

114TH CONGRESS }  
*1st Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
114-357

FAST Act

---

CONFERENCE REPORT

TO ACCOMPANY

H.R. 22



DECEMBER 1, 2015.—Ordered to be printed

The provision relating to the special compliance personnel program applies to amounts collected and retained by the Secretary after date of enactment.

#### HOUSE AMENDMENT

The House amendment is the same as the Senate amendment.

#### CONFERENCE AGREEMENT

The conference agreement follows the House amendment and the Senate amendment provision. It is intended that the IRS will implement the proposal without delay to facilitate the collection of taxes, which are owed to the Government but are not being actively pursued by the IRS for collection, while protecting taxpayer rights and privacy. To carry out these goals of expeditious tax collection and taxpayer rights, it is intended that the IRS will make it a priority to use collection contractors and debt collection centers currently approved by the Treasury Department.

C. Repeal of Modification of Automatic Extension of Return Due Date for Certain Employee Benefit Plans (sec. 52105(b)(3) of the Senate amendment, sec. 32104 of the conference agreement and secs. 6058 and 6059 of the Code)

#### PRESENT LAW

An employer that maintains a pension, annuity, stock bonus, profit-sharing or other funded deferred compensation plan (or the plan administrator of the plan) is required to file an annual return containing information required under regulations with respect to the qualification, financial condition, and operation of the plan.<sup>30</sup> The plan administrator of a defined benefit plan subject to the minimum funding requirements<sup>31</sup> is required to file an annual actuarial report.<sup>32</sup> These filing requirements are met by filing an Annual Return/Report of Employee Benefit Plan, Form 5500, and providing the information as required on the form and related instructions.<sup>33</sup> Similarly, the Employee Retirement Income Security Act of 1974 (“ERISA”) requires the administrator of certain pension and welfare benefit plans to file annual reports disclosing certain information to the Department of Labor (“DOL”) and, with respect to some defined benefit plans, to the Pension Benefit Guaranty Corporation (“PBGC”).<sup>34</sup> Plan administrators also comply with these ERISA filing requirements by filing Form 5500.

<sup>30</sup> Sec. 6058.

<sup>31</sup> Sec. 412. Most governmental plans (defined in section 414(d)) and church plans (defined in section 414(e)) are exempt from the minimum funding requirements.

<sup>32</sup> Sec. 6059.

<sup>33</sup> Treas. Reg. secs. 301.6058-1(a) and 301.6059-1. Form 5500 consists of a main form and various schedules, some of which require additional information to be included. The schedules that must be filed and the additional information that must be included with Form 5500 depend on the type and size of plan. A simplified annual reporting form, Annual Return/Report of Small Employee Benefit Plan, Form 5500-SF, is available to certain plans (covering fewer than 100 employees) that are subject to reporting requirements under ERISA and the Code. References herein to Form 5500 include Form 5500-SF.

<sup>34</sup> ERISA secs. 103, 104, and 4065. Most governmental plans and church plans are exempt from ERISA, including the ERISA reporting requirements. ERISA section 3004 requires that, when the IRS and DOL carry out provisions relating to the same subject matter, they must consult with each other and develop rules, regulations, practices and forms designed to reduce duplication of effort, duplication of reporting, and the burden of compliance by plan administrators.

Forms 5500 are filed with DOL, and information from Forms 5500 is shared with the IRS and PBGC.<sup>35</sup> Form 5500 is due by the last day of the seventh month following the close of the plan year.<sup>36</sup> DOL and IRS rules allow the due date to be automatically extended by 2½ months if a request for extension is filed.<sup>37</sup> Thus, in the case of a plan that uses the calendar year as the plan year, the extended due date for Form 5500 is October 15.

Under the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, in the case of returns for taxable years beginning after December 31, 2015, the Secretary of the Treasury is directed to modify appropriate regulations to provide that the maximum extension for the returns of employee benefit plans filing Form 5500 is an automatic 3½-month period ending on November 15 for calendar-year plans.<sup>38</sup>

#### SENATE AMENDMENT

Under the provision, in the case of returns for any taxable period beginning after December 31, 2015, the Secretary of the Treasury or the Secretary's delegate is directed to modify appropriate regulations to provide that the maximum extension for the returns of employee benefit plans filing Form 5500 is an automatic 3½-month period beginning on the due date for filing the return, without regard to any extensions.<sup>39</sup>

Effective date.—The provision in the Senate amendment is effective on the date of enactment.

#### HOUSE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision. The conference agreement repeals the provision in the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 that provides for an automatic 3½-month extension of the due date for filing Form 5500. Thus, the extended due date for Form 5500 is determined under DOL and IRS rules as in effect before enactment of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.

and employers. Under ERISA section 4065, the PBGC is required to work with the IRS and DOL to combine the annual report to PBGC with reports required to be made to those agencies.

<sup>35</sup> Form 5500 filings are also publicly released in accordance with sec. 6104(b) and Treas. Reg. sec. 301.6104(b)-1 and ERISA secs. 104(a)(1) and 106(a).

<sup>36</sup> Under ERISA section 104(a)(1), the annual report is due within 210 days after the close of the plan year or within such time as provided by regulations to reduce duplicative filings. DOL and IRS regulations provide for filing at the time required by the forms and instructions issued by the agencies. 29 C.F.R. sec. 2520.104a-5(a)(2) and Treas. Reg. secs. 301.6058-1(a)(4) and 301.6059-1(a).

<sup>37</sup> Treas. Reg. sec. 1.6081-11(a). Instructions for Form 5500 also provide for an automatic extension of time to file the Form 5500 until the due date of the Federal income tax return of the employer maintaining the plan if (1) the plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its federal income tax return to a date later than the normal due date for filing the Form 5500; and (3) a copy of the application for extension of time to file the Federal income tax return is maintained with the records of the Form 5500 filer. An extension granted by using this automatic extension procedure cannot be extended beyond a total of 9½ months beyond the close of the plan year.

<sup>38</sup> Section 2006(b)(3) of Pub. L. No. 114-41 (July 31, 2015).

<sup>39</sup> The provision in the Senate amendment is similar to section 2006(b)(3) of Pub. L. No. 114-41, which was enacted after the Senate amendment was passed by the Senate.

Effective date.—The provision in the conference agreement is effective for returns for taxable years beginning after December 31, 2015.

*Section 32201—Adjustment for Inflation of Fees for Certain Customs Services*

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 establishes certain fees for customs services. These fees are not currently adjusted for inflation.

HOUSE BILL

The House bill provides that the Secretary of Treasury shall annually adjust the fees collected under Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the limitations on fees under paragraphs (2), (3), (5), (6), (8), and (9) of subsection (b), on, to reflect any increase in the average of the Consumer Price Index.

Effective date.—The provision is effective on October 1, 2015.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

Effective date.—The provision is effective on October 1, 2015.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment provision with two changes. First, changes to subsection (b) reaffirm Congressional intent that revenue from the adjustments are to be deposited into the Customs User Fee Account, subject to appropriations acts. Second, it sets the first adjustment on April 1, 2016 instead of October 1, 2015.

Effective date.—The provision is effective on April 1, 2016.

*Extension of Enterprise Guarantee Fees*

SENATE AMENDMENT

Section 52205 of the Senate amendment to H.R. 22 modifies Section 1327(f) of the Housing and Community Development Act of 1992 to extend enterprise guarantee fees from October 1, 2021 to October 1, 2025.

HOUSE AMENDMENT

The House amendment to the Senate amendment to H.R. 22 contains no provisions comparable to the Senate position.

CONFERENCE AGREEMENT

The Senate recedes from its position and concurs in the House position.