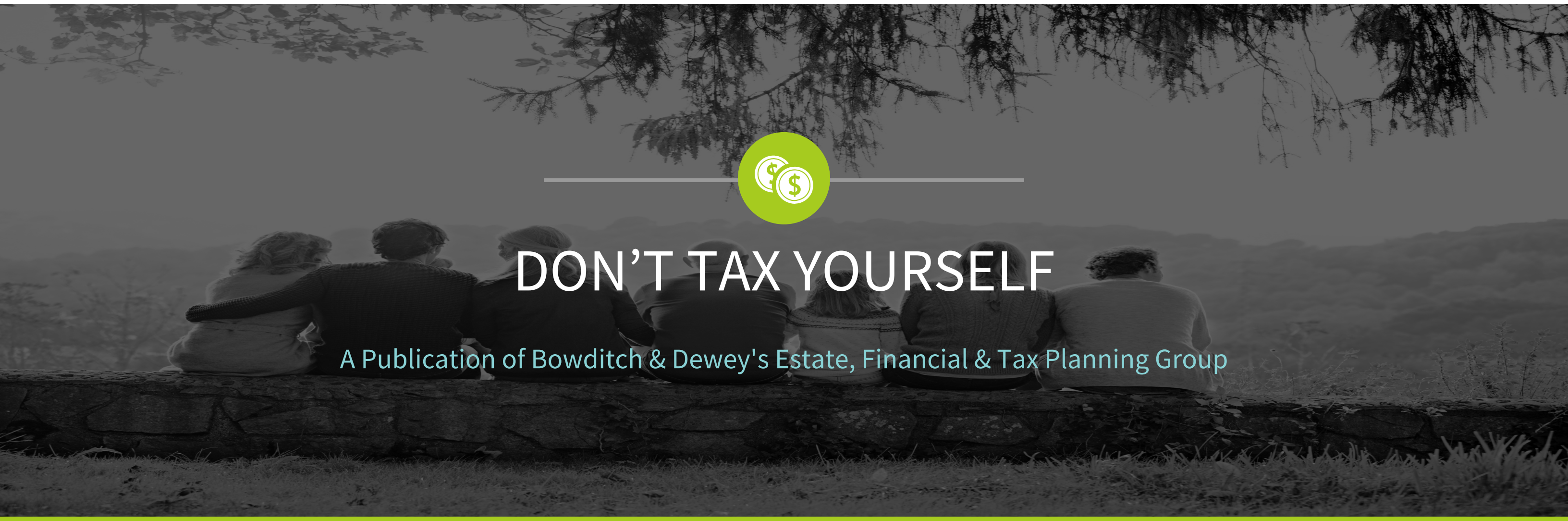

DON'T TAX YOURSELF

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Are Pooled Employer Plans Right for You?

BY BOWDITCH & DEWEY • OCTOBER 15, 2020

If you're a small employer with a 401(k) plan, you might save some money and provide a more professional level of administrative support by joining a Pooled Employer Plan (PEP).

Unrelated employers have always been able to participate in multiple employer plans, but there's always been a risk. If another employer participating in the plan has financial problems or just decides not to contribute its share, the other participating employers either have to put the money in or risk the entire structure coming down around their ears. Mostly lawyers would advise against joining a multiple employer plan. This risk has been called the "one bad apple" rule.

(Multiple employer plans involve two or more unrelated employers. Multiemployer plans usually involve one or more employers and a labor union.)

The Setting Every Community Up for Retirement Enhancement Act (the "SECURE Act") removes the one-bad apple rule, thus making these plans a potentially attractive option for small employers. The major benefits to a properly structured PEP are: (1) administrative costs are spread among more than just your plan and (2) your fiduciary duty is greatly reduced because at least some fiduciary duties are assumed by a Pooled Plan Provider.

These PEPs are new(ish) and while they have been legitimized by the SECURE Act, we need operational guidance from the Department of Labor.

Stay tuned for more information as it develops.