

CRC BENEFITS

Form 5500: Don't Get Caught Off Guard



Every year, I talk to advisors who are surprised to learn that Form 5500 even applies to their client's health and welfare plan. They think of it as a retirement plan thing, file it under "not my problem," and move on. Then a client gets a notice, or worse, a penalty, and suddenly it is very much everyone's problem.

The numbers on this one are not small. The Department of Labor can assess civil penalties of more than \$2,739 per day for a late filing, with no cap on how high that climbs.¹ The IRS has its own separate penalty on top of that, up to \$250 a day, capped at \$150,000 per plan year.² For an employer who genuinely had no idea they needed to file, that is a brutal way to find out.



Late Form 5500 filings can cost more than \$2,739 per day, with no cap on the total

For calendar-year plans, July 31 is the standard filing deadline. If a client filed Form 5558 on time, they have until October 15. If that deadline has already come and gone without either a filing or an extension request, this is exactly the moment to act, before the gap gets any wider.

WHAT FORM 5500 ACTUALLY IS, AND WHO NEEDS TO FILE IT

Form 5500 is an annual report required under ERISA, and it gets reviewed by the Department of Labor, the IRS, and the Pension Benefit Guaranty Corporation. It is asking plan sponsors to lay out how a benefit plan is operating, how it is funded, and whether it is staying compliant. People hear ERISA and think retirement plan, but this applies just as much to health and welfare benefits, medical, dental, life, disability, all of it.³

Here is the threshold that matters most for health and welfare plans: if a group health plan has 100 or more participants at the start of the plan year, it has to file. Participants means enrolled employees and COBRA folks actively receiving benefits, not dependents or spouses.⁴ If a plan has fewer than 100 participants and it is either unfunded or fully insured without holding assets in a trust, it is generally exempt. The second a trust is involved, that exemption goes away regardless of headcount.

This is the part that trips people up more than anything else. A small, fully insured plan that was exempt last year is not automatically exempt this year. Participant counts move. You have to check it every single year, not assume it carries forward.



Group health plans with 100 or more participants must file Form 5500, even if fully insured.⁴

THE DEADLINE, THE EXTENSION, AND WHAT TO DO IF YOU MISSED BOTH

For a calendar-year plan, Form 5500 is due July 31. If a client needed more time, filing Form 5558 by that same July 31 date got them an automatic 2.5-month extension, pushing things to October 15.⁵ That 5558 can go in electronically through the DOL's EFAST2 system or on paper through the IRS, so there is more flexibility than there used to be.

One thing people miss constantly: the extension only buys time on the filing itself. It does not push back any taxes owed. Those still need to be paid by the original July 31 date, extension or not, and interest keeps accruing on anything unpaid regardless of where things stand on the filing side.

If a client missed July 31 and never filed the 5558, the October 15 window is not available to them. The move at that point is to file as soon as possible, the same way you would on time, complete with every required schedule. There is also a program worth knowing about here, the DOL's Delinquent Filer Voluntary Compliance Program, or DFVCP. If a plan administrator comes forward voluntarily before the DOL ever sends a notice, the penalties are dramatically reduced and capped based on plan size, instead of facing those open-ended daily penalties. That distinction, voluntary versus caught, is everything, and it does not have an expiration date. A client who is reading this in August, September, or later still has the option to come forward first.

Filing Form 5558 on time gets employers an automatic extension to October 15⁵



THE MISTAKES I SEE MOST OFTEN

A few patterns come up again and again. Participant counts get miscounted, usually because COBRA participants get left out of the math, which can change whether a plan even needs to file.

Wrap plan documentation is another one. A lot of employers bundle medical, dental, vision, life, and disability into a single ERISA plan to simplify their Form 5500 filing. That is a smart move, but only if the wrap documentation actually backs it up. Without it, each of those benefits can technically count as its own separate plan, each needing its own filing.⁶

Missing schedules are a quiet but common problem too. Fully insured plans usually need a Schedule A, which the insurer is

supposed to provide. When it does not show up automatically, it becomes the employer's job to chase it down. File without it, and that filing is incomplete, which comes with its own penalty exposure.

And then there is the client who made a real change during the year, added a new benefit, dropped a plan, switched from insured to self-funded, and has no idea that change touches their filing obligation or even which version of the form they should be using now.

WHERE YOU COME IN

This is one of those areas where being proactive genuinely matters, whether that means catching it before the deadline or helping a client course-correct right after. Most employers are not tracking participant counts at the start of every plan year the way this requirement assumes they are. Most have no idea which of their benefits need separate filings versus which can be wrapped. And a lot of them are not thinking about Form 5500 at all until someone brings it up, on either side of the deadline.

Bringing it up, helping a client understand whether they even have a filing obligation, checking whether their wrap documentation actually holds up, and pointing them toward the DFVCP if they are already past due, that is real value, and it is exactly the kind of thing that makes a client trust you with the harder questions later.

One more piece worth flagging: the Summary Annual Report. Once Form 5500 is filed, that report has to go out to plan participants. For calendar-year plans not using an extension, that is due by September 30. If the extension was used, it is due within two months of the extended filing date.⁷ It is easy to treat the Form 5500 filing as the finish line, but this step still has to happen after it.



**The Summary Annual Report is due by
September 30 for most calendar-year plans.**

BOTTOM LINE

Form 5500 gets overlooked constantly, and the penalties for missing it do not care how small the oversight was or how long ago the deadline passed. If you have a client who is not sure whether they need to file, whether past filings were even accurate, or what to do after a missed deadline, get them answers now. The DFVCP window does not close on its own, but it does get less forgiving the longer a client waits to come forward.

Your CRC Benefits compliance team is happy to help. Reach us at crcbenefitscompliance@crcgroup.com.

CONTRIBUTOR

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ENDNOTES

1. U.S. Department of Labor. "Form 5500 Series." <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>
2. Maynard Nexsen. "February Compliance Corner: An Overview of Form 5500." <https://www.maynardnexsen.com/publication-february-compliance-corner-an-overview-of-form-5500>
3. ADP. "What is Form 5500 and Do You Need to File One?" May 2025. <https://www.adp.com/resources/articles-and-insights/articles/f/form-5500.aspx>
4. American Employers Alliance. "Compliance Alert: Form 5500 Filing Due July 31, 2026." May 2026. <https://www.americanemployers.org/briefings/2026-05-compliance-alert-form-5500>
5. IRS. "Form 5500 Corner." April 2026. <https://www.irs.gov/retirement-plans/form-5500-corner>
6. U.S. Department of Labor. "Instructions for Form 5500." 2025. <https://www.dol.gov/sites/dolgov/files/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2025-instructions.pdf>
7. American Employers Alliance. "Compliance Alert: Form 5500 Filing Due July 31, 2026." May 2026. <https://www.americanemployers.org/briefings/2026-05-compliance-alert-form-5500>

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