

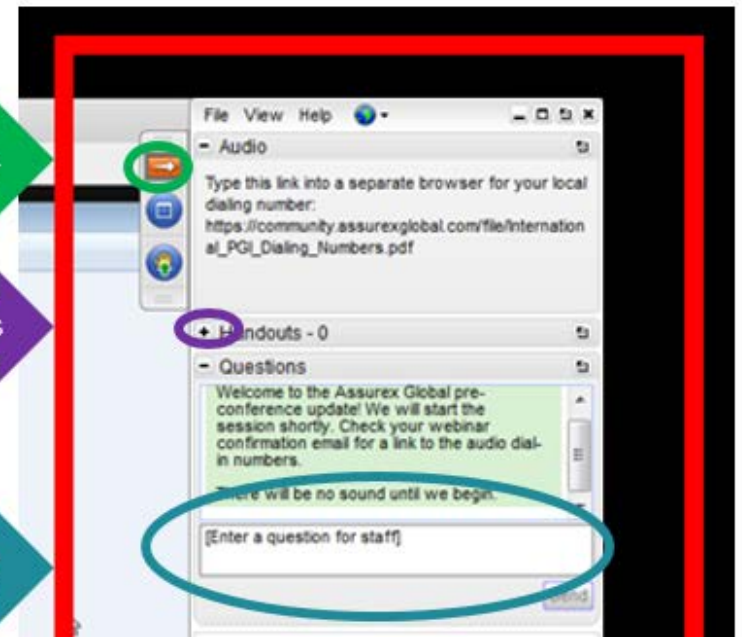
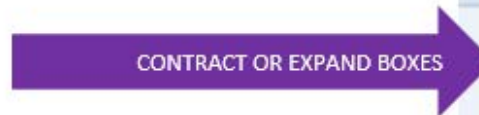
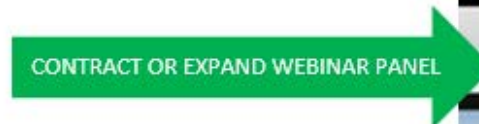
August 23, 2018

# 5500 Filing & Plan Structure

Benefit Comply

## Compliance Issues Related to Emerging Employee Benefit Strategies

- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” or “Chat” box located on your webinar control panel.
- Slides can be printed from the webinar control panel – expand the “Handouts” section and click the file to download.



August 2018

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# Agenda

- Form 5500 Basics
- Who Files?
- When to File
- What is a plan?
- Plan documents
- Plan Years vs. Policy Years
- Summary Annual Reports
- Delinquent Filer Voluntary Compliance Program

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## Basics

Form 5500 is a tool used by the IRS and DOL to —

- Collect and share information about employee benefit plans,
- Oversee enforcement of ERISA and Tax Code rules.

Think of Form 5500 as the annual return for an ERISA employee benefit plan.

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## Basics — Selected Forms and Schedules

- Form 5500
- Form 5500 — SF
- Schedule A — Insurance Information
- Schedule C — Service Provider Information

See <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>

# Basics — Filings are Public information

- efast.dol.gov
- <https://www.efast.dol.gov/portal/app/disseminate?execution=e1s1>

The screenshot shows the 'Form 5500/5500-SF Filing Search' page on the EBSA website. The page header includes the United States Department of Labor logo and navigation links. The main content area is titled 'Form 5500/5500-SF Filing Search' and contains a search form with the following fields:

- Plan Name:
- Sponsor Name:
- Plan Administrator:
- Filing ID:
- Acknowledgement ID:
- EIN:
- PN:

Below the main search fields, there is an 'Optional Search Criteria' section with the following fields:

- Plan Year Begin Date:
- Plan Year End Date:
- Form Year:

At the bottom of the search form, there is a 'Search' button and a 'Number of Results: 100' dropdown menu.

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## Basics — Resources

- Form 5500 Instructions — pdf available on DOL website (<https://www.dol.gov/sites/default/files/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2017-instructions.pdf>)
- DOL / EBSA website (<https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>)



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## Aside — Form 1094

- ACA reporting Form.
- Filed with the Internal Revenue Service.
- Always filed on calendar year.

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## Who Files?

- All ERISA welfare plans covering 100 or more participants at the beginning of a plan year.
- All funded ERISA benefit plans.
- All MEWAs.

See 2017 Form 5500 Instructions @ Section 1: Who Must File

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## When To File

- The standard deadline is 7 months after the close of the plan year.
- There is an optional 2-1/2 month extension of time that may require a filing.

See 2017 Form 5500 Instructions @ Section 2: When To File

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## What is a Plan

*Any group plan maintained by an Employer “for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise ... medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services ....” ERISA § 3(1); 29 USC §1002(1)*

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# What is a Plan ...

## — Plan Sponsors have some choices

Plan Name	Plan #
Acme Group Health Plan	501
Acme Group Dental Plan	502
Acme Group Term Life Insurance Plan	503
Acme Long Term Disability Plan	504
Acme Health Flexible Spending Account	505

Acme Group Health Plan	#501
Group Health Plan	
Group Dental Plan	
Group Term Life Insurance Plan	
Long Term Disability Plan	
Health Flexible Spending Account	

# What is a Plan ...

## — counting Participants in bundled plans

<b>Acme Group Health Plan</b>	<b>501</b>
Group Health Plan	75
Group Dental Plan	65
Group Term Life Insurance Plan	103
Long Term Disability Plan	75
Health Flexible Spending Account	18

The entire plan must file Form 5500



Participant count on first day plan year

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## What is a Plan — Voluntary Plans

- Voluntary plans meeting the DOL safe harbor at §2510.3-1(j) are not subject to ERISA and not subject to the Form 5500 filing requirement.
- Safe harbor requirements —
  - No employer contributions
  - Participation is voluntary
  - Sole function of employer is to permit insurer to publicize and collect premiums through payroll deduction
  - Employer receives no consideration in connection with program

# Plan Documents

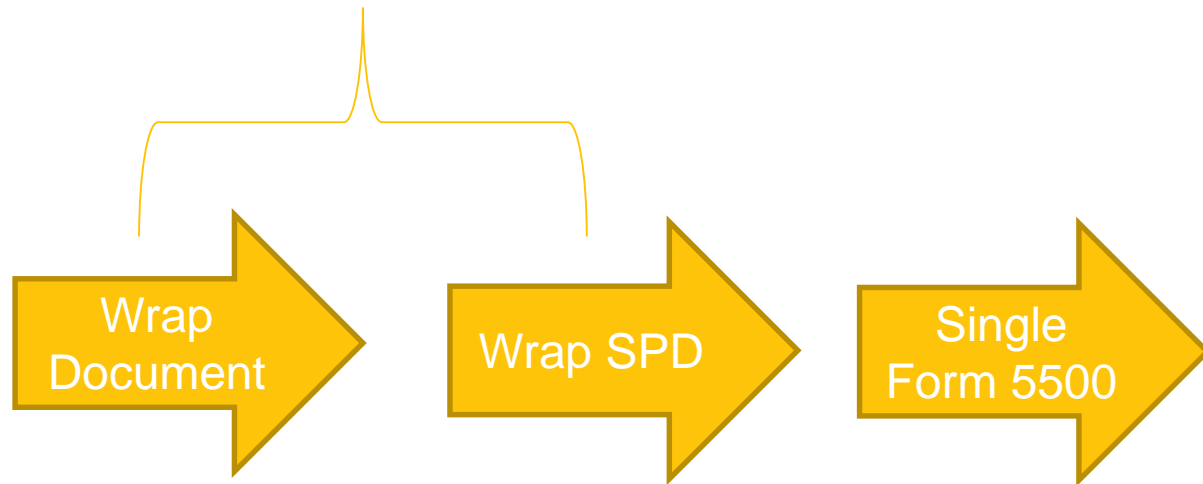
LTD insurance contract

Group Health Plan Certificate

Group Term Life Certificate

Health Care Spending Account

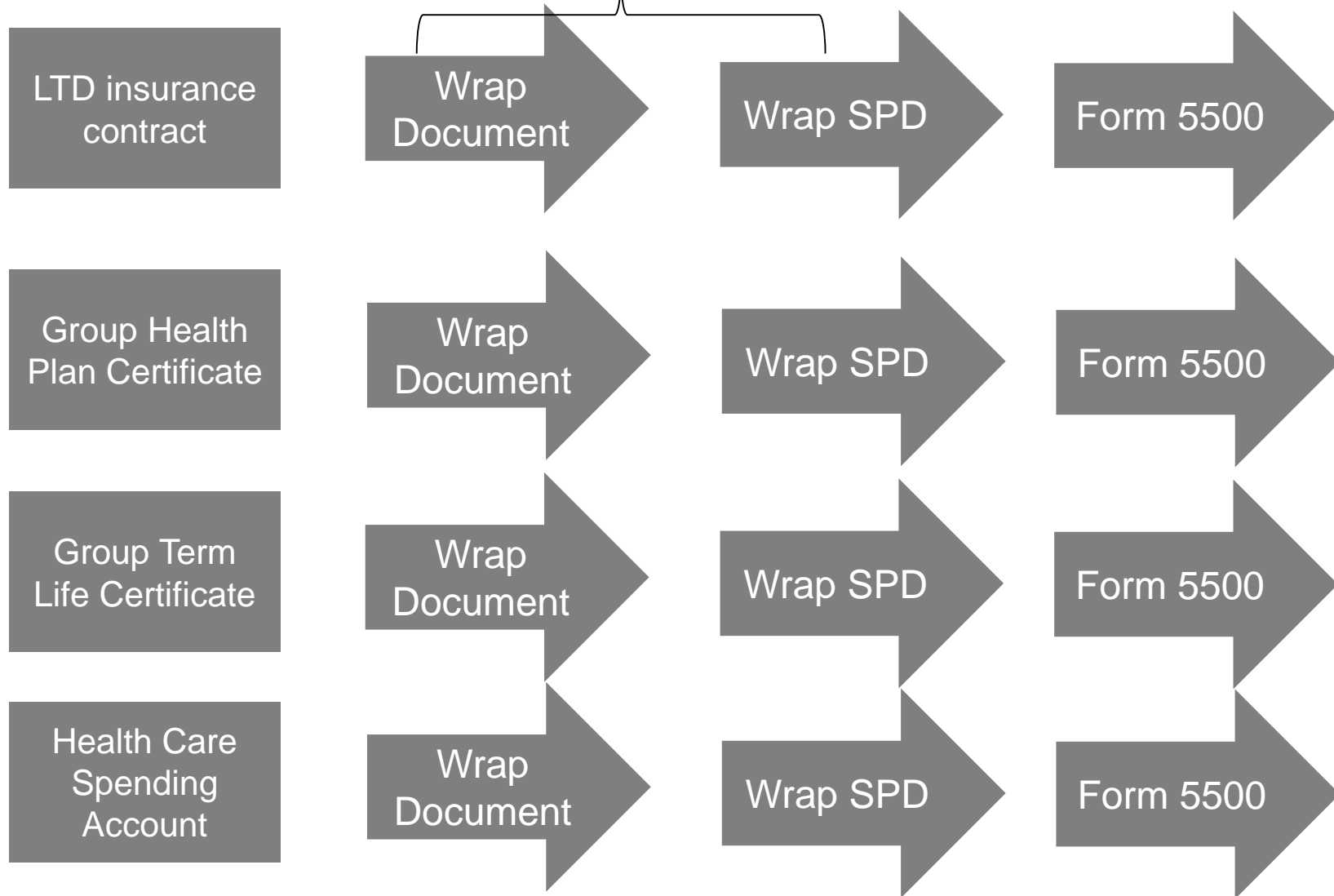
*Some vendors will combine into single wrap document.*





# Plan Documents

*Some vendors will combine into single wrap document.*



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## Aside — Plan Names

Plan names are becoming more important for Form 5500 filings. See Form 5500, Line 4.

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# Plan Years vs. Policy Years

## Plan Year

- Reported at the top of Form 5500.
- Determines filing deadline.
- Can never exceed 12 months.
- The first day of the plan year is the day you will count participants.
- Might be unknown for small plans that grow into large plans.

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# Plan Years vs. Policy Years

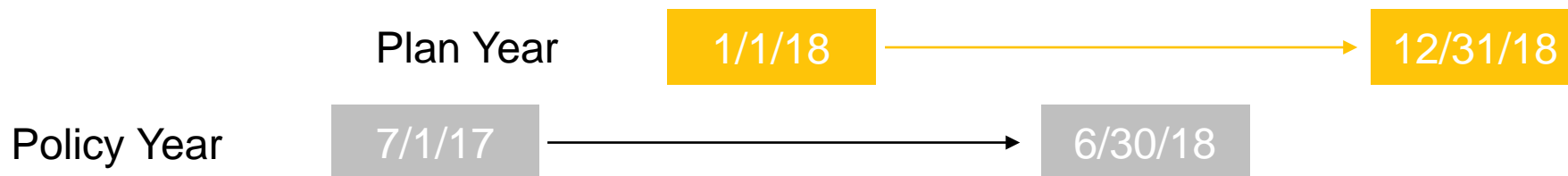
## Policy Year

- The policy year is usually the term of the insurance contract or policy.
- Reported on Schedule A.
- May be different than plan year — next slide.
- Might exceed 12 months — next slide.

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# Plan Years vs. Policy Years

- The plan year is often the same as the policy year ...but not always.
- When it is different, the policy year ending date must fall within the Plan Year for which the Form 5500 is filed.



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# Summary Annual Reports

- Think of the Summary Annual Report (SAR) as a summary of the Form 5500 filing intended for Participants.
- The SAR must be distributed annually within 2 months from the date Form 5500 is due. (Extended due dates will extend SAR distribution dates.)
- Distribution rules are same as for SPDs.

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# Delinquent Filer Voluntary Compliance Program

## Penalties

- Maximum penalty is \$2,140 per day. That adds up to \$781,100 per year.
- The standard penalty is \$300 per day up to \$30,000 per year for non-filers and \$50 per day (with no cap) for late filers.

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# Delinquent Filer Voluntary Compliance Program

## DFVCP Penalties

- \$10 per day up to \$2,000 per year.
- Capped at \$4,000 per plan.



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# Delinquent Filer Voluntary Compliance Program

## Resources

- See EBSA Fact Sheet (<https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/dfvcp.pdf>)
- See online penalty calculator (<https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/dfvcp>)

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## Key Points for Review

- To determine whether a plan must file, count participants as of the first day of the plan year.
- Welfare plans will rarely file Schedule C.
- Welfare plans will rarely use Form 5500-SF.
- Plan names are becoming more important for Form 5500 filings. See Form 5500, Line 4.
- Plan years aren't always the same as policy years.
- The DFVCP program can be your friend.

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August 23, 2018

# Form 5500 Filing & Plan Structure

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