

**From:** Whaley, Timothy [timothy.whaley@thomson.com]  
**Sent:** Tuesday, October 11, 2005 1:12 PM  
**To:** EBSA, E-ORI - EBSA  
**Subject:** Comments concerning Proposed Labor Reg 2520.104a-2

This is concerning the Department of Labor's Employee Benefits Security Administration's (EBSA) proposed regulation to establish a mandatory electronic filing requirement for annual reports filed with EBSA by plan administrators and other entities on Form 5500 for plan years beginning on or after January 1, 2007. (Prop Labor Reg 2520.104a-2)

I am an analyst with Creative Solutions, a tax software provider (UltraTax CS), and I am responsible for the development of our Form 5500 software in both the paper and electronic format. In conjunction with your proposed regulations and on behalf of my company, we wish to make the following comments:

In the Pension and Benefits Week article dated 9/6/05 (Volume 11, No. 36), it stated "In addition to proposing required electronic filing, EBSA noted that it also has begun the technical process necessary for the development of a new processing system and is considering whether any design or data changes should be made...". We are hoping that it is the intention of EBSA to create an electronic filing process using the Modern Efiling System (MES) in the XML language as is being developed used by the IRS for their tax products. It is our hope that the standards established by the IRS with their XML system are also followed in the development of the new EBSA system. Development of an XML electronic filing system that does not follow the standards established for XML by the IRS will certainly involve covering areas of development that have not been established and tested.

We have no specific disagreement with the establishment of a mandatory electronic filing initiative. It is our belief that this will serve as the most cost-effective way for filing the Form 5500 series. However, we do have a concern with the current system of obtaining the PIN and Signer Identification. Currently, anyone electronically filing a Form 5500 must submit Form EFAST-1 by mail to obtain a PIN and User Identification Number. Although this is a one-time application process, we have found that this seems to cause the biggest delay and largest number of rejections. This is due to the fact that most filers with electronic filing experience are used to the Self-Select PIN option available through the IRS electronic filing system. I have to assume that the process the DOL is currently using is one that has been mandated by counsel, but we would highly recommend you pursue an alternate option of either obtaining a PIN/User ID, or consider usage of the Self-Select PIN option.

Thank you for allowing us this opportunity to present our suggestions and concerns.

Sincerely,

**Timothy Whaley**  
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