

# **IRS Terminating Proposed Penalty Notices for Untimely Filed or Incomplete Forms 5500**

The IRS recently announced on its web site that **starting January 1, 2013, it will no longer send proposed penalty notices for untimely or incomplete Form 5500s**, but rather will only send penalty notices for Form 5500s that are untimely or incomplete.

## **The Old Way**

Previously, proposed penalty notices were generated after IRS had been notified by DOL that customers had been contacted by DOL's EFAST2 twice, asking for missing information and/or addressing the late-filed return, and that the customers did not respond to either of the letters. Filers had 30 days to respond, and the proposed penalty would be assessed after 60 days unless IRS (1) received written correspondence establishing reasonable cause, (2) was provided the missing information from the filer, or (3) was notified that a processing error was made by IRS or DOL. Penalty notices were sent after taxpayers received and had an opportunity to respond to the proposed penalty notice. This new change in process may be signaling that the IRS will be taking a tougher stance going forward for plans not in compliance. Plan sponsors should verify the accuracy and completeness of their plan filings on EFAST 2.

## **The New Way**

Beginning January 1, 2013 the IRS will discontinue sending these notices:

- CP 213N, Proposed Penalty Notice for Late Filing of Form 5500, Annual Return/Report of Employee Benefit Plan
- CP 213I, Proposed Penalty Notice for Incomplete Filing of Form 5500

The IRS is eliminating proposed penalty notices under the Form 5500 program in an effort to reduce processing costs, reduce notices and comply with notice and systems standards.

Filers will continue to receive CP 283, Penalty Charged on Your 5500 Return, if a Form 5500 is filed late or is incomplete.

[h6a]If you have any questions on this post or other matters of which we can be of service, please [Contact Us](#)[/h6a]