

MISSING PARTICIPANTS AND UNCASHED CHECKS

According to the Internal Revenue Service and Department of Labor, it is the responsibility of a plan fiduciary to provide benefit statements to participants and to facilitate distributions when due. While this seems like a relatively easy task, terminated participants can present challenges to these duties when they move, change names, die, etc., and often the Plan Sponsor is not informed. Sometimes terminated participants are not even aware that they have plan benefits due to them. Locating these participants can be difficult.

Uncashed checks remain plan assets that are the responsibility of the Employer as fiduciary. The failure to attempt to locate and pay out terminated participants can be considered a breach of duty.

When a participant terminates employment, he/she is usually eligible for a distribution. Many times, the terminated participant requests a distribution. However, depending on the size of a participant's account balance or in the case of a plan termination, the Plan Sponsor may be initiating the distribution. In the case where a participant does not initiate the payment, the chances of an uncashed check are greatly increased.

Some helpful suggestions to **mitigate the burden of Missing Participants and Uncashed Checks**:

- Review recordkeeper reports relating to uncashed checks and follow-up with the participants. Some participants are prone to hold on to checks for an extended period of time – they can't get to the bank or other financial institution; the check is too small to cash
- Encourage participants with checks going directly to a financial institution to verify receipt. It is remarkable how many times participants do not take the final step to make sure the funds have been deposited into their accounts. Upon occasion, checks can be returned due to insufficient documentation for the recipient financial institution and the participant assumes the financial institution has received the funds.
- Many plans have Custodial IRA provisions to remove small account balances of terminated participants from the plan. A participant with an account balance of less than \$5,000 who does not request a distribution has that account balance transferred to an IRA outside of the plan. However, for account balances under \$1,000, a check is typically issued and many of these distributions become uncashed checks. The next time your plan is amended or restated, if supported by your financial institution, we urge you to remove the \$1,000 limit so that all amounts under \$5,000 are sent to a Custodial IRA provider in order to prevent small checks.
- Include reminders on all plan communications (notices, statements, etc.) for participants to keep their contact information updated and contact participants on a periodic basis to confirm and maintain updated contact information for participants and beneficiaries.

If a **participant is truly missing**, there are several initiatives you can undertake to locate that individual:

- Thoroughly search Employer records such as payroll records and health plan info for up-to-date contact information
- Check with the beneficiary and emergency contacts on file and ask them to forward a letter to the participant
- Use online search engines, public record databases, social media as well as commercial locator services
- Reach out to co-workers who might have updated contact information
- Attempt to contact by way of any other available means – texts, phone, e-mail
- Register the participant on pension registries with privacy and cyber security protections such as the National Registry of Unclaimed Retirement Benefits

Both the IRS and DOL have listed lost participants and uncashed checks as priority initiatives. Hopefully, additional guidance will be issued to more effectively deal with these situations. In the meantime, it is important to document actions you have taken to locate missing participants and deal with uncashed checks.