

The View from Level VII™

RISK MANAGEMENT

Shortcuts for the Ordinary Victim

Over the years I have been surprised by the abhorrence of the mere suggestion that a consumer read his/her insurance policy. Even lawyer friends of mine express the same aversion, despite laboring through many onerous tomes in their line of work.

So, if you're one of those reluctant readers here's a tip! Skip all the legalese and go directly to the "Exclusions" section of your policy. The exclusions section is your quick reference guide to the what your policy will not cover.

You see, insurers learned long ago that the most profitable way to operate an insurance company is, if at all possible, never pay a claim. In the increasingly rare instances where underwriters had to pay a claim they have quickly responded by issuing a new edition of the "flawed" policy wherein they exclude the peril that has caused them the agony of actually cutting a check in favor of their customer.

After the insurer is satisfied that the exclusion is perfected [in their favor] they then pull the ultimate insurance coup and market a new, tightly drafted policy covering the peril they just excluded. Of course they now get to charge the consumer what they disarmingly call a "policy initiation fee"! This is how it has come to pass that we all end up having to purchase separate policies for risks such as automobile, workers comp, watercraft, aircraft, pollution, terrorism, product liability, malpractice....and the list goes on.

What a business!!!! Raise your hand if you'd like to see an underwriter issue a true "All Risk" policy.

ERMI, with its fortune 500 experience, consults with firms of all sizes in the area of risk management.

Roger Wilcox
Enterprise Risk Management, Inc.
www.ERMIONline.com



EMPLOYEE BENEFITS

Don't Feed the Bears

The recent volatility of investment markets has affected most 401(k) Retirement Plans. Employers and employees are both concerned about shrinking account balances. Many employees who planned to retire early are postponing their retirement dates, some even beyond age 65. While we don't provide investment advice, we have noticed some trends in 401(k) Plans sponsored by our customers. Investment options and services are being expanded in order to (hopefully) provide more stable rates of returns. Most employers have reviewed these items in 2002, and some of the more popular changes are listed below.

- More attention is being paid to diversification, as employers make sure that their menu options include most of the different styles of stock account investments.
- Almost all plans now include bond account investment options.
- Many employers are adding real estate investment accounts to provide an additional diversification opportunity.
- Investment expenses are being scrutinized more closely to make certain that net rates of return after investment expenses are competitive.
- Some employers are adding "guaranteed account" investment options for their employees who are uncomfortable with any level of investment risk.
- Employees are reviewing their own level of risk tolerance with the help of tools provided by plan providers or independent investment advisors.
- Plan providers and employers are offering professionally managed investment account options that are targeted to different levels of risk tolerance or anticipated retirement dates.

Benefits Advantage, Inc. provides 30 years of industry experience consulting and brokering for all types of employee benefits programs. *Personal service, creative ideas, and positive results.*

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EXECUTIVE COMPENSATION

Let's Play Ball

It's that time of the year again; the football season has started, baseball is heading towards the playoffs and World Series. Does this make you think about how you run your company? Perhaps you should. In both football and baseball there is significant focus on strategic/tactical planning, and (game) plan execution. That is the positive side. Compensation is the challenging (and possibly) negative side.

Think of the tactical planning carried out prior to the next play, be 4th and goal for a touchdown or a bunt to advance the base runner and score the winning run. In comparison, companies tactical planning might focus on achieving budget results for the month, the quarter or year-end. To be certain this happens, execution becomes critical. Executives certainly do not want to throw a "hail Mary" pass in December to meet the annual target.

Performance clauses in player's contracts are still the exception, not the rule. In business, if compensation is not based on performance, major problems with the shareholders will develop, be it a private or public company.

The first priority for a company is to have a well-designed Annual Incentive/Bonus Plan. For senior executives targets should be based on: 1) company financial performance of some type (Net Income/Profit, EBIT, EBITDA, ROA, ROS, EVA, or Cash Flow; and 2) qualitative elements such as achievement of strategic milestones. Personal objectives can be considered, but they can be difficult to measure accurately!

Do not hesitate to explore a performance based Annual Incentive/Bonus Plan for senior management with your 2003 Business Plan (or Budget).

Harman & Associates, with its fortune 500 background, has extensive experience in executive compensation planning for private and public companies.

Ray Harman
Harman & Associates
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HUMAN RESOURCES

Exempt Or Not? Careful!!

Be careful when you classify employees exempt from the overtime requirements of the Fair Labor Standards Act.

The Labor Department used to investigate employers to determine whether your nonexempt employees were properly paid. Now, the Department is investigating to see if your exempt employees are properly classified.

The emphasis is on you to prove that an employee is exempt from overtime under the FLSA. Exempt employees are those that you pay on a salary basis instead of being compensated for hours worked. Payment on a salary basis means that the employee receives a predetermined amount each pay period, regardless of the number of hours they work.

Considering an employee a Manager is not enough to justify classifying them exempt. The FLSA contains specific tests that must be met, and you may not deduct pay from an exempt employee's salary in less than whole-day increments unless the deduction is the result of them taking an intermittent family or medical leave.

You may deduct from salary for absences of a full day or more when an employee:

- Is absent for personal reasons (other than sickness or accident);
- Is absent due to sickness or disability and a deduction is made in accordance with a bona fide plan that compensates them for loss of salary occasioned by sickness and disability; or
- Is absent for an entire workweek and performs no work.

In addition, you may also make a deduction for major safety violations.

Knowing your rights and responsibilities as an employer is crucial. We can help. **HR Professional Consultants, Inc.** offers human resource services and outsourcing for businesses of various sizes.

Jim Chwojdak
HR Professional Consultants, Inc.
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EXECUTIVE BENEFITS

Split or Hold: Is it a Gamble?

Recently the IRS and Treasury enacted legislation, which may impact an executive benefits arrangement within your company.

The legislation involves Split Dollar plans, an arrangement wherein an executive and an employer share in the value of an account funded by a life insurance contract. The agreement typically called for the employer to receive an amount equal to the premiums it has deposited, or the cash value in the policy, whichever is less. The executive or their designated beneficiary would receive cash value in excess of premiums deposited.

The new legislation allows an employer and an executive to share in the death benefit of the life insurance policy. However unlike previous arrangements, sharing of policy cash values will no longer be available. Prior to this legislation, there was no specification of the taxability of the excess cash paid to the executive. A more detailed abstract of the proposed Split Dollar regulations can be viewed in the *What's New* link at www.WeirResources.com.

Split Dollar plans put in effect before January 28, 2002 will be grandfathered until December 31, 2003. With this 12-month plus timeframe, (and with no final regulations published), companies have ample time to work with the proposed guidelines to determine the best means for preserving the intended benefit(s).

In the meantime, we are pleased to report that the vast majority of funding vehicles supporting WFR generated Split Dollar Plans are weathering the turbulent market well. Please contact us should you desire to explore viable alternatives in review of your company's Split Dollar plans.

Weir Financial Resources, LLC is a financial advisory firm offering information, ideas and solutions in Executive Benefits, Business Succession and Private Wealth Planning.

Jonathan D. Weir, JD
Weir Financial Resources, LLC
www.WeirResources.com - Recently recognized as *Buffalo.com's Site of the Day* which highlights "the best of the Western

OVERVIEW

The Level VII™ Companies

This is the third issue of *The View from Level VII™*, a bi-monthly forum for valuable information and ideas from some of the top business and financial services professionals around.

The newsletter's contributors, the **Level VII™ Companies** is an *alliance of business professionals*, who have chosen to share some of their 150 years of experience and complement of talents in business, law, accounting, finance, insurance and investments.

Through *The View*, we are committed to educating our clients and community by bringing timely and accurate information on a variety of business and financial topics.

It is our hope that this broad yet incisive source of information, presented in a quick read format, becomes one that the business and professional community will pause to look at in their increasingly busy day.

For more information about us, topics from *The View*, as well as requests or recommendations, please contact us via our website: www.LevelVIICompanies.com. Thank you for your time and interest.

In this and/or future issues you will find short, yet meaningful articles on:

- **Human Resources** – *HR Professional Consultants, Inc.*
- **Risk Management** – *ERMI (Enterprise Risk Management, Inc.)*
- **Executive Compensation** – *Harman & Associates*
- **Executive Benefits** – *Weir Financial Resources, LLC*
- **Employee Benefits** – *Benefits Advantage, Inc.*
- **Private Wealth Planning** – *Weir Financial Resources, LLC*
- **Business Succession** – *Weir Financial Resources, LLC*

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