New IRS Audit Guidelines Address Missing Participants And Unpaid Retirement Benefits

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Employee Benefits and Executive Compensation

IRS, DOL and PBGC Audit and Correction Counseling

Retirement Plans

Internal Revenue Code section 401(a)(9) establishes required minimum distribution (RMD) standards for qualified retirement plans. Generally, these standards require a participant's benefit payments to begin no later than April 1 of the calendar year after the participant attains the age 70½ or retires. On October 19, 2017, the Internal Revenue Service (IRS) released **guidance** for when a plan's efforts to locate missing participants and beneficiaries should be challenged on audit.The new IRS guidance addresses how qualified retirement plans may satisfy RMD standards when the participant or beneficiary to whom the payment is due cannot be located. Specifically, a qualified retirement plan that cannot locate a participant or beneficiary will be treated as satisfying RMD standards if the plan takes the following three steps: (1) it searches plan and publically available records for the participant's contact information; (2) it uses a commercial locator service, credit reporting agency or proprietary internet search tool to locate the participant or beneficiary; and (3) it attempts to contact the participant or beneficiary via United States Postal Service certified mail sent to the last known mailing address and any other appropriate means of contact, such as by email or telephone. Although retirement plans do not have to be formally amended to comply with this new guidance, it would be prudent to at least implement a policy to address this new audit standard. Finally, it should be noted that although this new guidance is helpful to plan sponsors, the Department of Labor (DOL) has its own **recommendations** related to locating participants and paying benefits. Because each agency may independently audit a

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retirement plan, plan sponsors should be familiar with both sets of rules.