

## **Justification for No Material or Non-substantive Change to Currently Approved Collection**

**AGENCY:** Internal Revenue Service (IRS)

**TITLE:** Annual Return/Report of Employee Benefit Plan (Form 5500)

**STATUS:** OMB control number 1545-1610

The Tri-Agencies (Department of Labor (DOL), Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC)) are submitting the 2024 versions of the Form 5500, Annual Return/Report of Employee Benefit Plan, and instructions as a non-material/non-substantive change request. The Tri-Agencies are not making any program changes to the forms and instructions for 2024. The forms and instructions have been updated to reflect the new form year (2024). This request parallels non-material/non-substantive change requests, submitted by the Department of Labor (OMB Control Number 1210-0110) and Pension Benefit Guaranty Corporation (1212-0057).

The “Changes to Note” section on the first page of the instructions of the Forms 5500 and 5500-SF provide a list of changes. EBSA added to both the Form 5500 and Form 5500-SF list of Plan Characteristics Codes a new code, 2Y. Section 127 of the “SECURE 2.0 Act of 2022,” Division T of the Consolidated Appropriations Act, 2023, H.R. 2617, added ERISA section 801 to provide the option for defined contribution pension plans to offer pension-linked emergency savings accounts. Filers with respect to plans that have a pension-linked emergency savings account must use the new plan characteristic code to identify this feature on the Form 5500-SF (line 9), or the Form 5500 (line 8a) and, as applicable, Schedule DCG (line 8).

The Tri-Agencies changed the Form 5500 instructions to permit the administrator of a defined contribution group reporting arrangements (DCG) to file a single Form 5558 for an extension of time to file a Form 5500 Annual Return/Report for all plans in the DCG without attaching a list of the participating plans in the DCG.

Tri-Agencies also updated the Administrative Penalties instructions to reflect the increase to \$ 2,6760 per day in the maximum civil penalty amount assessable under ERISA section 502(c)(2), as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The increased penalty under section 502(c)(2) is applicable to penalties assessed after Jan. 15, 2024, whose associated violations occurred after Nov. 2, 2015 (89 FR 1810 (January 11, 2024)). The Administrative Penalties instructions for the Form 5500-SF have also been updated.

For schedule SB, line 26b, the instructions were updated by the Tri-Agencies to clarify that in providing the projection of benefits to be paid, the plan should assume the form of benefits to be which is used to determine the plan’s funding target. Accordingly, if the plan is subject to the annuity substitution rule provided in 26 CFR 1.430(d)1(f)(4)(iii)(B)

the projected benefits should be assumed to be in annuity form.

On Schedule MB, the text for line 8(e) has been revised by the Tri-Agencies to tie the reporting requirement more clearly to the minimum funding requirements under IRC section 412. The changes also clarify that the line 8e reporting requirement is solely for plans that have received an amortization during the plan year. These changes were separately approved on December 14, 2023 (ICR Ref. No. 202308-1545-018).

For Schedule SB, lines 3, 5, 21a, 21b, and 32a, the instructions were revised by Tri-Agencies to more specifically identify the information required with respect to community newspaper plans using alternative minimum funding standards.

The 5500 and 5500-SF instructions regarding filing Form 5500-EZ were revised by the Tri-Agencies to refer filers with respect to a one-participant plan or a foreign plan to the instructions for Form 5500-EZ, instead of providing detail, to assure that filers are directed to the most current information regarding how and where to file the 5500-EZ.

The Tri-Agencies also revised text in the Form 5500 and Form 5500-SF instructions regarding filing IRS Form 5558, Application for Extension of Time to File Certain Employee Benefits Plan Returns, to refer filers to the instructions for Form 5558, instead of providing detail, to assure that filers are directed to the most current information regarding how and where to file the Form 5558 to request an extension to file the 5500 or 5500-SF.

The Tri-Agencies also made a number of nonmaterial clarity, plain English (e.g., replace “pursuant to” with “under” ERISA) and style-conformity changes (e.g., Statute section XX vs. section XX of the Statute) and consistent use of italicized website citations (e.g., [www.website.com](http://www.website.com)) and updating of website links. They also improved consistency in using Tip and Caution Note boxes when relevant text appears more than once in the instructions (e.g., on more than one Schedule’s instructions).