

Form 5500, Schedule C Disclosure



"Of course, I expect a ten-per-cent finder's fee."

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Discussion Agenda

- I. Overview of Fee Disclosure Initiatives
- II. Overview of Form 5500, Schedule C
- III. Types of Reportable Compensation
- IV. Alternative Reporting Option
- V. Questions

Overview of Fee Disclosure Initiatives

U.S. Department of Labor

– 4 Projects:

- Amendments to Form 5500, Schedule C
- Disclosure to Self-Directed Participants
- Amendments to Prohibited Transaction Regulations
- Enforcement

Overview of Fee Disclosure Initiatives

U.S. Securities and Exchange Commission

– 2 Projects:

- Reviewing the disclosure that mutual funds provide to individual account plan investors.
- Reviewing 12b-1 fees. According to SEC official Robert E. Plaze the planned review of Section 12b-1 fees was put on hold as a result of the financial credit crisis.

Overview of Fee Disclosure Initiatives

U.S. Congress

– Various legislative bills:

- on May 28, 2010, the House of Representatives passed the American Jobs and Closing Tax Loopholes Act (H.R. 4213) which, in part, would provide: simple and complete fee disclosure to participants in defined contribution plans; fees for each plan investment option to be expressed in dollars or as a percentage of the investment; and disclosure of all plan administration and recordkeeping fees, investment management fees, and all other fees assessed on participants' accounts.
- Fee disclosure not including in Senate substitute submitted for debate on June 9, 2010.

Overview of Form 5500, Schedule C

1. **Effective date:** Plan years beginning on or after January 1, 2009

2. **Three Parts:**
 - Part I: Reports certain service providers that received a certain amount of “direct” or “indirect” compensation
 - Part II: Reports service providers that fail or refuse to provide Part I information
 - Part III: Reports a termination in the appointment of an accountant or enrolled actuary

Overview of Form 5500, Schedule C

Part I

- Requires identification of each person who receives, directly or indirectly, \$5,000 or more in total compensation (money or anything else in value) in connection with services rendered to the plan or their position with the plan during the plan year.
- This requirement is not limited to the 40 highest paid service providers.
- Direct compensation is reported on a separate line from indirect compensation.

Types of Reportable Compensation

Three types of reportable compensation:

- Direct Compensation
- Indirect Compensation
- Eligible Indirect Compensation

Types of Reportable Compensation

Direct Compensation:

- Payments made directly by the plan for services rendered to the plan or because of a person's position with the plan.
- Includes: direct payments out of plan account, charges to plan forfeiture accounts and fee recapture accounts, charges to a plan's trust account before allocations are made to individual participant accounts and direct charges to participant accounts.

Types of Reportable Compensation

Indirect Direct Compensation:

- Indirect compensation is compensation that a service provider receives in connection with that person's position with the plan or services rendered to the plan and the person's eligibility for a payment or the amount of the payment is based, in whole or in part, on services that were rendered to the plan or on a transaction or series of transactions with the plan.
- Includes:
 - Gifts, awards, trips
 - Brokerage commissions
 - Purchase/Sale/Exchange fees
 - Soft-dollar payments
 - 12b-1 fees
 - Shareholder Services Expenses
 - Finders' Fees/Placement Fees
 - Float Income

Types of Reportable Compensation

Eligible Indirect Compensation:

- Eligible indirect compensation is a type of indirect compensation that may be reported using an alternative option provided that (i) the service provider's only compensation in relation to the plan is eligible indirect compensation and (ii) the service provider makes written disclosure to the plan administrator of:
 - the existence of eligible indirect compensation;
 - the services provided for the eligible indirect compensation or the purpose for payment of the eligible indirect compensation;
 - the amount or estimate of the compensation or a description of the formula used to calculate or determine the eligible indirect compensation; and
 - the identity of the party or parties paying and receiving the eligible indirect compensation.

Types of Reportable Compensation

Eligible Indirect Compensation:

– Includes:

- Fees or expense reimbursement payments charged to “investment funds” and
- Reflected in the value of the plan’s investment or return on investment
- “Investment funds” include mutual funds, bank common and collective trusts, insurance company pooled separate accounts and separately managed investment accounts.
- Does not include “operating expenses”

Types of Reportable Compensation

Reporting Eligible Indirect Compensation:

- Alternative reporting option: where a service provider that receives only eligible indirect makes required disclosure, instead of having to provide information on the service provider, Schedule C may be satisfied by identifying the person or persons that provided the plan with the required written disclosure.

Questions