



PROFESSIONAL GROUP PLANS
Specializing in Employee Benefits

COMPLIANCE CONNECTION

5500 Release 1

Form 5500 Obligation

What is a Form 5500?

Each year, pension and welfare benefit plans generally are required by ERISA and the Internal Revenue Code to file an annual report regarding their financial condition, investments, and operations. The annual reporting requirement is typically satisfied by filing the Form 5500 Annual Return/Report of Employee Benefit Plan and any required attachments.

When does a welfare benefit need to file a Form 5500?

Forms must be filed by the last day of the 7th calendar month after the end of the plan year.

A plan may obtain a one-time extension of time to file. Form 5558 must be sent by the original due date in order to gain a 2 1/2 month extension of time in which to complete and file the Form 5500.

What is a welfare benefit plan?

Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay and disability. Health Flexible Spending Accounts (FSAs) contained inside cafeteria plans and Health Reimbursement Arrangements (HRAs) qualify as welfare benefit plans.

Who must file a Form 5500?

Employers that sponsor welfare benefit plans covered by Title I of the Employee Retirement Income Security Act (ERISA), with 100 or more participants at the beginning of the plan year, are required to file a Form 5500 for those plans. However, there are a couple of exceptions that apply, depending on the type of employer sponsoring the plan. A general exception applies to:

- A governmental plan; or
- A church plan under ERISA section 3(33)

The plan may not be exempt from filing if:

- It is deemed to have plan assets;
- Plan funds are separated from the employer's general assets;
- Plan funds are held in trust; or
- Plan funds are forwarded to a Third Party Administrator.



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Form 5500 Obligation (Continued)

Most non-exempt employer plans will complete all questions on Form 5500. Depending on the funding arrangement or payments from the plan, attaching Schedules may be applicable. However, since 2009 the “Instructions for Form 5500” were modified to make clear that plans that are paid from the general assets of the employer need not file Schedule C.

Important Note: A frequently overlooked responsibility for cafeteria plan sponsors is Form 5500 filings under certain circumstances. The IRS Notice 2002-24 suspended the filing requirement imposed on cafeteria and fringe benefit plans in 2002. However, don’t be misled! The filing requirement for welfare plans remains unchanged.

What is the penalty if you do not file a Form 5500?

Many employers identify the mistake of not filing an annual Form 5500-series return when they receive a letter from IRS or DOL stating the employer didn’t file one. It’s normally a year after it was due and includes a substantial penalty. Late filed returns are subject to penalties from both IRS and DOL, so it’s very important to identify this mistake before they do.

- The IRS penalty for late filing of a 5500-series return is **\$25 per day, up to a maximum of \$15,000.**
- The DOL penalty for late filing can run up to **\$1,100 per day, with no maximum.**

Compliance becomes clearer for
employers through knowledge.

We will provide you with all the necessary resources
and guidance you need to fulfill your Form 5500 Obligation.

*Information in this document is general in nature and not intended to replace legal advice in any particular manner.

Contact Us With Any Questions

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