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401(k) Topics For Plan Providers Today

When I first started my law practices almost 11 years ago, I knew I wanted to be different than other ERISA attorneys. One of the hallmarks of my practice besides my articles and flat fee billing is the open door policy of answering questions from retirement plan providers. I don't charge for questions or to talk because the retirement plan business is all about building relationships. A lot of the questions and discussions cover the same areas, so I thought that this discussion would certainly help a lot of plan providers who have some questions in their head as to what is going on in the retirement plan business.



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Your future is the backbench.

In British-style parliamentary systems, a backbencher is a member of parliament who doesn't hold government office and isn't a spokesperson of the opposition. They're essentially a rank and file member. However, the backbencher is usually the future of the party.

As a retirement plan provider, your backbench of employees is usually the future of your



organization and it's best to take care of them and nurture them. I've been involved with one too many organizations where the backbench is ignored or treated so poorly that they decide to leave. The best example is that semi-prestigious law firm I belonged to which was loaded with some of the best associate attorneys I've ever know. Everyone that I know werre rising legal stars and for one reason or another went to greener pastures where their talents could be appreciated.

As a plan provider, you spend so much time in training your employees that you can't afford to have a revolving door of employees, especially talented employees. I've seen too many plan providers lose talented employees who join the competition or become a competitor. I can recall a certain third party administrator where their backbench was stacked with such seasoned plan professionals that it's an all-star list of professionals that many in the business would know.

The backbench is your future, nurture it or it goes away.

Where to sell PEPs? Start with states that force employers to have plans.



Where to sell Pooled Employer Plans? A good start is the states where employers have to offer retirement plans. 12 states and one city have enacted laws that, generally, require certain employers without their retirement plans to make the state-sponsored plan available to their

employees.

The one thing about state plans like CalSavers in California is so many employers are a little hesitant in having government play a part in retirement savings, especially since the Federal government has made a mess of Social Security. Employers with five or more employees must participate in CalSavers if they don't already have a workplace retirement plan. Wouldn't a Pooled Employer Plan? To quote Alaska former Governor Sarah Palin: "You betcha'."

Change is inevitable with a purchase.

People tend to hate change especially when things are good. The problem with a change in the retirement plan business that I find is when a plan provider you're working with, gets purchased. The people who have led this plan provider usually see a sale as a time to cash out and eventual phaseout, while trying to maintain some order in the handful of years they have left.



I know a thing or two about provider purchases as both third party administrators I worked for, were purchased. The problem with any purchase that I find is that change is inevitable and that change tends to be the phaseout of many of the people that drew you to that plan provider in the first place. In addition, your habits with this plan provider will change, thanks to changes mandated by the new parent company. If the parent and now subsidiary are in the same line of business, there will be far more changes than if the parent is adding this new subsidiary as a new line of business.

Change can be good, but changes in the running of a plan provider you work with, are a little unsettling.

The problem with DFVCP.



When a plan sponsor has a late Form 5500 to file, one of the great things out there is the Delinquent Filer Voluntary Compliance Program (DFVCP). It gives the

plan sponsor the opportunity to pay reduced civil penalties for voluntarily complying with the annual reporting requirements. The problem with the DFVCP is that it still doesn't mean the end of the hassle of a late Form 5500.

A plan sponsor can file under the DFVCP program, pay the penalty, and still get hassled because the government is a little slow to identifying plans that file under the program. Filing under the program may not stop the Department of Labor and especially the Internal Revenue Service, from sending out a penalty letter for a late Form 5500 a month later. With government, sometimes on hand doesn't know the other, so a plan sponsor may still have to fight a penalty letter.

I have a client who filed under the DFVCP and then received a letter from the Internal Revenue Service with a close to \$100,000 penalty. Now they had to pay for me to send documentation to have that penalty waived. So while it's a great program, there may be some hassle along the way.



We will do it again virtually in 2022.

That 401(k) National Virtual Conference this January was such a hit, we will do it again for 2022. It's far easier to have dozens and dozens of advisors to show up for an event virtually, instead of asking them to take 4 days out of their life and thousands of dollars to attend an event elsewhere.

That 401(k) Virtual Conference will be Thursday-Friday, January 27-28, 2022.

This virtual event will have it all: great presentations to help grow your 401(k) business and a couple of celebrity guests.

Attending the event for two days will start with start at an early bird fee of \$20.22. That price will increase by 50% in the Fall.

To sign up for the event or get more information, click [here](#).

For information on sponsoring the event, click [here](#).

To see some my interview with Walt Frazier from the past Conference, click [here](#).

To see some of my interview with Dwight Gooden from the past Conference, click [here](#).

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ADVISORS ADVANTAGE
A Publication for Retirement Plan Professionals

VOLUME 12 ISSUE 2
February 2021

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