THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

It's The Plan Sponsor's Responsibility, Just Because.

That's the way it is.

I have been a fan of Sesame Street since I was a child and again as an adult when my children were younger. It's a brilliant show that has educated millions of kids in the past 45 years. One of the great events in Sesame Street history is when they acknowledged in 1983 the onscreen death of the owner of the luncheonette, Mr. Hooper (the actor Will Lee died the year before). Big Bird wanted to give a picture he drew of Mr. Hooper to him and didn't understand that since Mr. Hooper died, he wasn't coming back. Big Bird doesn't think it's fair and how he'll miss Mr. Hooper and the adults tell him that the way it has to be: "just because." While a retirement plan sponsor isn't the same as a giant bird Muppet; there are many times that they have to be told that they are responsible for and they are on the hook "just because". This article is about the stuff that retirement plan sponsor is responsible for, whether it's fair or not.

For the article, click here.

Reasons When A Plan Sponsor Should Change Their Plan Providers.

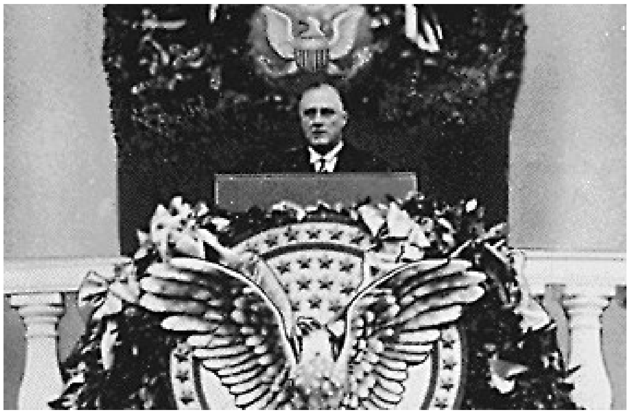
There are a few reasons why

People are afraid of change and sometimes; change can be a good thing. Change for the sake of change isn't a good idea and there are times when change is absolutely necessary. This article is about when it's probably a good idea for a plan sponsor to change plan providers.

To read the article, please click here.

What Retirement Plan Sponsors Have To Fear.

It's more than fear itself.



In his inauguration speech, Franklin Delano Roosevelt said that "the only thing we have to fear is fear itself." Retirement plan sponsors have more to fear than fear itself except the problem is that they're unaware that they have anything to fear. If you think you have nothing to fear and do something wrong as a plan sponsor, you may land in a lot of trouble. This article is about what plan sponsors have to fear and it's certainly more than fear itself.

To read the article, please click here

A great Retirement Plan? It's not in the water.

It doesn't happen by accident.

I love bagels and one of the greatest debates out there is what makes them great. People swear up and down that it's the water from New York. They believe it so much so that there are businesses who advertise that they either bake bagel using New York water or have water filtered like New York. I don't know, I always think it has something to do with how they are baked. A great bagel is boiled then put in the oven. Some places cheap out in this process and only use a steamer before they bake.

Regardless, there is very little debate on what is the reason for what makes a good retirement plan. When push comes to shove, it centers on a vigilant retirement plan sponsor. A well-run retirement plan doesn't happen by accident, it's the retirement plan sponsor that puts it all into place. Sure, there are great retirement plan providers out there, but who hires them? There is no such thing as luck when it comes to good plans, retirement plan sponsors make their own luck by taking care of their job in setting up the plan and maintaining it.

So while the debate remains as to why New York bagels are so great, there is no debate on what is the reason why retirement plans can be great. It rests on the retirement plan sponsor.

Hardship withdrawals should have documentation.

There should be something there.

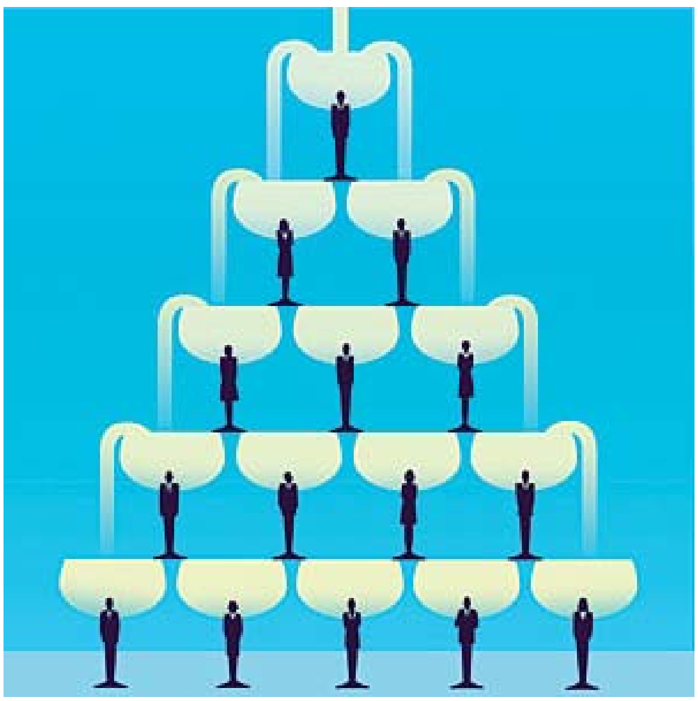
A few weeks back, an advisor told me that a large bundled provider is offering some sort of hardship withdrawal service that allows participants to get a quick withdrawal as long as they state that they have an immediate and heavy financial need.

As an ERISA attorney who used to review hardship requests when I worked for a third party administrator, I don't think that's enough. Taking someone's word isn't enough when it comes to the qualification of a retirement plan. Hardship withdrawals should always come with documentation that shows that a participant has a financial need. Otherwise, it becomes an avenue for cunning participants to get a withdrawal request in order to circumvent the in-service distribution requirement of plans that usually require the attainment of age 59 ½.

Since the economy has been on a roller coaster ride since 2000, I would not be surprised that the Internal Revenue Service starts reviewing the hardship withdrawal procedures of retirement plans. So I advise all plan sponsors to make sure that the process is documented and requires plan participants to who something more than their word that they actually have an immediate and heavy financial need.

Lockhead Martin and the Trickle Down Effect.

It can have an effect on the smallest of plans.



Lockhead Martin settled their excess fee lawsuit concerning their 401(k) plan by making a $62 million settlement with plan participants. That is probably the highest excess fee settlement on record. I know how people think and most plan sponsors like yourself will say: what me worry? I don't even have $62 million in my 401(k) plan that I sponsor.

Settlements like this Lockhead Martin case s always about a trickle down effect. There will be more concern about excessive fees and companies as large or even smaller than Lockhead Martin will get a review from an ERISA litigator interested in potential class action lawsuits. A small or medium sized plan sponsor may not get the lawsuit from a class action ERISA litigator, but there are other concerns. There can always be that lone wolf former plan participant who will threaten litigation for a quick 5 figure settlement or there maybe action by the Internal Revenue Service and the Department of Labor that can certainly get traction.

A plan sponsor needs to be vigilant about excess fees and a $62 million settlement may never be an issue for their smaller plan, but there is always a trickle down effect that excess fees will bring more litigations and more oversight by the government.

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