

DB digest

Best Practices for Pension Administration

UPCOMING KEY DATES

7/29/14

Provide a Summary of Material Modifications (SMM) to participants if the plan adopted amendments for the plan year ending 12/31/13, unless the information was included in an updated and timely distributed Summary Plan Description.

7/31/14

For plans with 100 or fewer participants, provide the 2013 annual funding notice to participants, beneficiaries, labor organizations representing participants and beneficiaries, and PBGC, unless IRS Form 5558 will be timely filed to extend the Form 5500 filing due date by 2-1/2 months (to 10/15/14).

7/31/14

Deadline to file 2013 IRS Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) or file IRS Form 5558 to extend the filing deadline for Form 8955-SSA to 10/15/14.

9/30/14

Deadline for completion of the actuarial valuation and certification of the final 2014 AFTAP, unless the 2014 AFTAP was "range" certified. (If the AFTAP is not certified by this date, the AFTAP is deemed to be less than 60% for the remainder of the plan year.)

To download a PDF of the DB Calendar, please go to: <http://tinyurl.com/m54kstg>

The SSA has discontinued its letter-forwarding service... What's a plan sponsor to do?!

Alexandra Moen, CPC

It was announced on April 17 that the Social Security Administration (SSA) would discontinue its letter-forwarding service, effective May 19, 2014. The SSA provided the following reasons:

- Primary reason: Internet options - the rise of social media and other free and pay-for-service online search methods has made it easier to locate people
- Budget overruns/need for cost cutting
- The Internal Revenue Service's (IRS) 2012 discontinuation of its letter-forwarding service

In place since 1945, the SSA letter-forwarding service was available to employers, plan sponsors, and other individuals to forward a letter to a missing person. There was a charge of \$35 per letter for forwarding letters that served a "monetary purpose" (when the individual sought was due something of value). Letters serving a "humanitarian purpose" (when the health or welfare of an individual was at risk or an immediate family member was seeking to re-establish contact with another immediate family member) were free.

The IRS was the first to terminate this program, on August 31, 2012 (IRS Revenue Procedure 2012-35). No longer would the IRS forward letters (always free for quantities under 50, with a charge for letter quantities exceeding 50) regarding any financial asset payable to a taxpayer, but Revenue Procedure 2013-12 updated some rules to compensate for this change. The IRS will still forward letters in cases of "humane purposes, i.e.:

of an urgent or compelling nature," whereas the SSA will no longer forward them under any circumstances. The availability of Internet location tools and the increasing number of private search firms were stated as the most important reasons for the IRS decision to discontinue its service.

Why is this a problem for plan sponsors?

The Department of Labor (DOL) Field Assistance Bulletin 2004-02 provides the steps a plan fiduciary is required to take, to fulfill its obligations under ERISA, in locating a missing participant:

1. Send a letter via certified mail to the last known address
2. Search the records of other benefit plans the employer sponsors
3. Contact named beneficiaries
4. Use SSA and/or IRS letter-forwarding program/services

The SSA termination announcement stated that: *In the absence of Social Security's letter forwarding services, family members, sponsors, administrators and qualified termination administrators may use a variety of other methods to locate missing individuals, participants and beneficiaries, including:*

- Commercial locator services
- Credit reporting agencies
- Internet search tools
- Social media websites

In the Field Assistance Bulletin, the DOL lists these as “other search options” and they may now be used instead of number 4 on the list of requirements. While Internet search tools and social media websites are simple and are often free, they may be less reliable and (more importantly) may not satisfy an auditor if they fail to locate a participant. Plan sponsors may decide that using a commercial locator service will offer them the most protection even though there is an associated cost.

The recent terminations of SSA and IRS letter-forwarding options also create problems for plan sponsors seeking to correct plan failures under the Employee Plans Compliance Resolution System (EPCRS) for which there is often a requirement to locate and pay out additional benefits to terminated participants.

When the IRS discontinued its letter-forwarding service, it made the following update to the requirements for finding lost participants in Revenue Procedure 2013-12, Section 6.02(5)(d):

For plan correction principles relating to locating lost participants:

(i) Reasonable actions must be taken to find all current and former participants and beneficiaries to whom additional benefits are due, but who have not been located after a mailing to the last known address. In general, such actions include, but are not limited to, a mailing to the individual's last known address using certified mail, and, if that is unsuccessful, an additional search method, such as the use of the Social Security letter forwarding program, a commercial locator service, a credit reporting agency, or Internet search tools... A plan will not be considered to have failed to correct a failure due to the inability to locate an individual if reasonable actions to locate the individual have been undertaken in accordance with this paragraph...

The IRS updates to lost participant requirements referenced the SSA's existing letter-forwarding service. It is now assumed that a *commercial locator service, a credit reporting agency, or Internet search tools* are the replacement options and are sufficient.

What's next?

ERISA, IRS, SSA, and DOL regulations have consistently emphasized “reasonable methods” when attempting to locate participants. The SSA and IRS letter-forwarding services have historically provided fiduciaries great confidence that all appropriate steps had been taken. Free Internet search sites and social media can be unreliable and inaccurate. Are these methods “reasonable” if they fail to locate a participant? Several questions regarding these government agency announcements remain, but it seems certain that plan sponsors will now have to put more time, money, and effort into these required searches for plan participants and beneficiaries.

Many plan documents do not include wording about participants who are unable to be located. It is permissible to forfeit the benefit after all reasonable means have been exhausted, as long as the benefit would be reinstated if the participant makes a claim for it. Plan sponsors may also wish to consider adding wording to the Summary Plan Description or website telling the participant of their responsibility to inform the plan of address changes, especially if their benefit could be forfeited.

Alexandra Moen, CPC, is a benefits administrator with the Minneapolis office of Milliman. Contact her at alexandra.moen@milliman.com.

CAPTION CONTEST

Last issue's winner.



"CAN YOU DIRECT DEPOSIT TO MY BANK IN TOKYO?"

—KENNETH PRELL