The Rosenbaum Law Firm P.C.

The Law Firm Review

A Publication for Plan Sponsors and Retirement Plan Professionals

What Plan Sponsors Don't Know, May Hurt Them.

And they don't know a lot.

When I worked at a semi-prestigious law firm, one of the named partners (whose son was a respectable politician) asked me what my practice was. I told him it was ERISA, said he said didn't know anything about it and walked away. Most people who ask me what I do in practice pretty much have the same response and walk away. The problem that I've always had with clients and potential clients are the ones that think they know something about retirement plans and don't. So this article is about the dangers of retirement plans that plan sponsors who have no experience in the retirement plan world don't understand.

For the article, click [here.]()

10 Things About Retirement Plans That Employers Should Know.

Stuff they should know.

A plan sponsor must delegate much of their duties to retirement plan providers. That may include third party administrators (TPAs), financial advisors, and ERISA attorneys. Despite the fact that retirement plan sponsors delegate much of their role, they are still ultimately responsible for what happens to the plan in their role as plan fiduciaries. This is why it is important that retirement plan sponsors know basic concepts about retirement plans, so they can understand their role and their liability. This article is about 10 things that plan sponsor must know in order to understand their duties and the risk involved if they are derelict in their duties.

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

10 Tips For The New Retirement Plan Sponsor.

New plan sponsors need to know this.

There is no such thing as the Easter Bunny, or the Tooth Fairy, or the Boogeyman. While we can laugh at it, it's surprising to note that many plan sponsors still believe they pay nothing for 401(k) plan administration even in a time where they get fee disclosures that claim that they do. So this article is about the myth of free 401(k) administration. So Virginia, there is no such thing as free 401(k) administration.

To read the article, please click here.

For Retirement Plans, it's more about a process and less about a result.

The process is more important than investment returns

We've been conditioned in life that everything is about results. I know from law school the hard way how much that first job relied so much on grades. Businesses are so concerned with the bottom line and we know how sports teams are fixed on wins and losses.

When it comes to retirement plans, results and the bottom line are kind of meaningless if you think about it. A participant's rate of return isn't as important as whether the plan puts a participant in a position to make informed investment decisions if the participants directs their investment in a retirement plan. T he participation rate of the plan isn't as important as whether the compliance tests are run correctly.

The bottom line here is that Plan sponsors need to understand that when it comes to a retirement plan, it's all about the process and less about the result. I will tel you that when the Internal Revenue Service and/or Department of Labor audit a plan, they never look at the rate of return for the Plan. What they look at is compliances tests and information that gives them the satisfaction that the plan is run according to the terms of the plan document, the Internal Revenue Code, and/or ERISA. That's it.

401(k) Plans Don't Have To Be That Dangerous.

They can be well run.

Thalidomide was supposed to be the wonder drug that helped women manage morning sickness until they discovered it caused birth defects. Asbestos was supposed to be the ultimate fire resistant material that was later found out to cause mesothelioma when produced or when disturbed. When companies decided to ditch defined benefit pension plans for a cheaper alternative in the 401(k)

plan, they also had a hidden danger with a 401(k) plan, but it doesn't have to be that way. If managed correctly, a 401(k) plan is an effective retirement plan for the employer and employees. If not, it's a retirement plan thalidomide except the plan sponsor doesn't know the danger.

The switch from defined benefit plans to 401(k) plan switch the burden of funding retirement from the employer to the employee. If the plan is participant directed, it also switched the selection of investments from employers aided by financial advisors to the folks who have the least amount of background to make these tough decision, the plan participants. Too many plan sponsors don't educate their plan participants to make informed investment decisions and too many plan sponsors don't have a proficient investment advisor to guide them through the financial process. It doesn't have to be this way. Getting investment advisors who know what they're doing and getting participants enough investment education/advice isn't hard, but too many plan sponsors are too lazy to manage. But it doesn't have to be this way.

Defined benefit plans have pretty straightforward fees. You know how much annual administration is and you don't have that luxury with participant directed 401(k) plans that have multiple fees that can confuse anyone including retirement plan professionals. Too many plan sponsors have been sued because the 401(k) plan fees are too high since plan sponsors have a fiduciary to pay reasonable fees. But it doesn't have to be this way. Plan sponsors can benchmark their fees to see if they are reasonable, actually they have no choice; they have that duty.

401(k) plans don't have to be a hidden danger; all they need is a plan sponsor who understands their pitfalls and wants to avoid the liability that goes with it. That's the tallest order.

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The Rosenbaum Law Firm Review, October 2015, Vol. 6 No. 10

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