

Dear Plan Sponsor, Where Can I Find You?

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PRACTICES Employee Benefits and Executive Compensation

Plan sponsors and administrators frequently are faced with issues arising from not being able to contact participants because they do not have participants' current addresses and/or phone numbers. However, administrative headaches can also arise when the plan sponsor fails to use contact information in its summary plan descriptions or required filings for the actual human resources or benefits personnel of the plan sponsor who oversee plan matters. When plan participants and/or governmental agencies, such as the DOL or IRS, cannot easily locate the plan sponsor it can be a recipe for disaster.

A plan sponsor is required to report and disclose its address and telephone number in several circumstances. The sponsor's address and phone number are required to be included in the summary plan descriptions for both retirement and welfare plans. Additionally, the summary plan descriptions must also include an address for service of legal process. A plan sponsor must also include its address and telephone number in the plans' annual Form 5500 filings, as well as determination letter filings and/or any corrective filings under IRS and DOL voluntary correction programs (collectively, "**Plan Filings**"). Participants and beneficiaries will use this information to inquire about benefits, file claims, and request copies of plan documents. If a participant submits a request for a plan document to the contact information provided in the SPD, the plan sponsor generally only has 30 days to provide the requested documents – the fact that the address was outdated would not extend this time period or eliminate the penalties for a failure to timely provide the requested documents.

Often, third party service providers will prepare the initial drafts of summary plan descriptions and Plan Filings. It is imperative that, in reviewing these drafts, plan sponsors focus on the addresses included – not only to confirm that they are correct, but to ensure that they are as specific as they should be. Often, summary plan descriptions and Plan Filings will include the general corporate address for the plan sponsor. While doing so may satisfy the technical legal requirements, if the plan receives mail at the general corporate address, the individual or department in charge of delivering the mail must know the identity of the individual or department within the company where plan-related mail should be directed. In order to avoid important plan-related mail getting lost or delayed after it reaches the general corporate address, plan sponsors should consider including the title of an individual or a department name (e.g., ATTN: Benefits Department) in the addresses included in its disclosures and Plan Filings. It is not recommended that summary plan descriptions and Plan Filings specify an individual's proper name, as personnel changes may occur.

Similar issues can arise with respect to phone numbers. Summary plan descriptions and Plan Filings often include a general corporate number. Again, the general number can be used so long as the individual answering that number understands where to direct all plan-related inquiries.

Finally, issues with contacting the plan sponsor can also arise in the context of corporate transactions. If a company acquires the plans of a target entity in a merger or acquisition, the buyer (or surviving entity in a merger) must ensure that summary plan descriptions are updated to include the correct address of the new plan sponsor. Furthermore, the new plan sponsor must take care that any mail sent to the address included on the target plans' most recent Plan Filings is forwarded

to the benefits department of the current sponsor. It is important to note that the IRS and DOL generally send all plan-related inquiries to the address included in Plan Filings. Often these inquiries include relatively tight time frames for responses, and government agencies generally are not sympathetic to delays caused by inaccurate or old addresses included on Plan Filings.

Plan sponsors should annually review the contact information they are using with respect to their plans (for any acquired plans, review the addresses at closing and then annually thereafter) to make sure it is the correct and most up to date contact information. By keeping contact information up to date, plan sponsors can reduce the risk of missing deadlines and incurring penalties because plan participants and beneficiaries and government agencies called the wrong number or sent letters and notices to the wrong address.