

**From:** Kevin Combrink [combrink@rogersco.com]  
**Sent:** Friday, April 30, 2004 1:01 PM  
**To:** efast2@dol.gov  
**Subject:** EFAST comments

EFAST Program Office  
Employee Benefits Security Administration, Room N-5459  
US Department of Labor  
200 Constitution Avenue NW  
Washington DC 20210  
Attn: EFAST RFC

EBSA,

I would like to submit the following comments regarding the proposed changes in the EFAST system. To give you an idea of my perspective for these comments, our firm prepares Form 5500's for all of our clients using machine-print forms.

Paragraph 1. Method of filing and Paragraph 3. Mandatory Electronic Filing.

The Background Description of Current System section states that processing of paper filings has nearly twice as many errors as electronic filings. If this refers to machine-print forms, I would suggest a redesign of the 2D barcode, instead of eliminating machine print forms.

Hand-print forms will always be less efficient for processing the filings, even if they are computer generated. For those plan sponsors who prepare their own filings using the government printed hand-print forms, the proposed direct electronic filing via the DOL web site should make the filing process easier, faster and more accurate. For service firms who prepare filings, software should be able to replace the computer generated hand-print forms with machine-printed forms. If you have to eliminate any paper filings, I would suggest that once the web based system is operational, you eliminate hand-print forms and require all paper filings to be done using machine print forms.

Electronic filing should not be made mandatory. Electronic filings will definitely speed up the processing of the forms. But, electronic signatures seem to be the biggest obstacle to electronic filings. Most 5500's are prepared by service firms, not by the Plan Administrator or Employer. Then, the electronic filing has to be sent to the Employer, Plan Administrator and Trustee for their electronic signatures before filing. Unless you can come up with an easy way for all three electronic signatures to be added to the filing after it has been prepared, without requiring each party to purchase special software, electronic filings will not be widely used. Requiring electronic signatures with the current electronic signature method will only result in an incentive for signers to provide their PIN to their service firm for use on the filing. It seems contrary to the purpose of requiring electronic signatures if the signatures end up being attached to the filing by someone other than the signer.

Another option might be to have a paper signature page used in conjunction with electronic filing of the remainder of the Form 5500. Or, perhaps there might be a way for signers to use the EBSA web site to access and sign a Form 5500 that has already been electronically submitted.

9/30/2004

## Paragraph 2. Simplification of Electronic Signature and Authentication Procedure

With the recent changes to the EIN application process as a model, you should be able to make changes to speed up and simplify the process for setting up electronic signatures. However, the main obstacle will continue to be the issue listed as (2), signer having to send PIN's and signer IDs to transmitters. As long as this occurs, there will always be a possibility of compromised data in the filings and a possibility that an electronic signature is attached to a form the signer has not seen. The biggest advantage of paper filings is the ability of the signer to physically hold, review, sign, and then file the Form 5500. No computer expertise or third party assistance is needed for paper signatures. It may not be possible to have electronic signatures that are as secure as paper signatures.

## Paragraph 4. Filing Fees

The suggestion to pursue filing fees for Form 5500 should not be implemented, even if limited to filings received on paper. Filing fees will increase the expense of maintaining a plan. This additional fee wouldn't be significant for large plans, but it will be for those smaller employers who sponsor a plan. With many smaller plan sponsors scrambling to reduce plan expenses so they can remain in business, an additional annual filing fee may result in plan terminations. It will also provide an incentive for some employers to fail to file.

## Paragraph 6. Third Party Attachments

One of the suggested options for handling third party attachments is to have them retyped into the electronic filing. Manually retyping these attachments will be extremely time consuming and will introduce additional errors into the filing. Please remove from consideration any option that requires transcription of any attachments. The suggestion that third parties provide the attachments to the Plan Administrator in both paper and electronic formats is the best option. Auditor's reports would likely work best as a .pdf file. Schedule B's could be done in an electronic format similar to that used for the remainder of the Form 5500.

## Paragraph 7. Improved Consistency of Treatment

The suggestion that the due date for filing paper returns be changed to four months after the end of the plan year should not be implemented. For Plans subject to Section 412, this requirement would also speed up the due date for the deposit of contributions. Even with an extension, the return would be due within six and a half months after the end of the plan year. The Form 5500 would be due at least two months before the date for determining whether a funding deficiency has occurred. Also, some smaller employers, especially those who are sole proprietors or partnerships will have difficulty in finalizing their income information in time for the valuation to be completed before April 30. These employers are the ones most likely to use paper returns.

## Paragraph 9. Require Each Plan to Obtain a Unique EIN

The suggestion that each Plan obtain a unique EIN would impose a burden on plan administrators with questionable, if any benefits in accuracy in filings. Those administrators who currently disregard the filing instructions by filing under inconsistent plan numbers from year to year will continue to disregard the filing instructions with unique EIN's. For purchases, sales and mergers of plan sponsors, the Form 5500 already includes places to provide information on the name, EIN and PN used for the prior year's filing and the destination of assets merged into another Plan. If the Form 5500 is completed correctly, it will contain sufficient information to identify the Plan's filing for the previous year.

**Paragraph 10. Separation of Certain Information from Form 5500**

The suggestion to separate the Form 5500 filing into two separate filings should not be implemented. Two annual filings will increase the burden on both the filer and the government. While the information processed by the DOL would decrease, the IRS would be required to create and maintain its own system to process and maintain this information. It should be much more efficient if the nondisclosable information is separated in the DOL's database instead of using physically separate collection systems.

Sincerely,

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