

# How 401(k) TPAs Can Compete With The Payroll Provider TPAs

By Ary Rosenbaum, Esq.

When people in the retirement industry ask me about my National ERISA practice, one question is whether I do any third-party administration (TPA) work? When asked, my line is always that I don't "because I stick to what I know." Unfortunately, payroll providers don't follow that line, as they are some of the largest TPAs of retirement plans. If you're a TPA, you're often butting heads with these payroll providers and it's frustrating because plan sponsors think there is some value in using a payroll provider as a TPA, but you know the truth. So this article is how TPAs can compete against payroll provider TPAs.

## You vs. the Payroll Provider TPA: Defining the Message

When you have an election between two candidates, often the winning candidate is the one who defined the message for the race. Ask President Obama who dominated the 2008 election about hope and change. So when you are competing against a payroll provider, your struggle is all going to be about defining the message that will have plan sponsors select you rather than throwing their hat in with the payroll providers. Unfortunately, payroll providers have a huge leg up on you because their message to plan sponsors is that they can have payroll and plan administration all under one roof, a synergy between payroll and administration that will make plan sponsors' lives easier. Of course, you know the truth, unfortunately, most plan sponsors don't know that. That is why you need to make sure that your message trumps the message of the payroll provider TPA that everything should be under one roof. Plan sponsors need to know that competence trumps any perceived "comforts".

## Telling Plan Sponsors the truth about 401(k) plans and payroll

One of the best marketing gimmicks that payroll provider TPAs have is this perceived synergy of having the payroll provider and the 401(k) TPA as the same. It's great marketing because there isn't much synergy. Aside from the fact that salary deferrals are deducted from payroll and deposited in the plan as soon as possible, payroll administration and 401(k) plan administration have nothing to do with each

plan design, cross-tested/new comparability, ADP test, ACP test, a Form 5500, these nuts and bolts of proper plan administration have almost nothing to do with the weekly payroll, so these are services that don't have to be under one roof. Payroll provider TPAs talk all day and night about payroll integration, but they neglect to let everyone know that they have already integrated their payroll with other TPAs, some of the largest providers out there. So if payroll integration is so important for their marketing,

why did these payroll providers offer it to TPAs that compete against them directly? That might be because payroll integration is overblown as any type of synergy in the retirement plan space.

## Outside the box 401(k) plans

One of the reasons that Henry Ford was so successful with the assembly line production of the Model T was that he gave consumers very little choice. From 1914-1926, drivers could have any color Model T as long as it was black. Payroll provider TPAs have their assembly line of plan administration as they offer very little choice to plan sponsors. So a plan sponsor that might be better off with a cross-tested design (higher amounts to the highly paid) might be left with having to make a prorate contribution (same percentage

of pay contribution) to plan participants. I have seen this assembly-line approach with clients who failed their discrimination tests, but the payroll provider TPAs failed to let them know that they could correct it through a safe harbor plan design or by offering a corrective contribution instead of just making taxable refunds to the highly paid employees. Retirement plan administration isn't paint by numbers and there is no assembly line way of administering retirement plans. One-size fits all does not



other. The behemoths in the payroll world do a heck of a job of computing payroll and dealing with the intricacies of the different federal, state, and local entities that withhold taxes from an employee's paycheck. Aside from the 401(k) deferral and a participant's annual salary, these intricacies have nothing to do with the day-to-day administration of a 401(k) plan. As long as payroll data is correct and salary deferrals are deposited as soon as possible, it's not a huge issue. A top-heavy test, safe harbor

work with every 401(k) plan because every employer has different employee demographics and financial resources. That is why plan sponsors need a TPA that can tailor make a 401(k) plan that fits their needs. Plan sponsors need to understand that if they can afford or need an alternative plan design, then a payroll provider TPA isn't the right fit for them.



### **Plan sponsors need to understand what a TPA does**

The reason why payroll provider TPAs have a lot of plan sponsor clients because most plan sponsors don't know what a TPA does and the value of a good TPA. Plan sponsors need to know that the competence of the TPA is more important than any perceived integration/ synergy of a payroll provider serving as a TPA. Plan sponsors need to know that most errors that plague a retirement plan whether it's caught on audit or whether it has to be corrected through the Internal Revenue Service's compliance program are because they don't have a competent TPA. A good TPA will maximize contributions for a plan sponsor's highly compensated employees, but most importantly, keep a plan in compliance and out of trouble. I have seen too many plan sponsors get poor service from a payroll provider and competent TPAs have a healthy business in fixing plans that they take over from these payroll provider TPAs. Plan sponsors need to know the truth, that a payroll provider TPA isn't the best when it comes to competent plan administration.

### **Letting financial advisors know the value of a good TPA**

For better or worse, financial advisors often act as the gatekeeper for plan sponsors. Financial advisors often steer clients to certain TPAs and some do steer clients towards payroll provider TPAs. Many times financial advisors steer clients to payroll provider TPAs because they received referrals back from these payroll providers to their clients that don't have an advisor on their plan. Financial advisors need to know the value of a good TPA because a TPA can make or break an advisor's relationship to their plan sponsors client especially if the advisor made the TPA recommendation. From my experience, I have seen many advisors fired by their plan sponsors client just because they referred a

TPA and that TPA did a bad job for the plan sponsors so the advisor takes the blame. Financial advisors are all about relationships and one of the best ways they can maintain their relationship with their plan sponsors is a good TPA. Financial advisors need to know the story you can tell about competence, compliance, and plan design.

### **Partnering with other payroll providers**

I hear many TPAs who have contemplated going into the payroll business. Is that any different from the payroll providers going into the TPA business? The best TPAs are the ones that stick to what they know and as stated before, payroll has very little to do with competent plan administration. So while the two top payroll providers in the country continue to be in the TPA business, there are hundreds and hundreds of payroll providers around the country that have no interest in being in the TPA business, so they can be a natural ally with you. While the payroll provider TPAs talk all day and night about integration, partnering up with a payroll provider is a natural way to compete for a plan sponsor's business. Instead of deciding to offer multiple services under your roof, you can partner up with a local payroll provider and avoid the burden and headache setting up a business you have no idea to run. Instead of a payroll provider offering good payroll services and lousy TPA services, a plan sponsor can get good payroll and TPA services from an alliance of two competent providers. Offering an alliance with a local payroll provider can be an attractive way of taking the fight to the payroll provider TPAs without the headaches of getting away from your safe environment of just being a TPA.

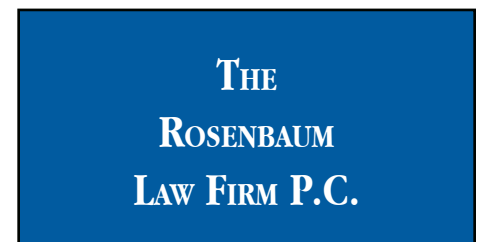
### **Target with better marketing**

TPAs don't like to hear it, but most TPA marketing isn't very good. One of the reasons that I have been somewhat successful as an ERISA attorney (I'm not at that comfort level yet) is that I never talk above my audience because if I do, I lose them. Payroll provider TPAs have been very successful at wooing clients because they oversimplify the role of a TPA and try to write it off as just a function of payroll. Don't oversimplify what you do, just simplify the explanation of what you do. Market that competent plan administration avoids headaches for the plan sponsor later down the line. Market

that plan design can put extra money in the pockets of the plan sponsor's highly compensated employees. There is nothing wrong for you to talk technical in the office, but don't be overly technical when talking to potential plan sponsors clients. Know your audience of plan sponsors and don't talk over their heads, explain why you are a better TPA that payroll providers in concrete terms that they will understand.

### **Market my articles**

I have spent the last 10 years writing articles about my two cents regarding the roll of ADP and Paychex and their role as TPAs. Those articles are always the most popular with plan providers because it presents an opinion that most of us feel, but are too afraid to admit. So market my opinion to current and potential clients, you have my permission.



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