

Can We Rely on Our Company's Federal Income Tax Extension to Extend the Filing Deadline for Our Form 5500s?

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QUESTION: Our company sponsors several calendar-year ERISA employee benefit plans that are required to file Form 5500. However, we forgot to timely file Form 5558 to obtain a Form 5500 filing extension for these plans. Now that the filing deadline has passed, is there anything we can do to fix this situation? We filed an extension for our company's federal income tax return and have heard that this may provide additional time for filing Form 5500. Can you tell us more?

ANSWER: If certain requirements are satisfied, your company may be able to rely on its federal income tax return extension to automatically extend the Form 5500 filing deadline. (As a reminder, the Form 5500 filing deadline is the last day of the seventh month after the plan year ends—for a calendar-year plan, the deadline is July 31.) An automatic extension for filing Form 5500 is granted to the extended due date of the sponsoring employer's federal income tax return if three conditions are satisfied: (1) the plan year and the employer's tax year are the same; (2) the extended due date for the employer's federal income tax return extension is later than the regular Form 5500 due date; and (3) a copy of the application for the income tax extension is maintained with the filer's records (it is not included with the Form 5500 filing).

To determine whether your company's corporate income tax extension will automatically extend the Form 5500 deadline, you must determine the regular and extended due dates for its federal tax return. Income tax return filing deadlines, and the available extension periods, differ based on the entity's corporate form and tax year. For most corporations, the regular federal tax return due date is the 15th day of the fourth month following the end of the tax year (for calendar-year corporations, April 15). A timely filed extension automatically extends the due date by six months (to October 15 for calendar-year corporations). Different regular and extended deadlines apply for S corporations, partnerships, and certain other entities (including, for years beginning before 2026, corporations with a fiscal year ending June 30).

Plans that timely file Form 5558 have a clear Form 5500 filing deadline, which may be preferable to navigating these complex timing rules. So, in the future, you should try to timely file Form 5558 if you cannot meet the Form 5500 filing deadline.

Finally, keep in mind that an automatic extension cannot extend the Form 5500 due date beyond 9-1/2 months after the close of the plan year (for calendar-year plans, October 15). And automatic extensions generally are not available for short plan years, as the plan year will likely not be the same as the employer's tax year.

For more information, see EBIA's ERISA Compliance manual at Section XXII.F.2 ("Form 5500 Is Normally Due Seven Months After End of Plan Year") and EBIA's 401(k) Plans manual at Section XXXI.B ("Basic Form 5500 Rules: Who, When, What, and How"). See also EBIA's Self-Insured Health Plans manual at

Section XXIX.B (“Annual Form 5500 Reporting”) and EBIA’s Cafeteria Plans manual at Section XXXIV.B.2 (“When to File Form 5500”).

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