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THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

Free Advice For 401(k) Plan Sponsors.

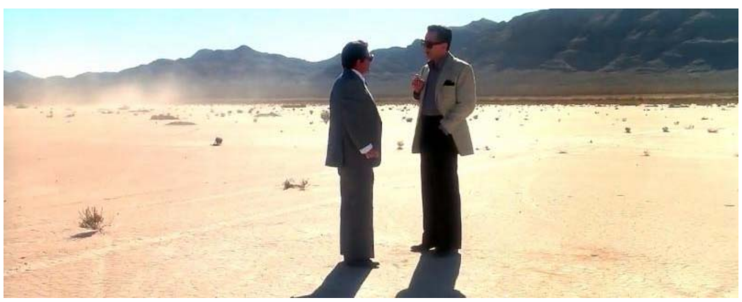
Yes, it's free.

They always say there is no such thing as a free lunch because most of the time, free has strings attached. Even when it comes to retirement plans, that free plan review is usually a sales pitch by a retirement plan provider that is seeking business (there is nothing wrong with that by the way). I'm an ERISA attorney who has almost 19 years of experience with working on retirement plans and one of the toughest problems is that when I give advice, people grab their wallet in a fear that my advice comes with a huge legal bill. This article is free advice for all 401(k) plan sponsors out there on how to improve their plan and avoid liability. If you have further questions, feel free to contact me.

For the article, click here.

Pitfalls a 401(k) Sponsor Can Avoid With Plan Providers.

Stuff to jump over.

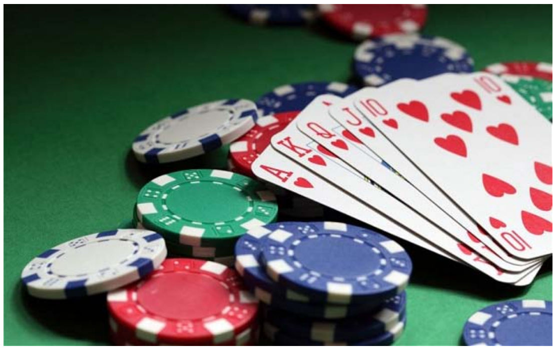


While much of the focus concerning the liability of sponsoring a 401(k) plan is about plan expenses thanks to the many lawsuits filed against plan sponsors. However for most plan sponsors, the greatest liability they actually face is resulting from the plan provider they hire. There are many plan providers and some of them aren't very good and the not so very good ones cause a lot of headaches and costly bills for the 401(k) plan sponsors that hire them. This article is about the pitfalls that plan sponsors can avoid in hiring plan providers that could cause liability.

To read the article, please click here.

Good Bets By A 401(k) Plan Sponsor That Will Limit Their Liability.

They are sure winners.

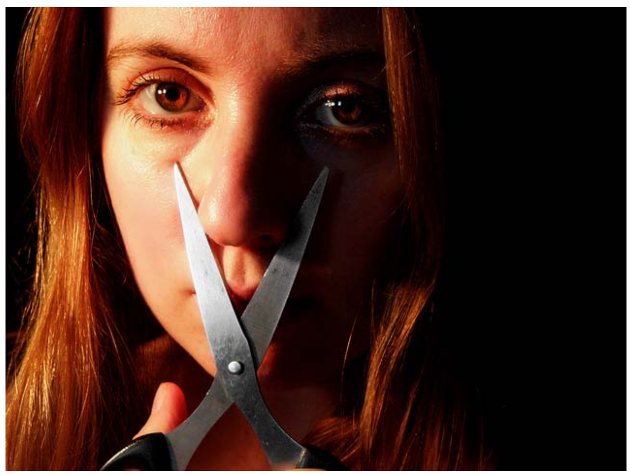


I'm not much of a betting man because I hate to lose. Some will say that playing the stock market is gambling, but shrewd, informed investment decisions usually do well in the end. Retirement plan sponsors can make bets that will pay off in limiting liability by making informed, smart decisions that will pay off in the long run. This article is about good decisions that are sure bets that will help a plan sponsor limit their liability.

To read the article, please click here.

How Plan Sponsors Can Avoid Cutting Their Nose To Spite Their Face .

Great way to avoid hurting themselves.



I once worked for a man who was the type of person who wouldn't have mind to have lost $5 to save $3. I was at a Synagogue where the fundraising chairperson would only always organize events at the very last minute and never wondered why we never netted as much needed funds as we should have. I once worked at a law firm where the marketing department was busy working on articles written by the firm's administrator that would draw no business. So needless to say, I don't like when people cut their nose to spite their face or people who just don't see the bigger picture. So this article is about how employers can avoid cutting their nose to spite their face when it comes to retirement plans.

To read the article, please click here.

Let former employees roll out.

Let them go.

One of the rules I live by is that I believe that you should never let someone who dislikes you be in a position where they can hurt you. Let's just say that I worked for someone who should have taken that advice. That is why I'm surprised that retirement plan sponsors don't make more of an effort to entice former employees to rollover their account balance into an

individual retirement account.

Former employees can be a headache; I know I've been one. When a former employee leaves, it's best to cut all ties. When it comes to a participant, who is more likely to complain to the Department of Labor or sue a plan sponsor over their retirement plan, a current or former employee? I say a former employee, because of fewer repercussions.

While the distribution rules under retirement plans require a former employee's consent for distributions of $1,000 or $5,000 (depending on the plan's terms), it's a good idea to tempt them to roll over their account balance and there are a number of reasons for that. Distributing required notices is tough enough to participants at work, it's going to be more difficult to distribute notices to former employees that you may not have current addresses for. You're also less likely to offer investment education to participants who no longer toil on employer soil. Participants who receive no investment education may cause you unnecessary liability for their investment losses because they will contend they didn't receive the necessary information so that the employer could avoid liability under ERISA §404(c).

Having former employees as a participant is a headache when you can't find them or when they die and they have no valid beneficiary information. Working on the human resources needs for employees is enough, why do you need the hassle for employees who no longer work for you?

In addition, having too many former employees as participants may also require you to file an audit for your Form 5500 if you hit that magic 120 number thanks to those former employees. Nothing worse than to pay an auditor $12,000 to $20,000 for an audit you may not have needed if you tried to get former participants to take their money and run.

When your former employee has that exit interview, make sure they understand that they have an account balance under your retirement plan and it's probably the best bet for them to take it with them and invest it any way they choose and tell them of the opportunity to roll over those assets into their new employer's 401(k) plan.

Don't cheat your employees on retirement plans.

It will cost you otherwise.

As I've stated before, I wouldn't hire employees because I was an employee once too. That pretty much means that I never met an employee whoever thought they were overpaid. For that matter, I never met an employer who thought that they pay their employees too little.

Despite what my former colleagues at union side law firms think, employers typically don't have a treasure chest of jewels they're keeping away from their employees, it's just the dynamic of a relationship where an employee wants to make as much as they can and an employer wants to pay as little as possible. It's

not evil, just human nature.

For those that never ran a business, they don't understand how costs of payroll and benefits must be tied to revenue because an employer's pocketbook is not limitless.

Thanks to medical costs and taxes, it's expensive to have employees. Employers are taking away benefits and not putting benefits out there that are really enticing to current and prospective employees. As an employee, regardless of where I worked, the health plan got worse and worse because medical costs are spiraling out of control and the employer had to rein in costs.

While employers may feel free to cut back on the benefits they offer, the one benefit that they can't afford to neglect is a retirement plan. An employer can certainly cut back on the contributions they make to their retirement plan(s), but they can't just cut back on the services to their plan by sticking the plan with a cheap provider (if they are the ones paying for administration, rather than the plan) if it's going to negatively affect the plan's administration and compliance.

The reason is because employers as plan sponsors are also plan fiduciaries too. So employers still may want to cut back on benefits, they need to make sure that they don't do something that could negatively impact their role as plan fiduciaries.

Any change of plan provider or even in a change in benefits should be done in consultation with your plan providers and/or ERISA attorney to make sure that any cutbacks in benefits you must make won't increase your plan fiduciary liability exposure.

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