

Department Of Labor Audits Are Focusing On Plan Procedures For Locating “Missing” Vested Participants

Wesley Covert
04.20.2016

The U.S. Department of Labor (DOL) has increased its examinations of the procedures of defined benefit and defined contribution retirement plans for locating and paying out benefits to terminated vested participants whom the plan may have determined to be “missing.” Informal comments from DOL investigators during plan audits reveal that the DOL is focusing on a plan administrator’s efforts to make good faith efforts to locate missing vested participants and to pay their benefits. In the case of defined benefit plans, the DOL has sought to ensure that the plan administrator has timely made payments once the terminated missing participant has reached the date on which payments should begin. The failure to take steps to identify, locate, and pay benefits to “missing” participants can be considered a breach of fiduciary duty, potentially resulting in personal liability to plan fiduciaries. Therefore, it is important that proper procedures are in place to locate missing vested participants who are owed distributions and to ensure timely payment of plan benefits. Participants are often deemed “missing” by plans when a participant terminates employment and subsequently changes his or her residence, without informing the plan. When plan communications are returned as undeliverable or mandatory distributions remain uncashed, plan administrators should have a procedure for addressing such “missing” participants. In DOL Field Assistance Bulletin 2014-01, the DOL sets forth steps that plan administrators should consider to locate missing participants. For example, the plan fiduciary should (i) use certified mail, (ii) check related plan records, (iii) check with designated plan beneficiaries, and (iv) use free electronic

Attorneys

Wesley H. Covert

Practice Areas

Employee Benefits and
Executive Compensation
Retirement Plans

Department Of Labor Audits Are Focusing On Plan Procedures For Locating “Missing” Vested Participants

search tools. In light of the recent DOL initiative regarding missing terminated participants with vested account balances, plan sponsors and administrators should review their policies and procedures for locating missing participants in order to ensure that they are fulfilling their fiduciary duties.