

Why choose a corporate trustee for your company's retirement plan?

As a business owner who sponsors a tax-qualified retirement plan, you know that whether it's a traditional pension (*defined benefit*) plan or a 401(k) or similar *defined contribution* plan, there are stringent rules that must be followed in order to maintain the plan's tax-deferred status.

The “master rulebook” for retirement plan sponsors to follow is the Employee Retirement Income Security Act of 1974 (ERISA). Failure to follow the requirements and standards set by ERISA may result in severe consequences. For instance, plan fiduciaries may be personally liable to reimburse any losses to the plan, or to restore any profits made through improper use of plan assets.

Plan fiduciaries and trustees

ERISA protects a plan from mismanagement and misuse of its assets by establishing a fiduciary relationship between the plan and anyone who exercises discretionary control or authority over plan management or assets; anyone with the discretionary authority or responsibility for management of the plan; or anyone who provides investment advice to the plan and its participants for compensation (or has the authority or responsibility to do so). Plan fiduciaries, then, include the plan's administrators, investment advisors and members of a plan's investment committee. Because ERISA requires that the assets in a retirement plan be held in trust, a trustee of the trust is considered a fiduciary as well.

The primary responsibility of a trustee, as with any fiduciary, is to operate the plan in a manner that is solely in the interest of the plan participants and their beneficiaries, for the exclusive purpose of providing benefits and paying plan expenses. The trustee must act prudently, using the same care and skill that an expert would in similar circumstances. When it comes to investments, they are required to diversify in order to minimize losses (unless it is determined that it is not prudent to do so). In addition, they can act only as directed in the retirement plan document—unless for some reason the provisions in the plan are not in compliance with ERISA.

Every plan must have at least one “named fiduciary,” who serves as the plan’s administrator, and at least one trustee.

Benefits of a corporate trustee

Some business owners wonder whether it’s necessary to employ a corporate trustee or, instead, to “self-trustee” the plan. This idea might seem appealing in instances where the trustee is not the investment advisor. To the casual observer, it might appear that a corporate trustee merely serves in an administrative capacity—taking in and disbursing funds, doing the record keeping involving addition and subtraction of plan participants as they come and go. Aren’t these tasks easy enough for the company to take on itself, rather than going to the expense of paying a corporate trustee?

Schultz Collins Lawson Young & Chambers, Independent Investment Counsel of San Francisco, discusses this issue in an article entitled “Why Employ a Corporate Trustee?: The Costs and Benefits of Using an Institution to Trustee Your Qualified Retirement Plan.” They offer several good reasons to seek the services of a corporate trustee:

- Fiduciary responsibility, when distributed broadly over several parties, reduces the potential for conflicts of interest.
- There is a multitude of time-consuming administrative functions that can be delegated (processing receipts and disbursements, preparing consolidated asset and income statements, filling out and filing tax returns, to name just a few).
- A corporate trustee is “in the business” of providing trustee services, thus minimizing the possibility of mistakes and oversights that might lead to imposition of penalties or even cost the plan its tax-qualified status.
- When plan assets are managed by a corporate trustee, participants enjoy an extra degree of protection that the assets will be used in the way that they should.

Turn to us

As you can see, there are many reasons to seek a corporate trustee, such as us, an institution with broad experience in plan administration and investment management. We have the staff, the procedures and the technology in place to help ensure smooth, error-free plan administration. We are professional investment managers as well, with the depth of

experience and the breadth of professional knowledge that you should expect in a corporate trustee.

Please contact us to discuss in more detail what our services and capabilities as a corporate trustee can offer you and your company's retirement plan.

© 2010 M.A. Co. All rights reserved.

Any developments occurring after January 1, 2010, are not reflected in this article.