



***Did you know that there is a Plan Sponsors  
FIDUCIARY RESPONSIBILITY to verify checks  
issued have been negotiated and cleared the  
custodian?***

Some plan sponsors just send a check to the participant's last known address after withholding the proper tax amounts. They do this for all size accounts especially for accounts valued between \$1 and \$5,000.

But the bigger question is: if that check does not get cashed,  
what is your fiduciary obligation if any.

They would have to think about bringing it back into the plan. But could they do that if they didn't restore the amounts that were withheld in taxes? We know that there is an efficient way to recover taxes withheld, provided it is done within the calendar year in which the distribution was made, but you need a willing custodian (and one that is procedurally set up to do it) to partner with you. However, if not done in the same calendar year, the process becomes extremely time consuming and typically the institution custodial your funds is not geared to handle the corrective procedure, leaving the funds sitting in the General Funds Account.

The two biggest mistakes we see happening are:

- 1) that the custodian will in some case try to return the funds without getting the taxes back and
- 2) is the failure on the part of the Fiduciary to audit all distributions, to be certain the benefit has been paid.

If the Trust accepts Plan Funds it is placing non-qualified money into a qualified plan, potentially subjecting the plan to disqualification.

We think that a far simpler solution for plans is to first amend their plan document to include *a default IRA option with no minimum* and partner with a firm (such as PENCHECKS INC) that has *all the processes automatically built into the distribution process*, otherwise the custodian retains these funds on their general ledger, not including a Default ... the

plan sponsors are just stuck with these accounts, which increases their fiduciary exposure and overall plan costs.

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