

Is a Multiple Employer Plan the Right Choice for You?

Recently there has been renewed interest in Multiple Employer Plans (MEPs) in the pension industry marketplace and with employers that have a qualified plan or may wish to establish one. Marketing efforts have primarily focused on the potential benefits of participating in a MEP such as the advantage of one “lead” employer taking on the responsibility of sponsoring and administering the plan while sharing the plan related expenses with the co-sponsoring employers.

MEP defined - MEPs are not a new idea; they are covered under Internal Revenue Code (IRC) section 413(c) and have been around for many years. A MEP is a single plan sponsored by two or more employers where at least two of the sponsoring employers are not members of the same controlled group or affiliated service group. In addition, there must be a common nexus or other genuine organizational relationship between the sponsoring employers that is unrelated to the provision of benefits. Under this arrangement one employer agrees to be the principal sponsor of the plan handling the plan administration and oversight of plan assets. All other employers in the group sign on as co-sponsors of the plan.

Although a MEP must be a single plan, it is not treated as a single employer plan for all purposes. For example, there is one plan document and one Form 5500 prepared each year covering all the co-sponsoring employers however, nondiscrimination testing must be performed separately for each employer (e.g., Coverage, ADP/ACP, Top Heavy, and General Nondiscrimination Testing).

Generally, employers that would be interested in a MEP include:

Common Industry - Employers that are in the same industry and have employees that frequently shift employment from one company to another.

Common Ownership – Employers where some common ownership exists between the companies but, not enough to make them a controlled group or affiliated service group

Professional Employer Organizations (PEOs) - PEOs, also known as leasing companies, can avoid violating the exclusive benefit rule by establishing a MEP. The exclusive benefit rule requires that plan assets be held for the exclusive purpose of providing benefits to participants and their beneficiaries. The violation of the exclusive benefit rule occurs when the PEO is the sponsor of the plan but the employees of the PEO are determined to actually be employees of the client organizations they are leased to. Establishing a multiple employer plan that includes the PEO and the client organizations avoids this problem.

Clearly, there are some advantages to participating in a MEP such as:

- The costs associated with the maintenance and operation of a qualified plan is shared among the co-sponsoring employers
- Aggregation of plan assets helps to leverage pricing
- The principal sponsor shoulders the primary burden of plan administration and oversight
- Only one Form 5500 is filed for the plan
- Only one plan document is maintained

There are also some significant disadvantages to participating in a MEP such as:

- Failure by one co-sponsoring employer to satisfy an applicable qualification requirement may result in the disqualification of the plan for all co-sponsoring employers
- An employer that chooses to co-sponsor a MEP may have limited options for the selection of plan provisions and investment vehicles. MEPs frequently require all the co-sponsors to elect the same (or similar) plan provisions and investment options in order to simplify plan administration and reduce costs
- Each employer must count service performed for the other co-sponsoring employers for determining eligibility and vesting

Proceed with caution - While there are some advantages to participating in a MEP there are also a number of disadvantages. Advisors and their clients should proceed cautiously when considering whether a MEP meets the needs of the client and the plan participants.

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