What are my responsibilities? What are my options?

RETIREMENT PLAN MANAGEMENT FOR SMALL BUSINESSES

A guide presented by the
Small Business Administration
and Nationwide Financial

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Retirement Plan Basics

Before you can make good decisions about your retirement plan to help protect your business, your employees and yourself, you need to understand the basics.

What is a retirement plan?

A qualified retirement plan is a tax-deferred retirement savings program offered by a company for the benefit of its employees.[1] Your business may offer one of two core types of qualified retirement programs: defined benefit or defined contribution.

A defined benefit plan is often referred to as a pension. This kind of plan is trustee-directed because you as the employer decide where to invest the money in the plan to pay out the promised benefits to employees in the future. With defined benefit plans, you make all the contributions and promise to pay certain amounts to employees upon their retirement, usually based on their income and years of service.

A defined contribution plan could be a wide range of plans. Some plans allow employees to invest their own money; others include contributions from the employer or a combination of the two. Usually participant-directed, these plans allow employees to choose where to invest their assets from a set of options chosen by the employer or the employer's designated trustees. The most common types of these plans are 401(k) plans, profit-sharing and SIMPLE IRAs (Individual Retirement Accounts that can be used to make pre-tax contributions for business owners and their employees).[2]

In these types of plans, employees receive as a benefit what they have invested and the earnings on that investment. They may also have access to money the employer has contributed through a company match or other company contribution to the plan, which is subject to vesting. Typically, employees must meet certain criteria, such as length of time employed, before they are fully vested. Usually, employees are not entitled to the employer-contributed money in the account until they are at least partially vested.

[1] Qualified plans also must meet rules detailed by the IRS and Internal Revenue Code

[2] There is another type of SIMPLE retirement plan, called a SIMPLE 401(k).

These plans are tax-advantaged, which means that employees don't pay taxes on the earnings until they withdraw the money. This benefit allows employers to take the money out of an employee's check pre-tax, creating a tax benefit during the earning years.

Why offer a retirement plan?

The benefits you as an employer provide in the workforce are vital tools for attracting and retaining valuable employees. A high-quality retirement program is one of the most important components in an employee benefit package, behind only medical care options and paid vacation privileges. In fact, an estimated 64.3 million full-time employees are eligible to participate in qualified plans in the United States (EBRI Notes, Sept. 2000, Table 4).

Not only is a retirement plan an excellent tool for attracting and retaining high-quality employees, it is also a solid way to reduce your company's tax burden and to set aside money on a tax-deferred basis for your own retirement.

Qualified plans are one of the best ways to help employees accumulate retirement savings. Benefits include:

- The opportunity to keep your company competitive, especially in a changing labor market
- Tax-deductible employer contributions to a qualified plan
- A tax credit of up to $500 may be available to small companies (generally fewer than 100 employees) for the costs of creating or maintaining an employee retirement plan

In addition, your employees benefit by being able to make tax-deferred contributions and enjoying tax deferral on investment earnings.

If I don't offer a plan, what should I consider?

If you don't offer a retirement plan and are interested in any of the benefits highlighted above for yourself and your employees, you may want to talk to a qualified professional about how your company can start a plan.

Retirement plans can be structured to be inexpensive for you as the employer. Keep in mind that retirement plans can evolve over time as your business grows. Often business owners find that by thinking about retirement plan options early, they are better positioned to make the right choices for their businesses as they grow.

While there are legal responsibilities to offering a plan, this guide and other resources are available to help you understand and meet these responsibilities.

Before making a decision about a retirement plan, consider the benefits listed above, including those that benefit you as an owner.

If I offer a retirement plan, why is it important for me to pay attention to retirement plan management?

As the business owner who offers a retirement plan, you have key responsibilities to the employees who participate in the plan. There's an important word in the industry for these responsibilities and the people who hold them — Fiduciary.

Who or what is a Fiduciary?

If you answered this question by saying "I am," then you're probably right. A fiduciary is anyone who has authority or control over the management of a retirement plan or its assets.

Simply speaking, if you own a business and you offer a retirement plan, you likely have fiduciary responsibilities. These are serious and important responsibilities, but they can be very rewarding. Making good fiduciary choices provides an excellent opportunity to help control the integrity of your employees' retirement savings, and your own.

Don't feel alone in your fiduciary responsibilities. Plan sponsors (that's you if you own the business), plan trustees, officers and committee members most often have responsibilities, as well. Anyone who controls, in any way, how a plan is administered or how its assets are invested is probably a fiduciary. For example, if you participate in the selection of a plan provider or funds, you are probably a fiduciary.

The main rules for fiduciaries are listed in ERISA (The Employee Retirement Income Security Act), a set of laws that protect the participants and beneficiaries of retirement and welfare plans. The laws focus on honesty and integrity and obligate fiduciaries to:

- Act in the best interest of plan participants and beneficiaries
- Understand and be aware of all expenses paid from the plan
- Make prudent decisions regarding the plan, including investments and service providers
- Act in accordance with plan documents (terms, provisions, etc.)
- Monitor the plan's investments.

Why should I care about fiduciary responsibilities?

Because you have the opportunity to control the retirement investment vehicle for yourself and your employees. Also, there can be serious repercussions for ignoring fiduciary duties, including heavy fines and possibly even jail.

A recent Nationwide Financial study found that while small business owners may be confident about their role as fiduciaries, many report critical lapses in at least one aspect of fiduciary knowledge.

- **They don't realize they hold primary fiduciary responsibility.** A large percentage incorrectly identified the plan investment provider, the financial advisor, and even employees as having this role.
- **They fail to evaluate investment selections regularly.** Sixty-one percent of those with 401(k) plans reported they have an investment policy statement in place, but fewer reported having a formal process to evaluate investment selections on a regular basis.
- **They do not question the risk of required funds.** More than one-third consider it acceptable for a provider to limit the fund options available to a plan by requiring that its own funds be selected.

Half of all small business owners surveyed say fiduciary and legal responsibilities are a top concern, and a similar number reported increased employee concern about their retirement plan investments in the last year. But only one in five have taken steps in the past year to increase fiduciary oversight, including switching companies or consulting with a professional.

The good news is that, in most situations, fiduciary responsibilities take less than an hour a month to fulfill, and the benefits of offering a plan far outweigh the disadvantages. It's like exercise — it takes a little time each day, but you do feel good about the results. Your investment professional and plan provider should be able to provide resources that support you in fulfilling your duties. Staying aware of your fiduciary responsibilities, and taking the proper steps today, will save you trouble tomorrow.

How can knowledge of my fiduciary responsibilities benefit me, my business and my employees?

Taking action to understand and meet your fiduciary responsibilities allows you to enjoy:

- A more successful plan that better positions you and your employees to meet investment objectives and goals
- Employees who are more likely to be satisfied with their plan
- Potential for a better return on your investments (which could mean more money in retirement for you and your employees)
- A feeling of control
- Less liability

Retirement Plan Management

Now that you understand the basics of fiduciary responsibilities, use the questions below to determine how well you are meeting them.

How do I know if I'm fulfilling my fiduciary responsibilities?

It is easier than you might think to measure how well you're doing. Consider the checklist below. If you answer no to any of these questions, you may need help, or it might be time to re-evaluate your existing retirement plan provider. Your third-party administrator, retirement plan provider or qualified professional can help guide you and go through a more detailed checklist with you.

- If you have an existing plan, do you fully understand your plan document and design?
- Do your plan fiduciaries meet regularly and keep notes from these meetings?
- Does your plan have a written investment policy statement?
- Does your plan offer diversified investments?
- Have you reviewed the investments available in your plan in the last 12 months?
- Do you understand the investment costs within your plan?
- Do you understand the services provided by the various people and companies who service your plan?
- Do you understand the costs associated with these services?
- Can you select investment funds without provider restrictions on the number of outside funds that can be included in the plan?
- Does your plan provide employee-enrollment programs that explain the importance of participation?
- Does your plan provide asset-allocation funds or models for employees who lack investment knowledge?
- Do you understand ERISA requirements?

Creating a Roadmap

An investment policy statement is a set of guidelines you can use in your decision-making process. Although not specifically required under the law, it is wise for retirement plans to have a roadmap to guide investment choices. The purpose of an investment policy statement is to:

- Create written guidelines and standards you will use to select investments options for your plan
- Provide a basis to periodically evaluate investment performance within your retirement plan

Your qualified professional, third-party administrator or plan provider should be able to assist you when you create and maintain an investment policy statement.

Finding Help

Fiduciary responsibilities can be complicated but can seem much less so with the help of a qualified professional who can provide you information about your responsibilities and help you to make educated choices for your employees.

Choosing professional help: Questions to Ask

What is your record of success?

Ask for examples of how the qualified professional has helped other businesses handle fiduciary aspects of their retirement plans. Ask for references. Find out how the qualified professional plans to help you with fiduciary responsibilities, plan structure, comparing plan providers and selecting and monitoring investment choices.

Do you have experience with a broad range of investment choices?

Choose a qualified professional with experience across many investment categories. Your qualified professional should be able to offer you investment suggestions that include investments from several investment management companies, rather than just one company's investments. This limits conflicts of interest and maximizes investment choice for your employees.

How do you get paid?

Qualified professionals deserve to be compensated for the work they do for you and the plan. They should be willing to explain how – and how much – they will be paid. Some may be fee-based and others are commission-based.

What relevant experience or professional certifications do you have?

Many, but not all, qualified professionals, hold certifications such as Certified Financial Planner (CFP), Certified Pension Consultant (CPC), Certified Public Accountant (CPA), Chartered Financial Planner (ChFP) or attorney at law. Equally important to certification, however, is their experience and knowledge in working with businesses such as yours. Ask for references and specific examples of how they have helped other businesses.

When to be wary

Be careful in selecting a qualified professional to assist you. Some warning signs to look for:

- Vague ideas or plans. Qualified professionals should be willing to discuss in detail what they will do for you and the plan.
- Undue promotion of certain funds. They should address the selection and monitoring process rather than promote funds with impressive recent track records.
- Reluctance to discuss compensation. Qualified professionals should be open to discussing their compensation.

Glossary

401(k) – A qualified retirement plan that allows employees to make pre-tax contributions, governed by Section 401(k) of the Internal Revenue Code.

ERISA – The Employee Retirement Income Security Act, a set of laws that protect the participants and beneficiaries of retirement and welfare plans.

Fiduciary – Under ERISA, a fiduciary is a person or legal entity who:

1. exercises discretionary authority or control in management of the plan or exercises any authority or control over management or disposition of the plan assets
2. renders investment advice for a compensation (direct or indirect) for any assets of the plan, or has any authority or responsibility to do so
3. has discretionary authority or discretionary responsibility in the administration of the plan

Qualified Professional – Financial advisor, broker or professional who assists you with your retirement plan choices and investment options.

Proprietary investments – Investment options manufactured by an affiliated company.

SIMPLE IRA – An Individual Retirement Account that can be used to make pre-tax contributions for business owners and their employees.

Third-party administrator – Professional who provides plan design and administrative services for retirement plans.

Investing involves risk.
Federal tax laws are complex and subject to change. While information in this guide is based on current interpretations of the law, it is not guaranteed. Neither Nationwide, the U.S. Small Business Administration, nor their respective representatives give legal or tax advice. You should consult an attorney or tax advisor for answers to specific tax questions.

"The skills you have learned running a small business are basically the same skills you will need to know to successfully manage a retirement plan – it's not about making investment decisions, it's about managing a prudent process."

- Donald B. Trone, AIFA
President, Foundation for Fiduciary Studies

"In retirement planning, knowledge is power. Education empowers everyone involved to maximize their retirement benefits while minimizing confusion and uncertainty. A retirement plan at work with regular payroll deduction leads to 50% or more of employees saving, as opposed to less than 10% that take the time to set up an IRA. Employer sponsorship is critical to future financial security."

- Dallas Salisbury
President, Employee Benefits Research Institute

"Small-business owners have a special responsibility to themselves, their employees and their business. One important way to meet such responsibility is by being engaged in and educated about retirement plans. Well-managed retirement plans can be a key component of a successful company, and you do not have to be a major corporation to have access to great information, options and support."

- David Wray
President, Profit Sharing/401(k) Council of America

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