Legislative and Regulatory Issues Plan Sponsors Need To Follow in 2013

Retirement Advisor Council

Study Sponsors

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“[Advisors should] be actively involved in driving the regulatory and legislative agenda.”

-Andrew,
privately-held employer,
California,
100-999 employees

From a series of focus group discussions with employers from across the nation, the Council gleaned opinions confirming that:

- Plan sponsors pay careful attention to their fiduciary responsibilities and should continue to invest time and energy keeping abreast of regulatory and legislative issues;
- Plan sponsors are opposed to state-run multi-employer plans such as those created by legislatures in Massachusetts and California and should urge their Advisor to get involved;
- Despite the pressure on the Federal government to raise taxes, plan sponsors are not as concerned as they should be about potential cuts to maximum contribution levels.

These are all issues on which a qualified retirement plan advisor can provide expert guidance.

Employers are focused on their fiduciary responsibilities and expect Advisors to be involved in shaping the regulatory and legislative agenda

In an era of increased regulatory scrutiny, plan sponsors continue to focus on meeting their fiduciary responsibilities. Supporting the fiduciary process is one reason why plan sponsors hire specialized Retirement Plan Advisors. Plan sponsors expect their Advisors to be engaged in influencing retirement plan regulations and legislation.

Whether guiding you through the fiduciary process or acting as a full-fledged fiduciary in your plan, a Professional Retirement Plan Advisor can help navigate today’s complex regulatory and legislative agenda. Organizations such as the National Association of Plan Advisors (NAPA) help to keep Professional Retirement Plan Advisors abreast of legislation and regulations while representing Advisors with policymakers in Washington D.C. NAPA believes it is vital that the industry and regulating bodies get direct feedback from Plan Sponsors on important issues, and welcomes efforts by the Council and others to obtain this information. The Retirement Advisor Council supports many of the positions of NAPA.

Plan Sponsors stand largely opposed to state-sponsored plans

In 2012, California began consideration of the state-run California Secure Choice Retirement Savings Program, inspired by proponents of a comprehensive reform of the US pension system. The State of California is currently studying the feasibility of the program in the confines of federal regulations. Focus group discussions took measure of plan sponsor sentiment on state-sponsored plans for small, private employers, beginning with the simple question: “What are your thoughts on state-run plans for private employers?”

"States cannot run their own shop now. They should not further muck-up the works."

-Pam, not-for-profit employer, California, 1,000+ employees

In one group of plan sponsors, five responded, practically in unison, "None." They elaborated as follows:

"I'm in CA and I don't believe they have the expertise to do this."

-Andrew, privately-held employer, California, 100-999 employees

"My fear is that the fund would be used for other areas of state government. "

-Cheryl, privately-held employer, Minnesota, 100-999 employees

"I fear that they would make similar choices to State-run pensions and put the burden on the taxpayer. "

-Pam, not-for-profit employer, California, 1,000+ employees

Plan sponsors across the country have serious doubts about a state's ability to run a large retirement plan system; California plan sponsors were particularly circumspect. Asked the same question, another group of employers discerned some potential benefits to a state-sponsored system, but in the end, they shared the same doubts regarding the government's ability to competently and responsibly manage participant assets.

Question: What would you do if your state enacted such a plan?

"I would worry about who was actually running the plan. As far as I can tell, most governments don't do that well."

-Jil, privately-held employer, New York, 100-999 employees

"My gut reaction is to run the other way. However, it is worth considering. Cost, options, protection for employers, good investment options for the people? "

-Jim, publicly-held employer, Georgia, 100-999 employees

"I don't have a lot of trust in New York running my employees' retirement plan."

-Kim, privately-held employer, New York, 1,000+ employees

"I'm not in favor. I'd rather have a relationship with an Advisor."

-Donna, privately-held employer, New York, 100-999 employees

In summation, plan sponsors express serious concerns about state-sponsored plans:

- Lack of transparency,
- Lack of customization,
- Risk that assets will be siphoned off for other purposes,
- Lack of an Advisor, and
- Lack of participant faith in the system.

"Increased regulation and increased fines and penalties. Increased transparency and increased participant suits, partially due to the economy. Companies that try to navigate without professional help will be facing a much greater possibility of problems."

-Jim,
publicly-held employer,
Georgia,
100-999 employees

Fiscal woes: A rollback of contribution limits would take plan sponsors by surprise

At the time of these focus group discussions, the country was moving towards a Fiscal Cliff. Concerns over the size of the federal budget deficit have not abated. In discussions, plan sponsors voiced a number of concerns. Impending tax reform and how it might cause participants to remain in the workforce beyond the age at which they would otherwise retire is a chief concern.

"We are already seeing the impact of the economy, and tax reform will hurt more. We've got a lot of folks working past 65, and even 70..."

-Pam, not-for-profit employer,
California, 1,000+ employees

Interestingly, when asked about contribution limits, plan sponsors seem unaware of any threat to current levels. As a matter of fact, despite the current fiscal debates, many plan sponsors foresee greater tax incentives for participant contributions, rather than less. Although unaware of the threat of maximum contribution rollbacks, plan sponsors are concerned about potential cuts in Social Security benefits.

"The government will push more employers to prepare their employees for retirement. Social Security is a big question."

-Cheryl, privately-held employer,
Minnesota, 100-999 employees

Plan sponsors also worry about the consequences of already enacted legislation and recently adopted regulations such as cuts to Flexible Spending Account contributions, "new" disclosure requirements, and "new" limitations to defined benefit plans. Some predict no regulatory change affecting contribution levels, at least not until, or if, automatic enrollment becomes mandatory. Some seem to think the pain of the current fiscal situation will actually spur participants to add to retirement savings. Is this a case of blind optimism? The future will tell.

Plan sponsor anxieties are exacerbated by the lack of control over the direction of either financial markets or government. Plan sponsors have little voice in legislative changes that could sway the financial markets, impact their plan participants, and complicate their fiduciary duties. These legitimate concerns can best be addressed by the engagement of a Professional Retirement Plan Advisor.

"Another Obama Administration [means] more regulation in all aspects of business [, which will] impact stock market results, which will impact our plan participants."

-Kim, privately-held employer,
New York, 1,000+ employees

In conclusion

Comments by employers attending our focus groups show how plan sponsors have come to rely on their specialized Advisor to guide them through the twists and turns of legislative reform. We heard stout opposition to state-sponsored plans and a preference for working with a qualified Retirement Plan Advisor. Lastly, roll backs to maximum contribution levels pose a threat to the retirement readiness of millions of American workers. Plan sponsors who partner with a specialized Advisor who can influence the legislative agenda will be in the best position to rightfully represent their employees and fulfill their own fiduciary responsibilities.

About the research

Research firm EACH Enterprise LLC, in conjunction with the Retirement Advisor Council, recently conducted focus group discussions with 14 plan sponsors from around the country who partner with a Professional Retirement Plan Advisor. The 14 plan sponsors were divided into two geographically split groups of seven members each, with Group 1 consisting of plan sponsors from East-of-the-Mississippi, and Group 2 consisting of plan sponsors from West-of-the-Mississippi.

The Council encourages opponents of a rollback of contribution limits to rally behind the "*Save My 401(k) - Protect My Piggy*" campaign orchestrated by NAPA.

SAVE my 401k
PROTECT MY PIGGY
www.savemy401k.com

About the Retirement Advisor Council

The Council advocates for successful qualified plan and participant retirement outcomes through the collaborative efforts of experienced, qualified Retirement Plan Advisors, investment firms and asset managers, and defined contribution plan service providers. The Council accomplishes this mission by its focus on:

- Identification of duties, responsibilities and attributes of the Professional Retirement Plan Advisor
- Sharing our professional standards with plan sponsors who are responsible for the success of their plans
- Providing collective thought capital to decision makers, product providers, legislators and the public
- Giving voice to the Retirement Plan Advisor community
- Tools to evaluate Advisors, ensuring the quality of services needed for successful retirement outcomes.

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