The Swerdlin Quarterly

Swerdlin & Company

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Swerdlin & Company . . . in the Beginning

Some of our readers may not know how Joanne and Dorn started Swerdlin & Company back in 1980. So we are pleased to share this excerpt from the May 29-June 1, 1998 issue of the Atlanta Business Chronicle. The article (used with permission), was entitled "Partners in Life and Business," and it discussed how couples blend their roles.

"Dorn was working as an actuary in a large company and was frustrated with his job. His wife was doing secretarial work.

'When Dorn was talking about starting his own business, I planned to do the secretarial work, because we couldn't afford to hire anybody else,' Joanne Swerdlin said.

Start-up equipment for the company consisted of a typewriter and a couple of filing cabinets that were given to them.

'Our biggest concern was overhead at home

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IN THIS ISSUE

Dorn's Corner

As we reach the mid point of 1998, it occurs to me how very much I value and appreciate my relationships with our employees, clients, associates, and friends who have helped us to achieve and exceed the goals we set for our company. Our balance sheet does not reflect our most valuable asset - - - our relationships.

The buzz word for the '90s is "team" and sometimes we don't realize that our team extends far beyond our office. We derive strength from all of our relationships and we are a team player in every relationship.

As mentioned in a previous "Dorn's Corner," the "New Science" or "Quantum Thinking" focuses on relationships rather than separate things. We can be viewed as the sum of our relationships, rather than separate objects who interact.

I am learning to appreciate the strength we derive from all of our relationships. I encourage everyone to pause and recognize that everyone in your life, personally and professionally, is a member of your team and you are a member of theirs.■

We can help you with the following services:

- Actuarial Consulting
- Plan Consulting and Design
- Plan Installation
- Annual Administration
- Employee Communication
- Regulatory Compliance
- Educational Presentations
- Special Studies

We are dedicated to making your employee benefit program a tool for reaching your organizational goals.

We provide services for:

- Profit Sharing Plans
- 401(k) Plans
- Money Purchase Plans
- Target Benefit Plans
- Defined Benefit Plans
- ESOPs
- Age-Weighted Plans
- New Comparability (Cross-Tested Plans)
- TSAs/403(b)/457 Plans
- Comprehensive Employee Benefit Statements
- Supplemental Executive Programs.

Give us a call to discuss how we can help you make the most of your employee benefit program.

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Swerdlin & Company . . . in the Beginning

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because we had bills to pay and we didn't have any money to speak of to carry us through," said Joanne Swerdlin. "We actually borrowed money from my mother to help us pay our bills until we could take a salary.'

At one point in the early '90s, the Swerdlins were thinking of letting someone buy out the company because of financial problems.

'It was the first time we were not growing the business. We were actually going the other way,' Joanne Swerdlin recalled.

Restructuring in 1993 helped turn the company around. Dorn Swerdlin put another employee, adept at cutting expenses, in charge of the office. Joanne Swerdlin, now the company's executive vice president, took control of marketing, and her husband devoted more time to his role as president and CEO.

'We figured out what would be best. I was doing the marketing, client work and a lot of other things,' Dorn Swerdlin said. 'I was doing too much and none of it really well.'

Swerdlin & Co. has bought out similar firms three times in its history to help expand the business. Revenue in 1997 was $2.2 million. Expected revenue for 1998 is $2.8 million.

Defining their roles in the company has helped resolve a problem they confronted from the beginning because they are both husband and wife and business partners, the Swerdlins said.

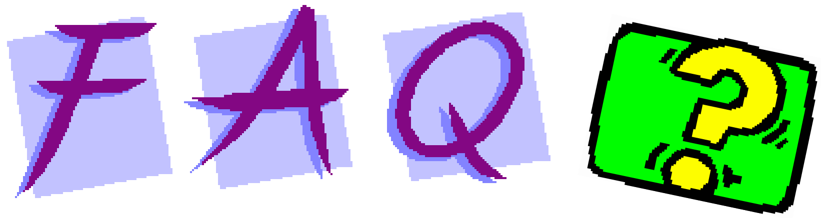
'People would assume that we were one person,' Dorn Swerdlin said. 'They would tell Joanne something and think that I knew it because she knew.'

'We had to put so many hours into our business at first, that I think it would have really hurt our relationship if we hadn't been doing it together,' Joanne Swerdlin said.

[Dorn and Joanne] agree that working together in business, though tough at times, has strengthened their marriage."■

Oops! We Goofed

We were so excited about the pictures in our last issue that we accidentally misspelled Mara Boyack's name. Sorry Mara!



Frequently Asked Questions

Q I have just started working at a new company, and one of my responsibilities is the 401(k) profit sharing plan. I have found numerous problems: employees left off the last census; omissions on the payroll data; and money deposited to the wrong accounts. What can I do?

A Your only real option is to fix the problems and follow one of the IRS's correction programs. Many administrative errors can be corrected without incurring penalties or fines if corrected within 24 months after the end of the plan year.

Q Is it true that a participant in a retirement plan can take a tax free withdrawal of $10,000 to purchase a home?

A No, this is not true. Last year's tax bill included a provision which allows penalty-free withdrawals from Individual Retirement Accounts (IRAs) for a first time home purchase. The withdrawal is still fully taxable at the IRA holder's regular income tax rate, but not subject to the 10% early withdrawal penalty.

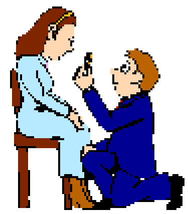
This special withdrawal provision does not apply to employer-sponsored retirement plans. However, depending on the provisions of your plan, participants do have other options, such as a hardship distribution (which will be taxed) or a loan (which has to be repaid).■

New Feature: "About Our Clients"

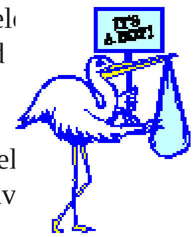
We are adding a new feature to The Swerdlin Quarterly to highlight one of our clients each quarter. To kick off this new feature, we ask that you, as our client, please send us a short piece about your company. The piece could include a brief history, current achievements, future plans, or any other interesting information about your company. This new feature should be fun and informative and we thank you in advance for your participation.

Please mail your article to the Newsletter Committee, fax it to us at 770-698-9335 or e-mail to newsletter@swerdlin.net.■

What's Happenin'



Laura Matlock and John O'Connor announced their engagement. We wish them both all the best.



Congratulations to Mel Kline and her husband Derek, on the birth of their son, Cameron Derek, on July 28. Mel is out on maternity leav for six weeks.

Susan Petrirena was promoted to Pension Consultant

Jennifer Krebs was promoted to Marketing Assistant.

Second job titles have been designated to reflect additional responsibilities for Sandra Kerby and Adam Pozek. Sandra is now a Special Projects Coordinator in addition to her current title of Pension Administrator, and Adam is now Network Support Specialist in addition to his current title of Pension Administrator.

Congratulations to Sue deLeon for passing the CompTIA A+ computer technician certification exam on her first try.

Congratulations also to Adam Pozek on being awarded the designation of Registered Health Underwriter.

Welcome to Lynn Taylor, our new receptionist.

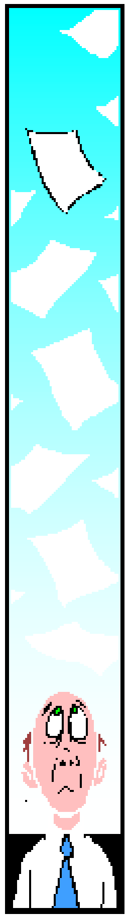
Laura Matlock, Sonja Starks, and Joanne Swerdlin ran the 1998 Peachtree Road Race for the first time.■

The 70½ Dilemma

As you may know, the law previously required participants who had reached age 70½ and were still employed to take an annual minimum distribution from their retirement plan. Recently, the law changed and unless you are a 5% owner, an annual distribution is no longer required.

The age 70½ minimum distribution is now an optional form of benefit. When your retirement plan is restated to comply with the Small Business Job Protection Act of 1996, you will be able to make a choice as to whether or not you want to make this optional form of benefit available to your participants.

Until the plan is amended, participants who are 70½ can make an election as to whether or not they want to receive the annual distribution. Contact your client manager if you would like these election forms.■



Maintaining Plan Records

As plan sponsor/administrator, it is your responsibility to maintain plan records. You are required to keep details verifying the plan's filings to the IRS, DOL, and PBGC for at least 6 years. The following is a checklist of records you should maintain:

- ☑ Trust Documents, Adoption Agreements and Summary Plan Descriptions (SPD) (Current and Outdated)
- ☑ Employee Census Data, including Age, Service, Marital Status and Payroll Information
- ☑ Contribution, Benefit and Vesting Reports
- ☑ Copies of Your Payroll Records
- ☑ Brokerage and Bank Account Statements
- ☑ Trustees' Minutes
- ☑ Enrollment and Beneficiary Forms
- ☑ Non-Discrimination Tests
- ☑ Government Filings
- ☑ Administrative Notes

Although your service providers may keep records pertaining to your plan's operation, it is your responsibility to maintain them. By retaining these records, you will have the resources to respond to future audits and inquiries.■

The Swerdlin & Company Newsletter Committee (left to right):
Front: Carol Friend, Joanne Swerdlin, Stephanie Davis.
Back: Dorn Swerdlin, Sandra Kerby, Julie Isom, Adam Pozek

Thinking of Buying Another Business?

Are you thinking of buying a company or merging with another business? If so, look at their retirement program before you close the deal. Retirement plans can have hidden costs, compliance problems and financial liabilities. A defective plan can cost thousands to repair and an under-funded one can cost millions to terminate. Make sure you know what you're buying. Here are some items to examine.

Document
Get a copy of the current plan document and any amendments. Make sure the plan has received a determination letter from the IRS.

Funding
What would it cost to terminate the plan the day after you buy the business? Be sure contributions have been deposited on a timely basis. If the plan is a defined benefit plan, the Schedule B and actuarial valuation provide this information.

Benefits, Rights and Features
What are the benefits, rights and features in the other company's plan? Some plan provisions are protected and can't be eliminated, such as optional forms of payout. Others, like the ability to direct investments, would be difficult to eliminate because of employee morale.

Testing
Make sure all the required compliance tests have been completed. Get copies of discrimination tests, coverage tests and the top-heavy determination for the prior year. If the plan failed any of these tests, be sure the proper corrections have been made.

Administration
Is the plan being administered according to the plan document? Examine vesting, eligibility, benefit computations, loans and distributions.

Plan Investments
Are the assets of the plan diversified and invested in a prudent manner? Review the plan's investment policy and trustees' notes. Confirm that the assets owned by the plan match the reports given to employees.

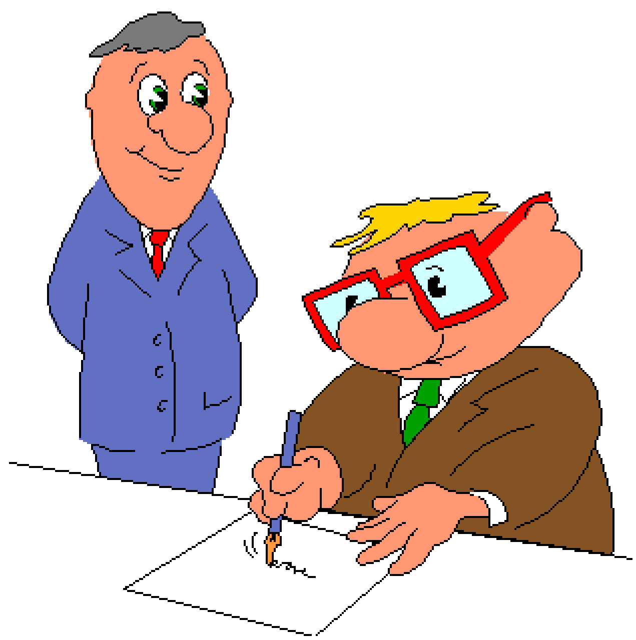
Filings
Have all the required government filings been completed? Get copies of the Form 5500, accountants' reports and PBGC filings for the last three years.

Separate Plans
Will you maintain separate plans for each business or merge the two plans? Even if you don't merge the plans, you may need to combine them for testing. If you combine them, will they continue to pass the non-discrimination tests, and at what cost?

Other Plans
Don't forget to ask about non-qualified plans. These are often unfunded and may obligate the business to make large payments to key executives.

If you discover a problem before you buy, you can factor in the cost of correction and make it part of the purchase and sales agreement. If the cost is unclear, you can put part of the purchase price in escrow.

Let us know if we can work with you and your legal counsel to help identify any retirement plan liabilities if you are purchasing another business.■



Relief for Cross-Tested Plans

The IRS recently rescinded a 1994 field directive that restricted the operation of cross-tested plans.

This directive forced plan sponsors to make frequent amendments to their plan documents. As the demographics of the employee group changed, the plan document had to be changed to pass discrimination testing. This approach cost the plan sponsor extra time and money.

The IRS's new position on cross-tested plans has been clarified in a follow-up memorandum. The memo states, "Although the plan can provide for employer discretion to determine the amount of employer contributions for each group, the plan must require that the employer notify the trustee, in writing, of the amount of contributions for each group. This requirement does not mean that the plan must provide the specific amount of contributions for each group. Instead, the plan must provide that the trustee be given written notification from the employer as to the contribution to be allocated to each group." This means instead of requiring a plan amendment every year, the employer can simply instruct the trustees on how to allocate the contribution among the groups.

The IRS's new attitude towards cross-tested plans makes them a more appealing plan design choice. If you are looking for a way to maximize your retirement and tax benefits, a cross-tested plan may be the answer. Call us to discuss this unique plan design and how it might benefit you.■

Trustees of Small Plans

Are you the doctor in the doctor's office or the professional in the professional corporation? Are you the owner-operator? If so, you are probably also the trustee for your business' retirement plan. This creates a unique situation. Not only are you a participant in the plan, but as trustee, you hold the checkbook.

When a participant requests a distribution or loan you probably contact us to be sure everything is done correctly. Hopefully you go through the exact same procedure when you, "the participant", want a distribution or loan. You could disqualify the plan and create a huge tax liability for yourself and the company if the correct procedures are not followed. Here is a checklist:

Plan Provisions
Check the plan document to be sure what you want is allowed. Does your plan allow for in-service withdrawals or loans? Are loans or distributions restricted to specific situations? You need to follow the same rules imposed on all participants.

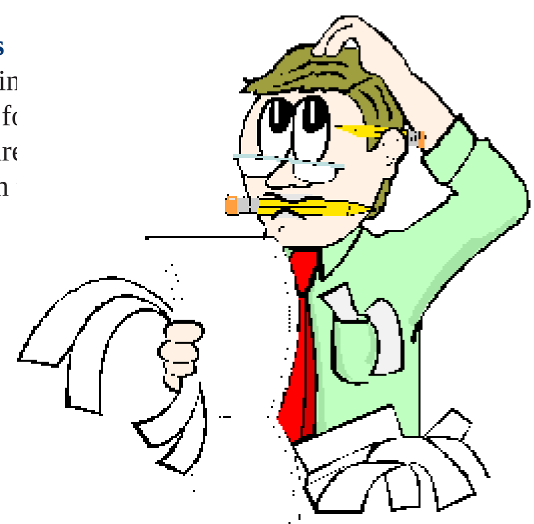
Notices and Forms
If you take a loan without completing all the required forms, you could end up paying taxes and penalties on the amount you borrow. This could also disqualify the plan.

Spousal Consent
In many situations, a participant's spouse must approve the distribution or loan.

Withholding
You may need to withhold 20% of the distribution for tax purposes. If required taxes are not withheld and deposited, the company could be liable for the taxes.

Form 1099-R
The plan sponsor must report all distributions to the IRS on Form 1099-R. There are substantial fines for late or missing returns.

Frozen Plans
Frozen plans in Keoghs must f same procedure required when plans were active. Plan documents must also be kept up to date with changes in the law.■



Retirement Plan Information

Employees should be given basic information about their retirement plan. They should understand how it works, how their money is invested and when they will receive their benefits. Additionally, in order to maintain the qualified status of the plan, the plan sponsor is required to provide the following information:

Summary Plan Description (SPD)

Within 90 days of meeting the plan's eligibility requirements, a participant must be given a copy of the Summary Plan Description. The SPD outlines the benefits provided by the plan, eligibility requirements, service and benefit calculations, vesting, and the procedure for claiming benefits. New plans must provide copies of the SPD to all participants within 120 days of the plan's effective date. SPDs must be redistributed every 5 years (or every 10 years if no changes have been made to the plan). Participants may request an SPD at any time and you have 30 days to give them a copy. You are no longer required to file the SPD with the Department of Labor.

Summary Annual Report (SAR)

You must give participants copies of the Summary Annual Report every year. The SAR summarizes the financial information reported to the IRS and the DOL on Form 5500. The SAR must be distributed within 9 months after the end of the plan year or, if the filing is extended, within 2 months of the extended deadline.

Participant Benefit Statement

Most plans provide individual benefit statements at least annually. However, you must give a statement to any active participant who requests one. Statements must be sent to terminated participants within 180 days following the end of the plan year in which the termination occurred.

Latest Annual Report

A copy of the latest annual report must be given to a participant within 30 days of a request. The Annual Report is the Form 5500 you file with the IRS and DOL. You do not need to give participants the statements and reports you receive from your service provider. Those reports contain confidential information and should not be distributed.

Plan Document

This document establishes and controls the plan. You must give participants a copy of this document within 30 days of their request.

Summary of Material Modifications (SMM)

The SMM explains changes and amendments to the plan, such as a new payment option or eligibility requirement. You must give participants a copy of the SMM within 210 days following the end of the plan year in which the change is made. Participants can also get a Summary of Material Modifications upon request.

This list does not include the forms, notices and information you must provide in special situations. Participants are entitled to election forms at the time their benefits are distributed, beneficiary designation forms when they become eligible to participate, and notices of IRS filings to amend, restate or terminate the plan. This list covers only those documents you must give participants as a part of the normal operation of your plan. ■

The Swerdlin & Company Gold Team (left to right):

Front: Dee Robbins, Jennifer Krebs, Lynn Taylor, Christy Crossway.
Back: Sue deLeon, Glenda Devechio.

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Vision Statement

We strive for financial strength for our clients, our employees and our company by caring to be the best. We are committed to being the leading pension consulting firm in our market. We achieve this through cooperative teamwork, community building and continuous learning and development.

Mission Statement

We focus primarily on design and administration of qualified retirement plans. Our mission is to develop relationships with our clients, our employees and our community so that all parties grow and develop financially and otherwise.