Good Plan Management – Part 1

The key to good plan management is understanding the roles of the various parties involved with the plan. Here is a primer on who they are and what their primary responsibilities are.

Plan Sponsor. The plan sponsor is the business entity that establishes and maintains the plan. The plan sponsor decides on the terms of the plan and is responsible for maintaining its qualified status, including funding it properly. The plan sponsor has the authority to amend or terminate the plan, and is responsible for filing the annual Form 5500 and meeting other reporting and disclosure requirements for the plan.

Plan Administrator. The Plan Administrator is responsible for administering the plan in accordance with the terms of the plan document and in accordance with applicable laws and regulations. The Plan Administrator may hire outside experts like Independent Actuaries, Inc. (IAI) to perform some of its duties, but that does not make IAI the Plan Administrator.

The Plan Administrator is a named fiduciary who can be held accountable under the pension laws for failing to discharge its duties properly. Most small businesses name the plan sponsor as the Plan Administrator. Some larger businesses appoint a committee of employees to serve as the Plan Administrator.

Trustee. Like the Plan Administrator, the Trustee is appointed by the plan sponsor. Many small businesses appoint one or more of the owners of the business to be the Trustee. Some small businesses, and many larger ones, hire an institutional Trustee such as a bank or trust company.

The Trustee is responsible for the investment and safekeeping of the plan assets. The Trustee may be given discretion to manage the plan assets or may be directed to follow the instructions of an investment manager. Also, like a Plan Administrator, the Trustee is a fiduciary who must carry out his or her duties in accordance with prescribed rules and regulations.

Investment Advisor. A plan sponsor, or in some cases the Trustee, may hire an investment advisor to manage the investment of the plan assets. In this role, the investment advisor will follow the guidelines set out in the plan's investment policy statement. The investment policy statement may allow the investment advisor broad discretion as to what classes of assets are used, and how funds are allocated among the various asset classes.

In some cases, the plan sponsor may act as his or her own investment advisor. Most plan sponsors rely upon some type of investment expert for help with investment decisions even if the investment expert is not formally named as the investment advisor to the plan.

Third Party Administrator (TPA). Most plan sponsors, small and large, hire a third party administrator to carry out many of the annual administrative activities of the plan. The pension laws and regulations are simply too complex, and the penalties for non- compliance too severe, for most plan sponsors to try do-it-yourself plan administration.

The range of services provided by a TPA can vary substantially, as can fees. IAI acts as a third party administrator - and for defined benefit plans, the plan actuary - for several hundred retirement plans.

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Other Professional Advisors. In addition to the parties already described, a plan sponsor is likely to need the advice and counsel of other professionals. A retirement plan is a legal document that requires the guidance and opinion of legal counsel. The operation of a retirement plan regularly involves legal interpretations. There are attorneys whose practices are almost entirely focused on retirement plans.

The plan sponsor's CPA or other accounting advisor often helps with the accounting and reporting of plan asset activity and employer data needed to administer the plan. If a plan reaches a certain size or invests in certain kinds of assets, a CPA firm will be called on to conduct an audit of the plan.

Finally, an Enrolled Actuary must be retained for a defined benefit plan to determine the annual funding obligation for the plan and attest to its funded status on Schedule SB that is attached to the annual Form 5500 filing.

In the next Pension Trends we will offer some suggestions for attaining a smooth coordination of activities among all these various parties. It is not hard to have a well-managed retirement plan, but it doesn't happen automatically.

It is not unusual for the owner of a business to act both as Plan Administrator and Trustee of the plan his or her business sponsors. There are good reasons for following this practice, including cost savings.

There are also potential pitfalls when the business owner makes decisions while wearing multiple hats. For example, when discharging duties as the Trustee, the business owner should be acting in the best interests of the plan, not the business. There are, in fact, rules that prohibit a Trustee from using plan assets for the benefit of the plan sponsor.

Other business owners are willing to pay a bank and other professionals to carry out many of the responsibilities for managing a plan in order to ensure proper management, or to insulate the business owner from potential liability, or free up time for the owner to focus on the success of the business.

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