

# Employee Benefit Plans

## Moving from Entitlement to Empowerment



MARTIN LEVY

Business owners are faced with an array of dizzying challenges when running a business – slimming margins, decreasing productivity, technological demands, commoditization, rising overhead, personnel issues, and an overwhelming sense that everything is becoming increasingly complex.

Professional law practices have not escaped these challenges. In many ways, each of these issues has helped to create revenue opportunities. As commerce changes, domestic and international, there are more opportunities for clarity and contracting agreements, mergers and acquisitions, litigation and dispute resolution, and uncharted territories to regulate.

Although many sectors have found that eliminating human capital has been a key to improving profitability, professional law firms recognize that people represent their most valuable assets. Building a thriving law practice requires a proper balance of creating a positive employee culture and work environment, providing fair and adequate compensation and the right mix of employee benefits to keep key people around.

One of the many challenges facing professional firms is the bewildering choices in providing employee benefit plans, and positioning them as perks to attract, reward and retain employees.

Most professional firms provide employee benefits, largely seen as entitlements by both staff and highly compensated alike, and typically are not seen as a part of overall compensation. They are overlooked when employees consider pay raises and other employment opportunities, largely because little effort is spent on them other than evaluating their purchase.

In the face of radical increases in health care costs and benefits in general, a very competitive environment for talent (low unemployment), here are some strategies you can employ to help make your benefits a cornerstone of employment, and

transition them from entitlement to empowerment.

Communicate all of your offerings and the dollar value as they relate to compensation. For most professional firms, the dollars spent towards employee benefits represents their third largest line-item expense, (behind rent and salaries), yet few firms position their benefits as a vibrant part of compensation. Successful firms package their benefits with 'branded' collateral, both for existing and prospective hires. They integrate their packages and offerings within their "Intranet", providing their employees with tools to navigate, and maximize the value of their plans, and paths to which they can effectively access plan information.

They use tools like Hidden Paycheck or Fringe Facts to quantify the dollar value of their offerings, on a per employee basis. These reports can

be distributed via payroll, sent to employee's homes, or used in reviews. Reports like this can help the costs of benefits become real when reviewing performance, or discussing/negotiating employee compensation.


Typically, employee compensation is inflated 35-40% when including benefits costs. Don't forget to include all employer paid benefits such as: medical, dental, vision, life insurance, long term disability insurance, administration costs of flex/pretax plans, parking, vacation pay, sick pay, approved paid leave, automobile expense, education reimbursement, frequent flyer awards, and other de-minimus expenses. When properly depicted, the value and perception of plans are greatly increased.

Utilize low-cost benefits to build a benefits menu and package that rivals


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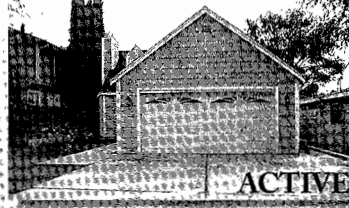
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firms of any size. Many firms offer great health and dental coverage. Yet, when they fail to round out their package by purchasing low cost benefits that can add significant value. Employer paid benefits such as vision care, group term life insurance, long term disability and long term care insurance, acupuncture and alternative care, accidental death, an Employee Assistance Plan (EAP) and travel insurance can be implemented with little fanfare and expense.

Many times these additional costs can be offset by a nominal contribution towards an entire benefits package rather than simply delivering them 'a gratis'. (Employee contributions towards a benefit package validate employee's interest and commitment to the plan. They also offset overall costs.) Even the smallest contribution requirement can give an employee, or covered dependents who might be covered/eligible elsewhere, a reason to waive off coverage. When adding these benefits, even the smallest employer can build a package that can attract talent and adequately compete, thus leveling the playing field.

Explore how Pre-Tax or cafeteria Style plans can expand your offerings and reduce your costs. Pre-tax plans, sometimes known as Cafeteria Plans, are one of the most under-utilized employee benefits. Typically, they allow employees to elect to pay for certain preference items before taxes, thus increasing the purchasing power for employees, and reducing taxes for both employees and employers alike.

Sometimes referred to as Section 125 plans (named after the IRS Code), they come in two variations: simple plans, referred to as Premium Only Plans (POP) allow for the pre-tax payment of premiums towards required employee contributions or for costs of dependent coverage. Typically, no testing or filings are required. They can also be used to pay for certain voluntary benefits.

Expanded plans, sometimes called Full Flex Plans, allow the employee to pay for such items as dependent child care, un-reimbursed health care expenses, and parking expense. These more complex plans require top-heavy testing, as well as increased IRS reporting and may preclude participation by principals and partners. The resulting collective payroll reductions reduce employer liabilities for workers compensation insurance and FICA tax.

Cafeteria plans have administration expenses (nominal), and must be carefully planned to minimize any exposures to sponsoring firms regarding un-reimbursed medical expenses. They also come with some "use it or lose it" requirements, making the communication of more expanded plans vitally important. When weighing the costs of administration versus benefits and tax savings, cafeteria plans create a win-win for employees and employers alike.

Look at how Health Savings Accounts can be used to change health care habits, reduce premiums, and increase personal wealth and compensation. HSAs might not be for everyone, but that's the real appeal. With health insurance costs rising annually at a rate of 15% and more, Consumer Directed Health Care Plans continue to evolve, dynamically, and are catching hold in all size firms.

The concept pairs a high deductible health insurance plan (read: lower premium), with a tax-deductible medical expense

account (which looks much like a medical IRA). The HSA can be funded by the employee, employer, or combination of both. Limits are set annually by the IRS, with 2008 limits of \$2,900 for an individual or \$5,900 for a family.

Because the plans can create significant savings when compared to traditional co-pay or deductible PPO plans, the resulting premium savings/differential can be used to fund a portion of the account, matched by the employee. In this design, typically few benefits are payable until the covered employee reaches a high deductible and no RX card is provided. Benefits typically approach 100% after the employee or family reaches the deductible. (RX benefits are paid in full after the deductible is reached in many plans.) The account is used to pay any deductible and can be used for any health care related expense that is allowed by the IRS.

The key strategy in the development of HSA design was to integrate an element of consumerism into the purchase of health care, and allow free-markets to become effective, and end-users of health care to become end-payers. Because the account balances are owned by the employee, the design encourages changes in health care purchasing, by putting employees own dollars into the mix.

The HSA design works favorably for low utilization, younger employees, and for healthier families, and where the gross premium savings yield enough to fund significant portions of the HSA accounts.

Use "Executive Medical Expense Reimbursement Plans" as the ultimate retention tool. Imagine if you could give to any executive, attorney, partner, principal the elite benefit of providing a non-taxable (and completely tax

deductible) reimbursement for all of their (and their families if desired) health care expenses not covered by insurance. Such a plan can pay for any and every health care related expense – not taxable to the individual – allows a firm to cover a select class and effectively discriminate in favor of highly compensated.

Such a plan insulates the key person from the after-tax costs associated with many expenses not covered by insurance, including orthodontia, designer eyewear, contact lenses, and the broadening gap of what's not covered by insurance which continues to rise. This plan exists within this scope of IRS guidelines, and when instituted, they quickly become a valuable employee benefit. This type of plan is different from simply adopting an uninsured plan in your corporate minutes.

Although there is much discussion about possible reforms of health care, (particularly within California), employers will continue to be seen in the role of providing and delivering benefits, and therefore, have an opportunity to be seen favorably when packaging those plans. In spite of the many issues facing employers today, benefits can be a vibrant part of a company culture, and when properly designed and communicated, enhance morale, retain employees, and be seen as a vital part of compensation. ♣

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