

## Changes to the 2023 Form 5500

Posted June 20, 2023

[kernuttstokes.com/kernutt-stokes-blog/](https://kernuttstokes.com/kernutt-stokes-blog/)

The Department of Labor (DOL) released the final changes to Form 5500 relating to the September 2021 notice of proposed form revisions (NPF) to amend Form 5500. The changes fall into seven major categories. These changes are effective for plan years beginning on or after January 1, 2023, and will be incorporated into the 2023 Form 5500.

As a reminder, the Form 5500 provides the DOL, Internal Revenue Service, and the Pension Benefit Guaranty Corporation with information about a retirement plan's operations, qualifications, financial condition, and compliance with government regulations.

Below, we review some of the key changes to Form 5500 and details about the adjustments.

### **The Rules Have Changed - Are You a Large or a Small Plan?**

Historically, determining whether your plan was "large" versus "small" was based on the number of eligible participants in your plan. If your plan had at least 100 eligible participants on the first day of the plan year, you were considered a large plan—regardless of how many participants had accounts or elected to participate in the plan.

The DOL's recent changes to Form 5500 redefine large plans by the number of participants with account balances on the first day of the plan year. If your plan has at least 100 participants with active accounts, then you are a large plan, and an annual audit is required. (Note that this provision only applies to defined contribution plans and is in effect for plan years that begin on or after January 1, 2023.)

This provision will significantly change the threshold for the status of large versus small plans. The DOL estimates 19,500 large plans will no longer be subject to the annual audit requirement relating to this participant-count methodology change.

While this change is likely good news for many plan sponsors, there are some potential issues. For example, a failed compliance test or the allocation of forfeitures could push plans over the 100-participant threshold. If a plan fails the Actual Deferral Percentage or the Actual Contribution Percentage test, participants who closed out their accounts may need to be reinstated for reimbursement purposes. To avoid this issue, plan sponsors should carefully review their plan documents to determine whether they are able to "push out" participants with account balances under \$5,000.

### **More Updates Coming Down the Pike**

The DOL's final changes include several other changes. Mock-ups of the new forms and instructions for the following items will be available later this year at [Reginfo.gov](https://www.dhs.gov/reginfo):

- Consolidated Form 5500 for Defined Contribution Groups
- Streamlined reporting on the 5500 for pooled employer plans and multiple-employer plans
- New breakout categories for administrative expenses (Schedule H)
- Revisions to the financial and funding reporting requirements for defined benefit plans

- New Internal Revenue Code (IRC) compliance questions to improve tax oversight

Certain revisions from the NPFR have been delayed including proposed revisions to the content requirements for the schedules of assets filed by large plans. The DOL wants to modernize data reported in a plan's individual investments to improve consistency, transparency, and usability of plan investment information, but feedback revealed that service providers need more time.

**Insight: Partner with Service Providers to Build Your Strategy**

Most plan sponsors process distributions with the help of service providers, so it is important to partner with such service providers to keep an eye on your number of participants — especially if you are close to the threshold of 100 active plan participants. Plan sponsors should clarify if it is their goal to remain a small plan, familiarize themselves with the options presented in the plan document to move participants out of the plan, and determine the procedure for a potential distribution.

Contact our team today to discuss your plan and any questions you have.