FINANCIAL BUSINESS EDGE

Next Steps for You and Your Business

Recruiting: Staying One Step Ahead of the Competition

Whether you run a small, family-owned business or a large company, attracting and retaining key employees is challenging in today's economy. Businesses often compete for skilled and talented employees in the same way they compete for a customer's business. So, how can your business set itself apart with top performers?

Robust Benefit Packages

In addition to a competitive salary, most potential employees have a certain level of expectation concerning benefit plans. When evaluating prospective employers, selective candidates may compare the core benefits being offered. The following benefits may be among their primary considerations:

Qualified Retirement Plan. With the shift away from defined benefit plans toward **defined contribution plans**, personal retirement savings are more important than ever, and the **401(k) plan** has become a sought-after vehicle for retirement savings. Prospective employees often expect, at a minimum, that a plan will be offered. Plans such as the 401(k) are enhanced with company-matched contributions.

Health Insurance. With the Affordable Care Act (ACA), many workers have entered the marketplace to purchase their own health insurance. For this reason, employer-sponsored health insurance, may still be considered an important employee benefit. Although the details and costs associated with company plans vary, prospective employees may place a high value on the availability of an employer-sponsored plan when conducting their job search.

Paid Time Off. As employees seek work-life balance, the amount of vacation and personal time offered by an employer is often an important consideration. In fact, many individuals value the amount of vacation and personal time available to them, even if they fail to use it all on an annual basis.

Flexibility. The change in workplace demographics and technological advances have resulted in the need for greater flexibility on the job. Therefore, it is important for businesses to recognize these trends and modify policies for flexible work schedules, as appropriate.

Work Environment. The workplace atmosphere can also be a major factor in employee satisfaction. Prospective employees may be looking at stress levels, communication styles, and the workload.

Selective Benefits

In some cases, Internal Revenue Service (IRS) anti-discrimination rules limit the benefits received by highly-compensated key employees. For executive-level employees, there are additional benefits that can be offered. The availability of these selective benefits can distinguish one employer from another.

Executive Bonus Plan. An employer may offer key employees a compensation bonus to be used for paying the premium on a **life insurance policy**. If an employee owns the policy, the bonus amount can be a deductible business expense for the employer. The employee must claim the annual bonus on his or her tax return as ordinary income. Any death benefit paid to the employee's estate or beneficiary is generally income-tax free.

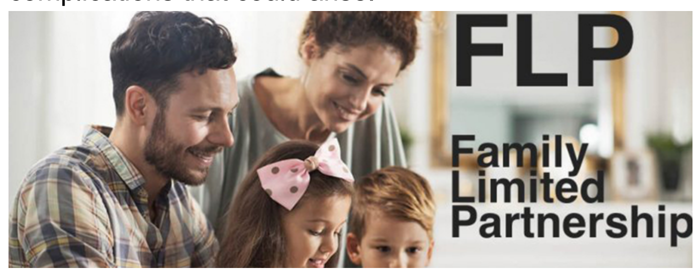
Disability Income Insurance. For a highly-compensated employee, a group disability insurance plan may provide only a limited amount of coverage for sustaining an illness or injury that prevents him or her from working for a length of time. To supplement this coverage, an employer may offer additional, *individual* disability income insurance.

Voluntary Benefits. Through a voluntary benefit plan, an employer can offer a menu of benefit options *in addition* to existing core benefits. Employees choose the benefits that meet their respective needs and pay for them through payroll deductions, as defined by the specific plan. Because voluntary benefit plans are offered in a group setting, costs are generally more affordable than if an employee were to purchase similar benefits individually.

Business owners are realizing that a competitive salary is no longer the only factor sought by highly skilled employees in today's tight job market. Just as you shop for key employees, they shop for the employer that offers the best combination of salary and benefits for their specific needs. Therefore, you may want to consider creating a benefits package that keeps you one step ahead of the competition.

Understanding Creditor Protection with FLPs

The **family limited partnership (FLP)** has been touted as a powerful tool for estate planning and for managing and protecting family wealth. One of its major benefits—increased creditor protection—has been emphasized with, perhaps, too little attention given to the potential complications that could arise.



In theory, assets that may otherwise be attractive to a creditor may become unattractive once transferred to an FLP. After the transfer, the limited partners own partnership interests rather than the *specific* assets themselves.

Under many state partnership laws (which incorporate Section 703 of the Revised Uniform Limited Partnership Act), the only remedy generally available to a creditor against a partnership interest is in the form of a **"charging order"** by a court. A charging order is considered a *limited* remedy, in that the creditor's interest against a partner is limited to distributions of income or principal made *from* the partnership and not *to* the partnership interest itself.

Consequently, the creditor does not obtain any right to influence the operation of the partnership. Furthermore, since the general partner, who is a family member, determines the timing and amount of distributions, the creditor's ability to gain satisfaction under a judgment can effectively be blocked. The ultimate deterrent for a **"judgment creditor"** is that, by obtaining a charging order, the creditor risks receiving "phantom" taxable income. The creditor may be treated as being the owner of a portion of a partnership interest for income tax purposes and must therefore pay income tax on his share of the partnership income, even though he or she may not receive an income distribution.

Not So Fast. . .

While this mechanism does provide significant asset protection, it would be unrealistic to think the creditor protection feature of an FLP is absolute. Here are some possible situations to consider in which the asset protection benefit could be compromised:

- If assets placed within the FLP have inherent liabilities associated with them, they could generate a liability within the family limited partnership, thereby subjecting partnership assets to the claims of creditors.
- If a court deems the creation of the FLP was for the sole purpose of protecting assets, it may not limit the creditor's remedy to a charging order.
- If the general partner is a **corporation**, a judgment creditor of that corporation may indirectly gain control of the FLP by gaining control of the corporate general partner.
- Most state partnership laws allow that an event causing the withdrawal of a sole general partner could result in the FLP being dissolved, allowing access to distributed partnership assets by a judgment creditor.
- Should a limited partner grant a security interest obtained under the Uniform Commercial Code to a creditor, the creditor could obtain the partner's ownership interest in the partnership.

The family limited partnership has become particularly popular as a tool for managing family enterprises. An estate owner can give away limited partnership shares, possibly reducing the size of his or her estate for estate tax purposes, while retaining control of the operation of the business. However, the overly aggressive use of FLPs could lead to undesirable results that may potentially undermine an individual's overall planning objectives. As with all important business decisions, be sure to consult your professional advisors about your unique circumstances.

Virtual Teams: Skilled Workforce Options for the New Economy

As more companies rely on the participation of employees and partners in geographically distant locations, "virtual team" building of individuals who meet online to work on projects or engage in business activities is increasing. To keep virtual teams connected and on course, companies need to implement the right networking and collaborative technology solutions, as well as develop innovative ways to encourage cooperation among workers who rarely, if ever, meet in person.

The Benefits of Virtual Teams

Companies may choose to create virtual teams for a number of reasons, including the following:

• Employees who are best qualified to contribute to a specific project or are best suited for a particular role are located in other parts of the country or the world.

• Global firms may need employees in multiple locations to cooperate and communicate with one another.

• Those employees looking for work-life balance or to save on commuting costs may want to work from home on a full- or part-time basis.

• Sales representatives who travel frequently as part of their job responsibilities must remain connected to co-workers and senior management while on the road.

Steps for Success

In order to facilitate information-sharing and encourage diverse ways of thinking among virtual team members, it is important that companies provide the technology needed for effective communication. Team members may require reliable Internet connections for smartphones, laptops, and personal digital assistants (PDAs) to remain productive, especially when traveling. Many individuals will use a combination of email, texting, and instant messaging to communicate with co-workers and managers, and to respond promptly to incoming messages. Team members may also be encouraged to maintain an online calendar to help the company keep track of their activities and schedule.

Document sharing and project management software programs can also make it easier for team members to effectively collaborate. These tools enable users to view any changes made and add their own contributions in real time.

While much of the work conducted by virtual teams can be done on a flexible basis, regularly scheduled meetings via phone or video conferencing are essential to remain productive. This provides team members with the opportunity to engage in a group discussion, airing any concerns they may have and connecting with one another on an interpersonal level. Team leaders may also organize interactive webinars for viewing online presentations. Some companies with large numbers of remote workers are experimenting with three-dimensional technologies in which avatars (graphical representations of the user, such as an icon or screen name) represent employees attending meetings and presentations in a virtual world.

Managers supervising virtual team members need to maintain contact with off-site employees and assess their performance on an ongoing basis. Rather than monitoring the amount of time each employee spends working, many companies choose to measure productivity by the results produced. This approach to management involves establishing clear objectives and requires employees to demonstrate that they are following schedules and meeting the goals set for them. It is equally important for managers to realize that capable employees who work independently may still need occasional guidance, and will also appreciate prompt responses to their communications.

If possible, virtual teams should be encouraged to meet face-to-face at least once a year at a social event organized by the company. This type of personal interaction can build trust among team members, as well as cultivate retention of a skilled virtual workforce.

A SEP May Be the Ideal Choice

In today's tight job market, employers large and small are in competition to attract and retain top employees with robust employee benefit packages. Many larger businesses find the best approach to meeting their employees' retirement saving needs is a "qualified" pension or profit-sharing plan. Qualified plans provide an array of features that help employers achieve a range of objectives. However, these plans also involve reporting and recordkeeping requirements, along with administrative expense.

On the other hand, many smaller businesses don't need every feature offered by a qualified plan. The most appropriate plan for these employers may be one that delivers an attractive benefit with minimal administration and expense. In addition, if employees would like to defer income, the SIMPLE Individual Retirement Account (IRA) may be a cost-effective solution. However, other smaller companies may want to consider the Simplified Employee Pension (SEP), an equally effective option.

Is a SEP Right for You?

In 1978, Congress created SEPs as an alternative to traditional retirement plans. Rather than setting up a profit-sharing or money purchase plan with a trust, employers can establish a SEP and make contributions directly to a traditional IRA set up for each eligible employee. SEPs provide similar advantages to profit-sharing plans, but since the employee controls the IRA, the employer is not responsible for detailed recordkeeping and reporting.

While SEPs are usually most appropriate for smaller employers, any business (including C corporations, S corporations, partnerships, and sole proprietorships) can establish a SEP. Unlike a qualified pension or profit-sharing plan, which must be established no later than the last day of the plan year, an employer can establish a SEP plan up until their tax filing deadline, including extensions.

Establishing a SEP is relatively straightforward. In most cases, the employer completes an IRS Form 5305-SEP, which is used to set the age and service requirements for plan participation, along with the formula for allocating contributions. Once completed, a copy of this document, in addition to other SEP information, is given to each eligible employee to satisfy legal disclosure requirements.

Participation Requirements

Businesses may establish age or service eligibility requirements for their plans; however, these eligibility requirements may not be more restrictive than those set forth within IRS form 5305-SEP. The employer may exclude all employees covered by a collective bargaining agreement (if retirement benefits were the subject of good faith bargaining), those under age 21, any employees who have not performed services for the employer in at least three of the previous five years, and employees who have received less than $550 in compensation for the current year.

Contributions to a SEP are allocated to eligible employees in proportion to compensation, with each receiving the same percentage of pay. Employer contributions are always 100% vested. These contributions can be substantial, up to the lesser of 25% of an employee's compensation (limited to $280,000 or $56,000 in 2019). Because contributions are discretionary, employers can vary the amount from year to year, or skip the contribution entirely; however, if a contribution is made by the employer in a given year, it must be made for all eligible employees who performed services during the year of the contribution. It is important to note that contributions for self-employed individuals are subject to additional limitations.

If you are a business owner who values simplicity, yet desires a competitive employee benefits package, a SEP may be an appropriate choice. For more information, be sure to contact your tax and legal professionals about your unique circumstances.

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