

A photograph of the United States Capitol dome, showing its ornate architecture and the top of the dome against a blue sky.

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Form 5558 Procedures Change

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In January 2008 the IRS issued a revised Form 5558 that incorporated the automatic approval rules for extending the deadline to file Form 5500 or 5500-EZ. Under those rules, filers of Form 5558 would receive acknowledgement and approval of the request only when the Form 5558 was filed to extend the due date for filing Form 5330. Also, the new form was revised to remove the field for a service provider's address for any return correspondence from the IRS.

Without much fanfare, the IRS changed its procedures in January 2009 and all filers of Form 5558 (regardless of the 5500 year) are receiving acknowledgement letters – although it should be noted that the form and its instructions have not been updated. It should also be noted that timely filing of Form 5558 to extend the due date for filing Form 5500 or 5500-EZ continues to result in automatic approval of the extension.

The IRS change in procedure is being put in place to allow the agencies to match Form 5558 filings sent to the IRS with those reported on Form 5500 reports submitted to EFAST2 (the fully electronic system). When EFAST2 becomes fully operational in January 2010, filers will not be required (or allowed) to attach copies of either the Form 5558 or the acknowledgement letter to the electronic filing.

When Form 5558 is filed now, the plan sponsor is receiving IRS correspondence in the form of an acknowledgement letter which states the following:

"We have received your Form 5558, Application for Extension of Time to File an Employee Plan Return, for the return (form), plan number, and tax period identified above, and have approved your request. We have extended the due date to file your return to (IRS inserts mo/day/year).

"It is important to attach a copy of this letter and a copy of your Form 5558, Application for Extension of Time to File an Employee Plan Return to your return when you file it. It will show the Department of Labor (DOL) that we granted you an extension of time to file your return. If a copy of the extension and notice is not attached to the return, it could be processed as a late filed return.

"If you have any questions, please call us at the number shown above, or you may write us at the address shown at the top left of this letter."

It should be noted that the IRS letter recommends, but does not mandate, attaching a copy of the acknowledgement letter to the filing, in addition to a copy of the Form 5558. However, it is our understanding that the DOL can verify an extension electronically, and will not be relying on these attachments.

Filing a Form 5558 with a service provider's address rather than the plan sponsor's will not result in the acknowledgement letter being sent to the service provider. The IRS system does not change the sponsor's address based on information reported on Form 5558 and, instead, uses other database information to generate the acknowledgement letter.

The IRS is working on an updated Form 5558, which should be released later this year. Further revisions are needed to accommodate EFAST2, as well as the paper filing of Form 5500-EZ beginning with 2009 plan years. Stay tuned!