

# The Advisor Lookout®

... Useful Information for the Financial Professional and Broker Dealer

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## The Truth About Small Employer Pension Plans

### ■ Is this your pension plan scenario?

•“I spend all my waking time helping my clients to achieve their retirement and investment goals. I have a SEP which I have funded in the past but now I have two eligible employees and I cannot afford to include them in my SEP because it would double my costs.”

•“I fund my SEP for myself and use a PEO or leasing company to employ my staff and they use the PEO’s retirement plan.

“We have found that most practice owners do not have the time to build or treat their practice like a small business,” states Dan D’Alio, President of EmployShare, Inc. “The typical independent financial advisor business model prevents them from taking advantage of certain tax favored plans and benefits that would improve their bottom line while achieving their retirement goals and minimizing required employer contributions to eligible employees. Even financial advisors who have formed separate entities to manage their practice most often do not take full advantage of the benefits that are available to them,” states Dan.

Regarding the employer-employee determinations, Chief Compliance Officer Jacob Barsottini explains the technical side, “There is a common and dangerous myth in the independent financial services field concerning leased employees and pension plans. The US Department of Labor (DOL) defines the employer as the entity with care custody and control of the employee.” (Continued on the back page).

**View the EmployShare VIDEO at [www.employshare.com](http://www.employshare.com)**

## The Top Five Reasons New Employees Quit

It’s a common frustration: You bend over backwards to hire a talented candidate, only to see him or her walk out the door after just a few months. There are five common reasons new hires quit - here’s how you and your managers can avoid them.

But why do so many employees leave within the first year? Sometimes it’s a hiring mistake. Even when the right person for the job was hired, other factors can drive them away, too. The top reasons new hires quit:

### **The job doesn’t meet expectations**

Not meeting expectations is the number one reason new hires quit, according to a survey by the Novations Group. Why does it happen? Recruiters and hiring managers often feel pressured to “sell” the job to candidates. But avoiding the truth to do so will only cause problems. Focus on the good, of course, but answer candidates’ questions honestly. If you think the truth might turn people away, don’t worry - they probably wouldn’t have stayed for very long.

### **They don’t move quickly enough**

A common mistake managers make to sell the position: exaggerating advancement opportunities. That’s a great benefit if it’s true - but employees will quickly feel stuck if they don’t go where they were promised.

### **Their ideas go nowhere**

New employees should come to the company with fresh ideas - but that doesn’t mean managers always listen to them.

And if new hires feel they have no say in how things are done, they’ll quickly become dissatisfied.

Of course, not every idea is a good one - but at the very least, managers should explain *why* ideas won’t work.

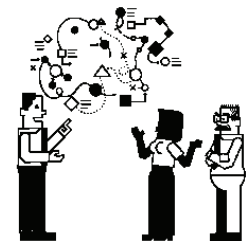
### **Their bosses expect too much too soon**

No matter how talented candidates are, they always need some time to adjust to a new environment. But often, bosses are too hard on new employees when they make the inevitable early mistakes. Managers shouldn’t take “I’m new here” as an excuse for everything. But not giving new hires time to learn and adapt is an easy way to send them out the door.

### **They aren’t trained properly**

In a similar vein, new employees aren’t always given the training they need to perform well, which leads to frustration. Managers should ask recent hires if they’ve gotten everything they need to do their jobs effectively. If the answer is no, a little training can save a lot of trouble in the long run. (Reprinted from HR Recruiting Alert)

**EmployShare’s® Program “Hiring the Best” can help you profile job candidates that will be more likely to be compatible with your work environment, current staff, management style and personnel needs. You can reduce turnover and the high cost related to hiring the wrong person.**



(The Truth About Small Employer Pension Plans Continued)

*"The IRS defines the employer much the same and goes on to say in Publication 560 that leased or co-employed employees must be considered your employees for pension plan purposes and all plans must be aggregated for testing."*

Jake goes on about SEP's, "when multiple plans are in place for a specific plan year the employer must aggregate the plans for pension testing purposes. If your employees are being paid by a PEO, leasing, or staffing company, then they must be included in your plan testing because they are your employees."

EmployShare, Inc., based near Pittsburgh, PA, provides shared human resource compliance services that cater to the independent financial advisor owner and staff employees. Their client base includes many of the largest independent branches from various broker dealers.

The EmployShare Retirement Savings Plan adopted by most of their clients complies with the DOL (ERISA), the internal revenue code as well as SEC, NASD and FINRA guidelines. It is extremely cost-effective with very low administrative fees. The plan is an open architecture, quasi self directed plan and includes 401k, profit sharing, Roth 401, and safe harbor elections.

EmployShare assists you with your business entity setup, pension plan adoption, plan options and coordinates with

the administrator of the plan to ensure your plan design matches your objectives. EmployShare will also provide an array of necessary related services including payroll, HR policies guidance, benefits administration for group benefits, and a tax-favored cafeteria plan and an outstanding disability program, including life, accident, short term and long term disability specifically designed and underwritten for financial advisors and staff employees.

#### **\$15,000 Average Savings**

Jake continues, "Our clients will tell you that our retirement plan is the most cost effective retirement plan available that allows them to reach the 415 limit. **The average practice owner with two eligible employees can save more than \$15,000 in annual contributions compared to using a SEP.**"

He concludes, "Now is the best time to set up your entity and establish the pension plan. Most clients elect to use the profit sharing in addition to the 401 to maximize their pension contributions within the limits established under IRC 415. To accomplish this for 2009, the IRS requires you to adopt the plan and give each employee written notice of your safe harbor election before Dec 1 of 2008.

*There are many other valued-added reasons to put your pension plan in place right away, including attracting and retaining your best employees with a plan that meets everyone's retirement expectations."*

### **Consequences of Treating an Employee as an Independent Contractor**

If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker as well as any fines and penalties. You likely will be held liable for State Unemployment Taxes, and Workers Compensation Premium as well as related fines and penalties. The penalty for failure to carry workers comp on an employee in many states is up to \$1,000 per day.

### **Misclassified Workers Can File Social Security Tax Form**

**Anyone** who performed a service for your firm can file the IRS form 8819 if they believe they were an employee. This form is used by the IRS to properly credit the social security wages of the employee. If you misclassified the employee the IRS can demand that you make the FICA and Medicare deposit even if you believe it was the employee/independent contractor's responsibility. You may not recoup these funds from the employee/independent contractor.

## **Unemployment Claims That Can Hurt You. . .**

What are the chances that you will get caught paying your employees as independent contractors instead of tax-withholding W2 employees? **Better than you think.**

### **TRUE SCENARIO**

You have some full-time W2 staff employees and a couple of licensed sales people who work for you as independent contractors. Your attorney drafted employment agreements for these sales people that clearly defines them as 1099 v W2 employees. You feel comfortable that you are doing everything right.

One of your sales reps is not as productive as you would like to see. You coach him when you have time, but sales are still not happening. So you let him go and terminate your agreement.

He applies for state unemployment benefits and is awarded his full wage benefit since all state unemployment agencies give away unemployment as if it is an entitlement.

Within a few days, you are visited by the state unemployment investigator. Soon thereafter, the IRS and the workers compensation investigators will be visiting you because they share information on these matters.

Since the State Unemployment Bureau has already decided that your sales person is an employee, you will have to pay all back taxes for unemployment, withholding, and workers' compensation premiums, along with all fines and penalties.

You will owe this on both of your sales people. Depending on the findings from all investigators audits of your practice, the final bill could easily bankrupt your business.

This could have been prevented.

You can easily pay your sales people as taxable W2 employees without incurring any expense to your practice. Talk to an EmployShare representative today for more details.