

TIPS FOR LOCATING “MISSING” PLAN PARTICIPANTS

Efficient and economical retirement plan administration includes managing the payment of vested benefits to former employees. Plan administrators strive to minimize the number of these individuals, particularly those with relatively small benefits, because associated recordkeeping and periodic disclosures may prove to be costly to Plan Sponsors. In addition, some plans are required to retain an independent auditor simply because these inactive participants swell the plan participant count. If a plan administrator cannot locate a former employee, sound administrative practice dictates that this situation be remedied sooner, rather than later. The obligation for benefit payments does not cease merely because a former employee with plan benefits is hard to find.

The following represent some helpful tips to Plan Sponsors/Plan Administrators for locating former employees with vested benefits:

- If a letter is returned, send a second letter by certified mail.
- Check the former employee’s personnel file to identify persons who may know the employee’s whereabouts. This includes the named beneficiary, the employee’s emergency contact, or spouse. Letters or phone calls to these individuals may produce the answer.
- If you know the former employee’s new work place, contact the new employer and point out that you are trying to locate the individual because the plan owes him/her money.
- Check with other employees at your company to see if anyone has information about the former employee’s location.

- The Internet has a number of web sites that may be helpful at a low or minimal cost. These include “do it yourself” data bases, as well as low cost (under \$20) address location services.
- If you think the individual may have moved, call directory assistance to get a telephone number.
- Contact the Department of Motor Vehicles.
- Use the IRS Letter Forwarding Project by asking the IRS to forward a letter that you send to them. This is a free service for less than 50 participants; but the IRS will not give you any information on the person, nor will they let you know whether they were able to deliver the letter.
- The Social Security Administration will also forward letters to missing participants for a \$25 fee.
- If none of the above resources prove successful, and the balance is significant, a private investigator can be retained. Some will perform this service for as little as \$50.

Many plans provide that if the benefit is over \$1,000 and not over \$5,000, the benefit is automatically transferred to an IRA if the participant does not specify an alternative. Since missing participants do not specify an alternative distribution, their benefits can be transferred to an IRA under this provision.

Although retirement plan participants have the protected legal right to defer receipt of benefits that exceed \$5,000, prudent plan administration practices can be implemented that eliminate or minimize the number of former participants with small benefits. Diligent address maintenance management is an important part of this process.

“EGTRRA RESTATEMENT” OF DEFINED BENEFIT PLANS UNDER WAY AT NRS

The process of restating all pre-approved defined benefit plan documents is currently in progress at National Retirement Services, Inc. for clients who use our pre-approved documents. Clients with pre-approved defined benefit plan documents that were last approved around 2002, are now required to be restated to incorporate new IRS language that reflect pertinent laws and regulations since that date. Although the absolute deadline is the end of next April, NRS is urging all affected clients to authorize the restatement, so that documents can be substantially completed by the end of 2011. If you are an NRS client that received a communication asking authorization to restate your plan, or if you are an advisor to such a client, be sure to provide a prompt response and authorization so that your plan can be brought up to date on a timely and cost efficient basis.

DEPARTMENT OF LABOR POSTPONES 408(B)(2) DISCLOSURE RULES – AGAIN

The US Department of Labor announced another delay in the deadline for employers and service providers on July 13, 2011. New extended deadlines apply to both service provider contracts, as well as disclosures to participants. Service provider contracts must now provide 408(b)(2) disclosures to their current plan customers no later than April 1, 2012. Similarly, the DOL extended the deadline for initial participant disclosures to a date later than the deadline for plan sponsors to receive service provider contract disclosures. The new deadline is the later of 60 days after the first day of the first plan year beginning on or after November 1, 2011; or 60 days after the effective date of the 408(b)(2) regulations. A calendar year plan, for example, is now required to provide the initial

participant disclosures by May 31, 2012. Quarterly disclosure requirements are required 45 days after the close of the quarter in which initial participant disclosures must be furnished. Thus, a calendar plan’s initial quarterly disclosure will be due August 14, 2012.

IRS ISSUES EXTENSION FORM 5558 WITH COMPANION RULES

On July 8, 2011, the IRS released a revised Form 5558 (Application for Extension). The Form can be used to request extensions of time for filing any of the Form 5500 series, Form 8955-SSA (recent terminated vested participants due benefits), or Form 5330 (payment of excise taxes for retirement plan transactions). The filing must be done by mailing a paper form to the IRS on or before the normal due date.

Approval for a Form 5500 series filing extension up to 2½ months after the normal due date is automatic, as long as the form is timely filed. While Form 5558 need not be signed for 5500 extensions, a signature is required for extensions of Form 5330 and Form 8955-SSA. The signature can be “a Plan Administrator, Employer, Plan Sponsor, or any other authorized representative”. More IRS clarification is anticipated. Based on prior rules, this group can include attorneys, Certified Public Accountants, Enrolled Actuaries and other persons qualified to practice before the IRS or any person holding a power of attorney for the employer. The IRS practice of allowing a minimum 90 days before refusing to accept the prior form presumably applies for the new Form 5558; meaning the old forms will be accepted until early October. The new Form 8955-SSA filing deadline has already been extended until January 17, 2012 for the 2009 and 2010 plan years. However, the new Form 5558 may be used to extend Form 5330 filings, as well as Form 8955-SSA for plan years that end after March 31, 2011.

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