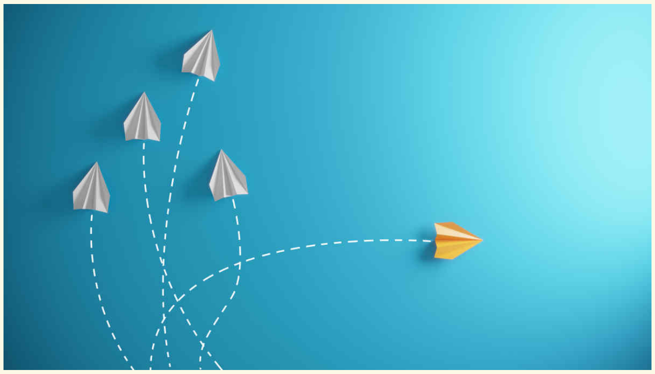
THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

401(k) Errors That Should Require A Plan Provider Change



Change for the sake of change is a bad idea, you need a reason for it. There are certain plan errors when 401(k) plan sponsors should consider change and that change is a change of their plan providers. Enclosed is a list of 401(k) errors that should get the plan sponsor to consider making such a change.

To read the article, please click [here](#).

A 401(k) Plan Sponsor's Guide To Hiring A Financial Advisor

When it comes to your role as a retirement plan sponsor, outside of hiring a TPA (third-party administrator), the most important plan provider that you need to hire is a financial advisor. Unfortunately, like my favorite cereal, Cheerios, there are just so many varieties of financial advisors that it can be confusing what you should be looking for. So this article is intended to act as a guide for you as you select a financial advisor for your retirement plan or to review the incumbent advisor as part of your fiduciary responsibility.

To read the article, please click here.

Employer contributions will be cut

I always joke that local news stations should simply recycle some stories during every major snowstorm. The stories where stores are emptied of food and shovels are just stating the obvious of a snow storm, so no need to redo those stories.

So you will certainly read articles about how employers are cutting back on contributions. Why? We are in a recession and employers are going to want to step back and tighten their belts. When they tighten their belts, one of the first things to go is employer contributions. Whether it's a match or profit sharing, contributions will be cut across the board. Not everyone will cut their employer contributions, but don't be surprised that many will.

As hardships increase, verify the need

As it appears we are in a recession and a bear market, don't be surprised if there is an increase in hardship requests.

Hardship requests need to be substantiated by plan participants. Have them verify the need and document it. Make sure the hardship requests are in excess of the need (participants can gross up

the request for the taxes due). Every distribution should be documented and consistent with the terms of the plan document.

The Common Thread Of Good 401(k) Plan

I always say one of the beauties of retirement plans is not one is alike. They are like snowflakes because every plan sponsor has a different retirement plan need based on the size of their business, profits, and demographics of their employees. So I've never held the belief that retirement plans come off the assembly lines in the way some retirement plan providers especially third-party administrators (TPA) treat them.

While not every plan is the same, every poorly run retirement plan has the same common thread. It's not high fees, it's not revenue sharing, and it's not using a bad TPA. The common thread is a retirement plan sponsor and the decision makers of the Plan not exercising their Fiduciary duty in a prudent manner and having plan providers that are not supporting them.

So the $1 billion 401(k) plan that used retail share classes of mutual funds when cheaper institutional share classes of the same plan were available and the $3 million defined benefit plan that failed to cover the employees it needed to, suffer the same problem.

What makes a properly run retirement plan is a plan sponsor dedicated to their role as a plan fiduciary and having the right team of retirement plan providers to assist them and help them navigate the treacherous waters of sponsoring a retirement plan.

It's your call

Unless you delegate a fiduciary function to a plan fiduciary such as an ERISA 3(16) and 3(38)fiduciary, it's your call on things. When a third-party administrator (TPA) decides on their own that you will refund deferrals because of a failed Actual Deferral Percentage Test instead of giving you the option of a safe harbor non-elective contribution or a qualified non-elective contribution, that's a problem. The problem is that it's your call and the TPA did something that might get them labeled a plan fiduciary.

It's important to read the contract as to who the fiduciary is under the plan, as well as make sure that plan providers don't make choices on their own that belong to you.

Volume 13 Issue 11, November 2022

**The Rosenbaum Law Firm P.C | 516-594-1557 |
734 Franklin Avenue, Suite 302, Garden City, NY 11530| therosenbaumlawfirm.com**