



EVERYONE'S GOING DIGITAL (AND OTHER YEAR END DEADLINES)

EFAST-2

Predictably, everything is going digital: digital TV, digital phones, and now digital retirement plan tax "returns".

During the initial surge of the Internet wave in 1999, the federal government introduced "EFAST", or "*ERISA Filing Acceptance System*". This first electronic system featured scannable, bar-coded forms and *optional* electronic filing via modem. Ten years later, the government is *mandating* the use of its upcoming EFAST-2, which will *require* the digital transmission of the retirement plan sponsor's Form 5500 Series to the US Department of Labor (the "DOL").

Thus, beginning on January 1, 2010, the plan sponsor's signor, will have to acquire their own specific "digital signature" by accessing the DOL's website at <http://efast.dol.gov>. This digital signature will be comprised of a "*user ID*" and a "*PIN*" and will be specific to that individual, not the business sponsoring the plan. Like your bank account "PIN", you should not share your upcoming "user ID" or "PIN" with anyone. As a follow-up, the DOL will be sending you an informational post card in January to remind you of this new procedure. Your NRS Account Manager can explain these procedures further, such as the need for each signor to have his/her own unique email address.

Your digital signature will be used on the 2009 Form 5500 series that are normally filed in July 2010 for calendar year plans. Although NRS will be preparing & facilitating the digital transmission of your retirement plan Form 5500, you will need to keep a signed paper copy in your files for at least 7 years.

The advantage of EFAST-2 is that you will receive an immediate filing acknowledgement regarding your retirement plan's Form 5500 series, and real time feedback from the DOL if there are inconsistencies that require your attention. Errors by the DOL in processing your filing should also be minimized.

Small retirement plans filing on Form 5500EZ and covering only the owner and/or their spouse, are permitted to file their 5500EZ on *paper* forms with the IRS with the usual ink signature. Electronic filing, using Form 5500-SF is also available for these plans. However, plans filing electronically will be posted on the Public Disclosure web site.

In addition, the 2009 Form 5500 Series themselves will feature some new and expanded questions to reflect recent legislation under the Pension Protection Act of 2006 ("PPA"), or regulatory issues, such as the disclosure of fees paid to certain retirement plan service providers. These new requirements will be emphasized and explained in greater detail in your forthcoming NRS data collection letter.

Safe Harbor 401(k) Deadline Approaching

A new 401(k) plan can be adopted late in the year and can be designed to satisfy the "safe harbor" provisions so that no discrimination testing will be required. However, a new safe harbor must be in effect for a minimum of three months or as soon as administratively feasible after the employer comes into existence. This means that a new 2009 calendar year plan must be in place no later than *October 1, 2009*. Since employee notices are required prior to the start of the employee deferral period, this means that participants must be notified of the approaching plan in September .



EGTRRA Plan Restatements & PPA Plan Amendments are Required

As mentioned in previous newsletters, all tax qualified retirement plans are required to be amended to incorporate the rules of the Pension Protection Act of 2006, (“PPA”). These amendments must be adopted no later than the last day of the Plan Year that starts in 2009. For a calendar year plan, that means the amendment is required by December 31, 2009. These amendments differ, depending upon whether the plan is a defined benefit or a defined contribution plan and whether the document is a prototype or a volume submitter document. These amendments will be sent to NRS clients in October.

Perhaps more importantly, all pre-approved defined contribution plans must be restated so that the documents contain language now approved by the IRS. This process began a number of months ago and will continue to heat up as 2009 winds down. NRS clients that use our pre-approved 401(k), profit sharing, or money purchase documents that have not yet sent in their retainers to initiate the restatement are urged to do so before the restatement timing becomes critical.

Please contact your NRS Account Manager before year end for further information on these requirements or other value added topics and strategies.

For more information or to request a proposal, please visit our website at www.NRServices.com, or for sales support, please contact:

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