

Form 5558 Application for Extension of Time To File Certain Employee Plan Returns (Rev. January 2010)

Purpose: This is the first circulated draft of the Form 5558 (Rev. January 2010) for your review and comments. See below for a discussion of major changes.

TPCC Meeting: None, but one may be arranged if requested.

Prior Version: The Form 5558 (Rev. January 2008) is available at:
<http://www.irs.gov/pub/irs-pdf/f5558.pdf>

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at:
http://taxforms.web.irs.gov/draft_products.html.

Comments: Please email, fax, call, or mail any comments by September 7, 2009 to the Tax Law Specialist shown below. All comments should also be addressed to the reviewer, Tuawana Pinkston at Tuawana.Pinkston@irs.gov.

Major Changes

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We deleted the boxes under Section B, and added see instructions because the ssn is no longer needed for the 5500 series of forms.

Under Part II, *Extension of Time to File* covers new Forms 5500-SF and 8955-SSA.

We deleted the bold sentence under Line 1, because IRS no longer wants the Form 5558 attached to the 5500 series of forms.

We have replaced the words Forms 5500 or 5500-EZ with the series of forms that the Extension form will now cover - Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

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We have replaced the words Forms 5500 or 5500-EZ with the series of forms that the Extension form will now cover - Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

We added a statement to *Social Security Number (SSN)* because the IRS no longer needs the SSN for the 5500 series of forms, at the request of TEGE/EP.

We deleted the statement under *Exception*, requesting a photocopy of Form 5558 be attached to 5500 series of forms at the request of TEGE/EP. This information is no longer needed.

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We have replaced the words Forms 5500 or 5500-EZ with the series of forms that the Extension form will now cover - Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

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General Instructions

Purpose of Form

Use Form 5558 to apply for a one-time extension of time to file Form 5500, Annual Return/Report of Employee Benefit Plan; Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan; Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan; Form 8955-SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits; or Form 5330, Return of Excise Taxes Related to Employee Benefit Plans.



An extension of time to file does not extend the time to pay the tax due. Any tax due must be paid with this application. Additionally, interest is charged on taxes not paid by the due date even if an extension of time to file is granted.

Where To File

File Form 5558 with the Internal Revenue Service Center, Ogden, UT 84201-0027.

Private Delivery Services. You can use certain private delivery services designated by the IRS to meet the “timely mailing treated as timely filing/paying” rule for tax returns and payments. If you use a private delivery service designated by the IRS (rather than the U.S. Postal Service) to send your return, the postmark date generally is the date the private delivery service records in its database or marks on the mailing label. The private delivery service can tell you how to get written proof of this date.

The following are designated private delivery services:

- DHL Express (DHL): DHL Same Day Service, DHL Next Day 10:30 am, DHL Next Day 12:00 pm, DHL Next Day 3:00 pm, and DHL 2nd Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

Specific Instructions

Part I. Identification

A. Name and Address

Enter your name and address in the heading if you are a single employer requesting an extension of time to file the Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA, or Form 5330. If you are filing for other than a single employer, enter the plan administrator's or plan sponsor's name and address on the application. The plan sponsor listed on this application should be the same as the plan sponsor listed on the annual return/report filed for the plan.

Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and you have a P.O. box, show the box number instead of the street address.

If the entity's address is outside the United States or its possessions, or territories, enter in the space for city or town, state, and ZIP code, the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. Do not abbreviate the country name.

If your mailing address has changed since you filed your last return, use Form 8822, Change of Address, to notify the IRS of the change. A new address shown on Form 5558 will not update your record.

B. Filer's Identifying Number

Employer Identification Number (EIN).

Enter the nine-digit EIN assigned to the employer for all applications filed for Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA. Also enter the EIN for applications filed for Form 5330 (see *Social Security Number (SSN)* below for exceptions).

If the employer does not have an EIN, the employer must apply for one. An EIN can be applied for:

- Online by clicking the Online EIN Application link at www.irs.gov. The EIN is issued immediately once the application information is validated.
- By telephone at 1-800-829-4933.
- By fax using the FAX-TIN numbers for your state listed on page 2 of the Instructions for Form SS-4.
- Employers who do not have an EIN may apply for one by attaching a completed Form SS-4, Application for Employer Identification Number, to this form.

The online application process is not yet available for corporations with addresses in foreign countries or Puerto Rico.

Social Security Number (SSN). If you made excess contributions to a Code section 403(b)(7)(A) custodial account or you are a disqualified person other than an employer, and you are applying for an extension of time to file Form 5330, enter your SSN. Do not enter your SSN for Form 5500, Form 5500-SF, Form 5500-EZ, or Form 8955-SSA.

C. Plan Information

Complete the entire table (plan name, plan number, and plan year ending) for all plans included on this Form 5558.

Part II. Extension of Time To File Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA

Use Form 5558 to apply for a one-time extension of time to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

Exception: Form 5500, Form 5500-SF, Form 5500-EZ, and Form 8955-SSA filers are automatically granted extensions of time to file until the extended due date of the federal income tax return of the employer (and are not required to file Form 5558) if both of the following conditions are met: (1) the plan year and the employer's tax year are the same; and (2) the employer has been granted an extension of time to file its federal income tax return to a date later than the normal due date for filing the Form 5500, Form 5500-SF, Form 5500-EZ, or Form 8955-SSA. An extension granted under this exception cannot be extended further by filing a Form 5558 after the normal due date of the Form 5500, Form 5500-SF, Form 5500-EZ, or Form 8955-SSA.

An extension of time to file a Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA does not operate as an extension of time to file the PBGC Form 1.

How to file. In general, a separate Form 5558 is used for each return for which you are requesting an extension. However, if you are a single employer and all your plan years end on the same date, file only one Form 5558 to request an extension of time to file up to three Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

When to file. To request an extension of time to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA, file Form 5558 on or before the return's normal due date. The normal due date is the date the Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA would otherwise be due, without extension.

Applications for extension of time to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA that are filed on or before the return/report's normal due date on a properly completed Form 5558 will be automatically approved to the date that is not more than 2½ months after the return/report's normal due date.

Approved copies of Form 5558, requesting an extension to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA, will not be returned to the filer from the IRS.

Line 1. Enter on line 1 the due date for which you are requesting to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA. This date should not be more than 2½ months after the normal due date of the return.

When using Form 5558 to request an extension of time to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA, plan sponsors or plan administrators are not required to sign the form. If Form 5558 is timely filed and complete, you will be granted an additional 2½ months to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA.

Part III. Extension of Time To File Form 5330

File one Form 5558 to request an extension of time to file Form 5330 for excise taxes with the same filing due date. For specific information on excise tax due dates, see the Instructions for Form 5330.

Note. The IRS will no longer return stamped copies of the Form 5558 to filers who request an extension of time to file a Form 5330. Instead you will receive a computer generated notice to inform you if your extension is approved or denied. Because of this change, we ask you to attach a photocopy of this notice to your Form 5330.

When to file. To request an extension of time to file Form 5330, file Form 5558 in sufficient time for the Internal Revenue Service to consider and act on it before the return's normal due date.

The normal due date is the date the Form 5330 would otherwise be due, without extension.

Line 2. On line 2, enter the requested due date. If your application for extension of time to file Form 5330 is approved, you may be granted an extension of up to 6 months after the normal due date of Form 5330.

Line 2a. Indicate the Code section(s) for the excise tax for which you are requesting an extension.

Line 2b. Enter the amount of tax estimated to be due with Form 5330 and attach your payment to this form.

Make your check or money order payable to the "United States Treasury." Do not send cash. On all checks or money orders, write your name, Filer's identifying number (EIN or SSN), Plan number, Form 5330 Section number, and the tax year to which the payment applies.

If you changed your mailing address after you filed your last return, use Form 8822, *Change of Address*, to notify the IRS of the change. You can get Form 8822 by calling 1-800-829-3676 or you can access the IRS website at www.irs.gov 24 hours a day, 7 days a week.

Line 3. The IRS will grant a reasonable extension of time (not to exceed 6 months) for filing Form 5330 if you file a timely application showing that you are unable to file Form 5330 because of circumstances beyond your control. Clearly describe these circumstances. Generally, an application will be considered on the basis of your own efforts to fulfill this filing responsibility, rather than the convenience of anyone providing help in preparing the return. However, consideration will be given to any circumstances that prevent your practitioner, for reasons beyond his or her control, from filing the return by the normal due date, and to circumstances in which you are unable to get needed professional help in spite of timely efforts to do so.



If we grant you an extension of time to file Form 5330 and later find that the statements made on this form are false or misleading, the extension will be null and void. A late filing penalty associated with the form for which you filed this extension will be charged.

Signature. If you are filing Form 5558 for an extension to file Form 5330, the form must be signed. The person who signs this form may be an employer, plan sponsor, plan administrator, a disqualified person required to file Form 5330, an attorney or certified public

accountant qualified to practice before the IRS, a person enrolled to practice before the IRS, or a person holding a power of attorney.

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to determine if you are entitled to an extension of time to file Form 5500, Form 5500-SF, Form 5500-EZ, and/or Form 8955-SSA, or Form 5330. If you want an extension, you are required to give us the information. Section 6109 requires you to provide your taxpayer identification number (SSN or EIN). If you fail to provide this information in a timely manner, you may be liable for penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by Code section 6103.

However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal law, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time: 24 minutes.

If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File* on page 2.

