

DB Digest

BEST PRACTICES FOR PENSION ADMINISTRATION

NOVEMBER 2018

KEY DATES

11/14/18

File PBGC Form 10 if the 10/15/18 required quarterly contribution was missed by more than 30 days, unless PBGC Form 200 was already filed or a waiver applies.

12/15/18

For non-PBGC-covered plans, distribute Summary Annual Report to participants, if the Form 5500 due date was extended by a timely filed Form 5558.

12/31/18

Deadline to certify the 2018 AFTAP if the plan used a “range” certification.

12/31/18

Provide an annual notice to participants about the availability of and the means to obtain a pension benefit statement, if the alternative notification approach will be used.

Lost in the mists of time

David Benbow

Milliman has assisted several clients that have been audited by the Internal Revenue Service (IRS) or Department of Labor (DOL). One issue that came up again and again in these audits was the process for locating “lost participants” to ensure proper payments are received by retirees or their beneficiaries.

“Lost participants” are terminated participants and beneficiaries entitled to benefits from the plan, but plan sponsors no longer have accurate contact information for them. The longer they remain lost, the more difficult they can be to locate. Plan sponsors should have solid procedures in place for locating lost participants and initiating their benefit payments—or they could end up spending a lot of time documenting the details or perhaps defending their actions (or inactions) in an audit.

Lost participants are an easy target for auditors

Somewhere along the line, government auditors discovered that plan sponsors have not always done a very good job keeping track of their deferred participants. Historically, plan sponsors could simply send a letter via certified mail or use IRS letter-forwarding services and that would suffice. But IRS letter forwarding services are a thing of the past, and the DOL has increased the standards for what is considered a diligent search.

What are auditors looking for?

Auditors will likely ask to see a list of all deferred participants and beneficiaries who were beyond the designated normal retirement age during the years under audit. For each person on the list, they will require:

- Date election kits were mailed
- Date paperwork was returned
- Date payments started (and whether they were paid retroactively with interest)
- Date checks were cashed
- Whether or not the participant has been located
- Documentation that details the steps taken to locate any “lost participant”

Most plan sponsors don’t maintain ongoing logs of these items, which may lead to unanticipated efforts to research, document, and provide the required elements to fulfill the auditor’s request.

For participants who are still lost, auditors will want to know what steps sponsors have taken to find them, where they have looked, and how often they have tried to reach those lost. If the plan document contains procedures for dealing with lost participants, sponsors should use those procedures as a starting point.

Auditors will also want to see written procedures for performing a diligent search. DOL Field Assistance Bulletin 2014-01 provides the latest guidance on what efforts should be made in locating a lost participant. While this Field Assistance Bulletin was written for terminating defined contribution (DC) plans, these steps can also be used for lost participants in any situation and have been proven to satisfy auditors. They suggest starting with the easier, less expensive search methods and then moving on to other options if those efforts are unsuccessful. At a minimum, sponsors should follow (and document) the following steps:

1. **Use certified mail.** Certified mail is an easy and economical way to determine whether the participant can be located in order to distribute benefits.
2. **Check related plan and employer records.** While the records of the pension plan may not contain current address information, it is possible that the employer or another of the employer's plans, such as a group health plan, may have more up-to-date information. For this reason, plan fiduciaries must ask both the employer and any administrator(s) of related plans to search their records for more current addresses of missing participants. If there are privacy concerns, the plan fiduciary engaged in the search can request that the employer or other plan fiduciary contact or forward a letter for the plan to the missing participant or beneficiary. The letter would ask that the missing participant or beneficiary contact the searching plan fiduciary.
3. **Check with designated plan beneficiaries.** In searching the pension plan's records or the records of related plans, plan fiduciaries must attempt to identify and contact any individual whom the missing participant has designated as a beneficiary (e.g., spouse, children, etc.) to find updated contact information. If there are privacy concerns with this approach, the plan fiduciary can request that the designated beneficiary contact or forward a letter on behalf of the plan to the missing participant or beneficiary.
4. **Use free electronic search tools.** Plan fiduciaries should make reasonable use of internet search tools that do not charge a fee to search for missing participants or

beneficiaries. Such online services include internet search engines, public record databases (such as those for licenses, mortgages, or real estate taxes), obituaries, and social media.

Auditors sometimes use their own techniques to try to locate lost participants. For example, an auditor once mentioned they were able to locate a lost participant on Ancestry.com. This sounds a bit far-fetched, but how would it look if an auditor were able to locate a lost participant on the internet and the plan sponsor wasn't?

Field Assistance Bulletin 2014-01 goes on to say that if none of the search methods listed above can locate the lost participant, "the duties of prudence and loyalty" require the fiduciary to assess whether it's worth trying other methods. Plan sponsors are allowed to consider the amount of the lost participant's benefit along with other facts and circumstances to decide how much effort is reasonable to expend in order to locate that person.

While not mentioned in the Field Assistance Bulletin, one common way to locate lost participants is by engaging a professional search firm. These locator services maintain vast databases that are continually updated from credit reporting institutions, the Social Security Death Master File, and other sources. These often provide at least one possible address for the participant. These sources can also be helpful in determining whether a lost participant has died. Some search firms offer more robust searches (for an additional fee) that are intended to meet or exceed the requirements of the DOL's diligent search.

On a side note, the Pension Benefit Guaranty Corporation (PBGC) also has a missing participant program for terminating plans (recently expanded to include DC plans), which can be found at <https://www.pbgc.gov/prac/missing-participants-program>.

An ounce of prevention

Because plan sponsors never know when their number will come up with the DOL or IRS, it would be prudent to be prepared in the event of an audit. If there are lost participants in the plan or if there is a need to develop effective procedures, a Milliman consultant can assist as we have helped many clients through audits and have the knowledge and expertise to provide the proper guidance.

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This publication is intended to provide information and analysis of a general nature. Application to specific circumstances should rely on separate professional guidance. Inquiries may be directed to dbdigest.editor@milliman.com.