



May 20, 2010

VIA ELECTRONIC MAIL

Michael L. Davis
Deputy Assistant Secretary
Employee Benefits Security Administration
Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: New e-Signature Option for Forms 5500, Release Number: 10-680-NAT

Dear Deputy Assistant Secretary Davis,

The Office of Advocacy (Advocacy) commends the Employee Benefits Security Administration (EBSA) for taking into account the concerns of the small business community in its announcement (Release Number: 10-680-NAT) issued on May 13, 2010, that provides a new e-signature option on electronically filed Forms 5500 and 5500-SF, employee benefit plan annual reports.¹ EBSA designed the new e-signature option to simplify the electronic filing process for small businesses that use employee plan service providers to complete and file their annual reports.

Congress established Advocacy to represent the views of small business before Federal agencies and Congress independently.² Among other things, Advocacy is tasked with determining “the impact of the tax structure on small businesses and mak[ing] legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation’s economic well-being.”³ Due to the Office’s independence, the views expressed in this letter do not necessarily reflect the views of the U.S. Small Business Administration (SBA) or the Administration.

Prior to EBSA announcing the new e-signature option, service providers that managed the filing process for plans were not permitted to sign and submit the electronic Form 5500 or 5500-SF on behalf of plan sponsors. In March 2010, Advocacy coordinated a meeting between small business stakeholders and EBSA staff at which time the small business stakeholders expressed concern that the EBSA policy on e-filing was burdensome for small business employers that sponsor plans because the employers

¹ See <http://www.dol.gov/ebsa/newsroom/2010/10-680-NAT.html>.

² 15 U.S.C. § 634a (1976).

³ 15 U.S.C. § 634b(4) (1976).

could not rely upon their plan administrators and providers to file employee benefit plan annual reports.

EBSA addressed the concerns of small business stakeholders by announcing its new e-signature option. Under the new option, service providers can now obtain their own signing credentials and submit the electronic Form 5500 or 5500-SF for the plan on the behalf of the employers that sponsor the plans.

Thank you again for your efforts on behalf of small businesses. Advocacy looks forward to working with EBSA in the future to determine ways to reduce the burdens faced by small businesses. If you have any questions or require additional information please contact Assistant Chief Counsel for Dillon Taylor at (202) 401-9787 or by email at Dillon.Taylor@sba.gov.

Sincerely,

/s/

Susan M. Walthall
Acting Chief Counsel for Advocacy

/s/

Dillon Taylor
Assistant Chief Counsel