



What Every Service Provider Needs to Know About the Risk of Uncashed Checks

2013 EXPERT SERIES



Our Path

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- 2 Background on Missing Participants and Uncashed Checks
- 3 Options For Dealing With Uncashed Checks
- 4 Future Implications

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Introduction to this series



Background on Missing Participants and Uncashed Checks



Legal Requirements That Can Trigger Distributions

- Small Sum Cashouts – 1K/5K
- Distributions at NRA
- Age 70.5 RMDs

Common Missing Participant / Uncashed Check Scenarios

- Requesting a Check and Never Cashing It
- Terminated Vested Reaching Retirement or RMD Status – Last Address
- Mandatory Cashouts
- Alternate Payees Can Not Be Found
- Beneficiaries Can Not Be Found

Potential Implications of Having Missing Participants / Uncashed Checks

- IRS Operational Issues and Qualification
- DOL Questions
- State Authority Inquiries

Options for Dealing With Uncashed Checks



Plan / SPD Provisions

- Missing Participant / Forfeiture Language
- Current Address Requirements and Processes

Approaches People Take: Missing Participants

Again, Disclaim Legal – Some May Not Work

- Forfeiture and Reinstatement Option
- Sending a Check (IRS SSN Masking Guidance)
- Pay to Third Party – Under 5K / Over 5K Distinction

Approaches People Take: Uncashed Checks

Again, Disclaim Legal – Some May Not Work

- Different Scenarios
 - Out of Plan: DB PBGC Premiums, Cashout, Full Distribution
 - In Plan: Partial Distribution
- Options:
 - Continued Missing Participant Search? How to report on 5500/audit implications.
 - Return to Plan Account. How to invest? Interest?
 - Forfeit Subject to Restoration with Account Balance? Interest (DB vs. DC)?
 - State Forfeiture Laws?
 - Distribute to Third Party Account? 5K Under/Over Distinction.
 - Leave Out and Stale? How to report on 5500/audit implications.

Future Implications



IRS Audits

- Plan Terminology of Permissive Activities (Make Sure Plan is Clear)
- Reconciling Data – Earnings, Interest (?), Losses
- Employee Plans Team Audits Deeper Dive

DOL Investigations

- Proper Fiduciary Activity – Settlor vs. Fiduciary Obligations
- Proper Use of Assets and PTs – IRA Rollovers and Need for Caution on Fees
- Revenue Sharing – Fiduciary or Not Issues

Participant Claims

- How to Manage
- Proper Disclosure – Fee Disclosure and SPDs

Concluding Thoughts





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