

FAQs on Electronic Filing for Small Businesses



U.S. Department of Labor
Employee Benefits Security Administration
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Q1: Do I need to buy software to submit my Form 5500 or 5500-SF?

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

Q2: If I want to use IFILE, what do I need?

Before you can file a Form 5500 or Form 5500-SF using EFAST2, the appropriate individuals (described below) 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.

The EFAST2 registration process applies to the parties who have various roles in the preparation and filing of the annual report. The five available roles are Filing Author, Filing Signer, Schedule Author, Transmitter, and Third Party Software Developer. An individual can register for more than one role. Companies and other organizations can register as Transmitters and Third Party Software Developers, but not as Filing Signers, Filing Authors, or Schedule Authors.

The individual who completes the Form 5500 or Form 5500-SF must register as a Filing Author, and the individual who will sign the Form 5500/Form 5500-SF must register as a Filing Signer.

Q3: What do you mean by EFAST2 credentials and why do I need them?

If you use IFILE to prepare and submit a Form 5500 or 5500-SF, 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.

Q4: Is it easy to get EFAST2 credentials?

Yes. You can get your EFAST2 credentials by completing five easy steps on the EFAST2 Web site. The whole process should take just a few minutes.

1. Read and accept the privacy statement. On the next page, provide contact information (name, address, phone, company name, etc.) and user-type information (the four user types: for example, someone preparing, signing, and submitting a filing through IFILE will choose: “Filing Author” and “Filing Signer”).
2. Select one of two challenge (or security) questions and provide an answer. The challenge question and answer is used in case you forget your password. After verifying that the information you entered is correct, you will see the **Registration Confirmation** screen telling you that completion of your registration will be pending until you receive your **Credentials Notification** email with further instructions. EFAST2 generates and sends the Credentials Notification email within five minutes.
3. Once you receive the Credentials Notification email, click on the link in the email that will take you to a secure EFAST2 web site, which will display your registration information, UserID, and PIN, and ask you for the answer to your challenge (or security) question.
4. You will be asked to accept the PIN Agreement, which describes the security of your PIN and what to do if your PIN is lost or stolen, and the Signature Agreement, which describes your electronic signature.
5. You will be prompted to create a password. The password must be a combination of letters, numbers, and special characters and must be re-set after 30 days.

Once you have your UserID, PIN, and password, your EFAST2 registration is complete.

Q5: If I don't want to get EFAST2 credentials so that I can personally file my plan's Form 5500 or Form 5500-SF, is there any way that I can have a service provider complete and electronically file the Form 5500/5500-SF for me?

Yes. Many small business use service providers, such as third party administrators (TPAs), to manage the Form 5500 Series filing process for the plan. EFAST2 was designed so that the plan's Form 5500 or Form 5500-SF can be completed and submitted by a TPA. Such TPAs typically will buy EFAST2 approved software to prepare and file Form 5500 Series 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 general, if a service provider manages the filing process for your plan, the service provider personnel can get their own EFAST2 signing credentials and submit the electronic Form 5500 or 5500-SF for the plan using IFILE. We expect software developers will also be making this option available under their software, but you should contact your software vendor for information regarding its software.

Under this e-signature option, the service provider must confirm that it has specific written authorization from the plan administrator to submit the plan's electronic filing. In addition, the plan administrator must manually sign a paper copy of the completed Form 5500 or 5500-SF and the service provider must attach a PDF copy of the first two pages of the manually signed Form 5500 or 5500-SF as an attachment to the electronic Form 5500/5500-SF submitted to EFAST2. The service provider must communicate to the plan administrator any inquiries received from EFAST2, DOL, IRS or PBGC regarding the filing, and must inform the plan administrator that, by electing to use this

option, the image of the plan administrator's manual signature will be included with the rest of the return/report posted by the Labor Department on the Internet for public disclosure.

The electronic filing regulations and the Form 5500/Form 5500-SF instructions also require that plan administrators must manually sign a paper copy of the completed Form 5500 or Form 5500-SF under penalty of perjury, and keep that manually signed copy of the Form 5500 or Form 5500-SF, with all required schedules and attachments, as part of the plan's records.

Q6: Once my completed and electronically signed Form 5500 or 5500-SF is transmitted, how do I confirm that it was received by EFAST2?

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 the filing status states "Filing_Received," "Filing_Error," or "Filing_Stopped," then the annual return/report is considered received. Filings with a status of "Filing_Error" or "Filing_Stopped", however, have be identified as having processing errors or omissions and must be corrected through an amended filing to avoid the possibility of Agency correspondence and/or rejection of the filing.

If you do not get EFAST2 credentials because you had a TPA 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. You will need to follow up with the person that submitted your plan's filing regarding its status. Filings submitted under the EFAST2 program will be posted for general public access on the U.S. Department of Labor's Web site. You can always check the public disclosure area of the Web site ("Form 5500/5500-SF Search") to see if your plan's electronic filing was posted.

Even if your plan's filing was successfully received and posted by EFAST2, as noted above, the plan administrator is required to retain a copy, as part of the plan's records, of the Form 5500 or Form 5500-SF, with all required manual signatures, schedules, and attachments.

Q7: Are there civil penalties for failure to electronically file the plan's Form 5500 or Form 5500-SF?

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 and Form 5500-SF. Generally, whether the penalty is under ERISA or the Code, or both, depends upon the agency for which the information is required to be filed. One or more administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date.

Q8: Is there a process to appeal civil penalties assessed for failing to e-file?

Yes. ERISA section 502(c)(2) and the Department of Labor's civil penalty regulations detail the civil penalty process the Department of Labor follows for failure to timely file the annual return/report. Those steps include the following:

- ▶ Prior to the assessment of these penalties, the Department of Labor provides the plan administrator a written notice of intent to assess a penalty.

- ▶ The plan administrator has 30 days from the date of the notice to file a statement of reasonable cause for failure to timely file the annual return/report. Failure to file a statement of reasonable cause within the 30-day window is considered a waiver of the right to contest the facts alleged in the notice and may result in the full assessment of the proposed penalty.
- ▶ The Department may waive all or part of any penalty on a showing that there was reasonable cause for failure to file, and must notify the plan administrator of its decision. Refusing to take or waiting too long before taking the steps necessary to file electronically using the new EFAST2 would not be considered reasonable cause.

You should contact the IRS and PBGC regarding their civil penalty procedures for annual reporting violations.