

Form 5500 Frequently Asked Questions

June 1, 2022

Quick Facts

- Group health plans with at least 100 plan participants must file a Form 5500 annually.
- The number of Form 5500s a plan must file depends on the number of participants in each plan and whether the plan has a wrap document.
- Form 5500s are due seven months after the end of the plan year, and a two-and-a-half-month extension is available.
- Delinquent filers may take advantage of a voluntary delinquent filer program to mitigate penalties for late or missed filings.

Background

Group health plan sponsors with at least 100 plan participants must annually file a Form 5500 with the Department of Labor (DOL). The forms are due seven months after the last day of the plan year, which is July 31 annually for calendar year plans. Below is a list of commonly asked questions regarding Form 5500 preparation and administration. For specific questions relating to your plans reach out to your EPIC account team for assistance.

1. Do I need to file a Form 5500?

A Form 5500 filing is required for each employee welfare benefit plan sponsored by an employer that is subject to the Employee Retirement Income Security Act (ERISA). Each separate ERISA plan with 100 or more participants enrolled at the beginning of the plan year is required to file a Form 5500. Examples of common employee welfare benefit plans subject to ERISA include:

- Medical, surgical, or hospital care or benefits;
- Benefits in the event of sickness, accident, disability, or death.

Some benefits, such as formal scholarship plans or severance plans, may also be ERISA plans and thus subject to filing. Such plans will require a review based on all the facts and circumstances of how the plan is maintained and administered to determine if ERISA will apply.

Small plan exemption

A plan with less than 100 participants (covered employees) on the first day of the plan year will qualify for the “small” plan exemption and will not be required to file a Form 5500. If benefits are “funded,” then this “small” plan exemption does not apply, and a Form 5500 filing will be required regardless of the number of covered employees. Often, a self-insured plan is referred to as “self-funded,” however, this does not mean that the plan is actually “funded.” A “funded” plan means that the funds are segregated from the employer’s general assets such as with a trust. Most fully insured and self-

funded plans are paid for from the general assets of the employer and are not considered to be “funded.”

2. How many Forms 5500 do I need to file?

A separate Form 5500 filing is required for each plan subject to the filing requirements (“large” plans). For example, an employer offering two separate plans, a life insurance plan that covers 150 employees and a medical plan that covers 85 employees. In this instance, the employer would file one Form 5500 for the life insurance plan. The medical plan would not be subject to the filing requirements (assuming benefits are insured or paid from the general assets of the employer).

When an employer is determining how many plans are in existence for purposes of filing Form 5500, the instructions state: “You must review the governing documents and actual operations to determine whether welfare benefits are being provided under a single plan or separate plans.” Therefore, when a Form 5500 is filed, if there is no documentation in place to establish that there is one plan (as opposed to multiple), then the benefits should probably be filed as separate plans.

Wrap plan

An employer may choose to “wrap” several benefit plans together for Form 5500 filing purposes. In this instance, each plan together will be considered to be a single plan, based upon the “wrap” document and only a single Form 5500 will be required. Note that if a “small” plan is wrapped in with a “large” plan, the information for the “small” plan will need to be included in the Form 5500 filing (such as an applicable Schedule A).

3. What are Schedule A and Schedule C?

Schedule A

This form is used to report insurance information on the Form 5500. All commissions and fees paid by an insurance company that are attributable to a contract or policy between a plan and an insurance company, insurance service, or similar organization, are required to be reported on Schedule A. However, fees paid directly from an employer to a broker are not reported on Schedule A.

Schedule C

This form is used to report information about service provider fees and other compensation. Schedule Cs are not required for plans that are not funded if participant contributions are obtained through a Section 125 cafeteria plan (i.e., a pre-tax plan). Again, “funded” means the plan funds are segregated from the employer’s general assets, via trust or Voluntary Employees’ Benefit Association (VEBA), or another separate account. In addition, Schedule Cs are not required for small ERISA plans (fewer than 100 participants), even if the plan is required to file a Form 5500 because it is funded. Therefore, Schedule Cs are rarely required for most employee welfare benefit plan Form 5500 filings.

4. When is the filing due?

Filing for the Form 5500 is due seven months after the end of the plan year. For example, July 31 for a calendar year plan. If the filing due date falls on a Saturday, Sunday, or Federal holiday, the form may be filed on the next day that is not a Saturday, Sunday, or Federal holiday.

Filing extension

Employers may apply for an automatic extension, which will give the employer an additional two-and-a-half months from the original due date to file Form 5500. This will result in the due date falling on the 15th of any given month (October 15 for calendar year plans).

5. What if I missed the deadline?

The Form 5500 must still be filed. There is a voluntary compliance option that provides some relief. The DOL offers a Delinquent Filer Voluntary Compliance Program (DFVCP) to assist employers in becoming compliant on their own if the employer applies for the program before an Internal Revenue Service (IRS) or DOL audit is initiated.

Penalty Structure if using the DFVCP:

- The basic penalty under the program is \$10 per day for delinquent filings.
- **“Per filing” cap.** The maximum penalty for a single late annual report is \$750 for a small plan (generally a plan with fewer than 100 participants at the beginning of the plan year) and \$2,000 for a large plan.
- **“Per plan” cap.** The DFVCP also includes a “per plan” cap. This cap is designed to encourage reporting compliance by plan administrators who have failed to file an annual report for a plan for multiple years. The “per plan” cap limits the penalty to \$1,500 for a small plan and \$4,000 for a large plan regardless of the number of late annual reports filed for the plan at the same time.

The DOL has taken the position that there is no statute of limitations for filing Form 5500 so all missed filings will need to be included in the DFVCP to ensure compliance. [Get more information on the DFVCP.](#)

EPIC Employee Benefits Compliance Services

For further information on this or any other topics, please contact your EPIC benefits consulting team.

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