Susan Wetzel in PlanSponsor: 'Plan Sponsors Should Prudently Manage ERISA Accounts'

By Susan A. Wetzel | June 28, 2021

RELATED PRACTICES Employee Benefits M&A, ERISA and Other Benefits Litigation, ESOPs and Other Stock-Based Plans, Executive and Incentive Compensation, Health and Welfare Plans, Retirement Plans, Employee Benefits and Executive Compensation

PlanSponsor interviewed Haynes Boone Partner Susan Wetzel about claims alleging mismanagement of revenue-sharing or Employee Retirement Income Security Act (ERISA) expense accounts.

Below is an excerpt:

A blog post from law firm Haynes Boone reminds plan sponsors that missteps in managing [revenue-sharing] accounts could result in participant claims.

Where do Assets in ERISA Accounts Come From?

Susan Wetzel, partner and chair of the Employee Benefits and Executive Compensation Practice Group at Haynes Boone, explains that money for an ERISA account comes from revenue sharing associated with different investments in a defined contribution (DC) plan. For example, participants invested in Fund X will pay a fee for that fund and a portion of the fees paid to the investment manager will go back to the plan in what is called revenue sharing.

Wetzel says some plans provide that the money goes back to participants. "That's probably the cleanest way to handle revenue sharing so you don't generate an ERISA account," she says.

Wetzel says most plan sponsors use ERISA accounts as plan assets, putting revenue sharing in a trust and using it to pay fees.

According to Wetzel, when revenue sharing became prevalent, about 15 years ago, TPAs suggested the money be accumulated in an account. She says ERISA accounts could have a stigma because of that initial suggestion and, since they are used in part to pay TPA fees, people might think there is a conflict of interest.

Wetzel adds, "There's very little guidance about where to put the assets. Guidance from the DOL [Department of Labor] in 2013 said assets in the accounts are not plan assets if they are held by the TPA. However, the DOL also said it is not going to say the money cannot be plan assets."

Prudent Management of ERISA Accounts

Wetzel contends that most employers don't know anything about ERISA accounts and, when they discover they have one, they think they've found free money.

"I think the logic is, 'This is what that fund costs, so anything we get back in revenue share is extra,'" she says. However, plan sponsors need to manage ERISA accounts with prudence, she notes.

© 2026 Haynes and Boone, LLP

“The issue I think plan sponsors need to drill down on is whether the net of what participants pay for the funds—and what they don’t have to pay for administrative fees because of the use of the funds—makes those funds cheaper or whether there is a fund or share class that will offer a lower cost,” Wetzel says. “If revenue sharing is not reducing participants’ fees or being given back to participants, then they are paying a higher fee” than they would for a fund without revenue sharing.

“They [plan sponsors] absolutely should understand the fees charged by funds they are using and, if there are lower-cost, similar investments, why they are using the higher-cost fund,” she adds.

Wetzel says plan sponsors might be surprised at how quickly ERISA accounts can grow. If a fund is generating significant fees, plan sponsors need to evaluate why and whether that fund is prudent. And if there is excess in an ERISA account after administrative fees are paid, Wetzel says, it should be allocated back to participants. “There shouldn’t be a carryover from year to year,” she reiterates.

Excerpted from *PlanSponsor*. To read the full article, click here.

© 2026 Haynes and Boone, LLP