



*"You may be overlooking opportunities to make your business more successful."*

## Focus on Human Resources

By Allan Milder, SP3 Group

Question:

How do you know your business needs HR help?

Answer:

Ask yourself the following:

Do you rest with the comfort that all of your HR compliance needs have been met?

Are your staff and management training needs current?

Are you hiring for growth...or facing downsizing and layoffs?

Do you seem overloaded with projects?

Can you see that things are falling through the cracks?

Do you find yourself with too much on your desk?

Your PEO is a good source of information on specific questions you may have. However projects in the HR area are often left to you to manage yourself. You should consider an HR Outsourcing firm for projects in areas such as: Training, recruiting, individual development, compensation studies, job descriptions, and employee morale. One important area, which is often overlooked, is a business plan or strategic plan for your business. The Human Resources area is usually a key component in developing your plan.

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## Advantages of Being with a PEO

### Part 2

By Ronald Rice, Diamond Corporate Services

When you think of why you are with a PEO, or considering a PEO, what reasons come to mind? If you are like most business owners, you would think of the payroll function, employee benefits, human resources, and workers compensation. However, using a PEO has advantages within these areas. In some of our articles we will be discussing the hidden benefits of using a PEO.

This article discusses the employee benefits area. Offering benefits to employees is a problem for small companies. You work hard to control your

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**“How can I offer benefits with this tight budget I have?”**

overhead expenses, and you know the cost of medical insurance continues to rise. So you may be postponing offering company-paid benefits. Keep in mind that benefits are an important tool for recruiting new employees and in reducing turnover. It is a key success factor in any business. PEO's have a great selection of benefit options and expertise to make it easier to offer benefits. Many of these benefits are voluntary and do not require the employer to pay anything! It is great that PEO's shop for the benefits and negotiate their best deal, then pass on the benefits to you at their cost. You get the advantage of their experience, as well as the buying power of a large group purchase. The paperwork is substantial, and the PEO's administer all the benefits within the same admin fee they charge for doing the payroll.

### **Encourage Your Core Group:**

Many of our clients have a “core group” of key employees that are essential to the business. Think about who is in your “core group” at your location. The goal is to recruit the right people into your core group, then train them and keep turnover low. The core group is important because it will become the personality & culture of your business. Consider how your customers and vendors interact with these individuals. You were the first person in your core group. How have you built it and how do you build on it? What are the qualities you want in these people? These qualities of key employees usually match up well to the profile of the employee who values their employee benefits. Many employees who desire a benefits package are more *mature* and *stable*. They think of the *long term* and want to work for a company for many years. They tend to be more *reliable* and *steady* as employees, and *more productive*. These are key people for your core group. Your other employees are the ones which are less essential, and turnover is inevitable. These could be your part-timers, seasonal employees, or lower paid employees. With a strong core group, you can influence the other employees to be more productive and fit in with the example set by the core group.

How can you maintain your core group with employee benefits, while controlling your cost? First of all, you can offer a partial company contribution to a medical plan. PEO's give you more flexibility in this area vs. having your own small-group plan. You can limit your contribution to the core group of employees, by designating a tier of “key employees”, or “salaried employees”. You could also put in a waiting period of 90 days before any contribution begins. One strategy is to start with a low contribution and then increase it after every year of service. If you pay only 50%-75% of the medical, you can keep participation down to the point where only the core group chooses to enroll. I've found that the other employees do not value benefits enough to pay even \$20 out of a paycheck, so they will choose not to enroll. The effect is to offer all your full-timers company paid medical insurance while only paying toward a few that actually sign up. This controls your overhead cost.

Many PEO's have “mini-med” medical options now. These are low-cost medical plans offering partial coverage. You can advertise company-paid benefits and pay for a mini-med plan, to keep your cost low. Employees can pay the difference to upgrade to a better plan.

*“How do I know if I can pay someone on a 1099 basis instead of withholding taxes?”*

PEO's have pre-tax IRS Section 125 plans where any employee payroll deductions for benefits can be taken before their taxes are computed on that paycheck. This reduces the benefits cost to the employee because it increases their take-home pay. These are a few ideas on offering employee benefits without breaking the bank.

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## **Independent Contractor V. Employee – Is There Really a Choice?**

From the The 'Lectric Law Library – [www.lectlaw.com](http://www.lectlaw.com)

We are frequently asked whether it is safe to treat a particular service provider as an independent contractor – and almost always our answer is “No.” Here's why.

What is an Independent Contractor?

The concept of “independent contractor” takes on new meaning under the Internal Revenue Code, primarily because of the payroll tax withholding rules. Employers are responsible for payroll tax withholding from employees, but not from independent contractors (an independent contractor is, by definition, a separate employer). The Service favors classifying a service provider as an employee rather than an independent contractor because it improves the likelihood of proper payroll tax withholding.

The battle with the IRS over the independent contractor/employee issue has been fought for quite some time. Several tax court cases have listed the factors that determine whether a person is an independent contractor or an employee. Some of the key factors are the amount of control exercised by the employer over the services provided; who supplies the tools; who does the scheduling; who provides specific instructions and training; who hires, supervises, and trains assistants; whether regular and recurring services are provided; whether the service provider has his own separate office or business; and whether the service provider performs more than minimal services for others. Unfortunately, evaluation of these factors is a subjective exercise, and the IRS and the employer frequently disagree as to the conclusion that should be reached after these factors are considered.

To stem the Service's aggressiveness in re-characterizing independent contractors as employees, Congress enacted Section 530 of the Revenue Act of 1978. That provision states that an employer has the right to treat a person as an independent contractor if it has been the practice of the industry to treat individuals performing such services as independent contractors.

Unfortunately, where the industry practice is clearly to treat certain individuals as independent contractors, the IRS may not agree. In a recent controversy over the status of emergency room physicians, the Service

rejected a study commissioned by the American College of Emergency Physicians that demonstrated that the industry practice is to treat emergency room physicians as independent contractors, stating that the employer must prove a "local" standard.

Few taxpayers have been willing to fight for the protection offered by Section 530 because the appeals process is costly. Ironically, as more and more taxpayers settle with the Service, many industry practices have effectively been transformed from "independent contractor" to "employee."

#### The Current State of Affairs:

Public comments from IRS officials suggest that the Service is preparing to step up its attacks on independent contractors. The Service's tough public stance and the extraordinarily high cost of fighting the Service over this issue argue against the creation of independent contractor relationships unless the Service has previously ruled in a taxpayer's favor in a very similar situation. If someone insists on contracting with you as an independent contractor and you are concerned about these tax issues, you should insist that the individual incorporate. It appears that contractual relationships with a corporation are less likely to be challenged than contractual relationships with individuals.