

Where Have You Gone, Joe Participant?





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· Joanne Pecina





• Maureen Pesek









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Your Presenter Today

Alison J. Cohen, J.D., APR Ferenczy Benefits Law Center









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Agenda

- · Quick Bit of History
- · Optimizing Plan Design
- · DOL Tip-Offs
- · DOL Best Practices
- Helping Your Clients Establish Procedures





BLAH BLAH BLAH

In The Beginning....



- There was a \$3,500 cash-out threshold
- IRS and SSA provided a letter forwarding program (for actual paper letters)
 - Success rate = Not so much
- Many folks tried escheating funds to the participant's state
- Another clever option distribute the funds with 100% federal withholding





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Let the FAB Begin

- Field Assistance Bulletin (FAB) 2004-02
- Use Certified Mail
- Check Related Plan Records (Employee files, health enrollment, etc.)
- Check with Designated Plan Beneficiary
- Use a Letter-Forwarding Service
- FAB 2014-01
- Replace Letter-Forwarding for Fee Electronic Search Tools
- Also, stated that NO 100% income tax option is permissible







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Automatic Rollovers are Born

- Effective March 28, 2005, IRC § 401(a)(31)(B) applies to mandatory distributions
 - $-\,$ Option #1 Cash-out limit lowered to \$1,000
 - $-\,$ Option #2 Auto Rollover to an IRA permitted for amounts up to $\$5,\!000$
- Pension Protection Act of 2006
 - PBGC charged with creating missing participant program
 - Took them 10 years to develop the program





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Plan Design Options

- Why choose \$1,000 cash out?
 - Keeps more assets in the trust
 - As easy as drafting a letter of directive to force out
- · Drawbacks of cash out
 - May create uncashed check problems
 - Increase in terminated participant accounts can lead to audit expenses
 - Re-hires may cause revolving door







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Awesome Automatic Rollovers

- For amounts \$1,001 \$5,000, funds can be rolled over to an IRA
 - There are numerous vendors that accept forced rollovers
 - Many RKs have automated process
 - Also have the ability to exclude Rollover Contributions in determining account balance





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Awesome Automatic Rollovers

- **Example:** Sally terminates with \$1,000 in deferrals and \$6,000 in rollovers. Even with \$7,000, Sally can be rolled to an IRA anyway because we can potentially exclude the \$6,000.
- **Example:** Timothy has \$2,000 in rollovers and \$5,500 in deferrals. Without the rollovers, Timothy has more than \$5,000, so he can't be forced out with an automatic rollover.





WARNING

- Having either provision in the document makes it a plan provision
- · Therefore, NOT an option to follow
- Failure to adhere to terms of the plan is an operational failure
 - Yes, folks, that can mean VCP could be the only solution







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Benefits to Auto Rollovers

- Prevents participant from incurring taxable income
- · Maintains retirement savings
- Reduces number of participants which may help reduce count for audit and costs for admin
- In either case reduces number of notices, disclosures, SPDs, etc. to be distributed annually; also, less addresses/beneficiaries to keep track of (and lose)





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DOL Red Flags



- Inadequate procedures for identifying and locating missing participants/beneficiaries
- Failures to contact TVPs for RMD or NRA payments
- Large numbers of uncashed distribution checks
- Large numbers of missing or nonresponsive participants
- Missing, inaccurate or incomplete contact information, census data, etc.



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Where TPAs Can Help Spot Flags

- Determine overall percentage of terminated participant population in plan
- Review and identify terminated participants that should be forced out
 - Lists should be provided to Plan Sponsor annually with testing/valuation with guidance
- Identify unpaid mandatory RMD/NRA payments and notify Plan Sponsor







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Examples of DOL Best Practices

- · Maintaining Accurate Census Information
 - Contact TPs periodically to confirm contact information
 - Include contact information change requests in all plan communications
 - Flag all undeliverable mail and follow-up promptly
 - Have prompts for TPs to confirm contact information upon login for online platform





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Examples of DOL Best Practices (cont.)

- Maintaining Accurate Census Information
 - Monitor online platform that TPs can use and update internal records with new information
 - Regularly audit and correct census data
 - When changing RKs, engaging in merger or acquisition, etc. ensure that census data is retained from the original entity
 - Request updated beneficiary data annually





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Examples of DOL Best Practices (cont.)

- · Implementing Effective Communication Strategies
 - Use plain language and non-English language assistance where and when appropriate
 - State upfront what the communication is about (draw the attention)
 - Encourage contact through email and websites







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Examples of DOL Best Practices (cont.)

- Implementing Effective Communication Strategies
 - Build steps into the hire/term process to confirm and update information, and identify possible emergency contacts
 - Communications to aid TPs in consolidation of assets to rollover IRAs
 - Clearly mark envelope with any original plan or sponsor name







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Examples of DOL Best Practices (cont.)

- Missing Participant Searches
 - Check employer records for TP, beneficiary, next of kin, etc. with payroll or health plan providers
 - Check with designated plan beneficiaries or emergency contacts
 - Use fee online search engines, public records DBs, obituaries, social media
 - Ask other members of the same department as the former TP





Examples of DOL Best Practices (cont.) another example

- Missing Participant Searches
 - Use commercial locator services, credit-reporting agencies, or proprietary internet search tool
 - Use USPS certified mail, private delivery service, or other
 - Attempt contact with email, telephone, text, and social media
 - How many enrollment forms ask for personal email addresses??





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How Do You Clean-Up?



- · Not all plans have stayed on the straight and narrow historically
 - May have TPs that terminated years ago, and records exist with valid contact information
 - Treat this like a project ID steps, responsible parties, deadlines, etc.
 - Some automatic rollover vendors can provide assistance for location of TPs
 - ${\sf -}$ Plan Sponsor may need to pay for a search vendor



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Benefits of Using the PBGC

- · Benefits of any size can be transferred
- Periodic active searches by the PBGC increases the likelihood of connecting TP with benefit
- Benefits are not diminished by maintenance fees or distribution charges
- · Transferred amounts grow with interest
- Lifetime income options are available for balance transfers over \$5,000





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TPAs Can Help Develop Client Processes

- Create model procedures for \$1,000 cash out election
 - Include timing for when initial cash out can be triggered by Plan Sponsor
 - Need process for monitoring uncashed checks
 - This should be customized based on specific RK reporting and procedures $% \left(1\right) =\left(1\right) \left(1\right) +\left(1\right) \left(1\right) \left(1\right) +\left(1\right) \left(1\right) \left(1\right) \left(1\right) +\left(1\right) \left(1$
 - Annual review of overall plan TP status (was anyone missed or newly eligible?)



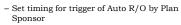


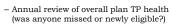


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TPAs Can Help Develop Client Processes (cont.)

- Create model procedures for \$5,000 Auto R/O
 - Find vendor that will take accounts and document why vendor selected (this is a fiduciary decision)













Contact Information

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For Further Study

Joanne Pecina will demonstrate how to find more information on today's topic from the ERISApedia.com resources.



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