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Stop playing hide-and-seek with lost plan participants

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Worker mobility has created a significant problem for plan sponsors and retirement plan professionals in the 21st century — “lost” retirement plan participants.

When former employees don’t take their vested defined contribution retirement plan balances with them, and don’t notify the plan administrators when they move, it creates difficulty in distributing vested benefits to those participants.

As a plan service provider, every quarter we see benefit statements stamped “return to sender-address unknown.”

In time, lost participants can have significant negative impacts on employer sponsored plans, including the potential for increasing the administrative expenses; increasing exposure to fiduciary liability due to lack of investment direction; delaying plan termination and subjecting plans to large plan audit threshold due to the number of participants. It’s a game of hide-and-seek that’s definitely not in a mobile employee’s best interest to win in terms of misplaced retirement income.

So what’s a plan sponsor to do? The first step is not allowing employees to get away empty handed. Plan sponsors should educate every terminating employee about the portability of their vested 401(k) retirement plan balance through rollover to a new employer’s plan or an employee’s individual retirement account (IRA). Handing a terminating employee the lengthy IRS-required 402(f) Notice regarding plan payments most likely will leave them more confused about their options rather than enlightened.

For employees who are not required to take immediate distribution of their balance, be sure they understand the need to keep you updated on any change of address.

If you’ve been pretty diligent in your efforts to keep tabs on all plan participants, even former employees, but you’ve still lost a few, rest assured there are several options avail-

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able to resolve or minimize the problem.

One option is the IRS’s Letter-Forwarding Program, which allows your local IRS Disclosure Office to forward letters from the plan’s administrator to the missing individual(s). The program is free for the location of fewer than 50 participants. The key to success of this program is the Social Security number for the missing individual: The IRS will not provide assistance without it.

Information on the IRS Letter-Forwarding Program is provided in IRS Policy Statement P-1-187, by calling Disclosure Office at (202) 622-3324 or by accessing the IRS Web site (www.irs.gov/retirement/article/0,,id=110106,00.html). The Social Security Administration has a similar program available, www.ssa.gov/foia/html/ltrfwding.htm.

Another option is The National Registry of Unclaimed Retirement Benefits, a Web site that allows plan sponsors, administrators, custodians or other plan service providers the ability to register names of missing plan participants. Individuals who think they may have unclaimed retirement benefits simply enter their Social Security number, the registry database is searched and any matches are shown. Participants can update their current contact information for the employer so distribution arrangements can be made. (Information on the registry is available at www.unclaimedretirementbenefits.com.)

Still another method is provided by the Pension Protection Act of 2006, which allows terminated defined contribution plans to utilize the Pension Benefit Guaranty (PBGC) missing participant program. Although the PBGC has yet to provide regulations for such transfers, this option could provide significant assistance in finalizing plan terminations. Visit search.pbgc.gov/mp/mp.aspx for information on the PBGC.

Generally, for plans that adopt a cash-out provision for amounts of \$1,000 or less, the plan document may include a

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provision for unclaimed benefits as follows. A letter notifying the participant of distributable benefits must be sent by certified or registered mail to an employee's last known address and, if the letter is not responded to within a required time period, the plan administrator may take additional steps to locate the participant. If the participant cannot be found within a specified time period (EPIC's plan document stipulates 12 months), the plan may treat the account as a forfeiture.

A forfeiture provision for unclaimed benefits can be an effective method for dealing with lost participants. If the lost participant is located later, the plan allows for restoration of the account.

A discussion on lost participants isn't complete without one more note of caution. The IRS and the Department of

Labor have indicated that either withholding income taxes in the amount of 100 percent of the distributable account balance, or using state escheatment or unclaimed property laws to manage lost participant accounts, are inappropriate and violate ERISA. Plan administrators must look beyond these methods for lost participants.

When employers and terminating employees work together to understand the portability of 401(k) benefits and their distribution options, regardless of the circumstances surrounding the employee's departure, everybody wins.

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