MISSING PARTICIPANTS

Consistent with their obligations of prudence and loyalty, plan fiduciaries must make reasonable efforts to locate missing participants or beneficiaries with vested benefits in qualified plans, so that they can implement directions on plan distributions. Both the Internal Revenue Service (IRS) and Social Security Administration (SSA) have discontinued their letter forwarding services for locating missing plan participants, so plan fiduciaries must rely on alternate processes to locate missing participants. At a minimum, the below search steps must be taken by a plan fiduciary to satisfy fiduciary obligations.

1. **Use Certified Mail.** Send a notice using certified mail to the address on file.
2. **Check Related Plan and Employer Records.** Check the records of the employer or any related plans of the employer (such as a group health plan) for more up-to-date information.
3. **Check with designated beneficiary.** Send an inquiry to the designated beneficiary of the missing participant.
4. **Use Free Electronic Search Tools.** Such online services include Internet search engines, public record databases (such as those for licenses, mortgages and real estate taxes), obituaries and social media.

If, after the above steps have been completed, a missing participant still cannot be found, the fiduciary must consider if additional steps are necessary. Some factors to consider in this decision include the size of the participant's account balance and the cost of further search efforts. Possible additional search steps include the use of Internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases and analogous services that may involve charges.

If these efforts have been made to contact the missing participant or beneficiary to no avail, a reasonable method may be used to remove the assets of the missing participant from the Plan that is consistent with ERISA and the Code. The preferred distribution option in this situation is to transfers the benefits into an individual retirement plan (i.e., an individual retirement account or annuity). The choice of an individual retirement plan requires the exercise of fiduciary judgement with respect to the choice of an individual retirement plan trustee, custodian or issuer to receive the distribution, as well as the choice of an initial investment, i.e. choosing investment products designed to preserve principal and whose fees and expenses are not excessive when compared to other individual retirement plans offered by the provider.

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