



EFAST2 – UPDATE

As you recall from prior newsletters, we informed plan sponsors that their annual Form 5500 Series for calendar year 2009 is required to be electronically filed through the “EFAST2” system, except for “one participant” retirement plans filing the 5500EZ. Thus, for the majority of retirement plans, this year’s filing will be on *either* the new Form 5500SF (for plans with 2-99 participants on the first day of the plan year), *or* the Form 5500 (for plans with 100 or more participants on the first day of the plan year). In order to expedite this electronic filing, plan sponsors submitting either the Form 5500SF, or the larger Form 5500, would have to acquire **both** an *email address* (if he/she does not already have one), along with EFAST2 “*signing credentials*”. The individual who is signing the 5500 is required to obtain filing signer credentials by completing the registration process on line at www.efast.gov.

We have described the new 2009 Form 5500EZ as being a little shorter, with different formatting, yet retaining the paper, not electronic, filing format.

Thus, it is time to focus on the new **Form 5500 SF** for retirement plans with 2-99 participants. This electronically filed return will be only two (2) pages, with no accompanying schedules. But, in order to utilize this “short form” reporting system, your retirement plan must:

- a). have all of its assets in “easy to value” investments such as mutual fund shares, insurance investment contracts, public traded securities held by registered investment houses, cash, or plan loans.
- b). avoid *ineligible* assets such as real estate and real estate investment partnerships, or collectables such as art, or jewelry.

This new Form 5500SF is the subject of the Department of Labor’s current postcard that many plan sponsors will be receiving, or have received recently. Although this postcard states, “you may be required to file a Form 5500, a new Form 5500Sf...”, please note, that as always, NRS will be preparing this annual Form 5500 Series for your review and approval.

Plan sponsors that hold ineligible assets noted above will have to electronically file on the larger Form 5500.

Plan sponsors who use NRS, will know when their retirement plan’s Form 5500SF/5500 is available for review and approval when they receive an email from the Department of Labor. Upon receipt of this email, the plan sponsor will be directed where to log in to view, approve, and digitally sign its Form 5500 Series. Once the Form 5500 Series is digitally signed by the plan sponsor, NRS then submits it to the Department of Labor via the EFAST2 system. Once submitted, the form can be viewed at any time by using the login information for the DOL website at www.efast.dol.gov.

If for whatever reason, additional time is needed to file a complete and accurate return, a 2 ½ month extension is available, and can be filed by NRS on the plan sponsor’s behalf.

NEW LAW PROVIDES FUNDING RELIEF

On June 25, 2010, the President signed a new law that included funding relief for cash strapped employers trying to fund their defined benefit pension plans under the new tougher funding rules passed in 2006. The new funding law modifies complex pension plan funding rules by adding money saving options for employers that can reduce contributions by up to 11% of unfunded obligations.

The rules apply only to underfunded defined benefit pension plans, but can be very meaningful for employers that sponsor such plans. In addition to funding changes, relief is also provided for plans that had to freeze pension benefits because the plan’s Adjusted Funding Target Attainment Percentage (“AFTAP”) was low due to the drop in retirement plan market values in 2008. The law is effective for open plan years starting in 2008 and continues through plan years that will begin in 2011.

NRS clients, who think they might benefit from application of these new alternatives for funding and AFTAP calculations, should contact their Account Manager by August 1, 2010.

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RETIREMENT PLANS WILL REQUIRE ANOTHER AMENDMENT IN 2010

Based on federal guidance released earlier this year, tax qualified retirement plans will be required to amend their formal plan documents by the end of the plan year that begins in 2010. The amendment will address the interaction between qualified military service and certain retirement plan benefits under the HEART Act (Heroes Earnings Assistance and Relief Tax Act of 2008). Many plans, including those of NRS clients, have already added language to reflect HEART, but did so before the new guidance was published.

The 2010 amendment will also provide detailed provisions dealing with the 2009 suspension of required minimum (age 70 ½) distributions in defined contribution plans. NRS will provide more details to affected customers in the coming weeks.

QDRO RULES FINALIZED: TIMING OF QDRO PREPARATION

The US Department of Labor recently issued their “final rule” dealing with the timing for preparation of Qualified Domestic Relations Orders (“QDRO”) relating to the division of retirement benefits upon divorce. This topic caused a good deal of debate and confusion a few years back until the Pension Protection Act of 2006 clarified things. The final rule represents a codification of the issue. We note the final rule here because those who deal with Domestic Relations Orders (“DRO”) or have clients that deal with them, must be aware that a DRO can be issued at any time and the timing of the document preparation is immaterial.

A DRO (which becomes a QDRO when the Plan Administrator determines that it is consistent with Plan and tax Code provisions) can be prepared at any time. This includes preparing it after the affected participant’s death, divorce or annuity starting date. The federal guidance makes it clear that, while the timing of the Order’s preparation is immaterial when determining whether the document is a QDRO, all of the other rules contained in the Code must be followed.

As an example, the final rule mentions a DRO that is prepared for a participant in a defined benefit plan after he has begun receiving \$1,000 per month lifetime periodic pension benefits. The DRO instructs the plan to pay \$500 per month to the ex-spouse during the participant’s remaining lifetime. This meets the requirements of a QDRO even though the lifetime pension has already begun because it does not require the plan to pay a higher amount than before the QDRO. However, if the DRO had been prepared after the annuity starting date and required the plan to pay \$500 monthly to the ex-spouse for her lifetime, the DRO is not a QDRO because it violates the rule in the Code that prohibits a QDRO from increasing payments over those otherwise payable to the participant.



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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