

# Chapter 3

## Form 5500-SF

### Short Form Annual Return/Report of Small Employee Benefit Plan

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## § 3.01 General Information

This chapter helps interpret the instructions and complete the Form 5500-SF line by line. To obtain a full understanding of various reporting and compliance issues, follow cross-references to other sections of the text where specific topics are explained in detail.

The Pension Protection Act of 2006 (PPA 2006) required the agencies to create a simplified reporting option for plans that covered fewer than 25 participants as of the first day of the 2008 plan year. The agencies took this directive one step further and increased the number of covered participants to fewer than 100 as well as introduced the Form 5500-SF to allow certain small plans, including one-participant plans, a simplified electronic filing option.

The sponsor of an eligible small plan may choose to continue filing the Form 5500 as it has in the past, including all schedules, without regard to the short form reporting option.

Official sources to contact for assistance in preparing the forms include the Department of Labor (DOL) Help Desk, staffed out of Lawrence, KS and Washington, D.C. Tel: (866) 463-3278. Hours: 8:00 a.m. to 8:00 p.m. EST, Monday to Friday.

Calls may be transferred to the correct service area by using the following prompts:

- Questions regarding the Form 5500 series instructions, press 1
- Questions regarding error or acknowledgement messages, press 2
- Inquiries about filing status, press 3
- Questions regarding EFAST2 Web site, press 4
- For third-party software and development questions or certification, press 5
- To check EFAST2 availability, troubleshoot submission problems, or report system downtime, press 6

The Help Desk also may be contacted via email at [efast2@dol.gov](mailto:efast2@dol.gov). For more information about EFAST2 processing, look at the following Web sites:

- <http://www.efast.dol.gov>

This is the best source of information about filing the Form 5500 under the ERISA Filing Acceptance System (EFAST) program. The site lists telephone numbers for both the Internal Revenue Service (IRS) and the DOL for help in completing the forms. There are also FAQs relating to the processing system and forms that may be helpful.

- <http://www.dol.gov/ebsa/5500main.html>

The DOL's Web site is probably the easiest place from which to download copies of the instructions and forms. These copies of the forms may not be used for filing purposes.

- <http://www.irs.gov>

The IRS routinely posts forms for download on its Web site.

## § 3.02 Who May File

Filers must count all *eligible* participants as of the first day of the plan year for Code Section 401(k) and 403(b) plans. See the DOL's Field Assistance Bulletin (FAB) 2009-02 and FAB 2010-01 with regard to participants and contracts (i.e., plan assets) that must be counted for reporting purposes for Code Section 403(b) plans.

Employee stock ownership plans (ESOPs), multiemployer plans, and direct filing entities (DFEs) may not file the Form 5500-SF.

### § 3.02[A] General Rule

A single- or multiple-employer plan with fewer than 100 participants as of the first day of the plan year may choose to file the simplified annual report if it meets the following criteria:

1. The plan is eligible for the small-plan audit waiver;
2. The plan holds no employer securities;
3. The plan is not a multiemployer plan; and
4. The plan has, at *all* times during the plan year, 100 percent of its assets in investments that have a readily ascertainable fair market value, which includes participant loans and investment products issued by banks and licensed insurance companies that provide valuation information to the plan administrator at least once per year. Investments in pooled separate accounts and common/collective trust vehicles are intended to satisfy this requirement.

The rules allow a plan filing under the 80-120 participant rule to file the Form 5500-SF as a small plan if otherwise eligible. If the number of participants reported in Part II, line 5a of the 2013 Form 5500-SF is between 80 and 120, and a Form 5500 series report was filed for the 2012 plan year, the filer may elect to complete the 2013 Form 5500-SF in the same category (large plan or small plan) as was filed for the prior year. Thus, if the Form 5500 report filed for the 2012 plan year was for a small plan, and the number of participants entered in Part II, line 5a, of the plan's 2013 Form 5500-SF is between 100 and 120, the filer may elect to complete the 2013 Form 5500-SF or Form 5500 and schedules in accordance with the instructions for a small plan. [29 C.F.R. § 2520.103-1(d)]



**Note.** When determining if the Form 5500-SF may be filed instead of the Form 5500-EZ, one-participant plans should follow the Specific Instructions for Only "One-Participant Plans" in place of the criteria mentioned above.



**Practice Pointer.** It is important to recognize that the criteria for a small plan to be eligible to file the Form 5500-SF is not identical to the criteria for a small plan filing Schedule I to qualify for a waiver of the requirement to attach the report of an independent qualified public accountant. A plan that holds any nonqualifying plan asset, no matter how small in value, is not eligible to file the Form 5500-SF.



**Practice Pointer.** If the plan answered “Yes” and entered an amount on line 3a, 3b, 3c, 3d, 3f, 3g, or 4g of the 2012 Schedule I, it likely does not meet the requirements for the 2013 simplified filing.

### § 3.02[B] One-Participant Plans

The definition of a one-participant plan changed effective with 2009 plan years. As a result, all one-participant plans, as that term is defined below, must file either the Form 5500-SF or Form 5500-EZ. The Form 5500 may not be filed for a one-participant plan.

A *one-participant plan* is either:

(1) a pension benefit plan that covers only an individual or an individual and his or her spouse who are 100 percent owners of a trade or business, whether incorporated or unincorporated; or

(2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners’ spouses. PPA 2006 modified the term *partner* to include an individual who owns more than 2 percent of an S corporation. [See I.R.C. § 1372(b); see also PPA 2006 § 1103(a)(2)(E).]

Further, a one-participant plan does not provide benefits for anyone except the owner and his or her spouse or the partners and their spouses. A one-participant plan, as described above, that covers 100 or more participants as of the first day of the plan year must file the Form 5500-EZ and is not permitted to file the Form 5500-SF.



**Practice Pointer.** Eligible one-participant plans should consider filing the Form 5500-SF in lieu of the Form 5500-EZ to ensure timely filing. Effective January 1, 2012, the DOL masked from their online public disclosure room any filings for one-participant plans filed through EFAST2. Such information is available to the public only through requests made to the Public Disclosure Room in Washington, D.C.

It should be noted that a plan covering only one participant who is not an owner or a partner, as described above, is not a one-participant plan for reporting purposes and may not file the Form 5500-EZ. Such a plan may be eligible to file the Form 5500-SF if the plan covered fewer than 100 participants at the beginning of the plan year.

## § 3.03 What to File

The Form 5500-SF report includes only the following:

1. The entire Form 5500-SF;
2. If applicable, Schedule SB, *Single-Employer Defined Benefit Plan Actuarial Information*; or
3. For a small defined contribution plan subject to Code Section 412 that is amortizing a funding waiver, Schedule MB, *Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information*.