

Legislative Update

Employee Benefits



Services offered through Mesirow Insurance Services, Inc.

February 5, 2009

Annual Form 5500 Filing Requirements

Background

The Department of Labor's Employee Benefits Security Administration (EBSA), the Internal Revenue Service, and the Pension Benefit Guaranty Corporation jointly developed the Form 5500 and its schedules (Form 5500 series), for employee benefit plans to use to satisfy annual reporting requirements under Title I and Title IV of ERISA and the Internal Revenue Code.

The Form 5500 series is an important compliance, research and disclosure tool for the Department of Labor (DOL), a disclosure document for plan participants and beneficiaries, and a source of information and data for use by other Federal agencies, Congress and the private sector in assessing employee benefit, tax and economic trends and policies. 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 in accordance with certain prescribed 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 under employee benefit plans.

The Forms 5500 series forms are printed on special paper with dropout ink so they can be processed by a computerized processing system known as "EFAST."

When is a Form 5500 Required?

Form 5500 is required when a plan reaches

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over 100 employee participants at the beginning of a plan year unless it meets an exception, or when a plan is funded through a trust, regardless of the number of participants.

The IRS no longer requires a Form 5500 for Section 125 Cafeteria plans. However, if you have a medical reimbursement feature associated with your plan, and more than 100 employees participate in the reimbursement feature, the DOL will require that you file Form 5500.

When is the Form 5500 Filing Due?

Form 5500 reports are due annually by the **last day of the seventh month following the date the plan year ends**. A one-time extension of 2-1/2 months may be requested by filing Form 5558.

How Do You Know How Many Welfare Plans You Have?

You must review the governing documents and actual operations to determine whether welfare benefits are being provided under a single plan or separate plans. In the absence of a wrap plan document, usually the number of separate insurance contracts will determine the number of plans you have.

What Attachments are Required?

Form 5500 is the main form that includes a checklist to guide you through the series of schedules, which are focused on particular

subjects and/or filing requirements. Filers need only complete the schedules that are applicable to their specific type of plan.

Note that a Schedule A form must be filed for each insured benefit plan. Multiple schedule attachments are required if the plan is funded through a trust.

New for 2008 Plan Filings

- New actuarial schedules replace Schedule B (Actuarial Information), and must be used for plan year 2008 filings: Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), and Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information).
- Under the Pension Protection Act of 2006 (PPA), a new simplified reporting option, which was first available for 2007 plan year filings, is also available for eligible plans for 2008 filings, for plans with fewer than 25 participants as of the beginning of the plan year. This Voluntary Alternative Reporting Option for Certain Plans with Fewer Than 25 Participants is described in the Form 5500 instructions.

- 2009 Short Plan Year Filings – 2009 short plan year filers whose due date to submit their 2009 filing is before January 1, 2010, will be given an automatic extension to electronically file their complete Form 5500 annual return/report within 90 days after the 2009 filing system is available on the DOL Web site (currently scheduled for release on January 1, 2010 - watch for more information at www.efast.dol.gov). This special extension is being granted to encourage those short 2009 plan year filers to file their 2009 Form 5500 annual return/report electronically under EFAST2. 2009 short plan year filers whose due date to submit their 2009 filing is before January 1, 2010, and who choose not to take advantage of the special extension, must use plan year 2008 forms and must submit their 2009 filing to EFAST on or before the due date for their short plan year filing.

Form 5500 Series Schedule List for 2008

The chart below provides a general list of schedules associated with Form 5500 filings for 2008; all rules and requirements may not be reflected. Refer to the specific Form 5500 instructions for complete information. Filing instructions can be found at: <http://www.dol.gov/ebsa/pdf/2008-5500inst.pdf>.

Late or Non-filing Penalties

Failing to file Form 5500, or filing late can result in substantial penalties. Late filers may be subject to a \$50 per day penalty, with no limit. Non-filers can be charged up to \$30,000 per plan year until the Form 5500 is filed.

Where to File the Form 5500

The completed Form 5500, including all schedules, statements and attachments, may be filed with the EBSA by modem, mail or certain private delivery services.

Filing instructions can be found at: <http://www.dol.gov/ebsa/pdf/2008-5500inst.pdf>.

For general questions about EFAST (the system designed to simplify and expedite the receipt and processing of the Form 5500), including assistance in responding to correspondence from the EFAST system, call 866-463-3278 or visit <http://www.efast.dol.gov>.

The IRS can assist filers with certain questions pertaining to retirement plans. Call 877-829-5500 Monday through Friday from 8:00 a.m. to 9:30 p.m. EST.

Please contact your tax advisor or accountant with questions regarding the filing requirements or the completion of specific line items.

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This article is intended as an overview and should not be viewed as legal or tax advice. Please consult your attorney or tax advisor if you have any questions.

Form 5500 Series Schedule List for 2008 Filings

Schedule Name	Schedule Subject
Schedule A	Insurance Information
Schedule C	Service Provider Information
Schedule D	DFE/Participating Plan Information
Schedule E	ESOP Annual Information
Schedule G	Financial Transaction Schedules
Schedule H	Financial Information
Schedule I	Financial Information - Small Plan
Schedule MB	Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information
Schedule R	Retirement Plan Information
Schedule SB	Single-Employer Defined Benefit Plan Actuarial Information
Schedule SSA	Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits