

EFAST and Form 5500 Changes: What You Need to Know

Beginning January 2010, your plan's Form 5500 must be filed using the ERISA Filing Acceptance System, or EFAST. In addition, the IRS has made substantive changes to Schedule C, which may require additional information from plan sponsors.

Here's what we know so far:

Filing Is Going Digital

While electronic filing of your annual Form 5500 has been possible for some time, it was not required. But, beginning January 2010, electronic filing becomes mandatory for plan years beginning January 1, 2009, or later.

By way of background, the EFAST system is a collaborative initiative between the IRS, Department of Labor (DOL) and the Pension Benefit Guaranty Corporation (PBGC). The system is designed to provide plan sponsors with a cost-effective means of filing Form 5500 while providing the federal government with prompt and efficient access to valid data. Likewise, plan participants, the public and ERISA organizations should enjoy access to up-to-date plan data.

Registration Need-to-Knows

While many of the details will be handled by your Form 5500 preparer, plan sponsors must be aware that they will have some responsibilities under EFAST.

For instance, all persons who have contact with Form 5500 in any way, including signers, will need to register with EFAST and obtain a user ID and PIN. Registration begins January 2, 2010, and is a simple matter of logging on to the DOL's EFAST website. Note that log-in credentials are limited to one set per e-mail address, so your accounting firm cannot obtain signature authority for you.

When registering, you'll need to disclose what type of user you are. This, in turn, affects the type of menu available to you. User types include:

- Filing author (return preparer)
- Filing signer (person who signs the return) – individuals, not plan sponsors/entities
- Schedule author (schedule-only preparer – i.e. actuary and Schedule MB or SB)
- Transmitter (party who transmits the electronic return)
- Third-party software developers

Action: *Be prepared to hear from your accounting firm with details on obtaining and maintaining your e-filing credentials (signature IDs and PINs) and filing electronically.*

Schedule C Requires More Information

Major changes have also been made to Schedule C of Form 5500. These changes are designed to highlight fees paid to service providers and bring to light any conflict of interest concerns.

Fees paid from plan assets to service providers who receive compensation of \$5,000 or more during a year must be noted. Further, compensation must be broken out into *direct compensation* (paid directly out of the plan) and *indirect compensation* (from sources other than directly from the plan or plan sponsor). Direct and indirect compensation must be reported separately, with service codes to identify what the compensation relates to. In addition, you will be asked to report any difficulty you experience while gathering the required information on direct/indirect compensation. The revised Schedule C instructs you to identify each service provider that failed or refused to provide the information necessary to complete the form.

Action: *Identify all plan service providers and collect the required data for those who receive \$5,000 or more in total direct and indirect compensation. While service providers are likely to provide this information automatically, you may need to follow up with any that do not. Report any service providers that fail or refuse to provide the required information using the new Part II of Schedule C. Note that you must provide a final warning before listing any service providers on this schedule.*

Schedule SSA

Under EFAST, Schedule SSA will no longer be filed along with your Form 5500. This schedule is used to report to the Social Security Administration any participants who have left the plan and still have vested money available. While this information was never disclosed publicly before, officials want to ensure that there is no identifiable Social Security information with e-filing.

Action: *Your form preparer will complete a new Form SSA using paper copies and then file it directly with the IRS.*

Form 5500-SF

Effective for 2009 filing years, the DOL will provide a Form 5500-SF (short form) to be used by small plans. The streamlined, two-page Form 5500-SF does not require any schedules other than Schedule SB for defined benefit plans.

A pension or welfare plan is eligible to file a Form 5500-SF if the plan:

- covers fewer than 100 participants (the 80/120 rule applies),
- is eligible for the audit waiver,
- has no employer securities, and
- has 100 percent of its assets invested in investments with a readily ascertainable market value.

In addition, owner-only plans may file Form 5500-SF electronically beginning in 2009 or continue filing paper Form 5500-EZ (electronic filing is not available for Form 5500-EZ).

What About 403(b) Plans?

It is important to note that these new filing procedures and changes to Form 5500 also apply to 403(b) plans. Amendments to Department of Labor regulations mean that ERISA-covered 403(b) plans are now subject to the same reporting and audit requirements as 401(k)s.

Action: *Determine if your plan is subject to the new 403(b) reporting and auditing requirements. If your plan has 100 or more eligible participants, you'll need to file audited financial statements for the plan. Smaller plans (fewer than 100 participants) may be eligible to use abbreviated reporting forms without having to file audited financial statements.*

Making a Good-Faith Effort

Since this is all new for the 2009 plan year, there will likely be some confusion. Plan sponsors, plan auditors, and service providers will need to work together to make a good-faith effort to comply with Schedule C reporting requirements, especially for the 2009 plan year. As always, the earlier you can file the less chance you may have of running into system delays.