

Reminder: Q3 Compliance Deadlines

NOTE: Where a federal deadline falls on a weekend or holiday, typically the filing or disclosure is considered timely if provided by the next standard business day. Any state reporting obligations are beyond the scope of this reminder.

July 31

(for calendar year plans)



File Form 5500 (if required)

✓ **File Form 5500 with IRS/DOL** (July 31 deadline applies to calendar year plans; non-calendar year plans must file by the last day of the 7th month following end of plan year)

Employers with ERISA-covered pension and welfare benefit plans are required to file an annual Form 5500 unless a reporting exemption applies. Small welfare benefit plans (fewer than 100 participants) that are fully insured, unfunded, or a combination of insured/unfunded are generally exempt from the Form 5500 filing requirement. However, most employer-sponsored pension/retirement plans, such as profit-sharing and 401(k) plans, are subject to this filing requirement.

The Form 5500 must be filed by the last day of the seventh month following the end of the plan year unless an extension applies. For calendar year plans, this deadline is generally July 31. An employer may request a one-time extension of 2½ months by filing IRS Form 5558 before the normal due date of the Form 5500. If the Form 5558 is filed on or before the normal due date of the Form 5500 (or 5500-SF / 5500-EZ), the extension is automatically granted. It should be noted that due to IRS administrative issues involving the EFAST2 system, an electronic filing of Form 5558 cannot occur until Jan. 1, 2025. A paper Form 5558 must be used to request an extension.

5500 forms and filing instructions are accessible at: <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>.

July 31

SF Clients:
Watch for our
detailed
PCORI fee
email



Pay PCORI Fees (in general, for clients with self-funded plans)

✓ **Pay an Annual Fee to Fund the Patient-Centered Outcomes Research Institute (PCORI) — Applies to Employers with Self-Funded Health Plans, Certain Health FSAs, and HRAs Offered in Conjunction with Fully Insured Health Plans**

Self-funded health plans that are subject to PCORI fees include self-funded medical/rx plans, health FSAs in certain circumstances, as well as HRAs offered in conjunction with fully insured group medical plans. HRAs offered with self-funded group medical plans are not subject to separate PCORI fees if the HRA and the medical plan have the same plan sponsor and plan year. Most dental/vision plans and FSAs are “excepted benefits” and are not subject to PCORI fees. A health FSA qualifies as “excepted benefits” if 1) the employer also makes available group health plan coverage that is not limited to excepted benefits (i.e., employees must be eligible for both a group medical plan and a health FSA, but they do not have to be enrolled in both) and 2) the FSA is structured so that the maximum benefit payable to any participant cannot exceed two times the participant’s salary reduction election for the health FSA for the year (or, if greater, cannot exceed \$500 plus the amount of the participant’s salary reduction election). Further discussion is recommended if an employer’s health FSA does not qualify as excepted benefits, as other ACA-related compliance ramifications must be considered.

A plan sponsor (generally, the employer) uses IRS Form 720 to report and pay PCORI fees, which are due by July 31 of the year following the last day of the plan year.

Fee for plan years ending Jan. 1, 2023 – Sept. 30, 2023: \$3.00 per covered life. Fee for plan years ending Oct. 1, 2023 – Dec. 31, 2023: \$3.22 per covered life. (Special counting rules apply for HRAs and FSAs.)

IRS Q&A about the PCORI fee can be found here: <https://www.irs.gov/affordable-care-act/patient-centered-outcomes-research-trust-fund-fee-questions-and-answers>.

September 30

(for calendar year plans)



Distribute Summary Annual Report (if required)

✓ **Furnish Summary Annual Report (SAR) to Plan Participants** (September 30 deadline applies to calendar year plans; non-calendar year plans must file within 9 months of the close of plan year; if a Form 5500 extension was filed, the SAR deadline is 2 months after the extended Form 5500 deadline)

Once a Form 5500 is filed, plan administrators may also need to provide a summary of plan information to participants and beneficiaries. This summary is known as the Summary Annual Report (SAR), and it must be provided to plan participants unless the plan is exempt from filing a Form 5500 (e.g., a small unfunded self-funded plan) or is a totally unfunded welfare plan (one that pays benefits solely from employer general assets and not through insurance, a trust, or other separate account).

The required content for SARs is set out in DOL regulations. DOL form templates are available here (under “General Reporting and Filing Compliance Assistance” section): <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing>.

Unless an exemption applies, the SAR must be distributed to all plan participants, including COBRA participants and terminated employees who did not elect COBRA, covered during the year for which the plan information is being reported. Distribution can be paper or electronic but must meet the DOL distribution requirements.