
29 C.F.R. § 2578.1

Termination of abandoned individual account plans.

(a) *General.* The purpose of this part is to establish standards for the termination and winding up of an individual account plan (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act)) with respect to which a qualified termination administrator (as defined in paragraph (g) of this section) has determined there is no responsible plan sponsor or plan administrator within the meaning of section 3(16)(B) and (A) of the Act, respectively, to perform such acts.

(b) *Finding of abandonment.* (1) A qualified termination administrator may find an individual account plan to be abandoned when:

(i) Either: (A) No contributions to, or distributions from, the plan have been made for a period of at least 12 consecutive months immediately preceding the date on which the determination is being made; or

(B) Other facts and circumstances (such as a filing by or against the plan sponsor for liquidation under title 11 of the United States Code, or communications from participants and beneficiaries regarding distributions) known to the qualified termination administrator suggest that the plan is or may become abandoned by the plan sponsor; and

(ii) Following reasonable efforts to locate or communicate with the plan sponsor, the qualified termination administrator determines that the plan sponsor:

(A) No longer exists;

(B) Cannot be located; or

(C) Is unable to maintain the plan.

(2) Notwithstanding paragraph (b)(1) of this section, a qualified termination administrator may not find a plan to be abandoned if, at any time before the plan is deemed terminated pursuant to paragraph (c) of this section, the qualified termination administrator receives an objection from the plan sponsor regarding the finding of abandonment and proposed termination.

(3) A qualified termination administrator shall, for purposes of paragraph (b)(1)(ii) of this section, be deemed to have made a reasonable effort to locate or communicate with the plan sponsor if the qualified termination administrator sends to the last known address of the plan sponsor, and, in the case of a plan sponsor that is a corporation, to the address of the person designated as the corporation's agent for service of legal process, by a method of delivery requiring acknowledgement of receipt, the notice described in paragraph (b)(5) of this section.

(4) If receipt of the notice described in paragraph (b)(5) of this section is not acknowledged pursuant to paragraph (b)(3) of this section, the qualified termination administrator shall be deemed to have made a

reasonable effort to locate or communicate with the plan sponsor if the qualified termination administrator contacts known service providers (other than itself) of the plan and requests the current address of the plan sponsor from such service providers and, if such information is provided, the qualified termination administrator sends to each such address, by a method of delivery requiring acknowledgement of receipt, the notice described in paragraph (b)(5) of this section.

(5) The notice referred to in paragraph (b)(3) of this section shall contain the following information:

(i) The name and address of the qualified termination administrator;

(ii) The name of the plan;

(iii) The account number or other identifying information relating to the plan;

(iv) A statement that the plan may be terminated and benefits distributed pursuant to 29 CFR 2578.1 if the plan sponsor fails to contact the qualified termination administrator within 30 days;

(v) The name, address, and telephone number of the person, office, or department that the plan sponsor must contact regarding the plan;

(vi) A statement that if the plan is terminated pursuant to 29 CFR 2578.1, notice of such termination will be furnished to the U.S. Department of Labor's Employee Benefits Security Administration;

(vii) The following statement: "The U.S. Department of Labor requires that you be informed that, as a fiduciary or plan administrator or both, you may be personally liable for costs, civil penalties, excise taxes, etc. as a result of your acts or omissions with respect to this plan. The termination of this plan will not relieve you of your liability for any such costs, penalties, taxes, etc."; and

(viii) A statement that the plan sponsor may contact the U.S. Department of Labor for more information about the federal law governing the termination and winding-up process for abandoned plans and the telephone number of the appropriate Employee Benefit Security Administration contact person.

(c) *Deemed termination.* (1) Except as provided in paragraph (c)(2) of this section, if a qualified termination administrator finds, pursuant to paragraph (b)(1) of this section, that an individual account plan has been abandoned, the plan shall be deemed to be terminated on the ninetieth (90th) day following the date of the letter from EBSA's Office of Enforcement acknowledging receipt of the notice of plan abandonment, described in paragraph (c)(3) of this section.

(2) If, prior to the end of the 90-day period described in paragraph (c)(1) of this section, the Department notifies the qualified termination administrator that it—

(i) Objects to the termination of the plan, the plan shall not be deemed terminated under paragraph (c)(1) of this section until the qualified termination administrator is notified that the Department has withdrawn its objection; or

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