

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

AGENCY: Employee Benefits Security Administration (EBSA)

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

STATUS: OMB control number 1210-0110; [expires March 31, 2026]

The Department of Labor (Department or DOL) is submitting the 2025 versions of the Form 5500, Annual Return/Report of Employee Benefit Plan, and instructions as a no material/non-substantive change request. OMB Control Number 1210-0110 is scheduled to expire on March 31, 2026. The Department is not making any program changes to the forms and instructions for 2025. The forms and instructions have been updated to reflect the new form year (2025). This request parallels no material/non-substantive change requests, submitted by the Internal Revenue Service (OMB Control Number 1545-1610) and Pension Benefit Guaranty Corporation (1212-0057).

The “Changes to Note” section on the first page of the respective instructions of the Forms 5500 and 5500-SF each highlight no material/non-substantive changes. On the Form 5500, the IRS added new multiemployer plan characteristic code 1G (for plans using a variable annuity benefit formula), in the Defined Benefit Pension Features section of Form 5500, Part II, line 8a. The PBGC added 1J, 1K, and 1L (to identify multiemployer defined benefit plans that during the plan year or in a prior plan year, terminated as a result of mass withdrawal or plan amendment or became insolvent). PBGC also modified plan characteristic code 1H (plan covered by PBGC that was terminated and closed out for PBGC purposes) to clarify that it applies only to terminated single-employer (not multiemployer) PBGC-covered plans. On the Form 5500-SF, the IRS added characteristic code 1G, based on the eligible filing population.

Changes to Note for both Form 5500 and Form 5500-SF highlight that DOL updated the Administrative Penalties instructions to reflect the increase to \$2,739 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, 2025, whose associated violations occurred after Nov. 2, 2015. See implementing regulation at 90 FR 1854 (January 10, 2025)).

Re-ordered Definitional Text

The DOL and IRS re-ordered certain definitional text for a “one-participant plan” which is not subject to the 5500 or 5500-SF filing requirement (but may be subject to a separate IRS Form 5500-EZ filing requirement.) This change is being made because the present instruction construct introduces the term “one-participant plan,” but refers the reader to a definition below, with a paragraph that discusses Form 5500-EZ between the term and definition. The agencies believe it would improve reader clarity and understanding to

keep the term and definition in a contiguous order in the text. The contiguous definition would be followed by the existing language that refers filers with plans meeting the definition of “one-participant plans” to the IRS website for instructions and other information on filing Form 5500-EZ.

The revised text appears in Section 1, Who Must File, Pension Plans, Do Not file a Form 5500 for a Pension Benefit Plan That is Any of the Following, at list item #11. The “re-ordered” text reads as follows (with deletions shown in red strike and additions in red):

11. A “one-participant plan.” ~~For this purpose, a A~~ “one-participant plan” ~~is defined as as defined below:~~

~~a. a pension benefit plan that covers only an individual or an individual and their spouse who wholly own a trade or business, whether incorporated or unincorporated; or~~

~~b. a pension benefit plan for a partnership that covers only the partners or the partners and the partners’ spouses (treating 2% shareholder of an S corporation, as defined in Code section 1372(b), as a partner).~~

However, certain one-participant plans are required to file the **Form 5500-EZ**, Annual Return of A One-Participant (Owners/Partners and Their Spouses) Retirement Plan or A Foreign Plan. For more information on filing Form 5500-EZ for such a “one-participant plan”, including directions that specify when a filer must file Form 5500-EZ electronically with EFAST2 and when they may file on paper, see the Instructions for Form 5500-EZ, or go to www.irs.gov/ep. ~~For this purpose, a “one-participant plan” is defined as:~~

~~a. a pension benefit plan that covers only an individual or an individual and their spouse who wholly own a trade or business, whether incorporated or unincorporated; or~~

~~———— b. a pension benefit plan for a partnership that covers only the partners or the partners and the partners’ spouses (treating 2% shareholder of an S corporation, as defined in Code section 1372(b), as a partner).~~

See the instructions to the Form 5500-EZ for eligibility conditions and filing requirements. For more information, go to www.irs.gov/ep.

Correction related to word “Characteristic”

The DOL, IRS and PBGC also made a series of conforming changes to the existing plural word “characteristics” when used in the full term “plan characteristics codes” to revise it to the singular “characteristic” and to consistently use the term “plan characteristic codes,” or when more appropriate for the context “characteristic” code or codes, on forms, schedules, instruction text, headings, charts and indexes.

Accordingly, the term “plan characteristic codes” on the faces of Form 5500 at line 8 entry prompt, Schedule DCG at line 8 entry prompt, Form 5500-SF at line 9 entry prompt, is revised (as needed) to use the full term across forms and schedules. Changes are also made, as needed for consistency, in corresponding forms’ instruction text including charts and indexes related to those lines. The revisions are listed below:

- Form 5500, Lines, 8a and 8b text of entry prompt, strike the word **characteristics** and replace it with **characteristic** before the word codes (i.e., the “s” has been removed from the word characteristics to conform use of term to singular).
- Schedule DCG, Part V, Header to Line 8, strike **Characteristics** and replace it with de-pluralized **Characteristic** and add **Codes** after the corrected text to conform use with other parts of 5500 and SF instructions.

- Form 5500 instructions, Part II, Basic Plan Information, Line 8 is revised as follows to conform use of the term plan characteristic codes.

Line 8 - Benefits Provided Under the Plan. Do not leave blank. In the boxes for line 8a and 8b, as appropriate, enter all applicable two-character plan **characteristics** **characteristic** codes that applied during the reporting year from the List of Plan Characteristic Codes on pages 21 and 22 that describe the characteristics of the plan being reported.

- Make conforming changes to chart heading of present List of Plan Characteristics (sic) Codes to accompany Line 8 found at end of Part II instructions to revise the chart header on both pages it appears, and within the chart at code 2X (applicable to multiple-employer plans) remove the word **characteristics** and replace it with **characteristic** where it appears in the description of that code.
- Form 5500 Instructions for Schedule DCG, at line 8, remove the word **characteristics** and replace it with **characteristic** in both the Part V header and the line 8 instructions (same text as from Form 5500, Part II change above), and add the word **Codes** to the Part V header.
- Form 5500-SF, Header to Part IV, for Line 9a and 9b entry prompts, strike **Plan Characteristics** and change to **Plan Characteristic Codes**.
- Form 5500-SF instructions, are amended, at Part IV to add **Codes** at the end of the Part IV header to conform to appearance on Form 5500-SF and to strike the plural use of **characteristics** and replace with **characteristic**, where the term plan characteristic code is used in line 9 instructions, conforming to changes made to Form 5500.
- Form 5500-SF instructions; make conforming changes to chart heading of the List of Plan Characteristics (sic) Codes that accompany Line 9 instructions, as well text for Code 2X that appears within the chart, by striking use of **characteristics** and replacing with the singular **characteristic**.
- The Index for Form 5500-SF now places Plan Characteristic Codes under P, rather than L, for List of Plan Characteristic Codes, consistent with the index for Form 5500.

IRS adding Characteristic Code

The IRS added Code 1G to the Characteristic Code list in the Defined Benefit Feature category for both Form 5500, line 8b and Form 5500-SF, line 9b entry. The text of the Code is shown below:

CODE	Defined Benefit Pension Features

1G	Variable annuity benefit formula – any benefit formula

	under a defined benefit plan which provides that the amount payable is periodically adjusted by reference to the difference between a rate of return and a specified assumed interest rate.
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The IRS believes this change is necessary to conform to [Treas. Reg. §1.411\(a\)\(13\)-1\(d\)\(6\)](#). Use of this plan characteristic code, clarifies that a variable annuity benefit formula is any benefit formula under a defined benefit plan, which provides that the amount payable is periodically adjusted by reference to the difference between a rate of return and a specified assumed interest rate, instead of the rate of return that was compared to the hurdle rate to be based on the rate of return on plan assets or specified market indices. If the specified assumed interest rate is too high in relation to the reasonable expectation of the rate of return to which it is compared, a variable annuity benefit formula may violate the accrued benefit rules in [IRC §411\(b\)\(1\)\(G\)](#). This new plan characteristic code can assist IRS enforcement of the tax law due to an increasing prevalence of one or more variations of variable annuity benefit formula as compared to more “pure” plan designs.

IRS Adds Clarifying Language

The IRS revised Schedule MB, Line 5, Actuarial Cost Method to add the following sentence at the end of the instructions for that line:

The information supplied in this schedule and any accompanying attachments must be complete and accurate.

The IRS revised Schedule SB, Line 25, Change in Method to add descriptive narrative to the instructions regarding the contents of the attachment for that line so the updated text in the last paragraph at the end of the instructions for Line 25, but before the Note, reads as follows:

Include, as an attachment, a description of the change--in funding method along with the date of approval from the IRS. If no approval from the IRS was necessary, please explain why the change in funding method was automatically approved under Revenue Procedure 2017-56, 2017-44 IRB 465. Note that the plan sponsor’s agreement to certain changes in funding methods should be reported on line 8 of Schedule R (Form 5500). Label the attachment “**Schedule SB, line 25 – Change in Method.**” The information supplied in this accompanying attachment must be complete and accurate.

The IRS updated Schedule MB Line 5 and Schedule SB Line 25 instructions to clarify that the information supplied in Schedule MB and SB and any accompanying attachments must be complete and accurate and to have filers report more details on changes in funding methods, including whether any change in funding method was automatically approved under certain Rev. Procs. or was specifically approved by the IRS and if so, the date of approval.

PBGC Amended Characteristic Code

The PBGC amended Code 1H in the Characteristic Code list in the Defined Benefit Feature category for Form 5500, line 8b.

1H	Plan Single-employer plan covered by PBGC that was terminated and closed out for PBGC purposes – Before the end of the plan year (or a prior plan year), (1) the plan terminated in a standard (or distress) termination
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	and completed the distribution of plan assets in satisfaction of all benefit liabilities (or all ERISA Title IV benefits for distress termination); or (2) a trustee was appointed for a terminated plan under ERISA section 4042.
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PBGC Added Characteristic Codes

The PBGC added Codes 1J, 1K and 1L to the Characteristic Code list in the Defined Benefit Feature category for Form 5500, line 8b.

CODE	Defined Benefit Pension Features

1J	Multiemployer plan covered by PBGC that was terminated by mass withdrawal in accordance with ERISA section 4041A(a)(2) during the plan year or in a prior plan year.
1K	Multiemployer plan covered by PBGC that was terminated by plan amendment in accordance with ERISA section 4041A(a)(1) during the plan year or in a prior plan year.
1L	Multiemployer plan covered by PBGC that became insolvent as defined in ERISA Sec 4245(b) during the plan year or in a prior plan year and was still insolvent as of the end of the plan year.

The PBGC added new multiemployer plan characteristic codes 1J, 1K, and 1L to the Defined Benefit Pension Features section of Form 5500, Part II, lines 8a and 8b to identify multiemployer defined benefit plans that terminated during the plan year or in a prior plan year, terminated as a result of mass withdrawal or plan amendment, or became insolvent respectively. PBGC is adding the three new DB multiemployer characteristics code to enable PBGC to track the status of these plans more efficiently.

PBGC modified plan characteristic code 1H (plan covered by PBGC that was terminated and closed out for PBGC purposes) to change “Plan” to “Single-employer plan.” PBGC is modifying code 1H to clarify that it applies only to terminated single-employer (not multiemployer) PBGC-covered plans. Terminated multiemployer plans should not use code 1H and should instead use whichever new code is applicable (i.e., 1J, 1K, or 1L).

DOL Updates Cites to VFCP

DOL updated federal register cites and dates pertaining to the Department’s Voluntary Fiduciary Correction Program (VFCP) in several areas of the Form 5500 and Form 5500-SF instructions where there are existing instructions that direct readers where to get more information about that program. By way of background, the 2006 rulemakings for the Department’s Voluntary Fiduciary Correction Program (VFCP) and accompanying Prohibited Transaction Exemption, PTE2002-51, were very recently updated in separate and unrelated rulemakings that were published in the Federal Register at 90 Fed. Reg. 4192 (Jan. 15, 2025) and 90 Fed. Reg. 3667 (Jan. 15, 2025).

For more information on the VFCP, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations, see ~~[71 Fed. Reg. 20261], (April 19, 2006)]~~ 90 Fed. Reg. 4192 (Jan. 15, 2025) and ~~[71 Fed. Reg. 20135], (April 19, 2006)]~~ 90 Fed. Reg. 3667 (Jan. 15, 2025).

The following specific places in the Form 5500 (or Form 5500-SF) instructions where the above text, or nearly identical directive text, appears have been updated to remove the old, and insert the new Federal Register cites and dates so that the filer is referred to the updated guidance to aid them in identifying which prohibited transactions must be reported:

Form 5500 instructions at:

- Line 9a of Schedule DCG
- Schedule G, Part III, Schedule, Nonexempt Transactions, Tip Box
- Schedule H, Line 4a instructions
- Schedule H, Line 4d instructions Tip Box
- Schedule I, Line 4a instructions Tip Box
- Schedule I, Line 4d instructions Tip Box

Form 5500-SF instructions at:

- Line 10a instructions
- Line 10b instructions, Tip Box

Consistency Edits

The Department, IRS and PBGC also made several no material/non-substantive, clarity and consistency improvements. To conform to other Line box structure in the Form 5500 series and to improve Line D Box Form 5500 and Line C Box Form 5500-SF reporting compliance, the instructions have been changed from list form to bold face headings for each category of extended due date categories. Each line provides a separate bold face description that clearly highlights the options and aligns the instructions with the face of the Form 5500 and Form 5500-SF checkbox choices and underscores the importance of checking the correct type of extension. These edits are intended to reduce filer errors that may generate inquiries regarding a plan's eligibility for the particular box checked. Previously, the instructions for Line D simply had a list of categories in plain text for the reader to navigate. The new text is shown below for Part I, Form 5500 and Part I, Form-SF, Line C with headings added, list bullets removed, and conforming edits made.

~~Line D – Box for Extension and DFVC Program. Check the appropriate box here if:~~

Line D – Box for Extension Using Form 5558. Check this box if you filed for an extension of time using the IRS Form 5558. Please see **Instructions for Form 5558** for more information. (A copy of the Form 5558 must be retained with the filer's records).

Line D – Box for Extension Using Automatic Extension. Check this box if you are filing using the automatic extension of time to file Form 5500 until the due date of the federal income tax return of the employer (maintain a copy of the employer's extension of time to file the income tax return with the filer's records).

Line D – Box for Extension Using Special Extension. Check this box if you are filing using a special extension of time to file the Form 5500 that has been announced by the IRS, DOL, and PBGC. If you checked that you are using a special extension of time, enter a description of the extension of time in the space provided.

Line D – Box for Filing Under the DFVC Program. Check this box if you are filing under DOL's Delinquent Filer Voluntary Compliance (DFVC) Program.



Checking this box does not enter you in the **DFVC** Program. You can enter the program at this site: www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/dfvcp

See additional information on the **DFVC** Program at www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/dfvcp.pdf, including filing by mail.

Applying and paying electronically to the DFVC Program is strongly recommended.

DOL Adds Tip Box

DOL also amplified and clarified the instruction text that appears in several schedules and on Form 5500-SF by adding a Tip Box with an example across filing years illustrating what is meant by reporting delinquent contributions as such until they are fully corrected. Tip Box Schedule H language is shown below:



The last plan year to include a delinquent participant contribution on Form 5500, Schedule H, Line 4a, and accompanying schedule attachment, is the plan year in which the violation has been fully corrected. For example, a plan is first delinquent on a particular participant contribution during plan year 2022. This delinquent participant contribution is discovered in plan year 2023 and fully corrected in plan year 2023. The plan's 2022 Form 5500, Schedule H, Line 4a reporting must include the delinquent participant contribution. The plan's 2023 Form 5500, Schedule H, Line 4a reporting must include the delinquent contribution because although it is fully corrected, it was delinquent within that 2023 reporting period. The plan's 2024 Form 5500 does not include the delinquent participant contribution that originated in the 2022 plan year, but is fully corrected in plan year 2023, because the delinquency that began in plan year 2022 is no longer delinquent at any time within the 2024 plan year.

All other Tip Box instances on other Schedules and on Form 5500-SF follow the format above with appropriate adjustment Schedule/Form name and line for each tip box added for text in the following places in the Form 5500 or Form 5500-SF instructions:

Form 5500 instructions at:

- Line 9a of Schedule DCG,
- Lines 4a of Schedule H
- Lines 4a of Schedule I

Form 5500-SF, instructions at Line10a