

# Is an Annual Report on Form 5500 Required for a Qualified Transportation Fringe Benefit Plan?

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**QUESTION:** Our company has a qualified transportation fringe benefit plan under Code § 132(f) that allows participants to pay for parking, transit passes, and vanpooling on a tax-free basis. Are we required to file Form 5500 for this plan?

**ANSWER:** No. Form 5500 (Annual Return/Report of Employee Benefit Plan) is used to satisfy certain annual reporting obligations that arise under ERISA or the Code. ERISA § 103(a)(1)(A) imposes an annual reporting obligation on “employee benefit plans” within the meaning of ERISA, but that term only includes plans that are “employee welfare benefit plans” as defined by ERISA § 3(1) or “employee pension benefit plans” as defined by ERISA § 3(2). Qualified transportation fringe benefit plans may only offer qualified parking, transit passes, or vanpooling. (Note that these plans may not include bicycle commuting benefits, as the tax exclusion for employer-provided bicycle commuting reimbursements has been eliminated.) Because qualified transportation plans do not fall under either category (i.e., they are neither employee welfare benefit plans nor employee pension benefit plans), they are not employee benefit plans subject to ERISA’s annual reporting obligation.

Code § 6039D previously imposed an annual information return requirement on certain “fringe benefit plans,” but qualified transportation fringe benefit plans were not included. In any event, the Code § 6039D reporting obligations have been suspended by the IRS.

Because neither ERISA nor the Code imposes an annual reporting requirement on qualified transportation fringe benefit plans, a Form 5500 is not required for these plans. For more information, see EBIA’s Fringe Benefits manual at Section XX.R (“Qualified Transportation Plans: Are There Any Reporting and Disclosure Obligations?”).

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