

Benefit Brief



SUBJECT: Form 5500 Filing Goes Electronic

DATE: December 14, 2009

This Benefit Brief discusses the requirement for certain employers to file a Form 5500 with the Department of Labor, and changes to that process beginning in 2010.

Generally, employers who sponsor a health plan with 100 or more participants at the beginning of the plan year must file a Form 5500 with the Department of Labor within seven months of the end of the plan year. Many small plans and all government and church plans are exempt from this reporting obligation.

For more information about who needs to file a Form 5500, please visit the Q & A section of the Compliance Portal on the Benecon website (www.benecon.com/ComplianceServices.aspx). You must be a registered Benecon client or producer to access this information.

New Mandatory Electronic Filing

Beginning in January 2010, Form 5500s must be submitted electronically to the EFAST2 filing system for plan years beginning on or after January 1, 2009. EFAST2 is a computerized processing system designed by the DOL and IRS to simplify and expedite the receipt and processing of the Form 5500. Rather than printing and mailing the Form 5500, employers will need to electronically sign and submit the filing over the internet to EFAST2 at www.efast.dol.gov. Administrators who will be submitting Form 5500 filings may begin registering for electronic credentials through EFAST2 in January 2010.

Short 2009 plan year filers who have a 5500 filing due before January 1, 2010 will be given an automatic 90-day extension following the date on which the Form 5500 is available for electronic filing (until March 31, 2010). This special extension is being granted to encourage such filers to submit their 2009 reports electronically under EFAST2. Filers who choose not to take advantage of the special extension must use plan year 2008 forms and instructions and submit their report on or before the due date for their filing under the current EFAST system, and before EFAST2 and the 2009 forms and instructions are available for filing in January 2010.

All filings that are received by the EFAST2 system will be posted on the DOL website within 90 days of receipt to satisfy the Pension Protection Act requirement to display certain plan information.

How Does an Employer File Electronically?

There are three options for entering information on the Form 5500 and appropriate Schedules and filing it electronically:

- The DOL's web-based system (IFILE) at www.efast.dol.gov.

- A third-party software application that transmits the filing to the DOL via the internet. A list of third-party software that is approved for EFAST2 is posted on www.efast.dol.gov.
- A private web-based system.

What are the Benefits of Using Third-Party Software?

Most Form 5500 filers use approved third-party software. Here are some of the benefits:

- IFILE does not contain preparation or filing assistance or integrated instructions. Some approved third-party software will automatically populate some of the information required by integrating with your systems and may provide technical support staff and instructions.
- IFILE can only be used to transmit a single filing – it can not be used to transmit batches of filings. Some third-party applications support transmission of batches of filings.
- IFILE does not allow more than one person to edit a filing without exporting, downloading, and importing the file. Some approved third-party software provide file sharing functions so several people can work on and review a single filing. Tracking systems may also be available with third-party software, which is helpful with multiple users.
- Previous filings can be easily accessed with third-party software.

What are the Consequences for Failure to File?

The DOL can assess civil penalties for failure to file a Form 5500 of up to \$1,100 per day. These penalties are assessed against the plan administrator (employer), not against the plan itself. The Delinquent Filer Voluntary Compliance (DFVC) Program reduces penalties to \$10 per day with a cap of \$750 for a small plan and \$2,000 for a large plan. In addition to civil penalties, there is a potential for criminal penalties, including jail time, for willful violation of ERISA.

What Do Employers Need to Do?

Employers who are required to file a Form 5500 should register for electronic credentials through EFAST2 in January 2010. Employers who use third-party software to transmit the filing should ensure the software is approved for EFAST2. If Benecon files your 5500, we will contact you to discuss the transition.

Benecon Web Conference

Compliance Services will be conducting training on the Form 5500 filing on Tuesday, January 19, 2010 at 10:00 a.m. Contact Donna Swinford at dswinford@benecon.com if you are interested in participating.

If you have questions about the electronic Form 5500 filing requirement, please contact Danielle Omans at The Benecon Group at domans@benecon.com or the number shown below.

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