

Filing a Form 5558 for Retroactively Adopted Plans Does Not Establish a 2020 Form 5500 Filing Requirement

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In August 2021, the IRS issued guidance clarifying that certain plans retroactively adopted after the end of the plan year would not have to file a 2020 Form 5500 series return, which we previously discussed in our blog post [here](#). Recently, the IRS further clarified that if a plan sponsor already submitted a Form 5558 (Application for Extension of Time to File Certain Employee Plan Returns) for a retroactively adopted plan, the submission of such Form 5558 would not require such plan to file a 2020 Form 5500. The IRS stated that the filing of the Form 5558 will not result in an IRS delinquency notice if no 2020 Form 5500 is ever filed for the plan specified in the Form 5558. The delinquency notices are based on when the Form 5500 is filed and not the filing of a Form 5558.

IRS newsletters are available [here](#).