Fidelity Bonds (§IRC 412)

Generally under ERISA, every fiduciary of an employee benefit plan and every person who directs and controls plan funds or property must be bonded. This would include members of the retirement plan committee (if applicable), members of the Board of Directors, and plan trustees. Certain exceptions exist, as found at IRC §412(a)(1) and (2).

The purpose of the fidelity bond is to protect the plan and trust against loss by acts of fraud or dishonesty. The amount of the bond must be determined at the beginning of each plan year and must fall between the statutory minimum and maximum.

The minimum amount of the bond in force must be the greatest of the following amounts:

- $1,000;
- 10% of plan assets at the beginning of the plan year;
- The amount of nonqualifying plan assets, meaning plan assets other than those held by a registered investment institution.

The maximum amount of the bond is the greatest of the following amounts:

- $500,000;
- The amount of nonqualifying plan assets;
- A different maximum as may be established by the Department of Labor.[1]

However, §412(h)(2) makes it clear that §412(i) plans are not regulated by the minimum funding rules of ERISA and therefore are not required to maintain fidelity bonds.

1. IRC §412(a)

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