

Form 5500 FAQ

5500 Reporting for Welfare Plans FAQ

The Form 5500 Series is part of ERISA's overall reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed according to certain standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries.

Who Must Comply?

All private sector employers, including corporations, S corporations, LLCs, sole proprietorship, partnerships, and non-profits that sponsor insured and self-insured plans subject to ERISA have a filing requirement if they are large plans with 100 or more participants in the plan as of the first date of the plan year.

Common ERISA Health and Welfare plans subject to filing may include Medical, Dental, Vision, Disability, Life and AD&D. In addition, the Health Care Flexible Spending Account (HCFSA) under a cafeteria plan and Health Reimbursement Arrangements (HRA) are subject to filing requirements.

Participant counts for a health and welfare Form 5500 include enrolled employees, former employees enrolled under COBRA, retirees (if applicable) and those eligible for COBRA but have not yet elected coverage.

Among others, the following group health plans are generally exempt from the Form 5500 requirement:

- Fully insured group health plans with fewer than 100 participants as of the beginning of the plan year
- Unfunded group health plans with fewer than 100 participants as of the beginning of the plan year. An unfunded group health plan has its benefits paid as needed directly from the general assets of the employer that sponsors the plan.
- Group health plans sponsored by churches
- Group health plans sponsored by governments
- Common plans not subject to ERISA: Dependent Care FSA, Health Savings Accounts, and Voluntary Plans.
 - Voluntary benefits may still be reportable even if the employee pays for the entire premium. If the Plan Sponsor endorses the benefit it would more than likely be under ERISA.
 - Conditions that are considered endorsement include: employer program recommendation, insurer selection, rates, terms or design, and information distribution regarding the voluntary program with other employer offered ERISA benefits, including the voluntary program in the employee handbook. Sending premiums notices, assuming liabilities for premium payments, collecting premiums through their Section 125 plan, as well as other conditions may impact the definition of endorsement.

How to File Form 5500

Filing is made via Form 5500 and must be filed electronically using either the DOL web-based EFAST2 (ERISA Filing Acceptance System) filing system (www.efast.dol.gov) or an approved vendor's software that integrates with the system. Paper filing is no longer permitted. The only exception to the rule is the Form 5500-EZ, a shorter version for single-participant or foreign plans.

Filing is due within seven months after the end of the plan year. For example, for calendar year plans, the due date is July 31 of the following year (or the next business day if July 31 falls on Saturday or Sunday).

Schedules

Schedules must be filed with Form 5500 if any plan coverages are provided through group insurance contracts. In that case, the insurance company will provide the employer with information about the policy, and information about any commissions or fees, for use in preparing the schedule. Carriers are required to provide Schedule A and/or C information within 120 days after the end of the plan year. If the plan includes multiple group policies, such as separate policies for group life, PPO medical, HMO medical, dental, and vision, there will be a Schedule A for each one.

Common Schedules to File with Form 5500

- **Schedule A** includes premium and agent commission details for insured plans and does not apply to self-funded plans such as the Health Care FSA or HRA.
- **Schedule C** provides details on the fees associated with the plan and is typically only provided in the event the reportable fees exceed \$5,000. Many ERISA plan will not be required to file Schedule C because participant contributions are held in general assets. A Schedule C may be more common for major medical plans that are self-funded.
 - Form 5500 filings that are solely for employers who have the Health Care FSA or HRA do not require Schedule C information. Schedule C information is only required if the plans included in the Form 5500 keep the money for the funding of the plan in a trust. Generally, most clients keep the money for the funding of the plan in their general assets.

Schedule	Schedule Explanation	Filing Requirements
A	Insurance Information	Required
C	Service Provider Information	Required if you paid a service provider over \$5,000 that plan year
D	Participating Plan Information	**See bottom of table
G*	Financial Transaction	Only if answered "yes" to Schedule H lines 4b, c, or d
H*	Financial Information	Required
I*	Financial Information (Small Plans)	Not Required

**Schedules G, H, and I apply to retirement plans, self-funded health plans, and plans held in a trust.*

***Schedule D is required if your plan's assets include more specialized accounts, like common or collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities.*

ERISA Wrap Documents

An ERISA Wrap Document is used to wrap the required ERISA language around a carrier's certificate of coverage and combine or bundle many employer-sponsored benefits into a single Plan. Without an ERISA Wrap Document, each benefit is a standalone ERISA Plan. The benefit plan(s) that meet the reporting threshold, are each required to file a Form 5500 report. If an employer uses an ERISA Wrap Document to combine the benefits into one single plan, then they only need to file a single Form 5500.

The main Form 5500 is filed with multiple Schedule A's and, if applicable, a Schedule C for coverage under the Wrap plan. Typically, the decision to implement a Wrap Document is made when the employer wants to avoid the need to file multiple Forms 5500's.

Common Errors

Before submitting, carefully review your form as errors could trigger penalties or even a subsequent DOL audit. Common errors include:

- Failure to use EFAST2 approved software
- Inputting the wrong employer identification number (EIN) or plan number
- Including more than 12 months' worth of data
- Prematurely marking a plan as "terminated" when assets haven't been distributed
- Failure to attach all required schedules and attachments to the return before filing
- Failure to completely answer multiple part questions
- Failure to properly reference supplemental information and attachments
- Filing returns for a period of more than 12 months
- Filing final returns with assets, liabilities and/or participants
- Failure to correctly enter the DOL user ID and PIN when signing the return

- Failure to use a valid “Business Code” that describes the nature of an employer’s business
- Failure to use the proper “Plan Characteristics” for employee benefits provided by the plan
- Failure to run validation in vendor software before attempting to submit the return

Extensions

The due date can be extended by two and one-half months if the employer mails a simple Form 5558, Application for Extension of Time, no later than the original due date. (Instructions for U.S. mail or overnight delivery are included with the form.) In very rare cases, the IRS denies the request. Normally, the IRS does not respond which means the extension is automatically granted. Later on, when filing Form 5500, be sure to check the appropriate box in Part I, D, to indicate that the due date was extended by filing Form 5558.

After Filing From 5500

Summary Annual Report (SAR)

Once you’ve filed, you’ll need to provide each plan participant with the Summary Annual Report (SAR) which reports the total value of your plan’s assets, any administrative costs, and other high-level information from the Form 5500-series return.

The SAR is due to participants within nine months after the end of the plan year. If you submitted your Form 5500 on time, that means you have two months to furnish the document. You may choose to provide the SAR as a hard copy or digitally—but if you opt for the latter, you will need participants’ consent in advance.

In addition to receiving the SAR, participants may request a copy of the plan’s full Form 5500-series return at any time. Note that participants aren’t the only ones with access. Your return is a public document and will be accessible to the general public on the DOL’s website.

Keep a signed copy of the Form 5500 on file in the event of an audit.

Penalties

ERISA Section 502(C)(2) gives Secretary of Labor powers to impose civil penalties up to \$1,100 daily on plan administrators who fail to file or refuse to file Form 5500 accurately or timely. DOL has the ability to impose higher penalties, but we will list the standard penalties for both DOL and IRS.

- Late Filings
 - IRS penalty – \$250 per day to a maximum of \$150,000
 - DOL penalty – \$2,233 per day with no limit
- Non-Filers
 - IRS penalty – \$25 per day to a maximum of \$15,000
 - DOL penalty – \$300 per day to a maximum of \$30,000

Delinquent Filing

Employers who have delinquent welfare benefit Form 5500s can enroll in the DOL Delinquent Filer Voluntary Compliance Program (DFVCP). The DFVCP encourages voluntary compliance with ERISA’s annual reporting requirements and gives delinquent plan administrators a way to avoid significantly higher civil penalty assessments (fines) if they meet the DFVCP’s requirements and voluntarily and proactively file the late forms and pay the reduced penalty before the DOL notifies them that their filings are late. The DFVCP caps a multiple year filing penalty at just \$5,000 per Plan.

For More Information

<https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>