

Dorn's Corner

Attention! Or, Ten Hut is the way the military calls you to listen up! But what exactly is "attention?" Is it when we focus on one thing rather than the other things around us? Is it when our consciousness fixes on one thing? Does the observer who pays this attention affect that which he/she observes? I'll answer: yes, yes and yes.

One of the fundamental concepts in Quantum physics is that the observer not only affects the observed, but the observer actually causes the observed to manifest.

This is a concept which one physicist said, "if it doesn't make you uncomfortable, you probably don't understand it." This was proven beyond scientific doubt by an experiment with electrons. If you set up your experiment to look for the wave aspect of the electron, your experiment shows wave-like results. If you look for particles, you get particles.

You're probably thinking, "this is nice, but how does it affect me in my world where electrons

are small and insignificant?" In the business world, I find that paying attention to people or processes generally results in improvements in the office. People want



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Small Plans May Be Subject to Large Plan Audit Requirements

Since the Employee Retirement Income Security Act of 1974 (ERISA), retirement plans with more than 100 participants are required to have their assets audited by an independent Qualified Public Accountant. Plans with less than 100 participants were excluded from this annual audit requirement.

The Department of Labor (DOL) recently issued regulations changing the rules and expanding the number of plans that must be audited each year. The new rules cover many previously exempt smaller retirement plans. This action comes in response to several high profile cases of fraud and misappropriation of retirement plan funds.

These new rules are designed to improve the security of assets in small retirement plans. The focus is on who is holding the plan assets, enhancing disclosure to participants and beneficiaries, and in limited situations, improving bonding requirements.

Unless they meet the following conditions, small plans will be subject to the independent audit requirements for plan years beginning after April 17, 2001.

1. At least 95% of plan assets must be "qualified plan assets." Anyone handling assets not considered "qualified plan assets" must be bonded for an amount at least equal to the value of the non-qualified plan assets.

"Qualified plan assets" are defined as follows:



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featuring



We're proud to feature Atlanta SharpTech as our Client of the Quarter. Our relationship with them goes back over 20 years. Atlanta SharpTech, formerly known as Southern Saw Service, was Swerdlin's very first client. We assisted them in the redesign of their defined benefit pension plan back then. We've also provided the administrative services for their Employee Stock Ownership Plan (ESOP) over the years.

Atlanta SharpTech is a leading manufacturer and supplier of cutting edges in America and some 50 other nations around the world. Atlanta SharpTech celebrated their 72nd anniversary in January. Founded in 1929, they have remained in the same location on Evans Drive in Atlanta for all these years. They began as a saw service business designed to serve the needs of butcher shops. Now, Atlanta SharpTech is in the position of being the largest and best-known producer of meat-cutting tools in the world. They are the first American manufacturer of bandsaw blades for the food industry to receive ISO 9001 certification.

Starting from a 20' x 40' garage heated with a coal stove and only one employee, Atlanta SharpTech is now a large modern factory covering a city block, with 170 employees producing over 10,000 cutting tools each day.

E.G. Anderson, the founder of Southern Saw Service, died in 1937. Competitors thought that would be the end of the company. They said Southern Saw had only a chicken-coop and that the "boy" (referring to son, Eugene Anderson) could never carry on. Eugene's response to this was that "the chicken-coop laid good eggs and that Southern Saw could make it!"

When Eugene Anderson was called to the Army in World War II, Southern Saw produced 1,000 chopper plates per day for the U.S. Navy and hundreds of thousands of handsaw blades for the Army. The company made almost all the handsaw blades used in the U.S. Army for the entire war.

Even though the company experienced tremendous growth over the years, Eugene Anderson treated the employees like a family. He loved the company and continued to work until he was 89.

Eugene Anderson passed away in 1998 at the age of 90, but his vision lives on. ■



Why Limit What We Can Save?

Although you want to encourage your employees to save as much as possible in the 401(k) plan, it's often necessary to limit their savings to be sure the plan complies with all requirements of the Internal Revenue Code.

While the law allows an employee to save up to \$10,500 in a 401(k) account each year, it also allows each employee to receive retirement benefits of up to 25% of pay. So why do most 401(k) plans limit employee contributions to 10% or 15% of pay?

All employee and employer contributions are added together and in total cannot exceed 25% of pay. If there are any employer contributions, you should consider a limit on employee deferrals. For example, if your company has a money purchase pension plan in addition to the 401(k), and all employees receive an employer contribution in the pension plan equal to 10% of their pay, the

employees must be limited to 15% of pay in the 401(k) plan to stay under the 25% cap.

Also, a deduction problem can arise if you don't limit employee contributions. Salary deferrals are considered employer contributions for tax deduction purposes, and your company can only contribute and deduct 15% of eligible pay. If many employees want to contribute at a very high percentage of pay (more than 15%), more money might be contributed to the plan than can be deducted, and the company could be liable for penalty taxes.

So how do you determine the maximum amount your employees can save in the 401(k) plan? How do you balance the desire to encourage employees to save and at the same time comply with the Internal Revenue Code? There is no magic formula but we can help if you call us. ■

Required Minimum Distributions: What Are They and Why Must We Pay Them?

As April 1 approaches, don't forget required minimum distributions may be due. Here's some helpful information.

What is a required minimum distribution?

The IRS forces older retirees to take a minimum payment each year from their retirement plan accounts. This prevents retirees from delaying retirement payments and the taxes due on these payments.

How is a required minimum distribution calculated?

The annual payment is calculated by dividing the participant's account balance by the combined life expectancy of the participant and his/her beneficiary. For example, the life expectancy of a 70½-year-old participant with a 65-year-old beneficiary is 23.1 years. If the participant's retirement account is worth \$1,000,000, he/she must receive a minimum distribution of \$40,329 ($\$1,000,000/23.1$).

Who must receive a required minimum distribution?

Generally, all retirement plan participants reaching age 70½ must receive minimum distributions. Participants who have not retired and continue to work are an exception to this rule. They may delay their required minimum distributions until they retire. Unfortunately, this exception does not apply to business owners. Owners of more than 5% of the business must receive minimum distributions after they reach age 70½, whether or not they continue to work.

What happens if we don't pay a required minimum distribution?

If participants don't take their required minimum distributions, they can face a 50% penalty tax from the IRS.

Is there anything a participant should do before receiving his/her first required minimum distribution?

Yes, a participant has several choices to make regarding required minimum distributions. These choices include beneficiary designation and calculation method used (unless specified by the plan) to determine the annual benefit. Participants should get assistance from a qualified tax adviser before making any decision.

If you're not sure if you are required to pay minimum distributions this year, give us a call. ■



Audit Alert: Are You A Target?

It's been common knowledge the IRS uses Form 5500 to identify potential audit candidates, although until now we didn't know which items actually triggered an audit.

At a recent employee benefits conference, an IRS representative handed out the following list of 25 items entitled "Items on Form 5500 Return that May Trigger an Employee Plans Examination."

1. Low percentage of participants compared to number of employees
2. Large percentage of loans to participants compared to total assets or large dollar amounts of loans
3. Large loss on income statement when excluding distributions to participants
4. Funding deficiency on the Schedule B -- defined benefit plan
5. Funding deficiency on Form 5500 -- defined contribution plan
6. Date of most recent amendment prior to 1993
7. A "yes" answer to the question, "Did any amendment during the current year result in the retroactive reduction of accrued benefits for any participant?"
8. When comparing multiple years there is a large drop in plan participants
9. When comparing multiple years there is a large change in assets
10. Large amount for administrative expenses
11. Large amount of assets in real estate
12. Large amount of liabilities
13. An adverse accountant's opinion letter
14. Where the return indicates the plan terminated a long time ago but distributions did not take place
15. Large number of separated participants during the year with less than 100% vesting*
16. Large percentage of assets classified as "Other Assets" on balance sheet*
17. Large percentage of assets in any one investment
18. Difference between prior year ending assets and current year beginning assets
19. Difference between number of participants from end of prior year to beginning of current year
20. Terminated plan where the date of the most recent amendment is prior to the termination date
21. Large decrease in number of plan participants from beginning of year to end of year
22. Large distributions on income statement*
23. Small ESOP plans (less than 10 participants)
24. Top heavy 401(k) plans*
25. Top heavy plans covering self-employed individuals*



*Indicates the top 5 most common occurrences ■

Dorn's Corner

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attention and they respond more positively to it than you might think. They generally are very happy to have someone really listen to them and show caring without actually trying to solve a problem or provide advice. Our **Continuous Improvement** program that I announced last quarter focuses on improving

processes without incurring additional costs to the company. Consistent with the **Continuous Improvement** process, "paying" attention to your people is cheaper than most other types of "payment." And the results are most rewarding. ■

Small Plans May Be Subject to Large Plan Audit Requirements

(Continued from Page 1)

- Certain employer securities,
 - Participant loans,
 - Assets held by banks and similar institutions, insurance companies, registered broker-dealers, and any other organization allowed to act as a trustee for an IRA account,
 - Mutual fund company shares,
 - Insurance companies' investment and annuity contracts, and
 - Any assets in the individual account of a participant where the participant can exercise control of the account and receives a statement from a regulated financial institution at least once each year.
2. The Summary Annual Report needs to be expanded to include:
 - List of the financial institutions holding qualified assets and the value of the assets at the end of the plan year,
 - Name of surety company issuing the bond if more than 5% of the assets are non-qualified plan assets,
 - Notice to participants saying they may, without charge, examine or receive copies of evidence of the required bond and statements from the financial institutions, and
 - Address of the DOL for participants to contact them directly if they cannot obtain the information to which they are entitled.
 3. If participants ask, you must allow them to examine or receive copies of each financial institution statement and provide them with proof of any bond coverage.

If you are a sponsor of a retirement plan with less than 100 participants, it's important you comply with these new requirements or your plan must be audited by an independent Qualified Public Accountant each year. ■

Good News for New Comparability Plans

New comparability plans continue despite earlier threats of disallowing the entire plan design. Early last year the IRS initiated a review of the rules governing these plans, arguing they were discriminatory and should no longer be allowed. Although they tried hard, they could not justify banning new comparability plans under current law.

New comparability plans rely on a method known as cross testing to prove they don't discriminate in favor of the owners and highly paid employees. Under the cross testing method, the projected future value of employees' benefits is tested, rather than the actual contributions made to each employee's account.

The new rules issued by the IRS are more restrictive. These rules provide guidance for plan design and increase the minimum contribution that must be made for non-highly paid employees.

With the future of new comparability plans no longer in question, you may want to consider this design in your retirement program. If you're trying to maximize benefits for your business owners and highly paid employees, this plan may be just what you need. Give us a call, and we can help you find the optimum contribution formula for your employees. ■

Q All the participants in our plan have individual brokerage accounts within the plan, and the company pays all expenses associated with these accounts. Several of our terminated participants who have account balances over \$5,000 want to leave their money in the plan. Can we charge them any of the expenses involved in maintaining their accounts?

A Yes. You can impose a charge for these participants, but it must be reasonable and consistent.

Q We accidentally allowed an employee to make salary deferrals to our plan even though he was not eligible to participate. What should we do?

A The amount he deferred, plus income earned, should be removed from the plan and returned to him as soon as possible. If any matching contribution had been made, it should be forfeited. An IRS Form 1099-R should be issued to him at the end of the year. ■

What's Happenin'

Congratulations to Cynthia Navan-Clark, Kathy Latour and Adam Pozek on their recent promotions.

For the third year in a row, Swerdlin's employees adopted a family registered with the Salvation Army's Angel Tree. To raise money, we brought in and sold cakes, cookies and books, and collected jars of pennies. Our employees raised \$1,099.68, and Swerdlin made a matching contribution of \$1,100. We used \$500 for the family and donated the remaining amount to three deserving charities.

Congratulations to Asia Hall who recently announced her engagement. ■



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Vision Statement:

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