

DOL GRANTS EFAST2 PIN RELIEF! Plan Sponsors Will Not Need Credentials

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When the EFAST2 Form 5500 filing system became operational, the DOL specifically prohibited signers from providing their PIN information to service providers to facilitate filing, creating potential difficulties for signers and service providers. In a letter dated January 5, 2010, ASPPA asked the Department of Labor (DOL) to modify its rules regarding the sharing of signer credentials under EFAST2. Later, ASPPA asked members to join in a petition requesting that service providers be able to file returns on behalf of clients, as is commonly done with personal and business tax returns.

In response to ASPPA's request, the DOL announced on May 13, 2010 (<http://www.dol.gov/ebsa/newsroom/2010/10-680-NAT.html>) another filing option whereby service providers may submit returns on behalf of clients. The option is described in new FAQ #33a (<http://www.dol.gov/ebsa/faqs/faq-EFAST2.html>); this provides an attractive, new, and much welcome alternative (see below).

This new option potentially eliminates the need for plan administrators and employers to obtain *any* credentials at all and that can significantly simplify the submission process in many cases.

Plan administrators and employers may continue to obtain signer credentials and execute the Form 5500

or Form 5500-SF signing ceremony either through I-FILE or their service provider's software.

New FAQ #33a makes it clear that this additional e-signature option still does not allow a service provider to affix the plan administrator's PIN to the electronic filing because EFAST prohibits individuals from sharing his or her PIN with the person preparing and transmitting the Form 5500 or Form 5500-SF (see FAQ #33).

Practitioner Credentials

The DOL's new rule permits plan administrators/employers to authorize the service provider that manages their annual filing process to electronically submit the Form 5500 or Form 5500-SF on their behalf using the service provider's own signing credentials. This relief comes with the following requirements:

- The practitioner must obtain EFAST2 signing credentials (different from *transmitting credentials*), while plan administrators and plan sponsors who choose to have their service provider manage the process will not need any EFAST2 credentials.
- The practitioner must have written authorization from the plan administrator/employer to submit each plan's electronic filing and is required to maintain the

statement in their records. No specific form of permission has been provided and it appears possible that a durable (more than one year) authorization is possible; we are including a sample authorization at the end of this *asap* and will endeavor to confirm its durable nature.

- The plan administrator/employer must manually sign a paper copy of the completed Form 5500 or Form 5500-SF. It should be noted that this duty is required without regard to the method of electronic filing and applies to all Form 5500 series filers. The manually signed copy must be made available for inspection by participants and beneficiaries, as explained in the plan's Summary Annual Report or Annual Funding Notice.
- The service provider must include a PDF copy of the first two pages of the manually signed Form 5500 or Form 5500-SF as an "Other Attachment" in the electronic filing.
- The service provider must inform the plan administrator/employer that this filing option will result in the image of the plan administrator's/employer's manual signature(s) being visible on the filing posted on the DOL's electronic public disclosure web site.

The EFAST2 I-FILE system has been updated to include a certification applicable to any practitioner who is filing on behalf of his or her client. The practitioner must certify that (1) they will retain a copy of the plan administrator's/employer's written authorization to file on their behalf; (2) the manually signed pages

have been attached to the electronic filing, as described above; (3) the plan administrator/employer has been advised that his or her manual signature will be posted on the DOL's public disclosure web site; and (4) the plan administrator/employer will be advised of any inquiries from EFAST2, DOL, IRS or PBGC concerning the filing.

Third Party Software Being Adapted

The DOL's I-FILE system will accept such filings immediately; however, third-party software providers are quickly adapting their systems to accommodate this new feature. Check with your service provider to find out how soon you can begin filing on behalf of your clients.

ASPPA Works for You!

Nearly 800 firms providing pension administration and support services joined ASPPA in requesting this PIN relief. ASPPA is pleased with Assistant Secretary Borzi's practical and timely response. This is a solution that will ease the burden of both plan sponsors and their service providers as they transition to the fully electronic filing system.

(See sample authorization on next page)

Sample Authorization

(modify as desired)

On behalf of the above named plan sponsor, the undersigned hereby grants permission to XYZ Corporation Inc. (XYZ) to electronically file the plan sponsor's Form(s) 5500 annually, but only upon XYZ's receipt of a copy of the manually signed pages one and two of Form 5500.

The sponsor has been notified that the image of the plan administrator's/ plan sponsor's manual signature will be included with the rest of the return/report posted by the Department of Labor on the Internet for public disclosure.

The employer may revoke or change this authorization any time by notification in writing to XYZ.