



Form 5500 Update

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Form 5500 Update

Each year qualified retirement plans must successfully navigate through a myriad of deadlines and due dates. One of the most important deadlines for most plan types relates to the Department of Labor's annual filing of the Form 5500. Each Form 5500 must accurately reflect the characteristics and operations of the plan or arrangement being reported. The requirements for completing the Form 5500 will vary according to the type of plan or arrangement. This filing is due by the end of the 7th month following the end of the plan year; for calendar plan years this is July 31st. A plan may obtain a one-time extension of time to file a Form 5500 annual return/report (up to 2½ months) by filing IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on or before the normal due date, thereby making the extended due date October 15th for calendar year plans.

As a plan sponsor or financial advisor, it is paramount that you maintain an open line of communication with your TPA or recordkeeper responsible for preparing this filing in order to avoid potential penalties and fines from both the Internal Revenue Service (IRS) and the Department of Labor (DOL). In order to avoid delays in the preparation and filing of the form, here are some things you can do as the plan sponsor to assist your service provider.

- Return your census and annual questionnaire to your TPA in a timely manner.
- Evaluate and amend your plan's Fidelity bond requirements with your insurance provider and share any changes in coverage with your TPA.
- If you are a large plan requiring an audit, engage an independent auditing firm early in the year and schedule the audit to occur at least two months prior to the deadline or extended deadline to file the 5500.
- Make sure that you know your DOL assigned UserID and PIN number when the filing is ready to be signed and electronically submitted.

Administrative Penalties:

1. A penalty of up to \$2,194 a day (or higher amount if adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended) for each day a plan administrator fails or refuses to file a complete report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.



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2. A penalty of \$25 a day (up to \$15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e).

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3. A penalty of \$1,000 for not filing an actuarial statement (Schedule MB (Form 5500) or Schedule SB (Form 5500)) required by the applicable instructions. See Code section 6692.

Other Penalties:

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall on conviction be fined not more than \$100,000 or imprisoned not more than 10 years, or both. See ERISA section 501.
2. A penalty up to \$10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

Failure to file your Form 5500 in a timely manner can be costly if not handled properly. The fines and penalties can be mitigated through the Delinquent Filers Voluntary Correction (DFVC) program at a reduced rate in most circumstances. Legacy Retirement Solutions specializes in assisting plans who have failed to timely file their Form 5500, call us for assistance today.



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