Swerdlin & Company
Actuaries ■ Employee Benefit Consultants

The Swerdlin Quarterly

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Dorn's Corner

Last quarter I left you with a cliff-hanger. We talked about the old Worker Paradigm which considers workers as machines and I was about to tell you about the new Worker Paradigm. Well, the long painful wait is over.

The new Worker Paradigm is that management realizes the value of the human asset.

1. Management is aware of the value of teams and other groupings of workers to enhance productivity and creativity.
2. Workers are analyzed for personality attributes by identifying strengths and weaknesses; helping to form teams or place workers in areas where they function best.
3. The workers' well-being is the primary focus of management, both professionally and personally.
4. Training and development of the worker is seen as a win-win situation, where both the company and the employee prosper.

This is nowhere near a complete list of the new Worker Paradigm. Changing paradigms is never easy. We humans like to stick to what we

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Oh No, Not a QDRO!

More than 84 million Americans are currently covered by employer-sponsored retirement plans. For many, retirement savings represent their most significant asset. For this reason it should be no surprise that dividing a participant's retirement plan account upon separation, divorce or other domestic relations proceedings can become a major issue.

While the division of marital property is generally governed by state law, any assignment of pension benefits must comply with federal law. Generally, federal law does not permit participants to assign their interest in a retirement plan to another person. This "anti-assignment" rule protects participants and ensures their benefits will be available during their retirement years.

An exception to the anti-assignment rule is a Qualified Domestic Relations Order (QDRO). A QDRO assigns someone else (a spouse, former spouse, child or other dependent) the right to all or a portion of a participant's retirement plan benefits.

Without this document, the plan sponsor cannot pay a participant's benefit (with the exception of death benefits) to anyone other than the participant. In order to be valid, a QDRO must be issued by a state authority, generally a court, and must contain the following information:

- The name and last known mailing address of the participant and each alternate payee;
- The name of each plan to which the order applies;
- The dollar amount or percentage (or the method of determining the amount or percentage) of the benefit to be paid to the alternate payee; and
- The number of payments or time period to which the order applies.

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Don't forget . . .
Swerdlin & Company designs and administers nonqualified plans. Call us for details!

In This Issue . . .

featuring

Piccadilly Cafeterias, Incorporated

We are proud to present Piccadilly Cafeterias, Incorporated, our featured Client of the Quarter. We provide daily recordkeeping and administrative services for their 401(k) plan.

The first Piccadilly opened its doors in 1944 in downtown Baton Rouge, Louisiana. Customers lined up for several city blocks to dine at the original Piccadilly founded by T.H. Hamilton. Mr. Hamilton's dream of operating 40 cafeterias became a reality in 1971. In 1998, Piccadilly acquired 130 Morrison's cafeterias, which more than doubled their size. Today, there are over 240 Piccadilly locations in 16 states employing over 11,000 employees.

The company is headquartered in Baton Rouge and is the nation's largest cafeteria chain.

Piccadilly serves a broad spectrum of customers with an appealing variety of home-style and southern cuisine in a casual dining atmosphere. Some of the classic entrees that Piccadilly serves include Carved Roast Beef, Fried Chicken, Catfish, and Hamburger Steak.

Piccadilly was named the Gold Winner by Restaurant and Institutions Magazine in the Cafeteria/Buffet segment for 2000.

Dorn's Corner

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know and what's worked in the past. The biggest problem with the new Worker Paradigm is that people are much harder to deal with than machines (or people who are treated like machines).

Here at Swerdlin, we're working towards the new Worker Paradigm by:

1. Moving to a team structure for all employees several years ago.
2. Providing a positive atmosphere in the office.
3. Testing our Leadership Management Team to identify personality attributes to help us work better together.
4. Testing our Team Leaders to more effectively utilize their skills.
5. Requiring personal training and development for each employee to include the whole person, not just the working person.

The moral of my corner: Don't waste your most valuable company asset - - the people. ■

DOL Voluntary Correction Program

With the success of the IRS self-correction programs, the Department of Labor (DOL) introduces a voluntary correction program of their own. On March 15, 2000 the DOL announced the Voluntary Fiduciary Correction (VFC) Program.

The DOL is charged with protecting plan participants by policing the activities of trustees and other fiduciaries responsible for the plan and its assets. This includes the depositing of plan funds, the purchase and sale of plan assets and payments to plan service providers.

Fiduciaries must operate retirement plans for the sole benefit of the participants and cannot use the plan's assets to enrich themselves, their families or associates. Fiduciary breaches of responsibility can result in the DOL assessing penalties generally equal to 20% of the amount involved in the fiduciary breach.

Sometimes a fiduciary may unknowingly violate his/her plan responsibilities. The DOL created the VFC for these common violations. VFC allows plan officials to identify and fully correct certain transactions such as prohibited purchases, sales and exchanges, improper loans, delinquent participant contributions and improper plan expenses. Under the VFC program, the fiduciary is not assessed the 20% penalty. The program covers the following 13 specific fiduciary violations:

1. Delinquent participant contributions to pension plans;
2. Fair market interest rate loans with parties-in-interest;
3. Below market interest rate loans with parties-in-interest;
4. Below market interest rate loans with non parties-in-interest;
5. Below market interest rate loans due to delay in perfecting security interest;
6. Purchase of assets from parties-in-interest;
7. Sale of assets by plans to parties-in-interest;
8. Sale and lease back of property to sponsoring employer;
9. Purchase of assets from non parties-in-interest at below market value;
10. Sale of assets to non parties-in-interest at below market value;
11. Benefit payments based on improper valuation of plan assets;
12. Payment of duplicate, excessive and unnecessary compensation; and
13. Payment of dual compensation to plan fiduciaries.

For example, a plan trustee must deposit employee 401(k) deferrals as soon as administratively feasible, with an outside window of 15 days following the month of deferral. If the deposit is late, it's considered a fiduciary breach and should be corrected through this program. Rather than being assessed the mandatory 20% penalty, the amounts and lost interest must be deposited into the trust.

The VFC program outlines acceptable means of correcting these issues, the eligibility requirements and application procedures. Applicants who fully comply with all of the terms and procedures of the VFC will receive a "No-Action Letter" from the Pension Welfare Benefits Administration (the pension division of the DOL). They do, however, reserve the right to conduct investigations to determine truthfulness, completeness and full correction. Full correction under the department's program doesn't give applicants relief from actions by other governmental agencies (such as the IRS). The DOL won't issue or may rescind "No-Action Letters" in situations where there are material misrepresentations, pending criminal investigations or failure to satisfy the terms of the VFC Program.

If you suspect one of these breaches to have occurred, please contact us.■

And the Winners are . . .

KC and the Sunshine Girls took home the first place trophy at our 2nd Annual Fun Day. We closed the office for the day, boarded a party bus and headed up to Dave & Busters for a day of fun.

Don’t Ignore Part-time Employees

Don't assume part-time employees can't be eligible for your retirement plan. All employees must be eligible to join your plan after completing the plan's eligibility requirements. For many plans, this means an employee must complete a year of service, which is generally defined as a 12-month period during which an employee is credited with 1,000 hours. Therefore, employees who work about 20 hours a week or more may be eligible to join the plan.

The following example shows how important it is to carefully monitor part-time employees:

A large retail store hires Kim, a 25-year old student, on July 4, 1999. She works an average of 16 hours per week from July through the end of October. During the holiday rush, Kim works an average of 40 hours a week for 8 weeks. She then returns to her normal schedule of 16 hours a week. Because of the extra holiday hours, Kim works more than 1,000 hours from July 4, 1999 to July 3, 2000. Therefore, she earns one year of service and is eligible for the retirement plan. She actually joins the plan on the next Entry Date according to the plan document.

As this example shows, an employee you may never expect to enter the plan slips in because of overtime.

Some employers assume part-time employees aren't eligible for the plan, so they don't report them when completing the plan census. Leaving out an eligible employee can be costly and time-consuming. You can't assume employees aren't eligible simply because they are part-time. Remember to provide us with information on all employees so we can examine each work record to ensure all eligible employees are included in the plan.■

Amendment Deadline Extended Again!

The IRS has announced an extension of the required amendment period affecting qualified retirement plans (Revenue Procedure 2000-27). All retirement plans must be amended to comply with the required tax law changes by the last day of the plan year beginning in 2001. For example, if your plan is on a calendar year, you'll have until December 31, 2001 to make the amendments.

Prior to this announcement, the amendment deadline was the last day of your plan year beginning in 2000.

Even though your plan is not yet amended, you must still operate your plan in compliance with these changes.

For a complete list of the required changes, you can visit the IRS's web site at www.irs.gov. If you have questions about how these changes may affect your plan, please call us.■

What’s Happenin’

Congratulations are in order for recent promotions at Swerdlin: Tiffany Aubrey to Marketing Assistant, Rebecca Demchak to Associate Actuarial Analyst, Jennifer Gregory to Associate Pension Analyst, Karen Miracle to Manager of Systems Conversion and Training, Lee Swerdlin to Associate Marketing Director, and Suzanne Whilden to Director of DayPak.

Congratulations to Michael Miller who has been selected to serve on the Administrative Committee of the National ESOP Association.

Congratulations to Cynthia Navan who recently became engaged to Kenny Clark. Wedding bells will ring for Cynthia and Kenny on September 23.

Melodi Kline, Christy Crossway, Lynn Taylor and Rebecca Demchak participated in the MS Walk 2000 and raised over $500!

We welcome four new employees this quarter. Gina McNair and LaTonya Norman have joined us as Administrative Assistants. We add an Actuary, Mike Paisley, to our Actuarial Team and Russ Johnson to one of our Defined Contribution Teams.■

Swerdlin & Company Welcomes:

Standing from left to right: Gina McNair, Russ Johnson, and LaTonya Norman. Seated: Mike Paisley.

FAQ?

Congratulations, You're Now A Trustee

You are now a trustee for your company's retirement plan. Do you know your responsibilities?

As a trustee, you are a plan fiduciary responsible for properly managing a retirement plan. A fiduciary is anyone who controls plan assets; gives investment advice; and exercises discretion over administering the plan.

You are responsible for the management, control and accounting of the plan's assets. Trustees often delegate asset management responsibilities to one or more investment managers; however, they are still ultimately responsible for the investment results.

As a fiduciary you must:

Act in accordance with the plan documents. You must follow the specific rules of your plan.

Act exclusively for the benefit of the plan participants and their beneficiaries. Your primary loyalty must be to the plan participants. You can't use plan assets for personal gain or allow anyone else to improperly use plan assets.

Diversify plan investments to minimize the risk of large losses**.** You must invest the plan assets to reduce the risk from any one company, industry or sector.

Exercise the same care, skill, prudence and diligence that a prudent person acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of a like character and with like aims. This isn't as complicated as is sounds. The dictionary defines prudent as "cautious and judicious; careful; not extravagant." You must use care in selecting and monitoring investments to meet these goals.■

Oh No, Not a QDRO!

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If the QDRO does not include these items, you cannot pay benefits to a participant's former spouse (or other alternate payee) without jeopardizing the tax favored status of your plan.

A QDRO may not:

- provide an alternate payee or participant with any payment option not provided under the plan;
- provide increased benefits;
- reassign a previously issued QDRO; or
- pay benefits to an alternate payee in the form of a qualified joint and survivor annuity.

Under federal law, the plan administrator is responsible for determining whether a domestic relations order is qualified. You must establish reasonable procedures for determining the qualified status and administer distributions pursuant to qualified orders.

If you're contacted by an attorney representing one of your employees in a divorce, you should ask them to send you a draft of the QDRO before it's presented to the judge. This will give you an opportunity to explain to the attorney how the plan works, how and when benefits are calculated and when the alternate payee might expect payment. A quick review by you or your attorney before the order is finalized can save time and money. If the QDRO is not properly drafted, it must be revised and go back through the court before it can be executed.■

Q Should I wait for my employees to tell me they want to update their beneficiary designations, or should I be proactive?

A Be proactive about beneficiary designations, because sometimes an employee may forget to tell you of a change in status. You may want to send new forms each year, or include periodic reminders with their paychecks.

Be sure beneficiary forms are completed for each of the employee's benefits, such as health insurance, retirement plan, life insurance, etc.

Q A co-worker told me I should take out a loan from my 401(k) plan and pay off my mortgage. Is this a good idea?

A No. In most cases this is not a good idea because:

- You lose the tax deduction of the interest on the mortgage payments.
- You will probably pay a higher rate of interest on the plan loan.
- You do not earn any income on the money you borrow from the plan.
- You will repay the loan with after-tax money, which will be taxed again when your account balance is distributed upon termination or retirement.■

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Give us a call to discuss how we can help you make the most of your employee benefit program.
(770) 396-6601

We can help you with the following services:

- Actuarial Consulting
- Plan Consulting and Design
- Plan Installation
- Annual Administration
- Daily Recordkeeping
- Repurchase Liability Studies
- 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 Plans (Cross-Tested)
- TSAs/403(b)/457 Plans
- Comprehensive Employee Benefit Statements
- Supplemental Executive Retirement Programs (SERPs)

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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.