

Ask Kidder.®

EFAST2 IS COMING in 2010!

Are you ready to file Form 5500 electronically?

For plan years beginning on or after January 1, 2009, the Department of Labor (DOL) now requires every qualified retirement and welfare plan under Title I of ERISA to file Form 5500 electronically. This includes 401(k), 403(b), Defined Benefit, Cash Balance and ESOP plans. This is not necessarily bad news, because ultimately, electronic filing can be more efficient than paper filing, and it's easy to prove timely delivery of the form to the DOL. The electronic filing system is called EFAST2.

Owner-only plans are the only exceptions to the electronic filing requirement. These are plans that have no employees – such as plans covering a sole owner (and his/her spouse) or partners in a partnership (and their spouses) – and they may continue to file a paper Form 5500-EZ, so long as they satisfy certain requirements.

Owner-only plans can also file electronically, but must file and satisfy the requirements associated with Form 5500-SF rather than Form 5500-EZ. Form 5500-SF is a new short Form 5500 and may be used if the plan sponsor (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. As with all Form 5500 filings, Form 5500-SF is a publicly disclosed document.

For 403(b) plans, electronic filing is required, unless the plan is a “deferral-only” plan that satisfies the specific “limited employer involvement” requirements.

There are three (3) options to satisfy the electronic filing requirements for Form 5500 preparation and submission:

- 1) a private web-based system the preparer uses to complete and transmit the Form 5500 to the DOL;
- 2) a private software program the preparer uses to complete and transmit the Form 5500 via the Internet to the DOL;
- 3) the DOL's web-based system the preparer uses to complete and file the Form 5500.

At Kidder, we'll be utilizing option 2 to prepare and submit Form 5500 on behalf of our administration and compliance clients.

How the process will work

The process is similar to the current paper-based approach, except it is handled electronically and with an electronic signature.

Certain participants in the process are required to be “credentialed.” If we are your Third Party Administrator (TPA) and preparer of your Form 5500, Kidder will obtain “filing author” credentials. Record keepers (investment platforms) that complete certain schedules for the Form 5500 will obtain “schedule author” credentials. Plan sponsors will obtain “filing signer” credentials.

After Kidder completes the Form 5500, the plan sponsor will be invited to electronically sign the form by entering its credentials. The form will then be submitted.

Plans that involve an actuary, such as Defined Benefit and Cash Balance plans, have an exception to the electronic signature rules. The Board of Actuaries requires that the actuary sign Schedule SB or M, which can be scanned and attached as a PDF for electronic filing with the remainder of the form.

How to obtain credentials

Signature credentials must be obtained directly by the person required to sign electronically. Neither Kidder nor any other TPA can obtain credentials on another person's behalf. In January 2010, the plan sponsor will be able to obtain “signature” credentials by visiting the EFAST2 website and completing the required information. You will receive a confirming email with a link to a secure website where you will receive your signer ID and PIN code.

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NOTICE: Any tax advice expressed in this communication (including any attachments) is not intended to be used, and cannot be used, for the purpose of avoiding penalties imposed on the taxpayer by any government taxing authority or agency. If any such tax advice is made available to any person or party other than the party to whom the advice was originally directed, then such advice is to be considered as being delivered to support the promotion or marketing of the transaction or matter discussed or referenced. Each taxpayer should seek specific tax advice based on the taxpayer's circumstances from an independent tax advisor.

Submissions and extensions

When it receives Form 5500 electronically, the DOL will determine within a 24-hour period whether the form will be accepted or not. If not accepted, the DOL will indicate the reasons, and the filer must make changes and resubmit. The DOL will not consider a Form 5500 to have been filed until the DOL has accepted the filing. In addition, plans large enough to require annual audits by independent CPA firms may not file the Form 5500 without that audit attached. The DOL will not accept the form without the audit.

For Form 5500 filing extensions, the procedure remains the same. Form 5558 is filed with the IRS. Under EFAST2, the plan sponsor does not attach the electronic filing but retains a copy for its files.

Is the Form 5500 process now completely paperless?

No. The plan sponsor still must retain a signed copy of the electronically filed Form 5500 for its records. The DOL has indicated that the Form 5500 and schedules (which have always been a matter of public record) will be posted for public viewing within 90 days of the filing. In the past with paper based filings, public access was delayed for many months.

If you have any questions, please contact your Kidder Primary Administrator or Regional Pension Consultant.

Special Announcements

Feldt achieves ERPA designation

John A. Feldt, ERPA, CPC, QPA and Kidder's Manager of Document and Design Services obtained his Enrolled Retirement Plan Agent (ERPA) designation this summer. This new designation, which is available from the IRS in conjunction with the American Society of Pension Professionals and Actuaries (ASPPA), allows John to represent clients before the IRS on retirement plan matters under Title 26 of ERISA due to his competence in specific tax matters. This includes Employee Plan Determination Letters, Employee Plan Compliance Resolution System, Employee Plans Master and Prototype and Volume Submitter programs, and Form 5300 and 5500 Series issues.

Dinesen achieves Enrolled Agent designation

Jason T. Dinesen, EA, Assistant Employee Benefits Administrator, obtained his Enrolled Agent (EA) designation with the IRS this summer. An Enrolled Agent has earned the privilege of representing taxpayers before the IRS. EAs, like attorneys and CPAs, are unrestricted as to which taxpayers they can represent, what types of tax matters they can handle and which IRS offices they can practice before.

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