

“Has the plan failed to provide any benefit when due under the plan?”

IRS clarifies concerning Form 5500 question

A failure to pay a required minimum distribution (RMD) is a common error made in retirement plans, especially when retired or separated participants do not notify the Plan Sponsor or Administrator of a change in their address. Sometimes, after exhausting all resources and methods, these missing participants are still not found and required distributions cannot be made. Should Plan Sponsors be required to include the unpaid RMDs of missing participants on their annual Form 5500 series filing?

Background

Effective for the 2009 plan year, the Form 5500 and Form 5500-SF began requiring plans to respond to the question, “Has the plan failed to provide any benefit when due under the plan?”¹ Prior to 2015, the question did not include guidance or examples for what constitutes a failure to provide a benefit due, leaving Plan Sponsors to wonder if RMDs for missing participants should be included.

In 2015, the IRS clarified that unpaid required minimum distribution (RMD) amounts must be reported in response to this question for 5% owners who have attained 70 ½ and non-5% owners who have attained 70 ½ and have retired or separated from employment. For Plan Sponsors, especially those of larger plans, this requirement could feel like putting a target on your Plan and asking to be audited.

Clarified Instructions for Reporting RMD Failures

After receiving numerous comments on this topic, the IRS provided the following clarification on July 29, 2016.

“...in the absence of other guidance, filers do not need to report on Lines 4I of the Schedule H and I to the Form 5500 and 10f of the Form 5500-SF unpaid required minimum distribution (RMD) amounts for participants who have retired or separated from service, or their beneficiaries, who cannot be located after reasonable efforts or where the plan is in the process of engaging in such reasonable efforts at the end of the plan year reporting period.”²

The IRS refers Plan Sponsors to DOL Field Assistance Bulletin 2014-01 for tips on locating missing participants. While FAB 2014-01 is geared towards fiduciaries of terminated defined contribution plans, it will assist any Plan Sponsor in understanding the “reasonable efforts” which should be taken in fulfilling your due diligence under ERISA and locating missing participants requiring RMDs. Following the release of FAB

¹ This question can be found in Line 4I of Form 5500 Schedules H & I and in Line 10F of Form 5500-SF.

² Clarifications to Instructions for Lines 4I of Schedules H and I (Form 5500) and line 10f of Form 5500-SF. Internal Revenue Service. 29 July 2016.

2014-01, we compiled a Retirement Rescue piece, entitled [Missing Participants](#), to summarize the required steps in searching for missing participants.

While this news is sure to be welcomed by Plan Sponsors, do not cease all attempts in searching for lost participants. The IRS is likely to issue guidance at some point, requiring Plan Sponsors to once again include unpaid RMDs to missing participants as unpaid benefits due in the Form 5500 series.