# Is Your Retirement Plan Due For A Tune-Up?

## By Ary Rosenbaum, Esq.

My son is 5 years old and my daughter is almost four. My wife and I are constantly buying them new clothes and shoes because what fit last year doesn't fit this year. It would be kind of silly to heave my children wear clothes that no longer fit.

However, when it comes to establishing a retirement plan for their employees, most business owners have a throw it in the back of the drawer mentality. So the plan they set up a few years back, may no longer fit their needs. Therefore, a company may be wearing a plan that no longer fits them.

The problem is that's not enough to merely establish a retirement plan; you have to continually monitor it as well. Avoiding plan maintenance is a common, costly, and dangerous mistake that can lead to sky-rocketing payouts and fees, not to mention the risk of litigation. It's not that most business owners mean to be irresponsible; it's just that most sole-proprietors and small-to-medium-size companies are not well-versed in the intricacies inherent in retirement plans and therefore don't understand the importance of regular plan upkeep. Unless someone walks them through their own plan, they may be ignorant of the financial damage they're causing themselves.

A retirement plan can be likened to an automobile; for optimum performance, both demand constant maintenance. If you don't change the oil on your car, the engine can seize up; if you don't examine your retirement plan, it can leave you running on empty. With both the types of vehicles, you have to lift the hood from time to time and see what's what. Sometimes all that's needed is a minor adjustment. Other times, you have to retire your plan from the road and start fresh. Almost always you need an expert opinion.

Sometimes the lack of maintenance stems from a lack of communication. Confusion arises when plan administrators use double talk to explain plan features. No matter how intelligent an employer might be, he or she may not necessarily have the background to thoroughly understand the information being presented. It's important for employers to understand their own plans' nuances and they should not be uncomfortable asking the expert to supply additional explanations or clarifications.

Once employers have a plan in place, they need to pay attention to their company's evolving needs and the plan's corresponding administrative concerns. For a retirement plan to be effective, it must remain in step with the evolving needs of the company it serves. A plan once considered appropriate can become outmoded as the company changes, grows, and matures. Then, too, a designated third party administration company once deemed a perfect fit might eventually prove to be a mismatch because it can no longer handle or is too expensive to administer a larger plan.

The defined benefit plan that was set up when the company had three employees may be too costly when employee population tripled. The addition of employees to a 401(k) plan may cause the plan to fail discrimination testing, so corrective measures like a safe harbor plan design may make sense. Time does not stand still and neither should the features of your retirement plan, new changes in retirement plan law may add provisions that can improve the performance of a retirement plan.

One of the biggest misconceptions out there is in regard to the plan investments for a participant directed retirement plan. While plan sponsors have protection from liability through ERISA section 404(c), the protection is only offered when participants are educated about plan investments and when the plan sponsor and their financial advisor review the funds available for participant direction. Participant directed retirement plans require a semi-annual or annual review with their financial advisors to determine whether the plan investments are still suitable, in light of the market. What determines the suitability of an investment is the investment policy statement which is a guideline crafted by the plan sponsor and their financial advisor to determine which grades and styles of investments can be offered. The hot fund from 2000 may no longer be suitable today because of change of investment style, rate of return, or management change. Lack of an investment policy statement or review of plan investment is like failing to change the brakes on your car, the Plan will have an accident and there will be damage.

The Employee Retirement Income

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## 10 Great Questions for Business Owners to Consider Before Consulting with an Employee Retirement Plan Expert

**1. Do we have an Employee Retirement Plan? What are the pros and cons of putting one in place?**

**2. If we have such a plan, who first established it? When?**

**3. Who administers our plan? And do we have full disclosure of all the fees involved?**

**4. How were the funds chosen for our plan?**

**5. Do we review our funds regularly to see if they are performing well, or can employees hold us responsible for not being vigilant?**

**6. When was the last time we reviewed our employee retirement plan to see if it still fits our current needs?**

**7. Do we distribute accurate, informative educational retirement fund materials to our employees?**

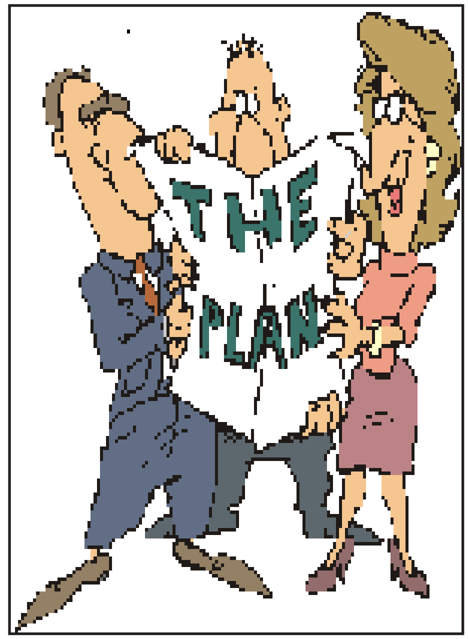
**8. Are we leaving money on the table?**

**9. Is it time to retire our current plan in favor of one that works better for us in this economic climate?**

**10. Who should we call to find out what we need to know?**

Security Act (ERISA) is a difficult law to understand. It's especially challenging for business owners operating without a human resources expert or employee benefit specialist on staff. But ignorance of ERISA's requirements can result in serious negative consequences. Barring in-house expertise, any responsible business would do well to establish a relationship with a knowledgeable employee retirement plan expert who can analyze the company's existing plan and goals, identify what's not working, and then design a more cost-effective retirement plan that's better suited to the company's goals. An initial consultation with a retirement plan expert is time and money well spent because the ongoing support and direction of that expert will pay dividends now and in the years to come.

In order to minimize liability and maximize retirement savings, a plan sponsor should undergo a Retirement Plan Tune-Up, where the Plan's terms, investments, and administration costs continue to fit the company's needs. If a plan sponsor lifts up the hood on their retirement plan, they may be surprised on what they see.

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