

**MEMO# 33722**

August 10, 2021

## **IRS Announces That Plans Retroactively Adopted After End of Plan Year Have No 2020 Form 5500 Filing Requirement**

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TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Announces That Plans Retroactively Adopted After End of Plan Year Have No 2020 Form 5500 Filing Requirement

On August 6, 2021, the IRS posted an announcement[\[1\]](#) on its website pertaining to the Form 5500 filing requirements for retroactively adopted plans under section 201 of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act).[\[2\]](#) Section 201 permits an employer to adopt a retirement plan after the close of the employer's taxable year (by the due date, including extensions, for filing its tax return for the taxable year) and elect to treat the plan as having been adopted as of the last day of the taxable year.[\[3\]](#)

The announcement indicates that if an employer adopts a plan during the employer's 2021 taxable year (no later than the due date, including extensions, for filing the employer's 2020 tax return) and elects to treat the plan as having been adopted as of the last day of the employer's 2020 taxable year, then the plan sponsor will not be required to file a Form 5500 with respect to the plan for the plan year that begins during the employer's 2020 taxable year.[\[4\]](#)

According to the announcement, the first Form 5500 required to be filed with respect to the plan will be the 2021 Form 5500. The plan sponsor will check a box on the 2021 Form 5500 indicating that the employer elects to treat the plan as retroactively adopted as of the last day of the employer's 2020 taxable year.[\[5\]](#)

The announcement also states that the instructions for the 2021 Form 5500 will further explain the filing requirements for plans adopted retroactively.

Finally, the announcement states that the IRS expects to apply similar rules to the retroactive adoption of a plan in later years (i.e., after the 2021 taxable year).



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**endnotes**

- [1] The announcement is available at:  
<https://content.govdelivery.com/accounts/USIRS/bulletins/2eba346>.
- [2] For more background on the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019. Available here: <https://www.ici.org/memo32118>.
- [3] This provision applies to plans adopted for taxable years beginning after December 31, 2019.
- [4] References to Form 5500 include the Form 5500-SF and Form 5500-EZ.
- [5] For a defined benefit plan, the employer will be required to attach a 2020 Schedule SB to the 2021 Form 5500 or Form 5500-SF, in addition to a 2021 Schedule SB.

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