

**ERISA Memorandum
on Form 5500-EZ for Keogh Plans**

June 2012



Financial Services

Benefit plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) may be required to file Annual Return/Reports (Form 5500, Form 5500-EZ). This Memorandum provides suggestions for filing the Annual Return/Reports for institutions using TIAA-CREF fixed and variable annuities for their Keogh Plans for plan years that began on January 1, 2011, or later.

Use the instructions in this memorandum if...

You have a Keogh Plan, using TIAA-CREF fixed and variable annuities with plan assets of more than \$250,000 at the end of the plan year beginning on or after January 1, 2011, and you meet the conditions for filing Form 5500-EZ, namely:

1. The plan is a one-participant plan. This means that as of the 1st day of the plan year for which this form is filed, either:
 - a. the plan only covers you (or you and your spouse) and you (or you and your spouse) own the entire business; OR
 - b. the plan only covers one or more partners (or partner(s) and spouse(s)) in a business partnership.
2. The plan does not provide benefits for anyone except you, or you and your spouse, or one or more partners and their spouses.

If you do not meet all of the conditions listed above, you may have to file Form 5500 instead of Form 5500-EZ. If you have to file Form 5500, contact our Administrator Telephone Center, at **888 TIA-SRVC (888 842-7782)** to obtain the full Form 5500 package. Form 5500 must be filed electronically using the Department of Labor's EFAST2 system (which is viewable by the public). You can obtain information on the EFAST2 system from the DOL using the information on page 2.

You generally do not have to file Form 5500-EZ or Form 5500 for 2011 if you meet the two conditions listed above, **AND** you have a one-participant plan or you maintain several one participant plans whose total plan assets are \$250,000 or less at the end of the plan year beginning on or after January 1, 2011. Note: Even if you meet the two conditions and have total plan assets of less than \$250,000 at the end of the plan year beginning on or after January 1, 2011, you will still need to file Form 5500-EZ if 2011 is the plan's final plan year.

For other types of plans...

If your plan does not qualify as a one-participant plan, or is a nonqualified 403(b) plan, a non-Keogh qualified plan under Internal Revenue Code Section 401(a) or a qualified plan under Internal Revenue Code Section 403(a), or a welfare benefit plan, our suggested responses in this Memorandum will not be appropriate. Contact our Administrator Telephone Center at **888 TIA-SRVC (888 842-7782)** to obtain filing information if you have a non-Keogh plan.

Don't forget ...

You have to file separate Forms for each Keogh Plan by the last day of the seventh month following the close of the plan year (which may be extended by 2 ½ months by filing a Form 5558 before the normal due date). You should keep copies of the completed Annual Return/Report on file.

- If you choose to meet your filing requirements with Form 5500-EZ, you must submit the completed Form to the Internal Revenue Service ("IRS") as specified in the Form 5500-EZ instructions, on page 3 under "Where To File." Form 5500-EZ can be obtained directly from the IRS at 800 TAX-FORM or go to the IRS website at <http://www.irs.gov/formspubs/index.html>.

Specific guidelines for completing Form 5500-EZ begin on page 3 of this Memorandum.

The suggested guidelines and information in this Memorandum represent TIAA-CREF's interpretations of Internal Revenue and Department of Labor regulations and instructions for completion of Annual Return forms. We suggest that you seek the advice of legal counsel regarding the applicability of particular filing requirements to a specific benefit plan, or items on the Annual Return forms. You may contact TIAA-CREF's Administrator Telephone Center, at **888 TIA-SRVC (888 842-7782)**, for further information regarding the forms.

FORM 5500-EZ

Filers of Form 5500-EZ are not required to file any schedules or attachments according to "What to File" on page 2 of the Instructions. Plans subject to the minimum funding standard of section 412 of the Internal Revenue Code are required to complete and retain Schedule MB for their plan even though it does not need to be filed with Form 5500-EZ, but Keogh plans funded only with TIAA-CREF annuities are not subject to the minimum funding standard.

Part I Annual Return Identification Information

If the plan has a plan year other than the calendar year or if the plan year is less than 12 months, enter the beginning and ending dates of the plan year in the spaces provided at the beginning of the form.

Item A

(1) – (4) Do not check any boxes unless this Form 5500-EZ is the first or final one filed for the plan, an amended Form 5500-EZ, or a Form 5500-EZ for a period of fewer than 12 months.

Item B

Do not check the box unless you are filing under an extension of time to file this Form 5500-EZ. You do not attach a copy of the extension application to Form 5500-EZ. See page 3 of the Instructions for Form 5500-EZ for information on filing extensions.

Item C

Do not check the box unless your Keogh plan is maintained outside the U.S. primarily for nonresident aliens.

Part II Basic Plan Information

Item 1

- 1a Enter the name of the plan. For example "ABC Institution Defined Contribution Retirement Plan."
- 1b Enter the three-digit number that you have assigned to your plan for reporting.
- 1c Enter the date on which the plan first became effective.

Item 2

- 2a Enter the employer's name. Enter the trade name of the business if different from the name of the employer. If plan mail is sent in care of a person or entity, enter their name here. Provide the employer's mailing address.
- 2b Enter the Employer Identification Number (EIN) assigned to your Plan by the IRS. If you do not have an EIN, see the Form 5500-EZ instructions at page 4 on how to obtain one.

- 2c Enter the employer's telephone number. The number listed should be for someone who can handle an inquiry from the DOL or IRS.
- 2d Enter the applicable Business Activity Code from pages 8 - 9 of the Form 5500-EZ instructions.

Item 3

- 3a Enter the name and address of the individual designated as the plan administrator. If the plan administrator is the employer identified in the entry on line 2a, enter "Same."
- 3b Enter the Employer Identification Number (EIN) assigned to your plan administrator. If the IRS has not assigned an EIN to the plan administrator, an application can be made for one as described in the Form 5500-EZ instructions on page 4. (According to the instructions accompanying Form 5500-EZ, an EIN must be obtained for the plan administrator for reporting purposes.) If the employer is the plan administrator, leave 3b blank.
- 3c Enter the telephone number of the plan administrator or, if the plan administrator is the employer listed in the entry on line 2a, leave 3c blank.

Item 4a, b and c

Make an entry only if there has been a change in the name and/or EIN of your plan since filing the previous year's Form 5500-EZ. If there has been a change, in (a) give the name and in (b) the EIN as they existed prior to the change and also provide in (c) the plan number.

Item 5

- 5a Enter the total number of participants on the first day of the plan year.
- 5b Enter the total number of participants on the last day of the plan year.

Part III Financial Information

Item 6

- 6a(1) If your plan is funded entirely through TIAA-CREF annuities, enter the Market Value at the Beginning of the Period from the Statement of Changes to Net Assets. If you also use other funding sources, add the applicable amounts from those sources to the amounts from the Statement of Changes to Net Assets and enter the results in column (1).
- 6a(2) If your plan is funded entirely through TIAA-CREF annuities, enter the Market Value at the End of the Period from the Statement of Changes to Net Assets. If you also use other funding sources, add the applicable amounts from those sources to the amounts from the Statement of Changes to Net Assets and enter the results in column (2).
- 6b, (1) & (2) If your plan is funded entirely through TIAA-CREF annuities, then you may leave this blank. If you also use other funding sources, enter the applicable amounts from those sources.
- 6c, (1) & (2) Subtract line 6b amounts from line 6a amounts, and enter remainders in 6c.

Item 7

- 7a If your plan is funded entirely through TIAA-CREF annuities, enter the appropriate Grand Total Employer Contribution amount from the Statement of Changes to Net Assets. If you also use other funding sources, add the applicable amounts from those sources to the TIAA-CREF amount.
- 7b If your plan is funded entirely through TIAA-CREF annuities, enter the appropriate Grand Total Employee Contribution amount from the Statement of Changes to Net Assets. If you also use other funding sources, add the applicable amounts from those sources to the TIAA-CREF amount.
- 7c Leave blank if funded exclusively with TIAA-CREF annuities. If you also use other funding sources, enter applicable amounts from those sources.

Note: We have NOT included any contributions **for the previous plan year** that you may have made between January and April 15th of **this** year. The Statement of Changes to Net Assets will show institution and employee contributions made between January 1 and December 31 of the plan year. Individuals are responsible for keeping track of their total plan-year contributions.

Part IV Plan Characteristics

Item 8

Enter 2C if your plan is a Money Purchase Plan or 2E if it is a Profit-Sharing Plan. You should also enter 3B to indicate that it is a plan covering self-employed individuals. If your plan satisfies minimum coverage requirements of section 410(b) only when combined with another plan of the employer, you should also enter 3E. Enter other codes, if applicable, as detailed on page 7 of the Form 5500-EZ Instructions.

Part V Compliance and Funding Questions

Item 9

Check “No” and leave the amount blank unless you also use other funding sources in addition to TIAA-CREF annuities and these sources permit participant loans.

Item 10

Check the “No” box to indicate that it is not a defined benefit plan.

Item 11

Check the “No” box unless your Keogh plan is a money purchase plan subject to the minimum funding requirements of section 412 of the Internal Revenue Code. If you have a money purchase plan, you should ask your plan’s legal advisor to determine whether or not minimum funding standards apply to your plan.

- 11a Leave blank unless your plan is subject to minimum funding standards
- 11b Leave blank unless your plan is subject to minimum funding standards.
- 11c Leave blank unless your plan is subject to minimum funding standards.
- 11d Leave blank unless your plan is subject to minimum funding standards.
- 11e Leave blank unless your plan is subject to minimum funding standards.

Signature The employer or plan administrator should sign and date the form.

