TRISCEND NP

How to Report SERPs and Split Dollar Arrangements on Form 990

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990 REPORTING

Reporting supplemental executive retirement plans (SERPs) and split dollar arrangements (SDAs) on IRS Form 990 require care, but the rules are straightforward.

The three typical places on Form 990 for reporting SERPs and SDAs are Part VII of the core Form 990, Schedule J (SERPs and some SDA aspects) and Schedule L (other SDA aspects):

· Part VII is a high-level presentation divided between taxable and nontaxable compensation.

· Schedule J divides compensation among base pay, incentive pay, other taxable pay and benefits, deferred compensation not yet taxed, and other nontaxable benefits.

· Schedule L contains the general details of loans and business transactions between the employer and the executive.

REPORTABLE INDIVIDUALS

The starting point is to determine which executives are required to be listed in Part VII and Schedules J and L. In an over-simplification, reporting is required for current officers and "key employees," the next five most highly-compensated employees, and individuals who within the last five years were in such categories.

SERP REPORTING

SERPs with pre-tax benefit accruals are reported in the following Part VII and Schedule J columns that are checked, depending on what happened during 2013:

	Core Form			Schedule J						
	W-2 – Reporting Organization (D)	W-2 – Related Organizations (E)	Estimate of Other Compensation – (F)	Base Pay on W-2 (B)(i)	Incentives on W-2 (B)(ii)	Other Comp on W-2 (B)(iii)	Pre-Tax Deferred Comp Accruals (C)	Nontaxable Benefits (D)	Total (E)	Deferred Comp on Prior Form 990s (F)
Account Balance SERP										
Employer Credits to Account	-	-	√	-	-	-	√	-	√	-
Earnings on Account (+ or -)	-	-	-	-	-	-	-	-	-	-
Vesting and Distribution	√	√	-	-	-	√	-	-	√	√
Defined Benefit SERP										
Defined Benefit Accruals + or -)	-	-	√	-	-	-	√	-	√	-
Vesting and Distribution	√	√	-	-	-	√	-	-	√	√

DEFERRED COMPENSATION REPORTING

Deferred compensation is reported on the Form 990 twice – once in the year it accrues, and again in the year it is paid. Column F of Schedule J recognizes the double reporting, and allows employers to highlight the double reporting by specifying in column F portions of the deferred compensation paid during the year that were reported on prior Form 990s.

SPLIT DOLLAR ARRANGEMENT REPORTING

The two most common types of SDAs are "economic benefit regime" and "loan regime." Economic benefit regime (EBR) applies if the employer owns the insurance policy and endorses rights to the executive. Loan regime applies if the executive owns the policy and collaterally assigns rights back to the employer. If the executive and employer jointly own the policy, then the first named owner determines whether EBR or loan regime applies.

EBR has two taxable and reportable elements. First, the executive is taxed each year on the value of the death benefit protection received. The protection is valued either by IRS Table 2001 or the carrier's annually renewable term rate. This value is reported in Part VII column D, and Schedule J columns B(iii) and E. Second, any EBR cash value interest assigned or transferred to the executive is deferred compensation reportable the same as noted above for a defined benefit SERP. The growth (or reduction) in the executive's cash value interest is the measure of the reported accruals and vesting / distributions.

The primary Form 990 reporting for loan regime is not on Part VII or Schedule J, but on Schedule L. Part VII and Schedule J reporting only applies if the employer forgives the interest on the deemed loan each year. The forgiven interest is included on the executive's W-2 and so shows up in Part VII column D, and Schedule J columns B(iii) and E.

Schedule L loan regime reporting varies depending on whether the policy is owned by the executive alone, or owned jointly with the employer (with the executive as the first named owner). Executive-owned policies are reported in Part II Loans to and/or From Interested Persons. Part II has columns (a) through (i) with reporting as follows:

Column	Reporting
(a) Name of interested person	Insert name
(b) Relationship with organization	E.g., current or former officer, key employee or 5 highest compensated
(c) Purpose of Loan	E.g., "To fund purchase of cash value life insurance policy to supplement retirement income and return premiums and interest to the organization."
(d) Loan to or from the organization	Check "From"
(e) Original principal amount	Insert amount of employer advances
(f) Balance due	Insert original advances plus any accrued interest
(g) In default?	Yes or no, as applicable
(h) Approved by board or committee?	Yes or no, as applicable
(i) Written agreement?	Check "Yes"

Schedule L reporting for jointly-owned policies is in Part IV Business Transactions Involving Interested Persons. Columns (a) through (e) are completed as follows:

Column	Reporting
(a) Name of interested person	Insert name
(b) Relationship with organization	E.g., current or former officer, key employee or 5 highest compensated
(c) Amount of transaction	Insert amount of employer advances
(d) Description of transaction	E.g., "Joint investment in a cash value life insurance policy to supplement retirement income and return investment and interest to the organization."
(e) Sharing of Organization's revenues?	Check "No"

Although not an exact science, in recent years the IRS has clarified Form 990 reporting for executive benefits. Reporting can vary depending on plan details, so each employer should obtain competent advice for how to report specific arrangements.

This description is provided for educational and discussion purposes only. Consult with your own independent legal and accounting advisers for guidance specific to your particular facts and circumstances.
For more detailed information on Form 990 reporting for a variety of SERP and SDA designs, as well as information on reporting for most other types of executive benefits, feel free to contact the authors of this article.

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For more than 25 years, Kirk has focused his legal practice in the area of executive compensation in tax-exempt organizations. With over 550 not for profit clients, primarily hospitals and credit unions, he regularly addresses issues of benefit design, documentation, administration, regulatory compliance, taxation and Form 990 reporting. Kirk is a frequent lecturer on benefits issues. Recent presentations have addressed the expanding Form 990 reporting requirements, the interaction of Sections 457(f) and 409A of the tax code, governance best practices related to compensation, and avoiding intermediate sanction penalties. Kirk obtained his law degree at the University of Virginia, where he served as Executive Editor of the Virginia Tax Review.

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As co-founder of Triscend^{NP}, Dale's vision is to take the experience and discipline from his investment banking background and provide unique products and services to the executive benefits sector. Dale has used his extensive investment banking and M&A experience of over 20 years to invent numerous proprietary strategies over the last 15 years. These financial strategies are designed to provide equitable outcomes to serve the executive, organization and community. Triscend^{NP} is changing the game for nonprofits by transforming the way executive benefits are provided. Guided by a socially responsible approach in retention planning, the CAP-Ex Program is projected to return over $1 billion to the nonprofit community. Dale is a graduate of Whitworth College where he received his Bachelor of Science in Biology and Chemistry and pursued his Masters in Health Services Administration.