

Where Have You Gone, Joe Participant?

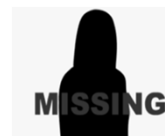
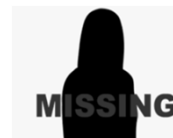


Alison J. Cohen, J.D., APR

1

Your Co-Hosts

- Joanne Pecina
- Maureen Pesek
- Tim McCutcheon



2



During the Webinar

- All attendees' lines are muted.
- Question board is available and monitored - look for Q&A icon on webcast toolbar. Please do not use chat to ask questions.
- Slides and a recording of the webinar are also available on the ERISApedia.com webcasts webpage.
- Please note that you must access the live video portion of the webcast to get CE credit.
- Merely listening on a call-in line or watching a webcast recording is not sufficient for CE credit.



3

3

During the Webinar



- Credit is offered for ERPA/ASPPA-ARA/NIPA.
- Those who attend the requisite time in the video portion of the webcast today will receive a certificate by email in a few days (ERPA will take several days longer). Please check your spam folder.
- Questions about CE credit: support@erisapedia.com.
- After the main presentation, please join us for a brief educational session on how to find more information on today's topic on ERISApedia.com.
- After, you will be presented with a short Google Forms survey. Please let us know how we are doing.



4

4

Your Presenter Today

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

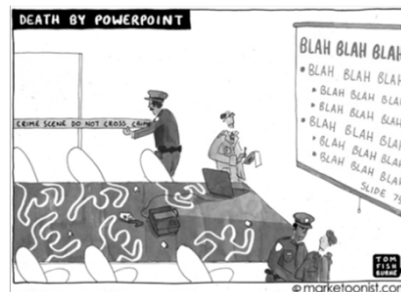


5

5

Agenda

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



6

6

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



7

7

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



8

8

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



9

9

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



10

10

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



11

11

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.



12

12

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



13

13

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)



14

14

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.



15

15

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



16

16

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



17

17

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



18

18

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

example



19

19

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



20

20

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 free online search engines, public records DBs, obituaries, social media
 - Ask other members of the same department as the former TP



21

21

Examples of DOL Best Practices (cont.)



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



22

22

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
 - Plan Sponsor may need to pay for a search vendor



23

23

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



24

24

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
 - Annual review of overall plan TP status (was anyone missed or newly eligible?)

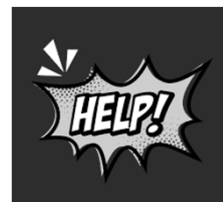


25

25

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)
 - Set timing for trigger of Auto R/O by Plan Sponsor
 - Annual review of overall plan TP health (was anyone missed or newly eligible?)



26


26



27

Contact Information

Alison J. Cohen, J.D., APR
 Co-Author of Plan Corrections eSource
 678.399.6604 (V)
 404.320.1105 (F)
acohen@ferenczylaw.com



The slide includes the FERENCZY BENEFITS LAW CENTER logo with the tagline "We are your solution" and the ERISA logo. It also features the ERISApedia.com logo with the tagline "Get Answers. Win Clients." and the number 28.

28

CE Credit

- Credit is offered for ERPA/ASPPA-ARA/NIPA
- Those that attended the requisite time in the live video portion of the webcast today will receive a certificate by email in a few days (ERPA will take longer).
- Please check spam folder.
- Any questions? Email: support@erisapedia.com.
- After the webcast you will be presented with a short Google Forms survey. Please let us know how we are doing.



29

29

For Further Study

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



30

30