

February 20, 2015

Ms. Christie Preston
Internal Revenue Service
Room 6129
1111 Constitution Avenue
Washington, D.C. 20224

Re: IRS Notice on Annual Return/Report of Employee Benefit Plan (Form 5500)

Dear Ms. Preston:

The American Bankers Association¹ (ABA) appreciates the opportunity to provide comments to the IRS Notice (Notice) on proposed information collections concerning the Annual Return/Report of Employee Benefit Plan (*i.e.*, Form 5500) (the Proposal). Form 5500 is an annual information return filed by employee benefit plans which the IRS uses to determine if the plan is operating properly as required under the law or whether the plan should be audited. Our members have expressed a number of concerns with the Proposal, which are described below. ABA, therefore, is not convinced that the Proposal is necessary or appropriate, and urges the IRS to amend its Notice as described herein.

I. Proposed Information on Form 5500.

A. Item 1: Trust Information.

A primary issue for banks that serve as service providers to employee benefit plans is the Proposal's addition of the Trust Employer Identification Number (EIN) to Form 5500.² Bank service providers are concerned that the IRS may have deactivated the original Trust EIN for many plans because the Trust EINs have not been used for a long period of time. (The IRS does not notify bank service providers when deactivating a Trust EIN.) To re-establish the Trust EIN for a plan, or to wait for IRS follow-up correspondence, would take a significant amount of time and resources, providing little or no benefit in return. Consequently, ABA requests that the IRS delete from the Proposal the Trust's EIN from Item 1 of Form 5500.

B. Item 2: Preparer Information.

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$15 trillion banking industry and its more than 2 million employees. Many of these banks are plan service providers, providing trust, custody, and other services for institutional clients, including employee benefit plans covered by the Employee Retirement Income Security Act (ERISA). Learn more at www.aba.com.

² See 79 Fed. Reg. 77,088, 77,089 (2014).

Another concern is the proposed mandatory inclusion of the preparer's name, address, and telephone number on the Form 5500, for the purpose of having this information available for Employee Plan (EP) Exams and Employee Plans Compliance Unit (EPCU) programs.³ This new requirement would be problematic for bank service providers of plans for several reasons.

First, bank service providers may prepare the Form 5500 for review and signature by the plan administrator, but they are not responsible for the information provided on the Form 5500 (other than information about their own compensation). Second, although a bank service provider may be the primary preparer of the Form 5500, in many cases, the bank may not be the only person or entity providing information to the plan administrator for inclusion with the filing and the bank would not be in a position to answer questions about such information. Third, bank service providers are not authorized to speak on behalf of the plan administrator and, in most cases, are contractually prohibited from releasing plan information to third parties in the absence of a subpoena. Finally, responding to IRS inquiries that are more appropriately directed to plan administrators would require substantial bank business and legal resources, which ultimately could result in increased costs for plans. Consequently, ABA requests that the IRS delete Item 2, "Preparer Information," from the Proposal.

II. Estimated Burden for Collection of Proposed Information.

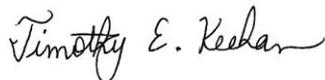
The Notice requests comments on the accuracy of the IRS' estimate of the burden of the collection of information.⁴ The IRS states that the estimated time to complete the changes proposed in the Notice will be 25 minutes per respondent.⁵ ABA believes that this estimate is well below the time that would actually be required to provide the necessary information. The data that are being requested under the Proposal, for example, often are not centralized in one location. Thus, it may require significant additional time, resources, and staff to collect the information described in the Proposal. The time estimate should take into account these operational variables that impact the data collection process.

III. Conclusion.

We believe that the above-requested information under the Proposal is not necessary or appropriate and raises problems of securing and providing such information to the IRS. We would be glad to work with IRS staff to effect the changes necessary to address the concerns described in this letter.

Thank you for your consideration of these views. If you have any questions or require any additional information, please do not hesitate to contact the undersigned at 202-663-5479.

Sincerely,



Timothy E. Keehan
Vice President & Senior Counsel

³ See *id.* We note that this information previously was optional to provide on Form 5500.

⁴ See 79 Fed. Reg. at 77,092.

⁵ *Id.*