

ADMINISTRATIVE BEST PRACTICES: TRACKING LOST PARTICIPANTS

A common problem that plan sponsors face is keeping track of all the participants in their plan. Frequently, the plan sponsor will receive notification that a required notice, participant statement or other routine participant communication is undeliverable. While this problem is relatively easy to resolve for active participants, what is the prudent process for employees that no longer work at the company?

Historically, plan sponsors have used different strategies to deal with the issue of account balances due to 'lost participants.' Some plan documents specifically allowed for the forfeiture of account balances of lost participants. Withholding 100% of the balance for taxes used to be an option for small account balances. Some plans escheat the money to the state in which the participant was last known to have lived or worked, while others redeposit the funds into accounts outside of the plan. Many of these options will depend on your retirement plan vendor and what their systems can process.

Prudent Lost Participant Process

The steps below outline the best way to document the process you use for locating participants and provide several options for zeroing out those accounts. This process is set forth by Field assistance Bulletin 2004-02.

- 1. Actively look to locate the participants and document this process.** This typically starts with sending certified mail to the participant's last known address. Should this bounce back as undeliverable or you don't receive the signature receipt, move to Step 2.
- 2. Check other plan records such as group insurance plans.** To address HIPPA privacy concerns, the fiduciary can request the insurance vendor to contact or forward a letter on behalf of the plan to the participant or beneficiary, requesting the participant or beneficiary to contact the plan fiduciary.
- 3. Check with Designated Plan beneficiaries.** While searching for a terminated participant's records, plan fiduciaries must attempt to identify and contact any individual that the missing participant has designated as a beneficiary (e.g., spouse, children, etc.) for updated information concerning the location of the missing participant. Again, if there are privacy concerns, the plan fiduciary can request the designated beneficiary to contact or forward a letter on behalf of the terminated plan to the participant, requesting the participant or beneficiary to contact the plan fiduciary.
- 4. Use a letter forwarding service.** Both the Internal Revenue Service (IRS) and the Social Security Administration (SSA) offer letter-forwarding services. Plan fiduciaries must choose one service and use it in attempting to locate a missing participant or beneficiary. The IRS has published guidelines under which it will forward letters for third parties for certain "humane purposes," including a qualified plan administrator's attempt to locate and pay a benefit to a plan participant. The SSA's letter forwarding service may be used for similar purposes. The downside to both of these programs is that the plan sponsor is not notified about whether the forwarding process was successful or not.
- 5. Commercial search services.** In addition to using the search methods discussed above, a plan fiduciary should consider the use of Internet search tools, commercial locator services, and credit reporting agencies to locate a missing participant. Depending on the facts and circumstances concerning a particular missing participant, it may be prudent for the plan fiduciary to use one or more of these other search options. If the cost of using these services will be charged to the missing participant's account, plan fiduciaries should consider the size of the participant's account balance in relation to the cost of the services when deciding whether the use of such services is appropriate. You must review your plan document to verify that the plan is allowed to charge fees to participant accounts. **In our experience, this option has the best success rate.**

Conclusion

Ultimately, the process above may not be successful in locating a participant, so make sure to properly document the process in order to defend your actions. The plan document will ultimately dictate the options available in eliminating these accounts. Some plan documents, if written properly, give the plan sponsor the authority to forfeit these accounts.

Depending on the size the account, the “force out” provisions of the plan may allow you to distribute account balances of \$5,000 or less to a rollover IRA. For amounts above that amount, discuss the options with your vendor.

Remember, terminated participants with account balances count toward the participant count for the form 5500. You want to avoid having the participant count reach the number that requires an audit as a result of terminated participants. Lastly, terminated participants must receive fund change notices, the Summary Annual Report, Blackout notices, Qualified Default Investment Alternative Notices (QDIA) and updated versions of the Summary Plan Description. Proactively dealing with this situation can avoid future issues.

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