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**To:** 'efast2@dol.gov'  
**Subject:** EFAST2 Comments

Thank you for the opportunity to comment. Please see the attached PDF file.

<<Comments on EFAST2 Proposals.pdf>>

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Attn: EFAST RFC

This memorandum is in response to the DOL's request for comments on the proposed EFAST2 program. We appreciate the Agency's willingness to invite public comment and solicit suggestions on further improving the EFAST system.

As a vendor under the current EFAST program since its inception, and the first vendor to provide software for preparing 5500-series forms on a computer in the mid-1980s, DATAIR is uniquely qualified to comment on this subject.

First and foremost, we agree with the general goals of the DOL to improve the EFAST filing program, and particularly to move towards greater use of electronic filing. However, we do feel that this move can not simply be promulgated via edict. Rather, it needs to be phased-in over a period of time. We believe that there is no single "magic bullet", but rather a series of coherent and progressive steps is what will lead to continued success of the program.

An Alternative to PINs:

While electronic signatures are the holy-grail, a ubiquitous and universally available electronic signature system simply doesn't exist at this point. However, EFAST should not let the electronic signature issues derail its goal of 100% electronic filing. With this in mind, we'd like to propose an alternative to, or addition to, the PIN signature system currently in effect.

When a filing is either completed online or completed in vendor software and uploaded, the EFAST-proposed filing web site would create a unique "serial number" that represents that filing. Anytime changes are made to the filing, a new serial number would be created.

If the user were completing the filing online, they would have the option of entering the EFAST-assigned PIN(s), or printing a single signature page with a barcode that contains the EIN-PN, and the serial number as well as places for handwritten signatures.

The user would print the page, sign it, and either fax or mail it to the EFAST processing center.

Upon receipt by the EFAST processing center, this one page would be scanned and the serial number verified against the current filing. If it matches, the filing would be considered filed. The signature page must be postmarked, or faxed, by the filing deadline.

If third-party software is being used, the process would be very similar except the software would upload the filing to the EFAST web site, which would calculate the serial number and return it to the software. The software would then prepare the barcoded signature page as above.

While this may be seen as not being totally electronic filing, we believe that it accomplishes the goal by:

- 1) Filing data being received electronically.
- 2) Providing an alternative signing mechanism that is ubiquitously available
- 3) Reducing the amount of paper involved to a maximum of one page per plan, and then only for those that don't use EFAST-provided PINs. If fax transmission is used, the filing could be processed totally electronically, without human intervention on EFAST's part, and without any paper handling required.

Obviously, we'd strongly recommend using a barcode technology that would be compatible with faxing to allow completely automated hands-off processing. There would be very little barcoded data on the form, simply comprised of an EIN-PN and a serial number, which would make the data readable when sent by even the worst fax machines. We'd suggest having the system be able to send a confirmation (or rejection) email or fax to the sender at the email address or fax number provided. The status would also be immediately available on the web site and through the IVR system.

Beyond this recommendation, we also believe there are a number of other actions which can be taken to simplify and, improve the EFAST program and move it towards 100% electronic filing.

### **The Path Forward:**

#### Year 1

- 1) Eliminate computer-generated hand-print forms. There simply isn't sufficient justification for supporting this redundant filing modality.
- 2) Eliminate non-OCX machine-print forms. We believe the extra burden that these forms place on EFAST do not justify their existence

This would leave Electronic (ELF) filing, OCX-prepared Machine Print, and Government Printed Hand Print forms as the approved filing mechanisms in Year 1.

#### Year 2

- 1) Grant an automatic 2-1/2 month extension to electronic filings without need for Form 5558. The IRS currently does this for 1099 filings, and it works very well. No changes in law are required to make this change. It's offering a carrot to those choosing to use ELF, rather than a stick demanding that they use it.
- 2) Introduce the EFAST web site that allows filers who would normally complete hand-print forms to file online. Introduce the "Signature Page" concept presented above.
- 3) Allow EFAST software to upload filings via the internet as a transmission mechanism. Offer modem-based filing as an alternative for those entities that are prevented from having computers connected to the internet for security reasons. Software would continue to produce Machine Print output as well as the "Signature Page".

4) Require (through regulation or legislation) parties providing documentation that must be filed with Form 5500 (such as the accountant's report) to provide the material in electronic format which is compatible with EFAST unstructured attachment requirements.

### Year 3

1) Require EFAST software to upload filings via the internet. (see item #3 in Year 2).

### Year 4

1) Eliminate fileable Machine Print forms; however continue to print Draft/File Copies of filings.

We believe the above schedule is both realistic, and appropriately balances the interests of the employee benefits community, the government entities involved, and the software vendors that currently play such a vital role in the reporting process.

We also believe there are several things that should not be done. Among them:

1) Do not shorten filing deadlines in any way. It simply isn't feasible for TPA firms to compress the necessary process further. It would lead to extreme undue hardship for these firms.

2) Do not mandate electronic filing for the short term. We believe strongly that it's important to take a progressive approach. The timetable above is probably as, or more than as, aggressive as the schedule could possibly be.

3) Do not significantly alter the role of third-party vendors who provide the software that is used to prepare the vast majority of filings. The vendors provide substantial added value to the filing process, and the mission of EFAST would be incalculably harmed without their participation.

4) Do not implement filing fees. The mandatory filing program should not be seen as a revenue source. As a matter of public policy, employer-sponsored retirement and welfare plans are a benefit to society, and increasing the cost of providing these plans sends the wrong message. Not only is it likely, but probable, that this direct cost would be passed on to participants themselves. Additionally, a simple-per-plan fee would not be equitable between large and small plans, and would unfairly put the burden on small plans.

In conclusion, we share EFAST's overall vision for the future, and welcome the opportunity to help refine and clarify the road ahead. The partnership between the EFAST, government contractors, the third-party software vendors, and the employee benefits community has been very positive over the past five years, and we look forward to a continued successful relationship.

If you have questions about these comments, or would like to discuss them further, please feel free to contact the author, Gary Saake, via email at [garys@datair.com](mailto:garys@datair.com), or via phone at (630) 325-2600

Sincerely,



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