Introducing Austin 3(16) Fiduciary: Outsourcing Your Retirement Plan and its Liability at a Reasonable Fee

Running a business is a complicated activity. You have to be an expert in your field, service, or specialty. In order to get your work, there is a point where you will need to outsource some key employer functions such as payroll and other human resource functions. Sponsoring a retirement plan can be a daunting task with hidden liability pitfalls at every turn. That is what Austin §3(16) Fiduciary Limited is here for, to assume the liability in running the day to day administration of your retirement plan instead of the usual model of plan delegation that still puts the hook on you.

The usual model of delegation

As a plan sponsor, you are a plan fiduciary and being a fiduciary requires the highest standard of care in equity and law. So while you have the responsibility to run your plan, there are two major problems. The first problem is that unless you are in the retirement plan industry you will have to delegate the administration of your plan to third party providers. The second problem is that by delegating the administration of your plan to a third party administrator (TPA) or financial advisor you haven't delegated your responsibility. So by hiring a regular TPA and/or financial advisor, you are ultimately responsible for their work. So if your TPA has as much administration background as my 6 year old daughter or your advisor is the second coming of Bernie Madoff, you are still at fault. So you can delegate some of your administrative duties in this arrangement, you are still on the hook for liability if your third party providers are incompetent or crooked. With the increase in litigation against retirement plan sponsors, there is a need by many plan sponsors who want to eliminate as much as possible their fiduciary liability of running a retirement plan. So that need is met by an outsourcing solution, which can be handed by another providers who that must designate their role as plan fiduciaries in order for you to divest yourself of most of that fiduciary responsibility.

Austin §3(16) as your ERISA §3(16) administrator

The TPA you hire is responsible for your plan's compliance, recordkeeping, and tax filing. You may have two companies do the task such as a separate TPA and record-keeper, but it's the same tasks being completed by a tandem. Notice that a TPA is a third party, which means that you as a plan sponsor are ultimately responsible for any errors or issues dealing with the day-to-day administration of your Plan. If the TPA fails to file the Form 5500 guess who is responsible for cleaning up the mess or paying those huge penalties? You, the plan's sponsor. So if you want to delegate that administration responsibility, what do you do? You hire an ERISA §3(16) administrator. So what's the big deal? The "Plan Administrator" of a qualified retirement plan is defined in section 3(16) of ERISA. The Plan Administrator should is not the same as a "Third Party Administrator" because a Section 3(16) administrator is a "first party" administrator. The Plan Administrator has the job of ensuring that all filings with the federal government (form 5500, etc.) are timely made; make the required and important disclosures to plan participants; hire plan service providers if no other fiduciary has that responsibility; and fulfilling other responsibilities as set forth in plan documents and their contract. The ERISA §3(16) administrator is a plan fiduciary and assumes the liability of the day-to-day plan administration. Austin §3(16) Fiduciary can be your plan's administrator, eliminating most of the headaches and liabilities that go with sponsoring a retirement plan. So you can

What we will take off your plate in terms of outsourcing and liability:

Plan Management and Administration:

Selection, evaluation and monitoring of all plan providers

Evaluation of all plan fees (e.g., service provider fee disclosure and determination of which fees may be paid by the plan)

Decision to delegate plan administration responsibilities to other fiduciaries

Operation of the Plan:

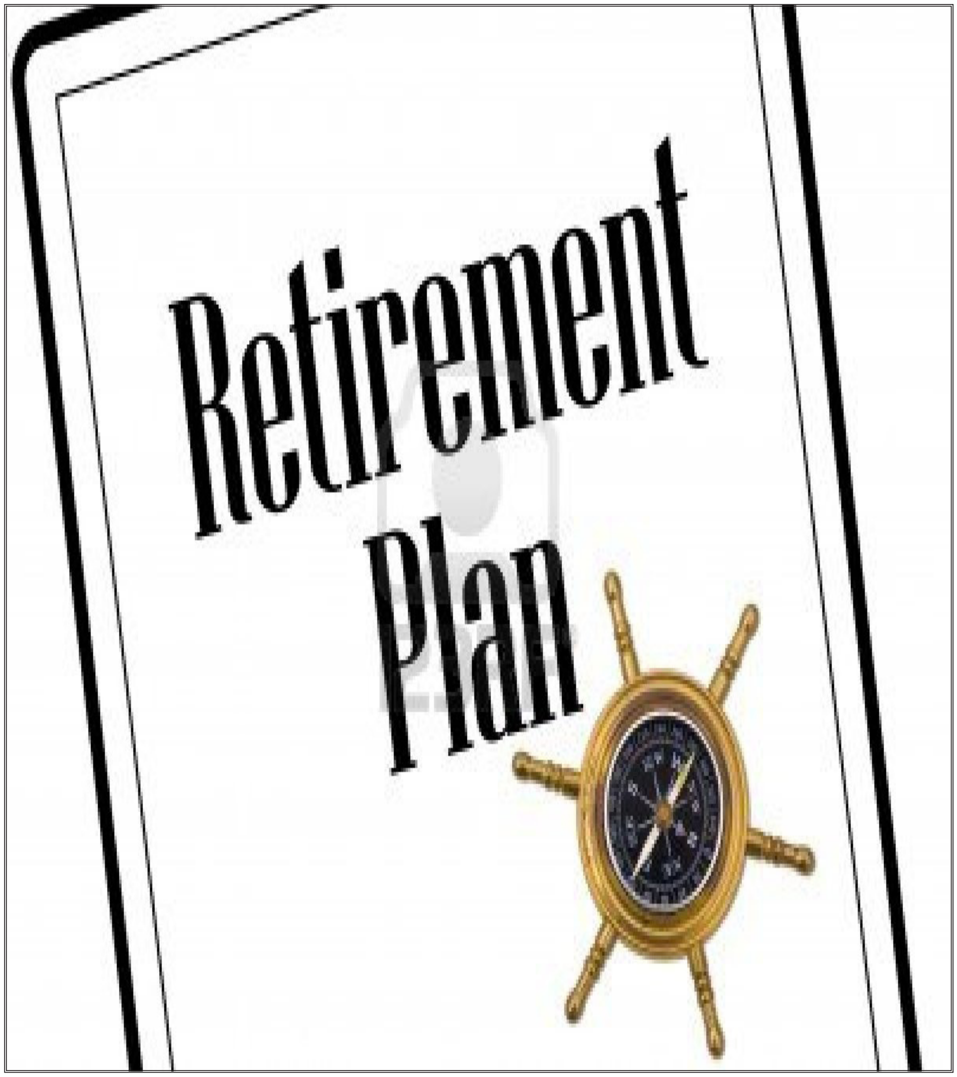
Interpretation of the plan document

Timely and accurate reporting and disclosure (e.g., Form 5500, distribution of SPD/SMM, participant fee disclosure, benefit statements, QDIA notices and other required participant disclosures)

Distribution of benefits

Administration of Qualified Domestic Relations Orders (develop procedures and process)

Administration of Loans (develop procedures and process)



finally provide this important employee benefit without the headaches attached.

Austin §3(16) means your outsourced your liability at a reasonable cost

Austin §3(16) is different from other ERISA §3(16) fiduciaries because we are fully independent from any TPA while most others are a TPA or an affiliate of one. So that means we are fully independent and we don't require you to change your TPA just to use our services. For a fee based on your plan assets (ranging from 3 to 10 basis points (0.03 to 0.10% of assets annually), we will make sure all the required filings and notices are complete, review your plan administration, ensure compliance of your plan documents, review your providers, and ensure that all fee disclosure notices were disseminated and to benchmark the fees and services of your other providers.

Consider outsourcing as a concierge service with white glove treatment. While the fees are not that much higher than what you are currently paying (in many cases, it's less), the level of service should be higher because the liability is supposed to be outsourced from you. As with anything offered in the retirement plan world, it's not the right fit for everyone, so consider whether outsourcing what many times is a headache is right for you.

Austin 3(16)

Fiduciary Limited

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119 Elaine Drive
Oceanside, New York 11572
(516) 594-1557