THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW
A Publication for Plan Sponsors and Retirement Plan Professionals

The To-Do List For 401(k) Plans Now: 2018-2019 Edition.

Do it now.

Being a retirement plan sponsor is a tremendous responsibility and the problem is that most plan sponsors don't understand that. Plan sponsors often act passively because they hire retirement plan providers to help them. The problem is that fiduciary responsibility doesn't allow plan sponsors the luxury to be passive when the buck stops with them. So that means you need to be active and understand what's going in the retirement plan industry that can impact your plan. With changes in how retirement plans are run and constant concerns with rampant 401(k) litigation, there is a list for you to do now.

For the article, click here.

Great 401(k) Plan Features That Can Be A Hit Or A Miss.

There is nothing out there that is right for everyone.

When you're buying a new car, there are so many available features on a car model that can make your head spin. There are some features you need like power steering and power brakes, but there are some features that you just don't really need. The same can be said about starting a 401(k) plan, there are so many different features that you need to consider and some that you don't because you should never forget that a 401(k) plan is supposed to be a way to recruit and retain employees. Some features go a long way in helping that out than others. So this article is about 401(k) plan features that a plan sponsor should consider adding to a 401(k) plan.

To read the article, please click here.

Plan Sponsors Need To Know The "Hat" They Wear As Retirement Plan Fiduciaries.

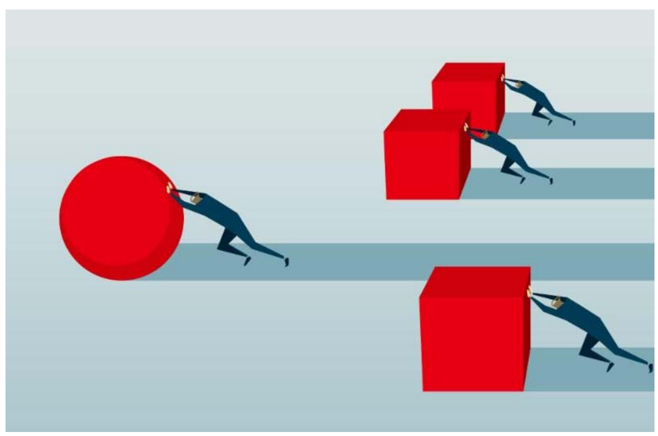
They do wear more than just one hat when sponsoring a plan.

In almost every mall, there is a Lids location which sells hats. Even as a Mets fan, I'm surprised by how many different Mets hats they sell whether they're on-field, on-field specialty, or some New Era designed fashion cap. Speaking of hats, a retirement plan sponsor wears so many hats when they main a retirement plan. Plan sponsors know that they wear the hat of the employer when they set up a retirement plan because the intent is to benefit their employees. Plan sponsors also know they wear the hat of a retirement plan sponsor when they set up the plan. What plan sponsors fail to understand that they also wear the hat of a plan fiduciary and the duty that comes with it. So this article is about the hat of plan fiduciary that a plan sponsor has to wear and the duty and liability that goes with it.

To read this article, please click here.

The problem of the inefficient plan design.

It can leave money on the table.



When you start fixing up the house (for me, a never-ending battle) and replacing appliances or items like the front door or the roof (I think I've replaced 4 front doors in 13 years), you realize that the replacements are more energy efficient. Replacing that old refrigerator or that washing machine can lead to some savings in your energy bills.

When it comes to retirement plans, there are so many of them that are inefficient in either their cost structure or plan design. While cost structure will be all disclosed to plan sponsors (who have the duty as fiduciaries to determine their reasonableness), plan design inefficiency is something that won't be discovered until the plan goes through an independent review (like my Retirement Plan Tune-Up) or takes the plan to another third party administrator (TPA). Inefficient plan designs come in all sorts, but it wastes money like that 40-year-old furnace I replaced 13 years ago.

Inefficient plan design wastes money because it either makes less cost-effective contributions or it doesn't maximize tax-deductible contributions to highly compensated employees. So it either wastes money in unnecessary contributions or is inefficient for tax savings.

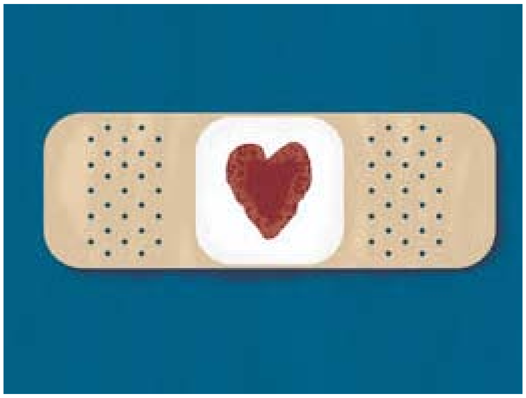
In terms of wasting money, it could be a defined benefit plan that has outlived its usefulness or it could be a 401(k) plan with a new comparability plan design and a safe harbor matching contribution (because unlike a safe harbor 3% profit sharing contribution, you cannot use the safe harbor matching to offset any new comparability contributions to non-highly compensated employees like you could with the safe harbor 3% profit sharing contribution). A plan that doesn't maximize contributions could be a 401(k) plan that consistently fails discrimination testing and doesn't implement a safe harbor plan design or a plan that doesn't offer a new comparability profit sharing allocation to highly compensated employees when the plan sponsor can afford it. Retirement plans are a great employee benefit for retirement savings, but you should never forget the tax savings component it has.

So when I consistently state the claim that plan sponsors need to find a quality TPA that is not predicated on price but predicated on its competency and knowledge of cost-effective, retirement plan design.

When you look for new appliances, you always look for those with an Energy Star sticker. When shopping for TPAs, look for those who would deserve a Tax Star sticker (if one existed, don't steal my idea!).

You need a tough love provider.

You need someone who will tell you the truth.



I always believe that the two worst things that you can give people are false praise and false hope. As a plan sponsor, you need a plan provider that is not afraid to tell you the truth that something is wrong and that you need to fix it.

A perfect example is that I had a client who didn't file a Form 5500 for 5 years and clearly didn't fill out the correct census information. The third party administrator (TPA) didn't say anything and it's clear they knew that the clients didn't file the 5500 and there is a dispute as to who should have prepared them. They also should have known that the census information wasn't correct. Yet the TPA never bothered to communicate with the plan sponsor on what was wrong until the client found a new TPA and demanded that the corrections be made.

As a plan sponsor, you need a plan provider that has tough love. They are providers that will fire you if you don't get your act together because they don't want the potential liability and the headache.

You need plan providers that will tell you straight and what needs to be fixed and when and if you don't fix it, they'll say goodbye.

Listen To That 401(k) Podcast.

The 401(k) Podcast like no other.

That 401(k) Podcast is up and running. Weekly 35-40 minute conversations with tips and advice for both plan sponsors and plan providers.

It's hosted by Ary Rosenbaum from The Rosenbaum Law Firm and that401ksite.com, as well as Dan Venturi from Bright Worxx.

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The Rosenbaum Law Firm Review, November 2018 , Vol. 9 No. 11

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