THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW
A Publication for Plan Sponsors and Retirement Plan Professionals

The New Fiduciary Rule: What It Means To Plan Sponsors

Bottom line: what does it mean?

If you're a retirement plan sponsor and, unless you've been living under a rock, you've probably heard about the Department of Labor's (DOL) attempt to change the definition of fiduciary. What you probably don't know is how that change may affect your retirement plan. Now that the DOL has published a final rule that has redefined what a fiduciary is, it's important to understand how the change could impact your plan. So this article is about the new DOL fiduciary rule and how it can impact your plan.

To read the article, please click here.

Things About Plan Providers That Shouldn't Impress Plan Sponsors.

Don't get bamboozled.

Mergers and acquisitions (M&A) are transactions in which the ownership of companies, other business organizations or their operating units are transferred or combined. It was also the name of a really boring class I took at the American University Washington College of Law taught by a Professor who had zero personality and would bore me to sleep. I should know; I took him for three classes. That being said, M&A is extremely important in the world of retirement

plans. Whether a business transaction is a merger, sale of stock, or sale of assets will have a tremendous effect on the retirement savings of plan participants if the acquired company and/or acquirer sponsor retirement plans. This article will bring up some important considerations as it pertains to M&A and 401(k) plans.

For the article, click here.

How a Retirement Plan Sponsor Can Avoid Being a Patsy.

There is something wrong with hearing nothing, seeing nothing.

I always say that you should never be a spectator in your own life; you need to be an active participant in shaping your own life. Too often, a retirement plan sponsor acts like a spectator when the plan sponsor neglects their plan and ends up becoming a patsy when the plan is under Internal Revenue Service (IRS) or Department of Labor (DOL) review. The retirement plan sponsor becomes a patsy because they will get the blame when things with their plan goes wrong because they will get the blame as plan fiduciaries, so this article will help a plan sponsor avoid being a patsy and a spectator in their role as a retirement plan sponsor.

To read the article, please click here.

Stuff That Plan Providers Never Tell Plan Sponsors.

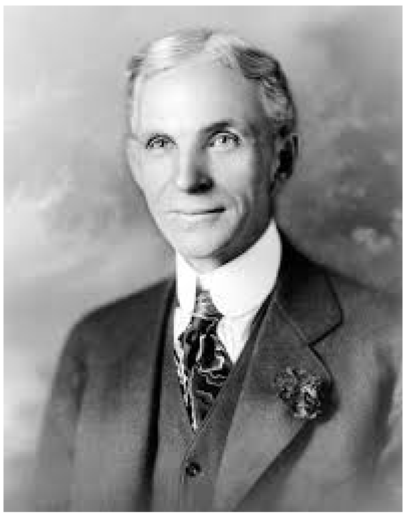
They are usually silent on these things.

I have a college degree and two law degrees (I'm not bragging), so I actually have three alma maters. I attended Stony Brook University, American University Washington College of Law, and Boston University. Out of the three, my favorite will always be Stony Brook University. It is the only public university out of the three and I always envisioned it as the "State University of New York Center that Could", it's gone from the fourth best to the second best university center since I went there. The Stony Brook Seawolves even just made the NCAA Men's Basketball Tournament. The reason that Stony Brook is my favorite is because I always felt the school never made any promises that it couldn't deliver, it never tried to be something that it's not, they never tried to hide anything derogatory about them. The biggest disappointments in my life have always been with situations where something such as a school or an organization or a job was billed to be something bigger and better than it was. When it comes to retirement plan provider(s), there are quite a few things where they aren't likely to be forthcoming. This article is about what plan providers may neglect to tell their plan sponsor clients.

To read the article, please click here.

No such thing as assembly line Retirement Plans .

Much more complicated than that.



Henry T. Ford is considered the father or the pioneer of the modern day assembly line of manufacturing. His development of the Model T and its way of manufacturing is considered one of the great developments in 20th century capitalism. His assembly combined the idea of interchangeable parts and was a model of efficiency. His efficiency did have its limitations. In his autobiography, Ford wrote: "Any customer can have a car painted any color that he wants so long as it is black".

There are many retirement plan providers that have an assembly line approach when it comes to retirement plans. These providers use their own standardized prototype documents and have a consistent plan design structure. Like the color of a Model T, plan sponsors usually using these providers have no choice in plan design and these limitations may cost the plan sponsor money because they are not able to maximize employer contributions through plan designs that may increase contributions to highly compensated employees, which many times are the owners of the plan sponsor.

There cannot be a cookie cutter approach to retirement plans. Every plan is different. Even plans sponsored by the same employer are different. Every plan has its own set of circumstances as to why they were set up, what the goals were when set up, as well as the demographics of the plan sponsor supporting it. Their vesting schedule, eligibility requirements, and employer contribution should be drafted to the specific needs and demographics of the plan sponsor. Plan documents are legal documents and legal documents have legal consequences. They should not be churned out by someone who is not an ERISA attorney or a paralegal with extensive retirement plan drafting background. Prototype plan documents that have that fill in the blank document look can be a very cost efficient, but they have their limits and there are very often situations where the plan sponsor's needs cannot fit within the confines of the plan document's limited choices.

Retirement plans are not widgets or tubes of toothpaste. Like a suit, they have to be custom made or tailored to meet the specific needs of the plan sponsor. Failure to have the plan fits the needs of a plan sponsor is the same as my 6 year old son wearing his 4T clothes or my clothes. Plan design and drafting is an essential part of retirement plan administration and should not be discounted.
These plan providers that use that assembly line approach that doesn't offer new comparability plan design or a variety of choice among plan provisions does a disservice to the plan sponsor. Cost for a plan sponsor in retirement plan administration is a concern, but not the overriding concern. Plan sponsors need providers that can draft and administer the plan so it fits their needs.

DOL Published Final Rule.

Yes, we mention it again.

As stated before, the Department of Labor (DOL) issued their final new Fiduciary Rule on Wednesday, April 6 th that will have far reaching changes to the retirement plan industry.

Aside from some paperwork, disclosure, and effective date changes, very little was really changed from the proposed rule that will require all financial advisors who work on retirement plans and individual retirement accounts to act in a fiduciary role. Registered investment advisors have always played that fiduciary role, brokers will now have to step up to that role which can impact their business when they get different remuneration based on the investment they sell.

The implementation date will be January 1, 2018. Don't be surprised that changes because the DOL does postpone effective dates quite a bit. A change in the political party controlling the White House on January 20, 2017 can stop the regulation before it's implemented.

A list of the changes made by the DOL to the proposed rule can be found here.

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The Rosenbaum Law Firm Review, May 2016 , Vol. 7 No. 5

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