>Response: In response to this comment, IRS provided Frequently Asked Questions (FAQs) and responses on the www.irs.gov website, under the Section entitled: “File My Return Electronically”. There are two sets of questions, one for “Filing Information Returns Electronically (FIRE)” and “Approved Software Vendors” both of which clarified procedures and any questions related to the procedures for filing electronically.</p>

6.	Electronic filing option- permit use of Transmitter Control Code or similar mechanism by service provider to submit filing.
	Response: As explained in the FIRE Publication 4810 “The majority of forms require a single Transmitter Control Code...” to submit a filing.
7.	Give code sec. 403(b) plans option to not report participant benefits Where contract or arrangement meets the “pre-2009 contract” relief outlined in DOLS’s FAB 2009-02 (Comment received 2 times).
	Response: This comment was considered and addressed, and is explained on page 2 of the instructions.
8.	For DC plans, in line 9, col (g), allow reporting of either (a) value of participant’s account at date of separation or (b) value of account at end of PY to which form relates as long as plan consistently reports participants using the same methodology.
	Response: Line 9(g) instructions state: “For DC plans, enter the value of the participant’s account.” It does not specify the value at a particular time.
9.	Recommend Circular 230 PTIN rules do not apply for 8955-SSA as no tax liability is reported on this form.
	Response: PTIN rules do not apply and have not applied to any version of the Form 8955-SSA.
10.	Consider time software developers need to create and integrate their systems due date no earlier than 7 months after final guidance.
	Response: IRS has early release on the Form 8955-SSA scheduled annually in September to accommodate software developers.
11.	Line 8 (was individual statement provided each affected participant with/for info required on Form 8955-SA) - instructions appear silent as to what comprises acceptable disclosure (ie – inform participant if they were using code A, B, C, or D) -- At a minimum, participant statement reporting would include vested balance of participant, account activity for the plan year, asset allocation, and summary of contributions for PY.
	Response: This comment is under consideration as part of a regulation project that is on the 2014-2015 Priority Guidance Plan.
12.	Remove the requirement to attach the application for extension of time to file the federal income tax return of the employer from final requirements for the automatic extension of F8955-SSA.
	Response: This was agreed to and implemented, see instructions for Part I, Line C. All that is required is to check the appropriate box if an extension of time has been filed or granted.
13.	Have amended form only include correction to the affect participant(s) – (eliminate duplication of filing participant info and save on paper) --- (If plan administrator files amended return, would they re-file entire form with amended participant info or simply update the applicable participant info?) .
	Response: This comment was considered and rejected due to the way the FIRE system was designed. If an amended filing is submitted, it will overwrite the previous filing. If a full and complete Form 8955-SSA is not submitted only the amended lines will remain documented in the system. Until a new or refreshed system is designed, amended filings have to be full and complete submissions.

14.	Timing difference for mandatory reporting for single employer plans versus multiple employer plans is unnecessarily burdensome. Multiple employer plans should be able to report terminated participants in the same manner as a single employer plan reports terminated employees. (comment received 2 times)
	Response: The rules regarding the reporting of deferred vested participants in multiple employer plans are in §301.6057-1(b) of the Regulations.

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Comments received 2014**

1.	Make system enhancements to the FIRE system including: <ul style="list-style-type: none"> • An efficient batch submission feature, • A free interface of use by employers or other filers of Forms 8955-SSA, and • Continuous access to the system.
	Response: The FIRE system cannot accommodate batch processing. IRS is not permitted to offer a free interface to file the Form 8955-SSA, like the DOL has offered "IFile," such an action would violate the IRS-Free File Alliance contract. FIRE has an annual requirement for two-week system shut- down for system maintenance.
2.	Recommends IRS "withdraw FAQ 21 which denies participants and beneficiaries their statutory right to a single, accurate, and timely statement of the benefits they have earned." (Comment received 2 times)
	Response: This comment is under consideration as part of a regulation project that is on the 2014-2015 Priority Guidance Plan.
3.	Recommends that IRS add a question to F8955-SSA asking "whether there has been a change of address, and whether the plan was terminated, merged or consolidated, or divided since the last return filed for the plan."
	Response: Following Paperwork Reduction Act (PRA) requirements, IRS does not add any additional questions to a form if the data can be obtained elsewhere. IRS receives this information from Form 5500 and therefore, does not need to ask it on Form 8955-SSA.
4.	Recommends SSA discontinue F8955-SSA filing requirement and eliminate SSA notices. Develop a strategy for maintaining accurate records to eliminate confusion caused by notices containing outdated info or add additional disclosure requirements for plans to communicate to age 65 separated participants with deferred vested benefits to achieve the same goal. ("The company believes that Form 8955-SSA filings, and resulting inaccurate SSA notices, are not useful for participants and that the filing should be eliminated.")
	Response: The collection of the data on Form 8955-SSA is a requirement under I.R.C. 6057(a). Neither IRS nor SSA has the ability to eliminate the requirement. IRS has raised the issue of SSA updating their SSA database so their notices would be more accurate. SSA does not feel it is their responsibility to ensure their database has accurate data.