

DOL Updates Missing Participant Guidance FAB 2014-01

The DOL has issued [FAB 2014-01](#) replacing previously issued guidance (FAB 2004-02) related to locating missing participants. Both the IRS and Social Security Administration have discontinued their letter forwarding service since the issuance of FAB 2004-02. Internet search technologies have improved greatly over the past few years. While this FAB is specifically for finding participants in terminated defined contribution plans, it will probably affirm many of the practices already in use by plan sponsors.

Key Compliance Points

- **DO NOT** deal with lost participant benefits by imposing 100% income tax withholding
- Acceptable search steps (already in use by many plan sponsors) include:
 - Certified mail
 - Check other employer plans e.g., health plans for potentially more up-to-date records
 - Contact the designated beneficiary
 - Use free electronic search tools
- If the above steps fail to locate the lost participant, additional steps may be necessary when considering the size of the account balance and the cost of further search efforts. Additional steps include:
 - Internet search tools
 - Commercial locator services
 - Credit reporting agencies
 - Information brokers
 - Investigation databases and analogous services

Other reminders in the FAB

- The decision to terminate a plan is a settlor function. The choice of distribution options is a fiduciary decision. As with all fiduciary decision, document, document, document!
- Reasonable expenses for locating the participant may be charged to the participant's account
- Rollovers to an individual retirement plan is the preferred approach since it is more likely to preserve funds for retirement.

Finally, the DOL will revisit this guidance after the PBGC publishes final regulations regarding whether defined contribution plans can participate in the PBGC's missing participant program. PBGC has been reviewing this issue for some time.

Note: all links are active as of the date of issuance of this ErisaALERT.

Disclaimer: This material is for the sole purpose of providing general information and does not under any circumstances constitute legal advice and should not be used as a substitute for legal advice. You should seek the advice of counsel when applying the requirements to your plan. For more information on this ErisaALERT contact us by phone at 610-524-5351 and ask for Mary Andersen or 215-508-5629 and ask for Theresa Borzelli at SFE&G.