

INFORMATION ON LOCATING LOST PARTICIPANTS

Department of Labor (DOL) requires the Plan Sponsor contact all current and former participants and beneficiaries to whom benefits are due, to receive direction on how to distribute the participants' account balances.

If your plan has a cash out distribution payment provision, the cash out provision is to be followed and there may be no additional requirement to try to locate a lost participant. Your Benetech administrator can assist you in determining what the cash out provision is for your plan and what steps need to be taken to comply with this provision.

In the event the plan is terminating and there is no cash out provision or a participant's vested benefit exceeds the cash out provision, and the participant does not respond to a written request using routine notification methods such as first class mail or email, the Plan Sponsor must attempt to contact the missing participant through each of the required search methods listed below, **and must keep a record to prove that each method was ineffective before distributing the participant's account balance.**

Required Search Methods:

1. Send certified letter(s) to the last known address(es). If attempt unsuccessful, proceed to Step 2.
2. Review other employee benefit plan records (group health insurance records, for example) that might have more current information concerning the participant's location. If unsuccessful, proceed to Step 3.
3. Contact the participant's designated beneficiary to get more accurate information concerning the participant's location. If unsuccessful, proceed to Step 4.
4. Use free electronic search tools. Such online services include Internet service engines, public record databases (such as those for licenses, mortgages and real estate taxes), obituaries and social media.

Additional Search Methods (which may involve charges):

- ♦ Internet search tools.
- ♦ Commercial locator services
- ♦ Credit reporting agencies.
- ♦ Investigation databases.

Distribution Options for Defined Contribution Plans that are Terminating:

For situations in which the Plan Sponsor of a terminated defined contribution plan has completed all four required search methods and any appropriate alternate methods, the DOL has provided guidelines for distributing the accounts of participants who are still missing. The DOL distribution guidelines do not apply to a benefit over \$5,000 subject to the Qualified Joint and Survivor Annuity (QJSA) rules; an annuity must be purchased from an insurance company for such benefits. Your Benetech representative can tell you whether the missing participant's account is subject to the QJSA rules.

The preferred distribution option is a direct rollover of the participant's account to an Individual Retirement Account or to an Individual Retirement Annuity. This direct rollover does not immediately subject the distribution to income taxation, and is deemed to be the method of distribution most likely to preserve the participant's assets for retirement purposes.

Alternatively, the Plan Sponsor may consider establishing an interest-bearing federally insured bank account in the name of the missing participant, or transferring the missing participant's account to the state unclaimed property fund. Either of these alternatives would make the distribution subject to income taxation, mandatory income tax withholding, and a possible additional 10% tax for distribution prior to age 59½.

100% income tax withholding should never be used as a means to distribute plan benefits to missing participants.

The selection of a distribution option for a missing participant, the selection of a specific IRA service provider or bank, and the selection of an initial investment vehicle in which the missing participant's account will be invested are actions subject to the fiduciary responsibility rules of ERISA. The DOL regulations include safe harbors for Plan Sponsors and Trustees to satisfy their fiduciary responsibility in selecting an IRA service provider and choosing the initial investments. Benetech recommends that Plan Sponsors seek the advice of a qualified ERISA attorney prior to distributing the account of a missing participant.

If you have any questions regarding the above directions, please contact our office.