

---

**ERISA Memorandum on Form 5500,  
Form 5500-C, Form 5500-R for 403(b) Plans**

**April 1999**

**Teachers Insurance And Annuity Association -  
College Retirement Equities Fund (TIAA-CREF)**  
730 Third Avenue  
New York, NY 10017-3206

---

**Benefit plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) are required to file Annual Return/Reports (Form 5500) or Return/Reports (Form 5500-C, or Form 5500-R). This Memorandum provides suggestions for filing the Annual Return/Reports for institutions using TIAA-CREF annuities under their Section 403(b) retirement and tax-deferred annuity (TDA) plans for plan years that began on January 1, 1998 or later.**

**Use the instructions in this memorandum if ...**

You have a retirement plan or tax-deferred annuity plan, using TIAA-CREF annuities, that meets the requirements of **Section 403(b)(1)** of the Internal Revenue Code.

**For other types of plans ...**

If your plan is a qualified plan under Section 401(a) or 403(a) of the Internal Revenue Code, or a welfare benefit plan, our suggested responses in this memorandum will not be appropriate. There are other ERISA memoranda for these plans.

**Don't use the instructions in this memorandum if ...**

You have a 403(b) plan that is exempt from the reporting and disclosure requirements of Title I of ERISA because

! your plan is a governmental plan (that is, a plan "established or maintained for its employees by the ... government of any state or political subdivision thereof, or by any agency or instrumentality of the foregoing") or an exempt church plan,

OR

! Your TDA contracts are not considered to be part of a plan maintained by the employer. To qualify for this exemption your plan should meet the criteria described in Department of Labor regulation 2510.3-2(f):

- participation is completely voluntary;
- several companies' annuities or custodial accounts are made available;
- employer involvement is limited to administering salary reduction agreements; the annuity companies are permitted to publicize their products to employees; information

---

about the available products is gathered and summarized; the number of available companies is limited so that employees are given a reasonable choice;

- all rights under the contracts are enforceable only by the participant, not the employer;

- the employer is not compensated for performing administrative duties (other than reimbursement of actual expenses).

**Don't Forget ...**

- ! You have to file separate Forms 5500 or 5500-C/R for each retirement or TDA plan by the last day of the seventh month following the close of the plan year.
- ! You should keep copies of the completed Annual Return/Report on file for review by any participant on request.

**Specific guidelines for completing the forms begin on page 4.**

*The suggested guidelines and information in this Memorandum represent TIAA-CREF's interpretations of Department of Labor regulations and DOL/IRS instructions for completion of Annual Return/Report forms. We suggest that you seek the advice of legal counsel regarding the applicability of particular ERISA filing requirements to a specific benefit plan, or items on the Annual Return/Report forms. TIAA-CREF's Institutional Consultants will be glad to be of assistance by working with you and your legal counsel.*

---

**Sample Cover Letter to Form 5500 and 5500-C/R**

The following letter provides suggested wording for you to use when filing Form 5500 or 5500-C/R.

Date

Internal Revenue Service Center  
{Insert Correct Form  
Filing Center}

To Whom It May Concern:

Attached is the Annual Return/Report for {insert name of your plan} for the 1998 plan year. I have completed Form 5500 {Form 5500-C/R} for this purpose.

This plan is a 403(b)(1) annuity plan. According to the instructions to Form 5500 {5500-C/R}, plans that file for an annuity arrangement under Code Section 403(b)(1) are not required to complete all items. I have completed the required items and have left the remaining items blank.

If you have any questions concerning the information on this report, please contact me.

Sincerely,

Plan Administrator

---

## **FORM 5500**

For retirement and tax-deferred annuity plans *with 100 or more participants\** at the beginning of the plan year.

**The instructions to the Form 5500 state (on page 6) that plans exclusively using a tax-deferred annuity arrangement under Code section 403(b)(1) need only complete items 1 through 5, 6b (enter code 8) and 9. All TDA plans and most retirement plans using TIAA-CREF annuities are Section 403(b)(1) plans. The sample letter on page 3 mentions this partial exemption from filing requirements.**

### **Beginning of Form.**

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) through (4)**

Do not check any boxes unless this Form 5500 is the first or final one filed for the plan; an amended Form 5500; or a Form 5500 for a period of less than 12 months.

### **Item B.**

Do not check box unless information in Items 1a, 2a, 2b, or 5a changed since the last Form 5500 for this plan.

### **Item C.**

Do not check box unless your plan year changed since the last Form 5500.

### **Item D.**

Do not check box unless you filed for an extension of time to file this Form 5500.

---

\* We believe that the term "participant" includes not only employees actually enrolled in the plan (those for whom premiums are being paid), but also current employees who have participated in the past but who are not presently doing so. Generally, if the number of plan participants decreases to fewer than 100, you would file a Form 5500-C/R. There is an exception to this rule. You may file the same form as you filed last year, even if the number of participants dropped below 100, as long as there were at least 80 participants at the beginning of the plan year.

---

**Item 1.**

- 1a** Enter the name and address of your institution.
- 1b** Enter the Employer Identification Number (EIN) assigned to your institution by the Internal Revenue Service (IRS). This number is also used on the W-2 forms that are filed by your institution with the IRS.
- 1c** Enter your institution's telephone number.
- 1d** Enter the applicable Business Activity Code from pages 20-22 of the Form 5500 Instructions. *Note:* Code **611000** is the Code for Educational Services.
- 1e** Enter "N/A."

**Item 2.**

- 2a** Enter the title and address of the individual at your institution who has been designated as the plan administrator. If the plan administrator is the institution, enter "Same."
- 2b** Enter the Employer Identification Number (EIN) assigned to your plan administrator. If the IRS has not assigned an EIN to the plan administrator, you should apply for one on Form SS-4, available at most IRS and Social Security Administration offices. (According to the instructions accompanying Form 5500, if an employee of the sponsoring employer is designated as the plan administrator in the plan document, an EIN must be obtained for the plan administrator for reporting purposes. The institution's EIN cannot be used.) If the institution is the plan administrator, enter "Same."
- 2c** Enter the telephone number of the plan administrator or, if no plan administrator has been named, of the individual at the institution who has been given the responsibility to answer any questions the Department of Labor or IRS may have concerning your Form 5500.

**Item 3.**

- a** Make an entry only if historical information is not preprinted and there has been a change in the name and EIN of your institution since filing the previous year's Form 5500; give the name and EIN as they existed prior to the change and also provide the plan number.

- 
- b** Make an entry only if historical information is not preprinted and there has been a change in the name and EIN of the plan administrator since filing the previous year's Form 5500; give the former name, address and EIN.
  - c** If Item 3(a) represents a change in the sponsor's name, enter appropriate answer. Otherwise, do not make an entry.

**Item 4.**

Enter code "A," which is the code for a single employer plan.

**Item 5.**

- 5a** Enter the name of the plan. For example, "Retirement Plan for Faculty and Administrators of ABC Institution" or "Tax-Deferred Annuity Plan for all Employees of XYZ Institution."
- 5b** Enter the date on which the plan first became effective.
- 5c** Enter the three digit number that you have assigned to your plan for reporting. This number should be included in the plan's Summary Plan Description.

**Item 6. Page 1.**

- 6a** Do not make an entry.
- 6b** Check this box and enter code "8," which is the code for an "Annuity arrangement of certain exempt organizations (Code section 403(b)(1))." This is the appropriate answer for all TDA and 403(b) retirement plans using TIAA-CREF annuities.
- 6c and 6d**  
Do not make an entry.

**Signature.**

The plan administrator should sign and date the form on both signature lines or, if no plan administrator has been named, the individual at the institution who is authorized to complete and submit Form 5500 should sign and date the form.

**Item 6. Page 2.**

- 6e through h** Do not make an entry.

---

**Items 7. and 8.**

Do not make an entry.

**Item 9.**

**9a** Check "No" unless the plan has been terminated. If the plan has been terminated, check "Yes" and enter date of termination.

**b** Do not make an entry in 9b unless you answered "Yes" in Item 9a. If you answered "Yes" in Item 9a, check "Yes."

**c** Check appropriate box.

**d and f**

Do not make an entry unless you answered "Yes" in Item 9a or 9c. If you answered "Yes" in Item 9a or 9c, check appropriate boxes.

**e** Do not make an entry unless you answered "No" in Item 9d. If you answered "No" in Item 9d, check appropriate box.

**g** Do not make an entry.

**h** Check "No."

**i** Do not make an entry.

**Items 10 through 33.**

Do not make an entry.

---

## **FORM 5500-C/R**

For retirement and tax-deferred annuity plans *with fewer than 100 participants\** at the beginning of the plan year.

**The instructions to the Form 5500-C/R state (on pages 5 and 6) that plans exclusively using a tax-deferred annuity arrangement under Code section 403(b)(1) need only complete items 1 through 5, 6b (enter pension code 8) and 8 if they file as 5500-R filers, and items 1 through 5, 6b (enter pension code 8) and 9 if they file as 5500-C filers. All TDA plans and most retirement plans using TIAA-CREF annuities are Section 403(b)(1) plans. The sample letter on page 3 mentions this partial exemption from filing requirements for 403(b) plans.**

Note: Plans file Form 5500-C/R every year. Every third year, plans file as a Form 5500-C filer (fuller report). In other years, plans file as a Form 5500-R filer. Items A through 6b on Form 5500-C/R are the same for all filers. There are separate instructions for Form 5500-R and Form 5500-C filers for the other items on the Return/Report.

### **Beginning of Form.**

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) through (4)**

Do not check any boxes unless this Form 5500-C/R is: the first or final one filed for the plan; an amended Form 5500-C/R; or a Form 5500-C/R for a period of less than 12 months.

- (5)** Check this box if you are a Form 5500-C filer. Form 5500-C is filed every third year, or if it is the first or final report for the plan.
- (6)** Check this box if you are a Form 5500-R filer. Form 5500-R is filed in those years that Form 5500-C is not filed.

---

\* We believe that the term "participant" includes not only employees actually enrolled in the plan (those for whom premiums are being paid), but also current employees who have participated in the past but who are not presently doing so. Generally, if the number of plan participants increases to 100 or more, you would have to begin filing Form 5500. There is an exception to this rule. You may file the same form as you filed last year, even if the number of participants changed, as long as there were no more than 120 participants at the beginning of this plan year.

---

**Item B.**

Do not check box unless information in Items 1a, 2a, 2b, or 5a changed since the last Form 5500-C/R for this plan.

**Item C.**

Do not check box unless your plan year changed since the last Form 5500-C/R.

**Item D.**

Do not check this box unless you filed for an extension of time to file this Form 5500-C/R.

**Item 1.**

**1a** Enter the name and address of your institution.

**1b** Enter the Employer Identification Number (EIN) assigned to your institution by the Internal Revenue Service. This number is also used on the W-2 forms that are filed by your institution with the IRS.

**1c** Enter your institution's telephone number.

**1d** Enter the applicable Business Activity Code from pages 18-20 of the Form 5500-C/R Instructions. Note that Code **611000** is the Code for Educational Services.

**1e** Enter "N/A."

**Item 2.**

**2a** Enter the title and address of the individual at your institution who has been designated as the plan administrator. If the plan administrator is the institution, enter "Same."

**2b** Enter the Employer Identification Number (EIN) assigned to your plan administrator. If the IRS has not assigned an EIN to the plan administrator, you should apply for one on Form SS-4, available at most IRS and Social Security Administration offices. (According to the instructions accompanying Form 5500-C/R, if an employee of the sponsoring employer is designated as the plan administrator in the plan document, an EIN must be obtained for reporting purposes. The institution's EIN cannot be used.) If the institution is the plan administrator, enter "Same."

---

**2c** Enter the telephone number of the plan administrator or, if no plan administrator has been named, of the individual at the institution who has been given the responsibility to answer any questions the Department of Labor or IRS may have concerning your Form 5500-C/R.

**Item 3.**

- a** Make an entry only if historical plan information is not preprinted and there has been a change in the name and EIN of your institution since filing the previous year's Form 5500-C/R: give the name and EIN as they existed prior to the change and also provide the plan number.
  
- b** Make an entry only if historical plan information is not preprinted and there has been a change in the name and EIN of the plan administrator since filing the previous year's Form 5500-C/R: give the former name, address and EIN.
  
- c** If Item 3a represents a change in the sponsor's name, enter appropriate answer. Otherwise, do not make an entry.

**Item 4.**

Enter code "A," which is the code for a single-employer plan.

**Item 5.**

- 5a** Enter the name of the plan. For example, "Retirement Plan for the Faculty and Administrators of ABC Institution" or "Tax-Deferred Annuity Plan for All Employees of XYZ Institution."
  
- 5b** Enter the date that the plan first became effective.
  
- 5c** Enter the three digit number that you have assigned to your plan for reporting. This number should be included in the plan's Summary Plan Description.

**Item 6. Page 1.**

- 6a** Do not make an entry.
  
- 6b** Check this box and enter code "8," which is the code for "Annuity arrangement of certain exempt organizations (Code section 403(b)(1))." This is the appropriate answer for all TDA and 403(b) retirement plans using TIAA-CREF annuities.

**6c and 6d**

.....

---

Do not make an entry.

**Signature.**

The plan administrator should sign and date the form on both signature lines or, if no plan administrator has been named, the individual at the institution who is authorized to complete and submit Form 5500-C/R should sign and date the form.

**FORM 5500-R FILERS**

**Item 6. Page 2.**

**6e** Do not make an entry.

**Item 7.**

Do not make an entry.

**Item 8.**

**8a** Check "No" unless the plan has been terminated. If the plan has been terminated, check "Yes" and enter the date of termination.

**8b** Do not make an entry unless you answered "Yes" in Item 8a. If you answered "Yes" in Item 8a, check "Yes."

**8c** Do not make an entry.

**Items 9. through 16.**

Do not make an entry.

**FORM 5500-C FILERS**

**Item 6. Page 3.**

**6e through h**

Do not make an entry.

**Items 7. and 8.**

---

Do not make an entry.

**Item 9.**

**9a** Check "No" unless the plan has been terminated. If the plan has been terminated, check "Yes" and enter date of termination.

**b** Do not make an entry unless you answered "Yes" in Item 9a. If you answered "Yes" in Item 9a, check "Yes."

**c** Check the appropriate box.

**d and f**

Do not make an entry unless you answered "Yes" in Item 9a or 9c. If you answered "Yes" in Item 9a or 9c, check appropriate boxes.

**e** Do not make an entry unless you answered "No" in Item 9d. If you answered "No" in Item 9d, check appropriate box.

**g** Do not make an entry.

**h** Check "No."

**j** Do not make an entry.

**Items 10. through 28.**

Do not make an entry.

