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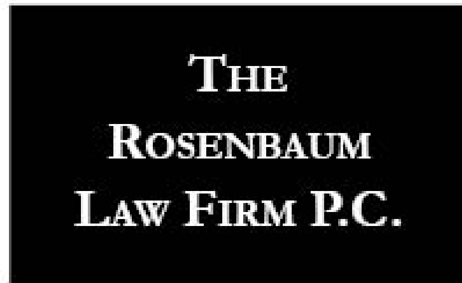


The Law Firm Review

A Publication for Plan Sponsors and Retirement Plan Professionals

The Buck Stops With Retirement Plan Sponsors.

It does.

Plan sponsors can blame the problems of their plans on others, but ultimately they bear the brunt of liability as plan fiduciaries. A plan sponsor must be aware of all their fiduciary duties or at least, hiring several plan providers that do. Great liability is avoided by understanding the great responsibility as a retirement plan sponsor. Like with the sign on Harry Truman's desk, The Buck Stops Here with Retirement Plan Sponsors.

To read the article, click here.

The Nuts And Bolts About Self-Correction And Voluntary Compliance Programs.

What you need to know.

Our tax system rests on voluntary compliance and the assumption that taxpayers will abide by the law. Voluntary compliance is based on taxpayers complying with the law and the use of the audit by the Internal Revenue Service and/or Department of Labor (for retirement plans) is an effective check and tool to encourage it. Voluntary compliance as it pertains to qualified retirement plans means that each plan sponsor must comply with the Internal Revenue Code and ERISA (Employee Retirement Income Security Act of 1974). Audits of qualified retirement plans by the Internal Revenue Service (IRS) or Department of Labor (DOL)can result in substantial penalties if compliance errors are detected. For plans that are so out of compliance, the Internal Revenue Service (IRS) could hit them with disqualification which would disallow prior contribution deductions to the plan sponsor and immediate income to participants in the amount of their account balance. Thankfully, the IRS and DOL have created voluntary compliance programs to encourage voluntary compliance and to encourage plan sponsors to fix problems they discover. These programs offer reduced penalty amounts and if you have a plan error to fix, get it done.

To read this article, please click here.

The Good, The Bad, And The Ugly Of Plan Providers.

How to tell them apart.

After 22 years on the retirement plan business, it's easy for me to say that most retirement plan providers are very good. There are a few plan providers that aren't so good because they are incompetent. Then there are a few that are absolutes thieves that steal money. Like the movie, The Good, The Bad, and The Ugly, as a 401(k) plan sponsor, you need to make sure that your plan providers are good, not bad, and ugly. This is what this article is all about, how you can avoid the bad and the ugly providers.

To read the article, click here.

Gambling against an audit is a bad bet.

Take care of it.

As everyone is gearing for the January 1, 2021 implementation of pooled employer plans (PEPs), I keep on insisting that this won't be the game-changer that everyone hopes.

I think PEPs are a great idea, it finally eliminated the silly Department of Labor (DOL) advisory opinion on Open Multiple Employer Plans (MEPs). I caution that many advisory firms and other plan providers want their PEP. The caution is that like the days of Open MEPs, most of these will fail in accruing enough assets for them to be more cost-effective than a single employer plan solution. If a PEP (like the old Open MEP) doesn't have enough participants and assets, that annual audit starts to become an albatross around the neck of the plan and the participants who might have to pay $50-100 a head just for the audit.

The most successful PEPs will be those MEPs that make the switch over to become MEPs for more flexibility in plan administration and recruiting adopting employers. Rather than each advisory firm getting their PEP, I suggest looking at larger existing PEPs that will allow these advisors to offer a white label solution and fund menu for their clients. Why try to invent the wheel, when something more cost-effective and workable is out there? Just my two cents.

Check credentials.

Don't take the word for it.

Whenever I hear about someone getting caught with lying about their resume or credentials, I am always astounded. I don't know why people lie about college degrees they didn't receive or credentials they didn't achieve, but I guess the fact is that most people get away with it because people are trusting people and rarely check these credentials.

It happened to me, I used a contractor for a few jobs and assumed that they were members of a highly regarded remodeling association because they claimed that they were. Of course, after a dispute, I find out that they weren't members of this organization.

I'm a member of the New York, Massachusetts, and California bars. You can look it up. You can look up the credentials of any financial advisor you're hiring and see whether they have any issues with their license. A third-party administrator (TPA) is much harder to check because anyone can open a TPA shop, so find out information about the folks who run it. Perhaps the principals are attorneys, enrolled actuaries, or have credentials through ASPPA (American Society of Pension Professionals & Actuaries).

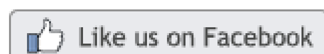
Check out That 401(k) Podcast and my YouTube Channel.

The podcast you should listen to if you have the time, as well as YouTube videos.

Please check out That 401(k) Podcast. We tackle important 401(k) subjects for both plan sponsors and plan providers. In addition, we talk about all the events I'm hosting. as well as important cultural allusions.

Find it here and on Apple Podcasts here.

To catch the podcast and our virtual events, find my YouTube channel here.



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