Plan sponsor template letter from TPA re missing participants

TPA controlled version

Please Note: The following is a generic sample communication that a TPA could send to their Plan Sponsor client with respect to PenChecks Trust’s Participant Search services, Auto Rollover IRA services and Missing Participant IRA services. The particular facts and circumstances of a specific Plan may require modification of this sample communication. This sample communication is for general educational purposes only and should not be construed as providing legal, investment, tax or any other professional advice.

TPA company name and address

Dear <plan sponsor/trustee name>,

As part of a routine review of your plan, we are contacting you regarding an issue that could adversely impact the <401k Plan Name>.

The Internal Revenue Service (IRS) and the U.S. Department of Labor (DOL) require that retirement plan sponsors and/or trustees are responsible for locating missing plan participants to make timely distributions and ensuring that participants receive required plan information (participant statements, Summary Plan Descriptions, Summary of Material Modifications, various annual participant notices etc.), and more. If the IRS or DOL audits your plan, failure to make a reasonable effort to locate missing participants can result in further investigation by these federal agencies, potentially leading to compliance issues and the assessment of penalties against you as the plan sponsor or trustee.

**Recommended Action**

Under DOL guidance, plan sponsors should locate and roll over missing and non-responsive terminated participants with vested account balances less than $5,000[[1]](#footnote-1). And DOL Field Assistance Bulletin No. 2014-01 provides guidance as to how plan fiduciaries of terminated defined contribution plans can fulfill their obligations under the Employee Retirement Income Security Act of 1974 (ERISA) for making a reasonable effort to locate missing participants:

* Use Certified Mail (the DOL provides a model letter)
* Check related plan and employer records
* Contact designated plan beneficiaries
* Use online search tools, including public record databases, obituaries, social media, etc.

If these efforts are unsuccessful, fiduciary risk can be reduced by transferring the liability from plan sponsors and trustees to the missing participant. To achieve this goal, we currently work with PenChecks Trust Company of America (PenChecks Trust), a nationally recognized service provider in the retirement plan industry that specializes in fulfilling DOL requirements to locate missing or unresponsive plan participants.

PenChecks Trust offers a comprehensive search service for locating missing participants so you can pay them out and remove them from your plan. If a participant can’t be found, they can establish an Automatic Rollover IRA account for the participant to retain the qualified status of their retirement account. Once the funds are rolled over into this account, the liability to the plan sponsor and trustee(s) ceases. All fees associated with this transaction are charged to the missing participant’s account.

We highly recommend you consider using their services to locate or process an Automatic Rollover IRA for terminated employees with balances under $5,000. To utilize this service, please see the attached services agreement, which incurs no cost to you. All fees for these services are chargeable only against the missing participants’ accounts.

If interested, please contact me personally so I can make an introduction to the appropriate people at PenChecks Trust.

Sincerely,

TPA

1. *29 CFR 2550. 404a-2* [↑](#footnote-ref-1)