

AN ALERT FROM THE BDO EXECUTIVE AND HR SERVICES PRACTICE

BDO KNOWS:

COMPENSATION & BENEFITS



► SUBJECT

ONE-PARTICIPANT AND FOREIGN PLANS MAINTAINED OUTSIDE THE U.S. MIGHT BE ELIGIBLE FOR RELIEF FROM PENALTIES ON PAST DUE FORM 5500EZ OR FORM 5500

► SUMMARY

Under the new one-year pilot program that went into effect on June 2, 2014, and ends June 1, 2015, plan sponsors and administrators of certain retirement plans may apply for relief from IRS late filing penalties on past-due annual reports (Form 5500 series). Rev. Proc. 2014-32 provides relief only to plan administrators and sponsors of retirement plans that are subject to the reporting requirements of sections 6047(e), 6058, and 6059, but not the reporting requirements of Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”). Plans with late reports that are subject to Title I of ERISA in addition to these income tax provisions, and therefore not eligible for this relief program, can obtain reduced penalties by entering the Department of Labor’s Delinquent Filers Voluntary Compliance Program.

► DISCUSSION

To be eligible for the relief provided by Rev. Proc. 2014-32, the plan must be either (i) a one-participant plan covering only a 100-percent business owner or one or more partners, and their spouses (but no employee participants), or (ii) a foreign plan maintained outside the United States primarily for nonresident aliens. Further, the plan must meet the following requirements:

1. Must not have received a CP 283 Notice of penalty charged for the delinquent 5500 return;
2. Must file the late return plus any required schedules and attachments;

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3. Must write in red letters in the top margin of the first page of the form “Delinquent return submitted under Rev. Proc. 2014-32, Eligible for Penalty Relief” on each late return submitted;
4. Must attach a completed one-page transmittal schedule to the front of each late return submitted; and
5. Must mail the returns to the designated IRS offices (no electronic submission).

If the plan sponsor or administrator meets all of the above requirements, late filing penalties, which can be substantial, can be avoided. The law provides for penalties as high as \$15,000 for each delinquent filing, plus interest.

For more information, including what the one-page transmittal schedule should look like and where the late filings should be mailed, please contact your BDO representative.

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