

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

April 2003



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-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, 2002, or later.

Use the instructions in this memorandum if ...

You have a Keogh Plan, using TIAA-CREF fixed and variable annuities, and you meet the conditions for filing, 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 meets the minimum coverage requirements of Section 410(b) without being combined with any other plan you may have that covers other employees of your business.
3. The plan does not provide benefits for anyone except you, or you and your spouse, or one or more partners and their spouses.
4. The plan does not cover a business that is a member of:
 - a. an affiliated service group,
 - b. a controlled group of corporations, or
 - c. a group of businesses under common control.
5. The plan does not cover a business that leases employees.

If you do not meet all five of the conditions listed above, 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; you can obtain the actual forms from the DOL using the information on page 2.

You do not have to file Form 5500-EZ (or Form 5500) for 2002 if you meet the five conditions above, **AND EITHER** you have a one-participant plan that had total plan assets of \$100,000 or less at the end of every plan year beginning on or after January 1, 1994, **OR** you have two or more one-participant plans that together had total plan assets of \$100,000 or less at the end of every plan year beginning on or after January 1, 1994.

For other types of plans ...

If your plan is a nonqualified 403(b) plan, or 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. There are other ERISA memoranda for these plans.

Don't forget ...

- You have to file separate Forms 5500-EZ for each Keogh 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.
- You file the completed Form 5500-EZ with the Department of Labor ("DOL") Pension and Welfare Benefits Administration ("PWBA") as specified in the Form 5500-EZ instructions, on page 2 under "Where To File." The newly revised Form 5500-EZ is in two versions: a version that is completed on a computer (and which can be electronically filed or filed by mail or private delivery service); and a version that can be completed by hand or typewriter (which can only be filed by mail or private delivery service). The computer version will require special software that is obtained from a service provider working with the DOL. See the DOL's web page at www.efast.dol.gov for details. The handwritten or typewritten version will require forms obtained directly from the DOL; call 800 829-3676 for these forms. These hand- or typewritten forms are machine-readable and photocopies of them will not be accepted.

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 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), which will be glad to be of assistance by working with you and your legal counsel.

Sample Cover Letter to Form 5500-EZ

The following letter provides suggested wording for you to use when filing Form 5500-EZ if your Keogh Plan is funded only with TIAA-CREF fixed and variable annuities.

Date

[PWBA
PO Box 7042
Lawrence, KS 66044-7042]

or

[PWBA/NCS
Attn: EFAST
3833 Greenway Drive
Lawrence, KS 66046-1290]

To Whom It May Concern:

Attached is the Annual Return/Report for {insert name of your plan} for the 2002 plan year. I have completed Form 5500-EZ for this purpose.

This plan is funded using only annuity contracts. According to the instructions to Form 5500-EZ, such plans 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-EZ

The Form 5500-EZ indicates that plans exclusively using annuity contracts need only complete Part I and Part II, lines 1 through 10f, and 14 through 15. You do not file Schedule B, Schedule E, or Schedule P. The sample letter on page 3 mentions this partial exemption from filing requirements.

Part I Annual Report 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. If you are, attach a copy of the extension application.

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

Item 2

- 2a Enter the name and address of your plan.
- 2b Enter the Employer Identification Number (EIN) assigned to your plan by the Internal Revenue Service (IRS). If you do not have an EIN, see the Form 5500-EZ instructions at page 4 on how to obtain one.
- 2c Enter your plan'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 7-9 of the Form 5500-EZ instructions.

Item 3

- 3a Enter the title 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, enter "Same."
- 3c Enter the telephone number of the plan administrator or, if no plan administrator has been named, leave this 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. 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

This section is optional. It is suggested that you leave it blank unless you use a paid preparer to prepare the Form 5500-EZ.

Item 6

Check **either** box (c), Money Purchase Pension Plan, **or** (d) Profit-Sharing Plan, as applicable for the plan for which you are submitting the Form 5500-EZ. Do not check any of the other boxes.

Item 7

- 7a Leave blank.
- 7b Check the applicable box for your plan.

Item 8

- 8a Enter the appropriate number of plans. If this is the sole plan, enter 1.
- 8b Check if you have two or more one-participant plans that in aggregate have a value that exceeds \$100,000. You must file separate Forms 5500-EZ for each of those plans.

Item 9

Enter the appropriate numbers of participants in the boxes.

Item 10

- 10a(1) If your plan is funded entirely through TIAA-CREF annuities, check “Yes” and complete only lines 10a(2) through 10f. Then skip lines 10g through 13d.
- 10a(2) Check “with no trust” if your plan is funded entirely through TIAA-CREF annuities.
- 10b Enter the appropriate PLAN CONTRIBUTIONS – EMPLOYER amount from the Filing Summary if your plan is funded entirely through TIAA-CREF annuities. If you also use other funding sources, add that amount to the 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. Plan Contributions will show contributions made between January 1 and December 31 of the plan year. Individuals are responsible for keeping track of their total plan-year contributions.

- 10c Enter “0,” if your plan is funded entirely through TIAA-CREF annuities. If you also use other funding sources, enter the applicable amounts from those sources.
- 10d Enter the appropriate PLAN EXPENSES – TO PARTICIPANTS/BENEFICIARIES amount from the Filing Summary, if your plan is funded entirely through TIAA-CREF annuities. If you also use other funding sources, add that amount to the applicable amounts from those sources.
- 10e Enter “0,” if your plan is funded entirely through TIAA-CREF annuities. If you also use other funding sources, enter the applicable amounts from those sources.
- 10f Enter the amount of transfers (i.e., merger of plans, spin-off of part of a plan) from your plan to another plan.
- 10g 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 appropriate amount for contributions other than employer or employee contributions (if any). This amount should include the OTHER CONTRIBUTIONS – TIAA-CREF amount from the Filing Summary.
- 10h If your plan is funded entirely through TIAA-CREF annuities, then you may leave this blank. If you also use other funding sources, enter all other expenses, if any. This amount should include the PLAN EXPENSES – OTHER amount from the Filing Summary, which should be added to the applicable amounts from those sources.

Item 11

11a, (a) & (b) 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 OPENING TOTAL and CLOSING TOTAL amounts from the Filing Summary to the applicable amounts from those sources and enter the results.

11b, (a) & (b) 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.

Items 12 and 13

If your plan is funded entirely through TIAA-CREF annuities, then you may leave all entries in these items blank. If you also use other funding sources, enter the appropriate amounts from those sources.

Item 14

14a Answer as appropriate. If your answer is "No," do not complete lines 14b, and 14c.

14b Enter total number of employees, as appropriate.

14c Enter as appropriate.

Item 15

15a Enter as appropriate.

15b Enter as appropriate.

15c Enter as appropriate.



730 Third Avenue
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*Managing money for people
with other things to think about.SM*