

How will
Form 5500
electronic filing
(EFAST2) affect me?

Commonly asked questions about
EFAST2.



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How will electronic filing of the Form 5500 (EFAST2) affect my plan?

Beginning with the 2009 plan year, the Department of Labor (DOL) will

require retirement and welfare plans to file their annual reports (Form 5500) electronically. Although the DOL will require electronic filing for the 2009 plan year, plan sponsors will not file for the 2009 plan year until 2010.

Concurrent with the new electronic filing requirements, the DOL and the IRS will make modifications to some of the Form 5500 schedules, eliminate other schedules and introduce a new short form 5500 for certain small filers. Under the new electronic filing requirements, a preparer has three alternatives in preparing the Form 5500: (1) a private Web-based system that the preparer uses to complete and transmit the Form 5500 to the DOL; (2) a private software program that the preparer uses to complete the Form 5500 and then transmits the Form 5500 to the DOL via the Internet; and (3) the DOL's Web-based system which the preparer uses to complete and file the Form 5500.

***Note:** We have obtained our answers to the following questions from the DOL regulations and from information provided at the EFAST2 software developer's conference. Since EFAST2 is a new system and is still in development, the DOL may modify some of its procedures, which may affect some of the answers provided below.*

When is the new electronic filing program effective?

The new electronic filing program (EFAST2) is effective for plan years beginning on or after January 1, 2009. Plans will be able to commence filing electronically on January 1, 2010. Any plan which has a Form 5500 due before January 1, 2010, will have an automatic extension until 90 days following the date on which the Form 5500 is available for filing electronically. That date would be March 31, 2010, unless the DOL changes the date on which electronic filing will be available.

Do all retirement plans have to file electronically?

Effectively yes. With the exception of a plan covering the sole owner (and his/her spouse) or partners in a partnership (and their spouses) and no employees (“owner only plan”), all plans, including retirement, welfare and 403(b) plans, will need to file their Form 5500s electronically. Owner only plans which satisfy certain requirements will file a paper copy of the Form 5500-EZ with the IRS. However, owner only plans which satisfy the requirements to file a Form 5500-SF may elect to file electronically.

Do all welfare plans have to file electronically?

Yes. All welfare plans that file a Form 5500 will need to file it electronically.

How do I file electronically?

Plans have two options for filing a Form 5500 electronically: (1) enter the data using a third party software application, and then transmit it to the DOL via the Internet; or (2) enter the data into a Web-based system. Once all of the data has been entered on the Form 5500 and schedules, the employer will enter the signer ID and PIN code and transmit the forms to the DOL. The DOL instantly will determine and communicate to the transmitter whether the forms can be processed. If the forms cannot be processed, the transmitter must correct the error and re-transmit. During a 24-hour period following submission, the DOL will determine whether the forms will be accepted or not accepted. If the forms are not accepted, the DOL will indicate the reasons. The filer must make the changes and resubmit. The DOL will not consider a Form 5500 to have been filed until the DOL has accepted the filing.

What features will the DOL's Web-based Form 5500 include?

The DOL's Web-based Form 5500 program (IFILE) will include: (1) access to the form instructions; (2) import and export features; (3) capability to carry forward data from year-to-year; (4) capability to save data and return later to complete the form; and (5) print forms.

Are there any advantages to using third party Form 5500 software and filing the forms via the Internet?

Yes. Form 5500 software will be able to provide: (1) more help in completing the forms; (2) better and more in depth validations; (3) better import and export features; (4) collaboration between the plan sponsor and the filer; and (5) ability to report which clients' filings have been accepted.

Do I have to retain a paper copy of the electronically-filed Form 5500?

Yes. A plan sponsor must retain a signed copy of the electronically filed Form 5500.

What types of electronic credentials are available under EFAST2?

Third party administrators (TPAs) and recordkeepers who prepare complete Form 5500s on behalf of their clients will obtain plan author credentials. If a TPA or recordkeeper completes a schedule but not the Form 5500, it will need to obtain schedule author credentials. A plan sponsor will need to obtain plan signer credentials. If a plan sponsor completes and transmits its own forms, it may need to obtain plan author, transmitter and plan signer credentials.

How do I obtain electronic signature credentials?

You go to a Web site and enter certain personal information. You then receive an e-mail with a link to a Web site where you receive the credentials (signer ID and PIN code).

How do I use the electronic signature credentials in filing a Form 5500 electronically?

If the plan sponsor is completing its own filing, the plan sponsor will enter the electronic signature (signer ID and the PIN code) in the appropriate place on the forms and then transmit the filing. For filers using a Web-based filing system (private or DOL), the filer will invite the plan sponsor to an electronic signing ceremony where the plan sponsor will enter its credentials and the forms will be submitted.

Can the plan recordkeeper obtain electronic signature credentials on behalf of its client?

No. Every individual who signs a form or schedule must obtain its own signature. Furthermore, the government limits one set of credentials per e-mail address.

How do I file attachments electronically?

If a Form 5500 filer must include an attachment with its filing, the attachment must be in a text file format or scanned into a PDF format.

Once the attachments are in their proper format, the filer includes them with forms and transmits them to the DOL.

How do I file a plan audit electronically?

If the plan is subject to the audit requirement, the DOL requires the auditor to complete the audit on its firm's letterhead with the name of the firm and its address. The audit must be signed by the accountant completing the audit. The filer then scans the audit into PDF format and attaches it to the Form 5500 filing.

May a plan file its Form 5500 and schedules and then later file its audit?

No. A plan subject to the audit requirement may not file a Form 5500 without its audit. The DOL will not accept the filing without the audit.

For a defined benefit plan filing, how does the actuary electronically sign the Schedule SB or MB?

The Board of Actuaries has determined that it is necessary for the actuary to provide an actual signature for the Schedule SB or MB. Therefore, the actuary will sign the form and the form will be scanned and attached to the electronic filing. The plan will retain the signed original as part of its file. In addition to the signed original which must be attached to the filing in a PDF format, the filer will need to file the schedule electronically with the Form 5500.

How do I obtain an extension of time to file a Form 5500?

The procedure for obtaining an extension of time to file a Form

5500 has not changed. The plan sponsor files a Form 5558 with the IRS. However, under EFAST2, the plan sponsor will not attach the Form 5558 to the electronic filing. The plan sponsor simply will retain a copy of the form in its plan file.

How do I file for a short 2009 plan year?

A plan with a short plan year which has a

deadline before January 1, 2010, will qualify for an automatic extension until 90 days after the date the DOL makes electronic filing available. Although the DOL encourages plan sponsors with a short 2009 plan year to take advantage of the automatic extension and file electronically, the DOL does not require it. A plan with a short plan year that has a filing deadline before January 1, 2010, may utilize the prior plan year's forms and mail in the forms.

Do 403(b) plans have to file electronically?

Yes. 403(b) plans must file electronically like

other retirement plans. Effective for plan years beginning on or after January 1, 2009, 403(b) plans required to file Form 5500s must file a complete Form 5500 (and schedules) like a 401(k) plan. The

limited exemption which relieved 403(b) plans from the requirement to complete the entire Form 5500 and the schedules is eliminated as of plan years beginning on or after January 1, 2009. However, a “deferral-only” 403(b) plan that satisfies certain requirements for limited employer “involvement” still is exempt from the Form 5500 filing requirement.

May I file a Form 5500-EZ electronically?

No. Sponsors of plans that qualify to file a Form

5500-EZ (owner-only plans) will file paper copies of the form directly with the IRS. However, if an owner-only plan satisfies the conditions to file a Form 5500-SF, the sponsor may file the Form 5500-SF rather than the Form 5500-EZ. The Form 5500-SF is filed electronically, and is publicly disclosable along with all other Form 5500s.

Are there any simplified filing options?

Yes. For plans which satisfy the following

requirements, the plan sponsor may utilize the short form 5500 (Form 5500-SF) if it: (1) has fewer than 100 participants at the beginning of the plan year; (2) is eligible for the audit waiver; (3) does not include any employer securities; and (4) has assets that are 100% invested in investments with a readily ascertainable value.

What modifications to the forms or schedules will occur when the DOL switches to mandatory electronic filing?

The two most significant changes to the forms that will occur with EFAST2 are: (1) a new short form 5500 (Form 5500-SF) that will be available to certain small employers; and (2) a revised Schedule C that will require large plans to provide more disclosure regarding fees paid to plan service providers. The new forms also will include several new questions and the barcodes printed on the bottom of the current Form 5500 and its schedules, will be removed under EFAST2.

How do I know if my electronic filing was accepted?

You will log on to the DOL's Web site 24 hours after transmitting the filing to determine if it has been accepted. Some Form 5500 third party software systems will have the capability of automatically notifying TPAs and recordkeepers whether a particular plan has been accepted.

What is the procedure for resubmitting my return if the DOL does not accept the filing?

If the DOL does not accept the filing, the plan sponsor must correct the error and re-transmit the filing to the DOL. Until the DOL accepts the filing, the DOL does not consider the filing to have been accepted.

If my return is accepted, can it still be subject to an audit?

Yes. When the DOL accepts the filing, it simply is confirming that the Form 5500 and the schedules were completed properly. In accepting the filing, the DOL is not making any determination on the substance of the responses on the forms. Accordingly, the DOL or IRS may raise issues regarding responses in investigations and audits.

Will my Form 5500 and schedules be posted on the DOL's Web site?

Yes. The DOL will post the Form 5500 and the schedules within 90 days of the filing.

What information will be available on the DOL's Web site?

The DOL will post the Form 5500 plus all of the schedules and attachments. Since the Schedule SSA will not be part of the filing starting with the 2009 plan year, the SSA will not be posted on the DOL Web site. If the plan sponsor files a Form 5500-SF with a Schedule SB attached, the DOL will block certain information from being disclosed on the Web site, otherwise Form 5500-SF filings will be disclosed as well.

If my return is available on the DOL Web site, do I still need to make it available to plan participants?

Yes. If the plan sponsor has an Intranet site, the plan sponsor must make the Form 5500 and the schedules available on its Intranet site.

Will I still need to create and distribute a Summary Annual Report (SAR)?

Yes. However, the Pension Protection Act of 2006 eliminated the SAR requirement for defined benefit plans that provide the annual funding notices to participants. All defined benefit plans that are subject to Pension Benefit Guaranty Corporation insurance are required to provide an annual funding notice.

May a Third Party Administrator (TPA) or recordkeeper file electronically on behalf of its client?

If a filer uses a private Web-based system or the DOL's IFILE, the TPA or recordkeeper invites the client over the Internet to a signing ceremony. Once the client electronically signs the Form 5500 (*i.e.*, enters the PIN code and signer ID), the Form 5500 is transmitted to the DOL. Therefore, the TPA or recordkeeper technically does not file on behalf of the client.

Is there a method by which a TPA or recordkeeper can determine if a client's filing has been accepted?

has been accepted.

Yes. A recordkeeper or a TPA should be able to determine if a client's filing

Will the correction program for late filers of Forms 5500 (Delinquent Filer Voluntary Compliance program) be available?

DOL waiving the penalties.

Yes. In fact, the DOL has indicated that it expects late filers to utilize the program and not to count on the

May I file electronically for pre-2009 plan years?

pre-2009 filing or needs to file late for a pre-2009 plan year may file the amendment or late filing electronically. The filer simply will use current forms and indicate the appropriate dates on the forms.

Yes. A plan sponsor which needs to amend a

How do I amend Forms 5500 that I have filed electronically?

amendment, and then resubmit the form electronically. When you resubmit, you must resubmit the Form 5500 and all of the schedules included with the original filing, including the schedules which were not amended. The filer will need to reference the acknowledgement ID

You make the necessary changes in the forms, check the box for

with the amended filing to tie the two filings together.

Will the new forms and schedules include barcodes?

No. The barcodes that appear on the current Form 5500s will be eliminated for EFAST2.

The information provided in this pamphlet is based upon complex requirements of Federal law and related government guidance. It is provided with the understanding that the preparer is not engaged in rendering legal, accounting, or other professional services. Although care has been taken to present the material accurately, the preparer disclaims any implied or actual warranties as to the accuracy of any material herein and any liability with respect thereto.

