

## AMNESTY PROGRAM FOR LATE "OWNER ONLY" PLAN REPORTING

In early May, the IRS announced a one year amnesty program involving owner/spouse retirement plans (and certain foreign retirement plans) with delinquent annual report Form 5500 Series ("Form 5500") filings. The comparable Department of Labor Delinquent Filer Voluntary Compliance program requires a \$750 payment for a single late Form 5500, and \$1,500 for filings involving two or more delinquent filings. However, the IRS program *requires no fee or penalty*, provided the delinquent filing is made between June 2, 2014 and June 2, 2015 and follows special instructions associated with the amnesty program. The program is open to owner/spouse plans that cover no one except owners, and their spouses. Partners are considered owners for this purpose. Foreign retirement plans (maintained outside of the United States by U.S. companies primarily for nonresident aliens), are also entitled to relief under the program.

The new program represents exceptionally good news for sponsors of "one person" retirement plans that have missed filing the Form 5500 for one or more years. Until now, no vehicle existed to mitigate (much less entirely eliminate) penalties that could mount up to \$15,000 or more per missed filing. However, there is no IRS guarantee that the program will continue beyond June 2, 2015 and, if it does continue, the IRS says it will include a fee or other payment. This amnesty program is unavailable for any delinquent Form 5500 that has already received a penalty notice. Thus, affected employers are well advised to move rapidly to file any and all delinquent Form 5500 filings before time runs out.

## NEW REQUIREMENT FOR DOL LATE FILER PLANS: FILE FORM 8955-SSA

The Department of Labor ("DOL") amnesty program is designed to encourage voluntary filing of any late Annual Return/Report Form 5500 Series ("Form 5500") and is called the Delinquent Filer Voluntary Compliance ("DFVC") Program. Late filing penalties are substantially reduced if late forms are filed voluntarily in accordance with the program rules. Although the program is administered by the DOL, the IRS has previously indicated that it will not pursue sanctions against late filers who use DFVC.

Until 2009, information concerning terminated employees with deferred vested benefits was reported on a Schedule SSA and included as part of the Form 5500 filing. The schedule is used by the Social Security Administration who reminds former employees with vested benefits to claim those benefits when applying for Social Security benefits. In 2009, Form 5500 filings became electronic and the Schedule SSA was replaced with Form 8955-SSA, which is no longer filed with the Form 5500. According to recently issued Notice 2014-35, employers who have filed a Form 5500 with the DOL under the DFVC must have also separately filed a companion Form 8955-SSA or Schedule SSA with the IRS on a timely basis. Otherwise, the IRS can impose penalties for late filing of the Form 5500. DFVC filers who have not timely filed Form 8955-SSA or Schedule SSA must file a *paper* Form 8955-SSA with the IRS indicating that the filing is eligible for special deadline extension rules. The 8955-SSA paper filing requirement applies to all late filings submitted for all reporting years

where DFVC relief was provided. The deadline for this special filing is the later of (a) 30 days after the DVFC filing, or (b) December 1, 2014.

Employers who have used the DFVC Program and did not separately file a Form 8955-SSA with the IRS (or Schedule SSA for years before 2009) need to be aware of this new requirement. They must make a special paper filing of Form 8955-SSA by December 1, 2014, even though the late Form 5500 was filed electronically. This action avoids the possibility of the IRS assessing penalties for the late filing of the associated Form 5500.

## **JOHN SCIARRA TO BE INDUCTED INTO COLLEGE FOOTBALL HALL OF FAME**

While the boss hates to brag, we can do it for him. John Sciarra, an owner and CEO of National Retirement Services, Inc. will be inducted into the College Football Hall of Fame at an awards banquet to be held at the Waldorf Astoria in New York City on December 9, 2014. John played quarterback for UCLA between 1972 and 1975, ranking among the all-time leaders in total offense (4,464 yards), career passing (148 completions) and rushing (1,813 yards). He joins only 11 other UCLA players inducted into the Hall of Fame. John and other inductees will be honored at the National Hall of Fame Salute at the Sugar Bowl in New Orleans on Jan. 1, 2015. Congratulations, John!

## **REMINDERS FOR JUNE**

**June 16** - Defined contribution plan employer contributions are due for employer tax returns due June 16 covering the fiscal year ending 03/31/2014 and for the fiscal year ending 09/30/2013 tax returns that are on extension to June 16.

**June 16** - Form 5500/8955-SSA – Forms due for Plan Year Ending (“PYE”) 08/31/2013 that are on extension.

**June 30** - Form 5500/8955-SSA – Forms due for 11/30/2013 PYE that have not been placed on extension.

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OUR WEBSITE AT [WWW.NRSERVICES.COM](http://WWW.NRSERVICES.COM), OR FOR SALES SUPPORT,  
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