



Risk, controls & the small business 401k

My first job out of college in the Internal Audit Department at Sprint didn't initially seem like the ideal job I'd envisioned. I'd had dreams of high-finance or Wall Street, but to my pleasant surprise, I quickly realized that I had stumbled into an awesome learning experience. Although audit work might conjure up visions of drudgery, paperwork piled up high and a calculator humming away, it actually focuses on two interesting elements critical to both business and personal life - Risk & Control.

It is nearly impossible to eliminate all risk - the key is to put in place the right "controls" that mitigate some of this risk to a reasonable or necessary level. Risk and Control applies across a variety of situations we encounter daily at P&A. In this post, we'll focus on one related to the small business owner.

Many small businessowners desire to set up a company retire plan - both to enable the deferral of taxable income and to create an incentive to attract and retain high-quality employees. One of the most popular and attractive of these options is a 401k plan. These plans can be a great vehicle to defer a good deal of taxable income and allow the company to contribute to their employees' retirement. However, a 401k for a small business can take some effort, and business owners need to be cognizant of their responsibilities.

- Is your plan in compliance with the necessary ERISA rules?
- Have any participants overcontributed to the plan? Should your plan be a safe harbor plan?
- Who is the fiduciary of your plan? (Often, it's you.) Do you fully understand the implications of being a fiduciary of your plan?

Many times, business owners aren't aware of these areas of potential risk in their plans and to their business operations. The saying "ignorance is bliss" only works until something bad happens! Luckily, there are some simple controls that can be put in place to mitigate these risks and keep the small business owner out of trouble. It is worth considering a couple services that are offered through a third-party administrator to help you offload most of your fiduciary obligations as a plan sponsor.

- Outsourcing much of the administration and compliance of your plan through what's called an **ERISA 3(16) delegated administrative fiduciary**.
- Finding a plan advisor who will serve as a **3(38) investment fiduciary**, the highest form of protection for you, the plan sponsor, as it relates to the investments in your plan.

Many vendors don't offer these protections, which means most, or all, of the fiduciary responsibility ultimately falls on you. As part of an overall assessment of your 401k plan, P&A can connect you with a third-party administrator that can help address the inherent risks in 401k plans, keep your plan in compliance, and let you focus on running your business.

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