



SPECIAL Alert

In This Issue

In this seventh issue of the McGraw Wentworth Special Alert for 2006, we will discuss the recently released legislation that will require employers to file their Form 5500s electronically. The Form 5500 is an annual reporting requirement for many health and welfare benefits. The ability to submit the form electronically has been available for several years, but very few employers have chosen to submit their filing electronically.

The Department of Labor is planning on improving the process for electronic submission. The effective date for mandatory electronic filing is still a few years away which gives employers plenty of time to prepare for the new process.

We welcome your comments and suggestions regarding this issue of our Special Alert. For more information on this article, please contact your Account Manager or visit the McGraw Wentworth web site at www.mcgrawwentworth.com.

“Electronic Filing of Form 5500”

The Employee Retirement Income Security Act of 1974 (ERISA) as amended requires employers to submit annual reports for health and welfare plans as well as pension and retirement plans. Health and welfare plans are required to submit a Form 5500 every year to the Department of Labor. For more information on the Form 5500, please see our Form 5500 Benefit Advisor at http://www.mcwent.com/Benefit_Advisor/2006/BA_Issue_2.pdf.



Employers currently have the option to submit the Form 5500 in hardcopy or electronically. The Department of Labor launched an electronic filing option several years ago. The process is referred to as EFAST filing and certain licensed vendors provided EFAST to allow employers to submit their Form 5500 in an electronic format. Even though most individuals comfort level with using electronic tools in their day to day business operations has increased over the last decade, this comfort did not transfer to filing the Form 5500. Very few plans file their 5500 electronically. For the 2002 plan year, annual filing requirements generated approximately 25 million paper pages that needed to be processed by the government.

The government recently amended the Form 5500 filing process. Effective September 19, 2006, the government will require plans file the Form 5500 electronically. The new electronic filing requirement

will be effective for plan years beginning on or after January 1, 2008. The Form 5500 must be filed within 210 days following the close of the plan year. For

calendar year plans, this means the Form 5500 **filed in July of 2009 will be the first one that is required to be filed electronically.**

The Department of Labor believes the mandatory electronic system will result in:

- significantly lower annual processing cost
- reduced filing errors and reduced follow up correspondence and hopefully, fewer penalties
- more timely receipt of data and a more streamlined data management process

The Department of Labor released proposed regulations addressing the mandatory electronic filing requirement last year and requested comments. The final regulations provide a summary of the concerns and com-

ments received by the Department of Labor. On the whole, most commentators agreed with the decision to implement a mandatory electronic filing system. Many expressed concern that the timing was too aggressive. The original proposed effective date was for plan years beginning on or after January 1, 2007. In response, the government pushed the effective date back a year.



Most of the additional comments dealt with EFAST, the current process employers use to file electronically. Commentators did not want to force employers to purchase software in order to file the form electronically. The government has committed to developing a secure Internet web-based site that would allow the filer to enter the data directly without purchasing any special software.

The Department intends that the mandatory electronic filing system will have two primary methods for submitting the data electronically. One way will be similar to the EFAST system in that third party software

will be needed to produce the Electronic Form 5500. It is likely the EFAST system will be modified and the new software file specifications will be based on improved data exchange technology using a widely accepted standard such as XML.

The second option will be a new system, introduced by the Department that will allow input of data via the Internet. The Department of Labor recently launched a request for proposal process to begin to evaluate vendor partners for Internet-based electronic form filing.

The Department is confident the new filing options will result in little added difficulty in the filing process and will have little additional cost. The Department cannot provide all the details regarding the new electronic process because the new system is still in development. The Department will provide additional guidance concerning the electronic filing options as soon as the process and procedures are finalized. The final rule also notes that the mandatory electronic filing re-

quirement does not affect any record retention or participant disclosure requirements.

The mandatory electronic filing requirements will not impact plans for several years. It is important to note it will be part of the future of 5500 filing. The government will release more details in the future as they finalize their options.

Please contact your McGraw Wentworth Account Manager with any questions. **MW**

Our articles are written and produced by McGraw Wentworth staff and are intended to inform our clients and friends on general information relating to employee benefit plans. They are not intended to provide either legal or tax advice. Before implementing any welfare or pension benefit program, employers are urged to consult with their benefits advisor and/or legal counsel for advice that is appropriate to their specific circumstances.

McGraw Wentworth
 3331 West Big Beaver Road, Suite 200
 Troy, MI 48084
 Telephone: 248-822-8000 Fax: 248-822-4131
www.mcgrawwentworth.com