THE ROSENBAUM LAW FIRM P.C.

THE LAW FIRM REVIEW

A Publication for Plan Sponsors and Retirement Plan Professionals

The Potential Liability of Participant Directed 401(k) Plans.

There is a liability lurking there.

As children, we were told the story of Jack and The Beanstalk. Jack sells a cow for some "magic beans" and his mother is so angry, she throws the beans on the ground and a magic beanstalk grows overnight. When it comes to plan sponsors being given the opportunity to sponsor a 401(k) plan that allows for participant direction, they were sold some "magic beans" and told that they were shielded from liability for participant's investment losses. While those "beans" won't turn into a beanstalk, they could lead to some unexpected liability. This article is about the hidden liability of ERISA §404(c) participant directed plans and how to avoid that potential liability as a plan sponsor.

For the article, click here,

A Plan Sponsor Should Never Assume Their Providers Are Doing A Great Job.

They can't afford to.

My wife and I have been in our house for over 11 years and it's been one remodeling project after another. This is what happens when the previous owner did nothing for 20 years. We hired a general contractor to redo our bathrooms and we liked them so much that we hired them for an expansion, which added a mudroom to the front of the house. We thought they were good, but we didn't monitor them closely. Had we looked closely at the sloppy work in the

bathroom, we'd probably have second thoughts of using them again. The mudroom expansion was a disaster from even before day 1 when they brought in architects that weren't licensed architects. We saw the warning signs and we did nothing, because we placed faith in professionals that didn't deserve it. The work was shoddy, there were large cost overruns, and they essentially walked off the jobs before Hurricane Sandy hit. We eventually sued them and recouped some of what we spent, but some things can never be repaired. As homeowners, we pay the price for this mistake. As plan sponsors and fiduciaries, employers can't afford to just put faith in their plan providers without reviewing the work they do. This article is all about why plan sponsors make the mistake of just assuming that everything their plan providers is perfect because it never is.

To read the article, please click here.

How A Plan Sponsor Can Increase 401(k) Participation Without Costing Much $$$.

It's a great thing to do.

My former Synagogue wanted Hebrew school parents to attend Synagogue events, so they created a participation fee where parents would have to pay $180 that they could use to attend events. Before I was involved as a Trustee and a Vice President, there were no events and parents resented they had to pay this fee. When I was in the "leadership", there were enough events for that fee to be used. After I left, the place became a funeral home, except with very few funerals. When it comes to participation in a 401(k) plan, plan sponsors can't use a participation fee to force participants to defer. There are quite a few tools out there to increase plan participation that doesn't have to cost plan sponsors much money in terms of contributions and plan expenses.

To read the article, please click here.

Why A Plan Sponsor Should Get A Plan Review.

It's a great thing to get.

Retirement plan sponsors tend to be reactive rather than pro-active. They would rather not spend money to

undergo a plan review and assume everything is fine until they run into a big compliance issue or mistakes are discovered on a government audit. Like a good medical checkup, a plan review can discover and root out plan problems before they become bigger and costlier. This article is why plan sponsors should get an independent plan review from an ERISA attorney (cough, cough) or a retirement plan consultant.

To read the article, please click here.

Dear Plan Sponsors, it's about Reasonableness .

That's what it's all about.

Thanks to fee disclosure regulation and litigation against plan sponsors, plan sponsors are focusing on the costs of administering their plan. That's great, but there's a problem because of the focus. A study recently shows that mot plan sponsors see reducing costs as a primary focus of a plan sponsors, but that means they totally doesn't get the Fiduciary responsibility about fees. Plan sponsors as a Fiduciary have the responsibility to pay only reasonable costs, reasonable costs isn't the same as lowest costs. If a plan sponsors is being charged a fair fee from a competent plan provider in relation to what other providers charge for a similar service, they don't have to change. There areno requirements for plan sponsors to find cheaper providers. If a plan sponsor is using a third party administrator that is charging a reasonable fee and doing a good job of plan administration, there is absolutely no reason that a plan sponsor to change.

Fee disclosure regulations was manna from heavens for providers like me who were preaching fee transparency before it was cool. We always knew that one of the drawbacks about any fee transparency is that plan sponsors would think that this was some sort of requirement for the, to hire the cheapest providers and the race to zero in terms of lower plan costs was going to be a problem.

So dear plan sponsors, you don't have to get the cheapest provider, just a competent providers who charges a reasonable fee, OK?

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