

Employee Benefit Plans Alert

Changes to the 2021 Plan Year 5500

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The Forms 5500/5500-SF/5500-EZ and Form instructions for the 2021 plan year were released by the Department of Labor (DOL), in conjunction with the Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC). The filing of the Form 5500 satisfies the reporting requirements for all three government agencies.

Form 5500 Changes from Prior Year

There are some notable changes from the prior year's version of the Form 5500. A summary of some of the changes are noted below.

- Checkbox added in Part 1, page 1 of the Form 5500 for a plan adopted in the 2021 plan year that is effective in 2020 under the Setting Every Community Up for Retirement Enhancement (SECURE) Act.
- An attachment to the Form 5500 for Multiple Employer Plans (MEPs) requiring them to report combined account balance information by the employer on the Form 5500/5500-SF reporting attachment for participating employers.
- The instructions clarify that a Pooled Employer Plan (PEP) is a multi-employer plan that files one Form 5500. PEPs are required to check the multiple employer checkbox on the Form, and PEPs must include the MEP attachment for reporting participating employer information. Additional requirements for PEPs are laid out as well.
- Several new reporting lines and expanded line items were added to the Schedule MB and SB for Defined Benefit (DB) Pension Plans.
- Civil penalty increases under ERISA Section 502(c)(2) were described in the instructions and are outlined below.

Department of Labor/Internal Revenue Service Penalties applicable to Employee Benefit Plans

The 2022 annual adjustments to the civil monetary penalties for a wide range of benefit-related violations were recently announced by the Department of Labor (DOL). As per 2015 legislation, by January 15th of every year, penalty adjustments are required. The new penalty amounts will be assessed starting January 15, 2022 and can be assessed on any violations having occurred since November 2015.

	Maximum Penalty	
	2022	2021
Department of Labor (DOL) Penalties		
Failure to File 5500	\$2,400/day late	\$2,259/day late
Minimum penalty for <i>de minimis</i> failure not corrected before notice from DOL	\$3,192	\$3,005
Minimum penalty for non- <i>de minimis</i> failure not corrected before notice from DOL	\$19,157	\$18,035
Failure to provide summary of benefits coverage (SBC)	\$1,264/failure	\$1,190/failure
Failure to file Form M-1 for multiple employer welfare arrangement (MEWA)	\$1,746/day late	\$1,644/day late
Failure to provide plan documents to DOL within 30 days of document request	\$171/day late, \$1,713 cap per request	\$161/day late, \$1,613 cap per request
Failure to disclose Medicaid or children's health insurance program (CHIP) assistance options (per employee)	\$127/day late	\$120/day late
Internal Revenue Service (IRS) Penalties		
Failure to file 5500 (per plan, per plan year)	\$250/day, \$150,000 cap	\$25/day, \$15,000 cap
Failure to file 8955-SSA (per plan participant)	\$10/day, \$50,000 cap	\$1/day, \$5,000 cap
Failure to notify of plan name change	\$10/day, \$10,000 cap	\$1/day, \$1,000 cap

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with all aspects of employee benefit plan compliance. For more information, please contact your client services partner or either of the following:

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