Vol. 23 No. 20 The Journal of the Allegheny County Bar Association September 24, 2021

LAWYERS JOURNAL

LAW PRACTICE MANAGEMENT

Thinking of setting up a 401k for your firm? Six tips to keep in mind

By Nathan M. Boxx

1. Talk About Your Goals

You have gotten to the point in your business where you're contemplating starting up a retirement plan for yourself and your employees. To get you started on the correct path, you must first determine what your motivations and goals are:

- Is it a vessel for you and your family members to save money?
  – upwards of $58,000 per person per year on a pre-tax basis
- Is it to help recruit and retain top talent to continue the growth of your business?
- Is it some combination of the two?

2. Think About Yourselves as Business Owners First

A 401(k) plan is a great way to invest for the future outside of your business. Too often, however, we see folks not heeding our advice and relying solely on the exit of their business as their retirement plan. Clearly, most entrepreneurial individuals are risk-takers by nature, but what happens if things don't go as planned? That's a pretty big risk and one, in our view, not worth taking. There are compelling options for you above and beyond whatever you think you can reap from the business. Let's start with the basics. A properly designed 401(k) plan allows you to put away on a pre-tax basis $58,000 this year, and people over the age of 50 can add an extra $6,500. Additionally, if your spouse or children help, put them on payroll, and they can save for retirement as well. This is a great way for families to accumulate wealth beyond the family business.

If you can save like this for a decade or two, you can accumulate some significant wealth.

3. Competitive 401(k) Packages Bring (and Keep) Talent

As your business continues to grow and you are hiring more people and fighting hard to retain them, offering a competitive benefits package will be critical in those efforts. Survey after survey shows how vital offering a retirement plan plays into where people apply and, importantly, what keeps that incredible talent that you need around. In addition, offering retirement benefits indicates to potential candidates and employees that you care and are committed to their financial wellbeing and long-term success.

4. Carefully Consider What Your Contributions to the Employee's Plan Will Be

When evaluating a retirement program, an early decision is what type of contribution will you, as the employer, make towards your employees' retirement plan. Will it be a matching contribution or a flat percentage of pay? Whatever it is, be prepared to stick to it. Of course, you can always change the contribution amount made on their behalf. Still, you want to be able to set clear expectations for your employees and whipsawing them around with changes to the employer contributions does not exactly exude organizational stability. You also want to benchmark what you are contributing compared to your industry peers to ensure that you are in line with market conditions.

5. Understand Safe Harbor Provisions

A very widely adopted 401(k) feature is adopting Safe Harbor provisions. This is particularly attractive to business owners who want to maximize the full benefits the rules provide and avoid complicated non-discrimination and top-heavy tests. However, without getting too deep into how these calculations are performed, if you do not get enough rank-and-file participation and contributions, you could be limited in what you can contribute, somewhat diminishing the attractiveness of even having a plan at all. Now there's no free lunch here, and to qualify, you must meet certain minimum thresholds of employer contributions, and further, those contributions must be immediately vested. So for some, having a safe-harbor 401(k) can thread the needle of allowing owners and key people the ability to save and maximize the contributions permitted, as well as offering a compelling retirement plan that rounds out a benefits package.

6. Weigh the Costs and Benefits

For many people, starting a 401(k) plan is a no-brainer. For others, it may be a "not-yet" as there are additional retirement plans designed for small businesses to consider, such as SIMPLE IRAs or SEPs that may work better in the current life stage of the business. You will want to evaluate the total cost to have the plan. Effectively operating your plan requires Record-Keepers, Third-Party Administrators, Financial Advisors and carefully vetted contributions. ■

Nathan M. Boxx is Director, Retirement Plan Services at Fort Pitt Capital Group LLC. He can be reached at 412-921-1822, or nboxx@fortpittcapital.com.