

**MEMO# 30942**

November 8, 2017

# **IRS Issues Memorandum Regarding Required Minimum Distributions for Missing Participants and Beneficiaries**

[30942]

November 8, 2017 TO: ICI Members  
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Issues Memorandum Regarding Required Minimum Distributions for Missing Participants and Beneficiaries

On October 19, 2017, the Internal Revenue Service (IRS) issued a memorandum to its Employee Plans (EP) examiners entitled “Missing Participants and Beneficiaries and Required Minimum Distributions.”[\[1\]](#) The memorandum provides guidelines for IRS EP examiners when reviewing qualified plans’ compliance with required minimum distribution (RMD) standards under Internal Revenue Code section 401(a)(9) in the circumstance that the plan cannot locate participants or beneficiaries to whom an RMD payment is due.[\[2\]](#)

According to the memorandum, an EP examiner should not challenge a qualified plan for failing to distribute an RMD to a participant or beneficiary, as long as the plan has completed the following actions:

1. Searched plan and related plan, sponsor, and publicly-available records or directories for alternative contact information;
2. Used an approved search method (a commercial locator service; a credit reporting agency; or a proprietary internet search tool for locating individuals); and
3. Attempted contact via US Postal Service certified mail to the last known mailing address and through appropriate means for any address or contact information (including email addresses and telephone numbers).

The guidance in the memorandum applies only to IRS examiners, and does not address a plan’s responsibilities under ERISA. The Department of Labor (DOL) applies different standards, which may be more stringent.[\[3\]](#) For example, at the August 24, 2017 meeting of the ERISA Advisory Council, DOL staff provided an update on current Employee Benefit Security Administration (EBSA) enforcement activities regarding terminated vested participants in defined benefit plans. DOL staff described additional steps applied by DOL under the enforcement program (e.g., asking other employees who knew the terminated missing participant in an effort to establish contact).

**endnotes**

[1] The memorandum is *available at*  
<https://www.irs.gov/pub/foia/ig/spder/tege-04-1017-0033.pdf>.

[2] Under Code section 401(a)(9), a plan must begin making distributions to a participant when the participant reaches age 70 ½ (the first RMD must be made by the April 1 following the year in which the participant attains age 70 ½) or, if later, after the participant retires from employment with the plan sponsor (unless the participant is a 5% owner of the plan sponsor). In the case of a deceased participant's account, the plan must make distributions to the beneficiary of the account.

[3] DOL's Field Assistance Bulletin No. 2014-01 describes a plan fiduciary's duties with respect to searching for missing participants and properly distributing missing participants' account balances. However, the bulletin technically only applies to terminating defined contribution plans. As described in the bulletin, DOL requires plan fiduciaries to use certified mail, check related plan and employer records, check with the participant's designated beneficiary, and use free electronic search tools. Field Assistance Bulletin No. 2014-01 is *available at*  
<https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2014-01>.