



**2013 Form 5500 Requires Compliance Statement;
2013 Form M-1 Due**

The Department of Labor (DOL) has released the 2013 Form 5500 which now requires a compliance statement. All employee welfare plans must provide an attachment to 2013 Form 5500 clearly labeled "Form M-1 Compliance Information" indicating whether the plan was subject to the Form M-1 filing requirement during the plan year. The Form M-1 is a filing required of multiple employer welfare arrangements (MEWAs) and must be filed electronically by March 1 each year (unless March 1 falls on a weekend or holiday, in which case the form must be filed by the next business day).

Form 5500 Compliance Statement Required for All Plans

Last year, the DOL released final regulations implementing increased reporting requirements and enforcement rules for MEWAs. One of these increased reporting requirements included a revised Form 5500 which affects all plans subject to the Form 5500 filing requirement, not just MEWAs.

Beginning with the 2013 Form 5500, all employee welfare plans must provide an attachment to their Form 5500 filing that is clearly labeled at the top of the attachment "Form M-1 Compliance Information." Some plans may be tripped up by this requirement as the Form 5500 itself does not prompt plans to provide this compliance statement, rather the requirement is stated in the Form 5500 filing Instructions (see page 18 of the Instructions). The attachment must state:

- If the plan provides welfare benefits, whether the plan was subject to the Form M-1 filing requirements during the plan year;
- If the plan was subject to the Form M-1 filing requirements, whether the plan is currently in compliance with the Form M-1 filing requirements; and
- Provide the Receipt Confirmation Code for the 2013 Form M-1 annual report electronic filing. If the plan was not required to file the 2013 Form M-1 annual report, enter the Receipt Confirmation Code for the most recent Form M-1 that was required to be filed.

Important note for MEWAs: Failure to enter a valid Receipt Confirmation Code will subject the Form 5500 to rejection as incomplete which could lead to penalties.

2013 Form M-1 Due by March 3, 2014

MEWAs subject to the Form M-1 filing requirement must file the Form M-1 electronically by March 1 of each year (unless March 1 falls on a weekend or holiday, in which case the form must be filed by the next business day). March 1, 2014 falls on a Saturday, so the **2013 Form M-1 filing is due by Monday, March 3, 2014** (the next business day after March 1).

A one-time extension of 60 days to file will automatically be granted if the MEWA administrator requests an extension in accordance with the requirements outlined in the Form M-1 Instructions.

The 2013 Form M-1 includes the changes incorporated last year in the 2012 Form M-1 such as expanded collection custodial and financial information.

Important Note for MEWAs: All plans required to file the Form M-1 must file Form 5500.

In addition to the annual filing requirement, MEWAs must register with the DOL prior to operating in any state by filing a Form M-1, 30 days prior to beginning operations in any state. An exception exists for MEWAs that were already in operation in a state prior to April 1, 2013. These entities are still required to file an annual Form M-1.

A Form M-1 must also be filed within 30 days after any of the following events:

- Knowingly operating in any additional state that was not indicated on a previously filed Form M-1;
- The MEWA merges with another MEWA;
- The date the MEWA experiences a 50% increase in the number of employees covered under the plan on the last day of the prior calendar year; or
- Experiencing a material change. A “material change” is defined as a change in any of the custodial or financial information reported on Part II of the Form M-1.

Please contact our office if you have any questions about the Form 5500 compliance statement or the Form M-1 filing requirements.

Dated: February 24, 2014
Written by: Laura Bibb