Advocacy Urges the Employee Benefits Security Administration to Consider Alternatives to Electronic Filing of Annual Reports

On October 14, 2005 the Office of Advocacy sent a comment letter to the U.S. Department of Labor, Employee Benefits Security Administration (EBSA), in response to their notice of proposed rulemaking, *Electronic Filing of Annual Reports* (70 Fed. Reg. 51,543, August 30, 2005). Advocacy urged EBSA to consider allowing small plans to participate voluntarily in electronic filing of Form 5500 during the first year it is mandated. Additionally, Advocacy suggested that small plans be given a one time exemption from penalties for unintentional filing errors. A copy of Advocacy's letter can be accessed at http://www.sba.gov/advo/laws/comments/.

- Currently, annual reports are required for certain pension and welfare benefits plans. Form 5500 is used to comply with the reporting requirements. Form 5500 can be filed electronically or can be filed on paper forms. EBSA proposes to require all plans to file Form 5500 electronically beginning with plan years beginning on or after January 1, 2007.

- EBSA has completed an initial regulatory flexibility analysis (IRFA) in which it identifies the substantial economic burdens that will be incurred by small plans and considers alternatives. However, EBSA rejects all identified alternatives to electronic filing as too burdensome to the government.

- Both alternatives recommended by Advocacy will limit small plans' exposure to the inevitable technical difficulties that will be discovered once the new filing process is in place. Further, providing a one time exemption from penalties for unintentional filing errors will reduce the reluctance some small plans have to participating in the new filing process.

For more information, visit Advocacy's Webpage at http://www.sba.gov/advo, or contact assistant chief counsel Candace B. Ewell by phone at (202) 401-9787 or by e-mail at candace.ewell@sba.gov.