



## ERISA Compliance: Wrap Plans and Form 5500 Filing

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1



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2

**Key Factors to Consider**  
when implementing an **HSA in 2018**

Minimum Health Plan Deductibles for 2018:  
**\$1,350 Single | \$2,700 Family**

**Compliance Buzz**  
Tax Reform and Tax Advantaged Benefits  
12/20/2017 | After months of debate on tax reform, Congress passed the "Tax Cuts and Jobs Act" (H.R. 1) to overhaul the tax code. Items of interest for tax advantaged benefits include the dependent care flexible spending account, adoption assistance, education assistance programs, transportation plans, and the individual mandate under the ACA.  
With implementation starting in January, the impact of "Tax Cuts and Jobs Act" would be felt all throughout early 2018. Tax reform legislation removes the ACA's individual mandate requirement for months beginning after 12/31/18 and onward. [Read more >](#)

**Download our Enrollment Toolkit**  
Employers | Promote your plan and save! Our toolkit makes it easy to increase FSA enrollment by reminding your employees about the value of using an FSA. Posters, Compliance Expertise | Brokers and employers are welcome to register for January's webinar sessions, where we will provide an introduction to Health Savings

**View Our Webinars**  
Compliance Expertise | Brokers and employers are welcome to register for January's webinar sessions, where we will provide an introduction to Health Savings

**Health Benefits 101**  
News Center | HMO, PPO, POS, FSA, HRA, HSA. What, now? Learn about the basics of health benefits with our ongoing educational series. [Learn more >](#)

**What are Documentation Requests?**  
Benefits Card | Did you use your Benefits Card with your BESTflex Plan Health Care FSA, and then receive a Documentation

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**2018 Webinar Schedule**

**Introduction to Health Savings Accounts (HSA)**

Webinars you just can't afford to miss.  
"I can always count on your webinars to be relevant, informative and reliable. The downloaded handout and Q&A are an added bonus!"  
Paula Stiller | CEO, Insurance Services

**January**

**Introduction to Health Savings Accounts (HSA)**  
Six Slides, ACFE, CAS, 80 minutes  
By attending this webinar you'll learn:  
• What is a Health Savings Account (HSA)?  
• Who is eligible for an HSA?  
• Who can make HSA contributions?  
• What are the HSA contribution limits?  
• What expenses are tax-deductible under the HSA?  
• What reporting is required for the HSA and who is responsible?  
Audience: All clients, brokers  
Thank you for attending!

**Downloads**  
Slide Handout  
Webinar Q&A

**February**

**Advanced HSA Concepts**  
Six Slides, ACFE, CAS, 80 minutes  
By attending this webinar you'll learn:  
• How does the employer make contributions to an HSA?  
• How does the employer make contributions to an HSA?

**Downloads**  
Not yet available

**Compliance Services**

**Boot Camp Videos**  
Permitted Election Changes

Part 1 - Change in Status Events (45:53)  
Learn about when a participant can make a change to their election.  
Webinar Q&A | [Download](#) | [Slide Handout](#)

Part 2 - Cost and Coverage Events (47:23)  
Learn about cost and coverage events and other miscellaneous election change events.  
Webinar Q&A | [Download](#) | [Slide Handout](#)

Part 3 - Leaves of Absence (1:00:27)  
Learn how Leaves of Absence and Permitted Election Changes can be applied.  
Webinar Q&A | [Download](#) | [Slide Handout](#)

**Compliance Services Basics**

- Compliance Services Help
- Non-discrimination Testing
- Wrap Documents
- ACA Resources
- Required ACA Reporting
- Webinars

## Our Agenda

- What is ERISA
- Which Employers are Subject to ERISA
- What Plans are Subject to ERISA
- Examples of Required ERISA provisions for Documents and SPDs
- **What is a Wrap Plan and who needs one**
- **Wrap Plan Design Considerations**
- **Consequences for ERISA non-compliance**
- **Form 5500 Filing**

## Overview

- **Wrap plans are a function of complying with ERISA's plan document requirements**
- Many employers subject to ERISA have certificates of insurance or benefit booklets for the plans they offer to their employees
- **The certificate of insurance/booklet by itself does not comply with ERISA's plan document requirements**
- The "wrap plan" incorporates one or more insurance certificates/booklets into a Plan Document that complies with ERISA's requirements
- **Form 5500 filing is required for some plan subject to ERISA**

## ERISA Basics

## ERISA Basics

- **Employee Retirement Income Security Act of 1974 (ERISA)**, and as amended from time to time
- ERISA is a federal law that sets minimum standards for employee benefit plans (retirement and welfare benefit plans)
- ERISA provides protections to benefit plan participants and beneficiaries
- Department of Labor (DOL) through its Employee Benefits Security Administration (EBSA) enforces the provisions of ERISA.

## ERISA Basics

### What is ERISA?

ERISA §4(a) states that the provisions of ERISA Title I apply to ANY employee welfare benefit plan if it is established or maintained—

- by an employer engaged in commerce or in any industry or activity affecting commerce;
- by any employee organization(s) representing employees engaged in commerce or in any industry or activity affecting commerce; or
- by both.

## ERISA Basics

### Who is subject to ERISA?

- Covers all private sector employers of all business types who maintain retirement and/or welfare benefit plans for their employees
  - Corporations, S Corporations, Partnerships, LLC, Sole proprietors, Nonprofit organizations
- No small employer exemption from ERISA overall
- Exception for governmental employer's and church plans

**NOTE:** If you are a private sector employer who does not sponsor any retirement and/or welfare benefit plans you are not subject to ERISA.

## ERISA Basics

### What is ERISA?

ERISA's application requires the existence of one or more ERISA plans. If an employer has no ERISA plans, it is simply not subject to ERISA.

– The ERISA definition of “employee welfare benefit plan” is made of four basic elements:

- 1) there must be a plan, fund, or program;
- 2) that is established or maintained by an employer;
- 3) for the purpose of providing specifically listed benefits, through the purchase of insurance or otherwise;
- 4) to participants and their beneficiaries.

## ERISA Basics

- **Some Examples** of Plans that may be subject to ERISA

### Accidental Death & Dismemberment

Apprenticeship Programs  
Biometrics Screening  
Burial Expense  
Business Travel Accident Policies

Cancer Insurance

Daycare Center

### Dental Benefits

### Disability insurance

Disease Specific Coverage

### EAPs if medical care is provided

Executive Medical Coverage

Flu Shot Programs

### Group Term Life Insurance

Group Universal Life Insurance

### Health FSA

### HRA

### Health Insurance

Hospital Indemnity

Health Screenings

Prepaid Legal plans

Mini Med Plan

Nurse Help Line

On site Medical Clinic

### Vision Plans

Wellness Plans

## ERISA Basics

- **Some Examples** of Plans that are **NOT** subject to ERISA

Adoption assistance plans

**Section 125 Premium Only plans\***

**Transportation plans (parking/transit)**

**Dependent Care Assistance plan (DCFSA)**

**Health Savings Accounts (HSA)**

Pet Insurance

Unemployment compensation as required-  
comply with state law

Financial/retirement planning programs

Fitness/exercise club memberships

Liability or casualty insurance plans

Professional development (unfunded)

Scholarships (unfunded)

Tuition reimbursement

Workers' compensation provided to  
comply with state law

**\*Underlying component plans may be subject to ERISA.**

## ERISA plan or Voluntary Plan?

### REMINDER...

- A health or welfare plan is subject to ERISA if it is “established or maintained” by the employer
  - Requires the employer to be involved with the benefit to **more than a minimal degree**

## ERISA plan or Voluntary Plan?

### ERISA Safe Harbor for Voluntary Benefits

- No contributions from the employer or employee organization (e.g., union)
- Participation in the program must be completely voluntary
- The sole function of the employer is to allow the insurer to advertise the plan, collect premiums through payroll and remit them to the insurer (**no endorsement** of the program)
- The employer may not receive any form of cash, incentives or other compensation associated with the program

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## ERISA plan or Voluntary Plan?

### Employer endorsement may include the following:

- Selecting the insurer
- Negotiating plan terms
- Using the employer's name or associating the plan with other employee benefits
- Recommending the plan to employees
- Stating the plan is subject to ERISA
- Doing more than acting as billing agent
- **Allowing employees to pay premiums pre tax through Section 125**
- Assisting employees with claims disputes

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## ERISA Plan Requirements

### Key Compliance if employer is subject to ERISA

- **Requires** each group health and welfare benefit plan, regardless of size, are required **to have a written plan document** in place **and** to **distribute a summary plan description (SPD) to participants**
- No written document doesn't necessarily mean you don't have a plan...you just have a plan that is out of compliance of this aspect

## ERISA Plan Requirements

### Key Compliance if employer is subject to ERISA

- Must keep plan records for 6 years from last Form 5500 filing (which may mean 7-8 years conservatively)
- IRS Form 5500 filing requirement and Summary Annual Report (SAR) for large plans
  - Small plan exception
  - Over 100 participants on the 1<sup>st</sup> day of the plan year triggers filing requirement

## ERISA Plan Requirements

- **Compliance Challenges-ERISA Document and SPD**

- **Insured Plans**

- Insurance Certificates typically **do not** include all required ERISA language
- Insurer is only obligated to provide Certificate of Coverage and Summary of Benefits and Coverage (SBC)
- Certificates of Coverage in the context of state insurance laws not ERISA
- Generally lack eligibility provisions, contributions method, ERISA appeal rights, and updated compliance language

- **Compliance falls back on employer/plan sponsor**

- **Self-Funded Plans**

- No certificate of coverage describing benefits
- Maintain for changes and compliance updates
- **Compliance falls back on the employer/plan sponsor**

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## ERISA Requirements

- **Compliance Challenges-ERISA Document and SPD**

- **Examples of other items commonly missing from insurer prepared documentation**

- Formal name of plan
- Employer's name and address
- Plan numbers
- Plan Year (which may be different than policy year)
- Plan Administrator
- Plan Agent for Service of Legal Process
- ERISA rights statement
- Eligibility terms that may be unique to employer

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## ERISA Plan Requirements

- **Compliance Challenges-ERISA Document and SPD**
  - **Examples of Required ERISA Provisions in Plan Document**
    - Named Fiduciary
    - Procedure for Allocation of Responsibilities
    - Funding Policy
    - How payments are made to and from plan
    - Overview of benefits offered and eligibility rules
    - **Claims Procedures**
      - Amendment Procedures (Employer right to terminate or amend)
      - Distribution of Assets on Plan Termination
    - **Group Health Mandates**
      1. COBRA and USERRA Rules
      2. HIPAA Portability, HIPAA Privacy & Security
      3. Minimum Stay After Childbirth
      4. QMCSO
      5. Other Federal Mandates that Apply to Group Health plans

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## ERISA Plan Requirements

### Key Compliance if employer is subject to ERISA

- **Summary Plan Description (SPD)**
  - Plain language written summary of plan
  - Focus is on communication
  - Plan Document and SPD requirement similar but slightly different
  - Be careful that the document and SPD are consistent
  - Insurance certificates alone will not satisfy the SPD requirement (supplemental ERISA language will be necessary)

**Remember...Summary of Benefits and Coverage (SBC)** is a requirement of the Affordable Care Act and is an additional requirement used to communicate details of the plan and **does not replace** the SPD.

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## ERISA Requirements

- **Compliance Challenges-ERISA Document and SPD**
  - **Examples of Required ERISA Provisions in SPD**
    - Plan Identifying information (plan name, employer's name and address, employer EIN, contact information for plan administrator, plan number)
    - Description of Plan Benefits and Eligibility rules
    - Detailed claims and appeals procedures
    - How payments are made to and from plan
    - Plan contribution and funding
    - Statement of ERISA Rights
    - Offer of Assistance in Non-English language
    - Plan policy on recovery of overpaid benefits
    - Plans Policy for Insurer Refunds/Rebates
    - Disclosure rights under Group Health Plan Mandates

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## ERISA Plan Requirements

### Key Compliance if employer is subject to ERISA

- **SPD distribution**
  - Within 120 days for new plans
  - Within 90 days for new participants
  - Every 5 years if material changes
- **Plan Amendments**
  - » If material reduction within 60 days
  - » Within 210 days after the amended plan year ends
  - » Can use a Summary of Material Modification (SMM) to communicate material changes unless you distribute the restated SPD.
- **Within 30 days of a request from a participant**

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## ERISA Plan Requirements

### Key Compliance if employer is subject to ERISA

- **SPD distribution Electronically (safe harbor)**
- DOL Electronic Disclosure Regulations, 67 Fed. Reg. 17264 (April 9, 2002)
- Treas. Reg. Sec. 1.401(a)-(21)

#### Requirements

1. Employees must have ready access to the employer's information system (a kiosk or central computer does NOT meet this requirement).
2. Employees' computer access must be in the same area where the employees are expected to perform their duties (could be at home).
3. Access to the employer's computer system must be an integral part of employees' duties.
4. The SPD may be distributed digitally to employees who do not meet the above criteria if:
  - a. Employees provide an e-mail address where the documents can be delivered
  - b. Employees must complete a consent form to agree that they will receive the documents digitally
  - c. Consent must occur AFTER employees have received a statement explaining the digital delivery system and what hardware and software will be required to receive it.
  - d. If system requirements change, the employees must receive notification of the change and complete a new consent (e.g., notice was first sent in Microsoft® Word, now being provided in Adobe® Acrobat®).
5. Digital delivery must be calculated to ensure actual receipt (e.g., return receipt, notification of undeliverable mail, etc.).
6. Employees must receive notice that the documents will be delivered digitally prior to distribution.
7. Employees must receive a notice that the documents can be requested and received in paper form at no charge.

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## ACA Plan Compliance for ALE

If employer is Applicable Large Employer (ALE) (50 FTE and above), examples of ACA definitions that should be included in your medical plan:

Full Time Equivalent Employee (FTE)	The ratio of the percentage of time worked during a period compared to the amount of time a full time employee would work in the same period. When an employer counts the number of employees it has, several regulations use the full time equivalent count, such as the COBRA count of employees.
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- Initial Measurement and Standard Measurement Period
- Administrative Period
- Stability Period
- Rehires after break in service
- Variable hour and Full-time Employees

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## ACA Plan Compliance for ALE

### Why is this important?

- Vague descriptions in Employee Handbooks may not be sufficient (i.e. Full-time employees) in the event an employee challenges an employer over coverage
- **VERY IMPORTANT** in the event an employee claims that they were unfairly denied health coverage
  - Employer is in better position to defend if you can point to written documentation. This will include:
    - Date ranges used for measurement periods and stability periods
    - Waiting periods for newly eligible employees
    - Description of special circumstances (i.e. PT to FT, FT to PT, LOA, rehires, etc.)
- Also **IMPORTANT** in the event of an ACA audit to prove compliance with Employer Shared Responsibility

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27

## ERISA and ACA Enforcement

- **Consequences for ERISA Non-Compliance**
  - ERISA lawsuits from current or former employees
  - **\$152/day for failure to provide SPD within 30 days of request or to DOL upon request**
  - DOL Audits and Fines
  - Plan Disqualification and Tax consequences for lost deductions
  - **Some things cannot be delegated!**
    - Insurance carrier/Third party administrator (TPA) is responsible for paying claims/benefits, the plan administrator (employer) is responsible for ERISA compliance and other fiduciary roles.
- **Consequences for ACA Non-Compliance**
  - Could trigger Pay or Play penalties
  - Could trigger \$100/day person ACA penalties
  - DOL Audits and Fines
  - Employee lawsuits
  - Whistleblower claims

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Wrap Plans

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## WRAP Plan Basics

### What is a Wrap Plan?

- Wrap plans are a function of complying with ERISA's plan document requirements
- Health and welfare benefit plans are "wrapped" into one plan
- The Wrap Document provides the required ERISA language as a supplement to the information found in the insurance policy, certificate or booklet.
- "Wraps" around the insurance contracts/certificates

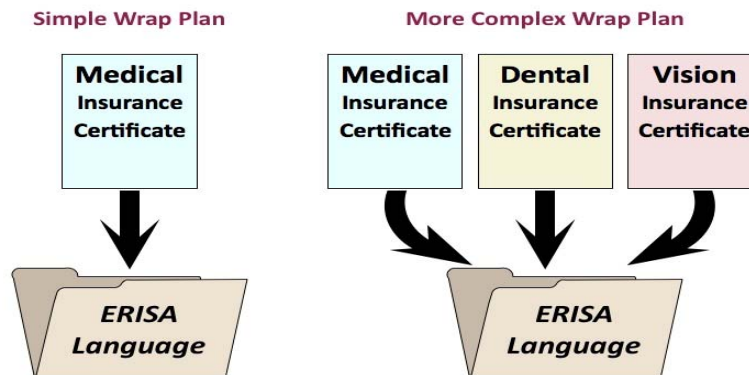
**Simple Wrap Plan**

Medical Contract/  
Certificate + Wrap Plan Document/  
SPD

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## Wrap Plan Basics

### What is a wrap plan?



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## WRAP Plan Basics

### To Wrap or not to Wrap?

- One Wrap plan, means one Wrap plan to maintain for changes and updates
- Wrap plan does not eliminate the need to make sure components of the Wrap plan are up to date (i.e. Health plan, HRA, Health FSA, dental, etc.)
- Components of the Wrap will still have document and SPD requirements
- Number of wrap plans per employer will vary
- Some plans on their own would not trigger a Form 5500 filing requirement
- Convenience of one Form 5500 filing
- Insurance Years vs. Plan Years (i.e. Health FSA, HRA)
- Prior Form 5500 filing history (if any)

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32



## WRAP Plan Design Considerations

### What plan year should you use?

- Does a Wrap plan currently exist?
  - New
  - Restatement
- Check insurance renewal years
  - Does all coverage renew at the same time?
  - Plan Year and Policy Year may not be the same

### What plan number should you use?

- Prior Form 5500 filing history ([www.EFAST.dol.gov](http://www.EFAST.dol.gov))
- Use old plan number or start with new plan number
- Terminate Form 5500 filings for old plan numbers
- Schedule A data on insurance year vs. Wrap plan year
- Schedule A data may bundle benefits for multiple coverages with same carrier even if you don't have a Wrap plan

## WRAP Plan Design Considerations

### Should you Wrap your cafeteria plan and HRA too?

- Cafeteria plan is a funding mechanism, Health FSA is the piece subject to ERISA
- Health Reimbursement Arrangement (HRA) is a self-funded health plan subject to ERISA
- Check participation levels
- Check plan years

### Should some benefits remain outside the Wrap plan?

- Less than 100 participants does not trigger a Form 5500 filing
- Voluntary plans may not be subject to ERISA outside the Wrap
- All ERISA benefits in the Wrap must be filed as part of the Form 5500 if part of the Wrap regardless of participation

## Form 5500 Filing

## What is a Form 5500?

- **A Form 5500 is an informational form** required for some ERISA plans to satisfy the reporting requirements outlined in ERISA
  - Insured
  - Self-funded plans (Health FSA and HRA)
- Forms and Instructions can be found on the DOL website at <http://www.dol.gov/ebsa/5500main.html>
- The information is sent to the DOL to ensure that the ERISA employer is compliant
- The DOL could look back to these forms to determine which plans to audit

## What is a Form 5500?

- **Some Form 5500s require additional Schedules**
  - **Schedule A:** Applies to insured plans - includes details regarding premiums and commissions paid
  - **Schedule C:** Service Provider Information - included if service provider was paid **\$5,000 or more** or if an accountant or actuary was terminated
    - **Health Care FSAs and HRAs generally are exempt because they satisfy the conditions of Technical Release 92-01.**
  - **Schedules G, H, I:** Applies to retirement plans, self-funded health plans, plans held in trust – includes financial information

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## Who needs to file a Form 5500?

- **Any employer who is subject to ERISA may need to file a Form 5500 for their ERISA plans**
  - This includes all private sector employers
  - Exemption for governmental entities and church-controlled plans
  - ERISA plans fall into two broad categories
    - Retirement plans
    - Health and welfare benefit plans
      - Common ERISA plans subject to filing include medical, dental, vision, disability, life and AD&D

**Common plans not subject to ERISA and not required to file a Form 5500 include Dependent Care FSA, Health Savings Accounts, Cafeteria Plans and Voluntary Benefits**

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## Who needs to file a Form 5500?

- **Not all ERISA plans need to file**
  - Exception for unfunded small plans
    - Small plans are plans that cover less than 100 participants on the first day of the plan
    - Participants includes employees and former employees but not spouses or dependents
- **Some small plans are required to file**
  - Funded small plans must file
    - Plan assets are held in trust, VEBA or other special account (e.g. bank account in plan name)
  - Small plans that are MEWAs with less than 25% common ownership must file
    - MEWAs are plans that cover employees of two or more employers that are not members of a controlled group

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## What is an SAR?

- **A Summary Annual Report (SAR) is also an informational document** required for some ERISA plans to satisfy the reporting requirements outlined in ERISA
  - Based upon most current Form 5500
  - Funding information
  - Basic financial information
  - Must include a statement that the participant has a right to additional information
  - Must include offer assistance in non-English language
- The information is sent to the plan participants and certain beneficiaries (includes former employees who were plan participants during the plan year but does not include spouses or dependents)
- The SAR summarizes the Form 5500 and lets participants know that they can obtain a copy of the entire Form 5500 upon request

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## What is an SAR?

- **Not all plans that file a Form 5500 need to distribute an SAR**
  - A totally unfunded welfare plan need not distribute SARs (i.e. Health FSA or Health Reimbursement Arrangement (HRA))
    - **Plan assets are not held in trust, VEBA or other special account (e.g. bank account in plan name)**

## Where do you file the Form 5500?

- **Form 5500s are required to be filed electronically** with the DOL on IFILE or through EFAST2 approved software vendors (Paper filing is no longer permitted)
- Once filed, the forms are available to the public
- Employees should be provided a copy of the Form 5500 upon request
- A copy of the signed form should be kept on file with the employer in the event of an audit

## When is the Form 5500 and SAR due?

- Form 5500 is due seven months following the end of the plan year
- If a filing is missed, DOL penalties may be assessed
  - Penalties assessed vary dependent upon whether the plan was filed late or not at all
    - Late Filing: **\$50** per day with no cap
    - Not Filed: **\$300** per day capped at **\$30,000** per year
    - DOL has the authority to assess up to **\$2,140** per day for failure or refusal to file Form 5500s
  - This penalty would be assessed per plan

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## When is the Form 5500 and SAR due?

- **Delinquent Filer Voluntary Compliance Program (DFVCP) provides reduced penalties**
  - DFVCP was created by DOL to encourage plan administrators to voluntarily file overdue Form 5500s.
  - Penalties assessed vary dependent upon plan
    - **Small Plan: \$10 per day capped at \$750 per plan**
    - **Large Plan: \$10 per day capped at \$2,000 per plan**
  - Relief given if filing more than one year per plan
    - **Small Plan: capped at \$1,500 per plan**
    - **Large Plan: capped at \$4,000 per plan**

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## When is the Form 5500 and SAR due?

- **An extension for filing the Form 5500 may be obtained upon request**
  - A one time 2 1/2 month extension is available provided that extension paperwork is mailed and **post-marked** by the original filing due date
    - IRS Form 5558 [www.irs.gov](http://www.irs.gov)
    - Paperwork should be kept but does not need to be sent for any employer who files for a tax extension
    - Mark return that an extension was filed
  - Other extensions may be applied for and DOL approved

<p><b>Form 5558</b> (Rev. August 2012)</p> <p>Department of the Treasury Internal Revenue Service</p>	<p><b>Application for Extension of Time To File Certain Employee Plan Returns</b></p> <p>► For Privacy Act and Paperwork Reduction Act Notice, see instructions. ► Information about Form 5558 and its instructions is at <a href="http://www.irs.gov/form5558">www.irs.gov/form5558</a></p>	<p>OMB No. 1545-0212</p> <p><b>File With IRS Only</b></p>						
<b>Part I Identification</b>								
<p><b>A</b> Name of filer, plan administrator, or plan sponsor (see instructions)</p> <p>Number, street, and room or suite no. (if a P.O. box, see instructions)</p> <p>City or town, state, and ZIP code</p>	<p><b>B</b> Filer's identifying number (see instructions)</p> <p>Employer identification number (EIN) (9 digits XX-XXXXXXX)</p> <p>Social security number (SSN) (9 digits XXX-XX-XXXX)</p>							
<p><b>C</b> Plan name</p>	<p>Plan number</p>	<p>Plan year ending—</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">MM</td> <td style="width: 25%;">DD</td> <td style="width: 25%;">YYYY</td> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> </table>	MM	DD	YYYY			
MM	DD	YYYY						
<b>Part II Extension of Time To File Form 5500 Series, and/or Form 8955-SSA</b>								
<p>1 <input type="checkbox"/> Check this box if you are requesting an extension of time on line 2 to file the first Form 5500 series return/report for the plan listed in Part I, C above.</p> <p>2 I request an extension of time until ____ / ____ / ____ to file Form 5500 series (see instructions). <b>Note.</b> A signature IS NOT required if you are requesting an extension to file Form 5500 series.</p> <p>3 I request an extension of time until ____ / ____ / ____ to file Form 8955-SSA (see instructions). <b>Note.</b> A signature IS NOT required if you are requesting an extension to file Form 8955-SSA.</p> <p>The application is automatically approved to the date shown on line 2 and/or line 3 (above) if: (a) the Form 5558 is filed on or before the normal due date of Form 5500 series, and/or Form 8955-SSA for which this extension is requested, and (b) the date on line 2 and/or line 3 (above) is not later than the 15th day of the third month after the normal due date.</p>								
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		46						

## When is the Form 5500 and SAR due?

- **The deadline for distributing the SAR is nine months following the end of the plan year**
- If an extension was granted, the SAR must be distributed within two months following the new filing deadline
- SARs may be distributed electronically under the same guidelines as SPD distribution rules (reference handout for rules)

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## How many Form 5500s do you need?

- **Each ERISA benefit must file a Form 5500 for a plan unless they qualify for an exemption**
- Multiple plans that offer the same benefit need only file one Form 5500
  - For example: ABC Corporation offers four medical plans, two dental plans and one vision plan. ABC Corporation offers three ERISA benefits (medical, dental and vision) and would generally file three Form 5500s.
- **CAUTION: Just because the insurance carrier provides more than one line of coverage on the Schedule A does not necessarily mean you have one plan and one Form 5500 filing requirement**

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## How many Form 5500s do you need?

- **Multiple plans regardless of benefits offered can be combined into one Wrap Plan**
  - Alleviates the need to file a separate Form 5500 for each benefit
  - Assigns one plan number
  - Assigns one plan name
  - Plan Document to cover all Wrap Plan benefits

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49

## Wrap Plans and Form 5500 filing

- **Wrap plans may qualify as unfunded small plans**
  - If all plans under Wrap plan have less than 100 participants on the first day of the plan year then Form 5500 may or may not be required
    - **Must determine how many employees are covered under the Wrap plan as a whole**
    - **Count each employee only once if covered under multiple plans within the Wrap**

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## Wrap Plans and Form 5500 filing

- Does Wrap plan meet the small plan exception?

- Example 1:

- Wrap plan wraps three plans
  - Medical (135 participants)
  - Dental (59 participants)
  - Short Term Disability (99 participants)
- Wrap plan must file and would include Schedule A data for all 3 plans under the Wrap

## Wrap Plans and Form 5500 filing

- Does Wrap plan meet the small plan exception?

- Example 2:

- Wrap plan wraps three plans
  - Medical (35 participants)
  - Dental (59 participants)
  - Short Term Disability (99 participants)
  - All medical plan participants are on STD plan
  - All dental plan participants are on STD plan
- Wrap plan would meet the small plan exception

## Wrap Plans and Form 5500 filing

- **Plans that are wrapped that have filing history must indicate they no longer exist**
  - Filing prior to Wrap Plan implementation must indicate final filing
- **Wrap Plan implementation cannot be used to resolve delinquent filings**

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53

## Wrap Plans and Form 5500 filing

<b>Form 5500</b> <small>Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefits Guaranty Corporation</small>	<b>Annual Return/Report of Employee Benefit Plan</b> <small>This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6057(b) and 6058(a) of the Internal Revenue Code (the Code).</small> <b>2017</b> <small>Complete all entries in accordance with the instructions to the Form 5500.</small>	<small>OMB Nos. 1210-0110 1210-0089</small> <b>2017</b> <small>This Form is Open to Public Inspection</small>								
<b>Part I Annual Report Identification Information</b> For calendar plan year 2017 or fiscal plan year beginning _____ and ending _____										
<b>A</b> This return/report is for: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> a multiemployer plan</td> <td style="width: 50%; border: none;"><input type="checkbox"/> a multiple-employer plan (filers checking this box must attach a list of participating employer information in accordance with the form instructions.)</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> a single-employer plan</td> <td style="border: none;"><input type="checkbox"/> a DFE (specify) _____</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> the first return/report</td> <td style="border: none;"><input type="checkbox"/> the final return/report</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> an amended return/report</td> <td style="border: none;"><input type="checkbox"/> a short plan year return/report (less than 12 months)</td> </tr> </table>			<input type="checkbox"/> a multiemployer plan	<input type="checkbox"/> a multiple-employer plan (filers checking this box must attach a list of participating employer information in accordance with the form instructions.)	<input type="checkbox"/> a single-employer plan	<input type="checkbox"/> a DFE (specify) _____	<input type="checkbox"/> the first return/report	<input type="checkbox"/> the final return/report	<input type="checkbox"/> an amended return/report	<input type="checkbox"/> a short plan year return/report (less than 12 months)
<input type="checkbox"/> a multiemployer plan	<input type="checkbox"/> a multiple-employer plan (filers checking this box must attach a list of participating employer information in accordance with the form instructions.)									
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<input type="checkbox"/> an amended return/report	<input type="checkbox"/> a short plan year return/report (less than 12 months)									
<b>B</b> This return/report is:										
<b>C</b> If the plan is a collectively-bargained plan, check here: <input type="checkbox"/>										
<b>D</b> Check box if filing under: <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><input type="checkbox"/> Form 5558</td> <td style="width: 33%; border: none;"><input type="checkbox"/> automatic extension</td> <td style="width: 33%; border: none;"><input type="checkbox"/> the DFVC program</td> </tr> <tr> <td colspan="3" style="border: none;"><small>special extension (enter description) _____</small></td> </tr> </table>			<input type="checkbox"/> Form 5558	<input type="checkbox"/> automatic extension	<input type="checkbox"/> the DFVC program	<small>special extension (enter description) _____</small>				
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<small>special extension (enter description) _____</small>										
<b>Part II Basic Plan Information—enter all requested information</b>										
<b>1a</b> Name of plan _____ _____ _____	<b>1b</b> Three-digit plan number (EN) ▶ _____ <b>1c</b> Effective date of plan _____									
<b>2a</b> Plan sponsor's name (employer, if for a single-employer plan) <small>Mailing address (include room, apt., suite no. and street, or P.O. Box)          City or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)</small> _____ _____ _____	<b>2b</b> Employer Identification Number (EIN) _____ <b>2c</b> Plan Sponsor's telephone number _____ <b>2d</b> Business code (see instructions) _____									

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54

## WRAP Plan and Form 5500 Recap

**ERISA Compliance is important and failure to comply can be expensive.**

### Wrap Plans can...

- Provide the necessary ERISA language and act as a companion document to the insurance certificates
- Be a vehicle to define plan eligibility rules required by the Affordable Care Act
- Simplify Form 5500 filing
- Simplify plan administration

### Wrap Plans cannot...

- retroactively fix compliance problems.

**It is best to consider your options now before the DOL knocks on your door.**

## Questions?

**Thank you for attending!**

Any questions can also be addressed by e-mail or phone:

**Compliance Department**

(800) 346 -2126

[compliance@ebcflex.com](mailto:compliance@ebcflex.com)



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