THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

Using Your Payroll Provider As Your 401(k) TPA Is A Big Mistake.

It's an absolute mistake.

Like beating a dead horse, I will again say that it is a bad idea for plan sponsors to hire their payroll provider as their 401(k) third party administrator (TPA).

For the article, click here.

Simple Advice to Retirement Plan Sponsors.

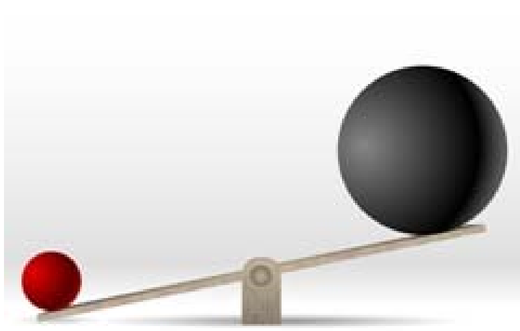
Plain and simple.

I don't know about you, most of the advice I got growing up was usually wrong. Maybe some very unsuccessful people surrounded me when I was younger, but advice can be biased and self-serving at times. The best advice I would ever get was from successful people with great people skills and confidence in their own abilities. The problem with advice given to plan sponsors is that it's often self-serving by the plan providers who want to maintain or get the business from plan sponsors. So this article is simple advice to retirement plan sponsors that you can take or leave, I won't be offended. Of course if they don't take it, it may cost them.

To read the article, please click here.

Small 401(k) Plans Have Bigger Problems Than Larger Plans.

It's true.



Common sense would make you think that larger 401(k) plans would have the larger problems. Sometimes common sense and reality are mutually exclusive. Thanks to the quirks of the retirement plan business and how it prices products and services, it's the smaller plans that will have larger problems in terms of compliance and cost. This article is all about letting small 401(k) plan sponsors learn why they can't ignore their role as a plan fiduciary.

To read the article, please click here.

Yes, DOL audits are more terrifying .

They even make me more scared.

I have to see that as after 18 years, there is very little I fear and I fear of retirement plan audits by the Department of Labor (DOL). I'm going to have a larger fear as it's clear that DOL audits will increase thanks to increased regulation and oversight.

Why do I fear it? Usually, unlike Internal Revenue Service (IRS) audits, they don't seem to be random. There is a randomness to many, but many audits are thanks to a complaint filed by an aggrieved plan participant. My two biggest DOL audit issues were from issues that appeared small, but were bigger plan disasters and both resulted from former employees that they weren't covered under the plans when they should have. Complaints and audits are an opportunity for the DOL to dig and they do a really good job of digging. I think they are scarier because unlike the IRS audits, they're concerned about the rights about plan participants and when you are trying to identify if someone's rights are being violated, then you maybe a little more dedicated in what you're doing and I find DOL agents to be very knowledgeable and through.

If you hear from the DOL, immediately contact an ERISA attorney. I say that with peace and love, don't ever handle it by yourself.

Credentials and awards could just be a paid smokescreen.

It can all be a ruse.

A Long Island business newspaper once named my old law firm's administrator as its Chief Financial Office of the year and the first thing I asked at the time was: "How big was the ad?"

That's because my old law firm was a regular advertiser for this publication

and I appeared in it a handful of times when I was there and I'm sure because my firm helped pay that newspaper's bills. Maybe that law firm administrator is a really great CFO, I only thought his expertise was self-promotion.

The point is not to make fun of Right-Said Fred, but the point is that awards and recognition can be bought and sold.

So when looking for plan providers as a plan sponsor, don't be over wowed by some of these publication awards like the "100 Most Important People in the 401(k) industry" or some unknown certification because these credentials can be bought and sold.

If you don't know the criteria for selection or the group of selecting it, you have no idea if the award or credential is real or not. It's like Kosher food; there are now over 400+ different organizations that certify Kosher food. If you are an observant Jew, you're not going to eat something certified by an agency where you have no idea who is actually doing the certification because some Rabbis are less reputable than others.

So when a plan provider is giving you their credentials and there are some credentials that aren't from an organization you heard of, take it with a grain or salt or do some digging to determine whether that credential means something or not.

Otherwise, you may be stuck with a CFO who claims he'll help your practice, except he's too busy writing articles about his work and using law firm resources to publish them.

When your SEP no longer fits.

Time to get a qualified plan.

Those small employer plans like a SEP or a SIMPLE-IRA are great opportunities for small businesses to save for retirement because of the no administration costs. However, like clothing for kids, there will be a time when these plans no longer fit.

When do they no longer fit? When you start adding employees that aren't owners or related to owners because these plans allow no disparity in employer contributions. So if you want a 15% employer contribution, you have to give it to the employees who have been there for a year full time. There is also no salary deferral component in a SEP and a limited one for SIMPLEs, so the bulk of the retirement plan contributions are what you're going to fund.

So that's why you need to look into something that's a better fit like a 401(k) plan or one that's in conjunction with a cash balance plan. So you need to know when the SEP no longer fits.

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