

Ask Kidder.®

Special Edition

Additional Electronic Filing Requirement for Form 5500 filing now available

In prior newsletters and current communications to our clients, Kidder announced that for plan years beginning on or after January 1, 2009, every qualified retirement and welfare plan under Title I of ERISA is required to file Form 5500 electronically. Kidder has provided on its homepage (www.askkidder.com) an EFAST2 Button that provides easy to understand instructions to allow the plan sponsor to obtain the needed signing credentials for Form 5500 electronic submission.

The ASPPA Plan Administrators Policy Alliance (APAPA), of which Kidder is a founding member, was also able to successfully lobby the Department of Labor (DOL) for an additional option. As a result of these efforts, the DOL provided most of what was requested. On May 13, 2010, the DOL Employee Benefits Security Administration (EBSA) announced an additional e-signature option for Forms 5500 and 5500-SF electronic filing. This option is intended to simplify the process, especially for small businesses that use service providers.

While this new option is a step in the right direction, it has a CAVEAT to consider. Additional option:

1. A service provider (such as Kidder) that manages the filing process can obtain its own signing credentials and submit the Form 5500 or 5500-SF for the plan.
2. The service provider must confirm that it has specific written authorization from the plan administrator (plan sponsor) to submit the plan's electronic filing.
3. The plan administrator must manually sign a paper copy of the completed filing (as it has been done in the past), and the service provider must attach a PDF copy of that signed paper copy as an attachment to the electronic filing submitted to EFAST2.
4. The service provider must communicate to the plan administrator any inquiries received from EFAST2, the DOL, the IRS or the PBGC.

5. The plan administrator must be informed that the image of the plan administrator's manual signature will be included with the rest of the Form 5500 filing that is posted by the DOL on the Internet for public disclosure.

The CAVEAT is item #5. If a plan administrator does NOT want his/her signature available for public disclosure, then this additional option should NOT be utilized. The original electronic filing option should be used (again, found at www.askkidder.com – EFAST2 Button). Keep in mind that a plan administrator's signature may already be in the public domain if he/she has any recorded documents such as those related to real estate with their county or state.

401(k) Voluntary/Mandatory Questionnaire coming to 1,200 Employers

The IRS Employee Plans Compliance Unit (EPCU) has recently sent letters and instructions to 1,200 Employers sponsoring 401(k) plans.

The 401(k) Compliance Check Questionnaire responses are intended to provide a comprehensive view of 401(k) plans so the EPCU can maximize its resources to assist plan sponsors.

Each employer receiving this questionnaire is assigned a personal identification number (PIN) to use when filing the online questionnaire. Topics covered include plan demographics, participation, employee and employer contributions, top-heavy and discrimination testing, distributions and other items.

This questionnaire is technically voluntary and not considered an audit. However, the IRS is free to use the information to open an audit of your 401(k) plan. Failure to respond or provide complete information can result in additional action or examination of your 401(k) plan.

If you received such a letter, have it completed by someone in your organization that is thoroughly knowledgeable about plan compliance. For Kidder clients, contact your Kidder Primary Administrator for assistance.

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.