



Q & A on Forms 5500: New Mandatory Electronic Filing Requirements

Developed from Conner Strong's web briefing of June 29, 2010

On June 29, Conner Strong held a web briefing on the Form 5500 annual report filing obligations, specifically covering the new mandatory electronic filing requirements. The June 29 web briefing addressed the filing requirements in general, and the new Department of Labor (DOL) electronic system of online filing for the Forms 5500 (EFAST2).

All welfare plans that are required to submit an annual return under ERISA (Form 5500) must do so electronically for plan years beginning on or after January 1, 2009 through the electronic EFAST2 system. Completed forms are submitted via the Internet. EFAST2 electronic credentials must also be obtained to sign and/or submit the Form 5500. Under no circumstance will plans be allowed to mail in Form 5500 returns for plan years 2009 and later. Calendar year filings will have until at least July 2010 to make the changes necessary to allow electronic filing. Prior year delinquent or amended Form 5500 filings also now must be filed electronically except that timely 2008 plan year filings may still be filed through the original paper system.

We have prepared this Q&A in response to questions received from participants both before and during the webinar. To help keep our clients informed, we have also created a [special section](#) on our website featuring Conner Strong Legislative Updates that review and summarize health and benefits regulatory news and developments affecting benefits professionals. With the ever-changing state and federal laws governing health and welfare plans, regulatory expertise and resources are critical. These updates will help you determine if and how new regulations will impact your business. Check back for daily updates, for news and analysis, and for updated tools to help you navigate this complex process.





Q When must I file the 5500 electronically?

A The DOL has issued a final rule requiring all Form 5500s to be filed electronically for plan years beginning on or after January 1, 2009. Amended returns and returns filed under the Delinquent Filer Voluntary Compliance (DFVC) program will also need to be filed electronically.

Q How many Form 5500s do I need to file?

A For benefits provided by a single business entity, the number of Forms to file depends on how many separate ERISA plans the plan sponsor is maintaining. Plan sponsors are free to combine more than one type of ERISA welfare benefits into a single plan for 5500 compliance purposes. The intention to combine benefits into a single plan should be reflected in the governing plan documents.

Q What is my plan number?

A The employer assigns the plan number. The plan number should appear in the plan's SPD. Once a plan number has been used for a plan, it should not be used for any other plan, even if the first plan has been terminated. Generally, retirement plans are numbered sequentially from 001, and welfare benefit plans are numbered sequentially from 501.

Q What is the deadline for filing?

A The 5500 Report must generally be filed by the last day of the seventh month following the end of the plan year, unless an extension has been granted. For calendar year plans, the deadline is normally July 31st of the following year.

Q If I am filing for an extension of time on Form 5558 with the IRS, do I need to attach a copy of the Form 5558 to my Form 5500?

A You do not need to attach a copy of the Form 5558 that was filed with the IRS to the annual return/report in EFAST2. The procedure for obtaining an extension of time to file a Form 5500 has not changed (the plan sponsor still 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.

Q How can I obtain an extension for filing?

A Generally, you may request an extension by filing IRS Form 5558 by the regular due date of your Form 5500. An extension of up to two and one-half months may be granted.



Q What are the new required schedules?

A For unfunded or insured welfare plans there are no new required Schedules. There have been minor changes made to the Schedule A and Schedule C, and also the DOL has clarified the Schedule C filing requirement in a way that will result in many plan sponsors not having to file the Schedule C this year for their self insured coverages.

Q If we are filing a 5500 for the first time, is there a special form that needs to be filed to assign an ERISA plan number?

A No special form is needed. The plan number is assigned by the employer. Welfare plans begin with the number 501. In addition, as a first-time filer, you should indicate on the Form that the 5500 is the first return/report being filed for the plan.

Q Is there any way that I can have a service provider complete and electronically file the Form 5500 for me?

A Yes. Many small business use service providers (such as Conner Strong) to manage the Form 5500 filing process for the plan. EFAST2 was designed so that the plan's Form 5500 or can be completed and submitted by service provider using EFAST2 approved software to prepare and file Form 5500 filings for their plan clients. If a TPA typically prepares your Form 5500 or Form 5500-SF, you should verify that the software used by the TPA is properly certified to prepare and submit the filing. In any event the electronic filing regulations and the Form 5500 instructions require that plan administrators must sign the completed Form 5500 under penalty of perjury, and keep that manually signed copy of the Form 5500, with all required schedules and attachments, as part of the plan's records.

Q Do I need to buy software to submit my Form 5500 without the help of a service provider?

A No. You can use EFAST2 Internet Filing (IFILE), which is a free DOL provided Internet-based filing tool designed for individual filers and service providers who choose not to use EFAST2-approved third party software to complete their Form 5500 filings.

Q If I want to use IFILE, what do I need?

A Before you can file a Form 5500 using EFAST2, the appropriate individuals must register at the EFAST2 Web site at www.efast.dol.gov. The individuals must have access to the Internet to register. They must also have an e-mail address to register, receive EFAST2 credentials, and receive EFAST2 communications.



Q What do you mean by EFAST2 credentials and why do I need them?

A If you use IFILE to prepare and submit a Form 5500, you will need three credentials:

- User ID (used to identify you)
- PIN (used as your electronic signature)
- Password (allows you access to IFILE)

The registration process assigns a unique User ID, PIN (personal identification number) and password to each user. Although you provide employment information when registering as a Filing Signer, Filing Author, or Schedule Author, the credentials are personal and are not linked to the company.

Q Is it easy to get EFAST2 credentials?

A Yes. You can get your EFAST2 credentials by completing five easy steps on the EFAST2 Web site at www.efast.dol.gov. The whole process should take just a few minutes. Once you have your User ID, PIN, and password, your EFAST2 registration is complete.

Q Can the 2009 forms filed during 2010 still be filed on paper forms and through the mail or do they have to be filed electronically?

A Electronic filing is now the rule for plan years beginning on or after Jan. 1, 2009. Prior year delinquent or amended Form 5500s also generally must be filed electronically through EFAST2.

Q Once my completed and electronically signed Form 5500 is transmitted, how do I confirm that it was received by EFAST2?

A If you prepared, or signed and submitted a filing through IFILE, you can learn the status of your filing by logging in to EFAST2 with your credentials and selecting “Submissions” from the menu on the left-hand side of the screen. All of your submitted filings will appear in a list with the status of each appearing next to it. If you do not get EFAST2 credentials because you had a service provider prepare and submit your filing, you will not be able to use the “Submissions” feature on the EFAST2 Web site to check the status of the filing. The service provider will notify you regarding the plan’s filing status. Filings submitted under the EFAST2 program will be posted for general public access on the DOL Web site.



Q Are there civil penalties for failure to electronically file the plan's Form 5500?

A Yes. There are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements as set forth in the statutes, implementing regulations, and instructions. Those penalties are described in the instructions for the Form 5500. One or more administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date.

Q How can I catch up if I have not filed in the past?

A The DOL offers sponsors an option to participate in the Delinquent Filer Voluntary Compliance (DFVC) program for late filings. In an effort to encourage welfare plan administrators to file overdue annual reports, DOL offers an opportunity to pay reduced civil penalties for voluntarily complying with the annual reporting requirements. Plan administrators are eligible to pay reduced civil penalties under the program if the required filings under the DFVC Program are made prior to the date on which the administrator is notified in writing by the DOL of a failure to file a timely annual report under ERISA.

Q Will the general public be able to view all Form 5500 filings online?

A Nearly all filings submitted through EFAST2, including schedules and attachments will be available to the general public through the DOL web site www.efast.dol.gov.

Thank you!