

Am I Ready to Deliver IRS Tax Forms Electronically?

- I have provided a statement containing the following information to the recipient.
 - A paper copy will be provided if the recipient does not consent to receive the form electronically.
 - The scope and duration of the consent. For example, whether the consent applies to every year the form is provided or only for a particular year, as applicable, immediately following the date of the consent.
 - How to obtain a paper copy after giving consent.
 - How to withdraw the consent. The consent may be withdrawn at any time by providing the withdrawal in writing (electronically or on paper) to the person whose name appears on the statement. Confirmation of the withdrawal also must be in writing (electronically or on paper).
 - Notice of termination. The statement must explain under what conditions the organization will cease to electronically provide forms to the recipient.
 - Procedures to update the recipient's information.
 - A description of the hardware and software required to access, print, and retain a form, and a date the form will no longer be available on the website.
- I have received the recipient's consent to receive tax forms electronically.
- The consent was done electronically and proves that the recipient can access the form in its electronic format.
- I have ensured the electronic format contains all the required information and complies with Publication 1179, which contains the rules applicable to substitute statements to form recipients.

Preparing to Send Forms

- I have notified recipients of any hardware or software changes (if applicable).
- I have posted, on or before the required due date, the applicable statement on a website accessible to the recipient through October 15 of that year.
- I have informed the recipient the form was posted, electronically or by mail, and how to access and print the disclosure statement, and included the statement IMPORTANT TAX RETURN DOCUMENT AVAILABLE.
- I am ready to redeliver a hardcopy of the form to the individual within 30 days if the notice informing the individual the form was posted is returned as undeliverable.

Am I Ready to Deliver IRS Notices Electronically?

- The electronic notice will fulfill all requirements that were part of a paper notice (timing, content, etc.).
- The notice is no less understandable than a paper version of the same notice.
- The significance of the notice will be identified, including the subject matter of the notice.
- There are instructions on how to access the notice.
- The notice has been retained and can easily be reproduced by any party as needed.
- The delivery of the notice can be documented.
- The recipient has consented to receiving the notice electronically.
(If the recipient has not provided consent, see exemption from consumer consent requirements below.)

Consumer Consent

Individuals must affirmatively consent to receive electronic notices unless they have ability to access medium under the “exemption” rule below.

- The individual consented to receiving notices electronically.
 - Consent was made electronically in a manner that demonstrates the recipient can access the notice in the format used to deliver the notice, or
 - Consent was made on paper. (This is acceptable only if the recipient confirms the consent electronically in a manner that demonstrates the ability to access the notice in the format used to deliver the notice.)
- The individual has not withdrawn consent.
- Before consenting to the electronic delivery of the notice, the individual received a statement containing the following information.
 - The individual has the right to receive the notice in a different manner than the electronic notice.
 - The individual can request a paper copy (a description of any fees associated with the request must be included).
 - The individual has the right to withdraw consent (procedures for withdrawing consent and any consequences or fees for the withdrawal must be included.)
 - A description of the scope of the consent being made by the individual and whether it applies to a single notice, some notices, or all notices.
 - A description of the process for updating contact information.
 - A description of the required hardware and software to access the notice.

Exemption from Consumer Consent

- The recipient has the effective ability to access the electronic medium.
- The recipient has been advised that a paper copy of the notice is available at no charge upon request.

Am I Ready to Accept IRS Required Elections Electronically?

- The general requirements for delivering notices electronically have been met.
(Fulfills all the requirements of the election, is as understandable as if delivered on paper, the significance of the election is identified, and the election is retained in a manner that can be readily reproduced by any party.)
- The individual who is completing the election can use the system to make the election.
- The system is designed to authenticate that the appropriate individual is making the election.
- The system allows the individual to review, confirm, modify, or rescind the election before it becomes effective.
- The individual making the election will receive a confirmation of the effect of the election either by paper or electronically if the electronic notice requirements have been met.
- For elections that require a witness or notary public, the E-SIGN* requirements regarding electronic signature and state law requirements regarding electronic notarization have been met**.

* E-SIGN provisions state that any transaction that is not retained in a way that is capable of being reproduced later may be considered invalid or not enforceable. Employers and financial organizations should understand this requirement when using the IRS electronic transaction rules because they may have to reproduce the delivery or election to show the transaction did indeed occur. For accounts not subject to E-SIGN, financial organizations should refer to the Uniform Electronic Transactions Act for any applicable requirements.

** At this time, there are no federal guidelines for electronic notarization. If an organization wishes to use electronic notarization, that organization should review the state law requirements, which vary from state to state.

Am I Ready to Deliver DOL Required Notices Electronically?
(For employers using safe harbor guidelines under DOL Reg. 2520-104b-1(c))

I have satisfied the requirements for the electronic delivery safe harbor

- I have ensured the electronic system will result in the actual receipt of information (e.g. return receipt, notice of undelivered mail, surveys, etc.)
- I have verified the system protects the confidentiality of personal information relating to the individual's accounts and benefits.
- I have ensured the electronically delivered documents are provided in a manner consistent with the document requirements (style, format, and content).
- I have a method to inform participants of the electronically delivered documents, the significance of the documents, and the participant's right to receive a paper copy free of charge upon request.
- I will provide paper copies of the electronic documents upon request.

For those recipients who have effective access to documents and regular access to systems at work:

- I have ensured that those who can effectively access documents provided electronically at their job sites or can regularly access the employer's electronic system as part of their job duties have been provided the notice using the electronic system. No consent is required for these individuals.

For those recipients who are entitled to documents (e.g. retirees, beneficiaries) but do not have effective access to the documents or systems through the employer.

- I have received consent from individuals who do not have regular access to the company electronic information system but who are entitled to documents.
- I have provided a notice to individuals where consent is required. The notice includes the following.
 - The types of documents to which consent applies
 - Statement that consent may be withdrawn at any time without charge
 - Procedure for withdrawing consent
 - Procedure for updating the address for receipt of documents
 - Right to request a paper version and any associated fees
 - Hardware and software requirements for accessing and retaining the documents
- Consent was made electronically in a manner that demonstrates the recipient can access the notice in the format used to deliver the notice.
- A procedure is in place to request new consent if hardware or software requirements change.
 - Provide updated hardware or software requirements
 - Provide right to withdraw consent without charge
 - New consent is requested

Am I Ready to Deliver DOL Pension Benefit Statements Electronically? (Field Assistance Bulletin 2006-03)

- Participants and beneficiaries have continuous access to statement information through at least one secure website.
- A notice was provided to participants and beneficiaries
 - before the date on which the plan must provide the first pension benefit statement under ERISA Section 105 and annually thereafter,
 - explaining availability of the statement information and instructions to access the system,
 - informing individuals of the right to request a paper version of the pension statement information free of charge, and
 - written in a manner understood by the average plan participant.

Am I Ready to Deliver DOL Participant Fee Disclosure Electronically?
(If information is included in a pension benefit statement then follow FAB 2006-03,
otherwise use this method or DOL safe harbor requirements)

- The electronic delivery system results in actual receipt of the transmitted information.
- The electronic delivery system protects the confidentiality of personal information.
- Notices provided to participants and beneficiaries are written in a manner understood by the average plan participant.

Initial Notice

- The notice must be clear and obvious, provided at the same time and in the same medium as the request for an email address and must contain the following information.
 - A statement that providing an email address for receipt of the disclosures is voluntary and will result in the required disclosures being provided electronically.
 - Brief description of the information that will be provided electronically and how it can be accessed.
 - A statement that the individual has the right to request a paper copy of the information, free of charge, and an explanation of how to obtain the paper copy.
 - A statement that the individual has the right, at any time, to opt out of receiving the information electronically and an explanation of how to exercise that right.
 - An explanation of the procedure for updating the email address.

- Participants and beneficiaries must voluntarily provide the employer with an email address.

The email address must be provided in response to a request accompanied by an initial notice.

Providing an email address will be considered voluntary if the participant must provide it electronically to access a secure website that contains the required disclosure, and an initial notice is provided to the participant.

Annual Notice

In the year following the year the participant or beneficiary voluntarily provided the email address, and annually thereafter, the plan administrator must provide an annual notice to each participant or beneficiary.

The plan administrator may send the notice to an email address on file for the participant if there is evidence that the participant has interacted electronically with the plan after the date the notice for the preceding year was provided.

Interaction includes participant or beneficiary updating, resubmitting, or confirming his email address to the plan; sending an electronic message to the plan; or logging onto a secure website that contains plan information.

- The notice must contain the following information.
 - A brief description of the information that will be provided electronically and how it can be accessed.
 - A statement that the individual has the right to request a paper copy of the information, free of charge, and an explanation of how to obtain the paper copy.
 - A statement that the individual has the right, at any time, to opt out of receiving the information electronically and an explanation of how to exercise that right.
 - An explanation of the procedure for updating the email address.