

Table of Contents

Chapter 1 – Introduction.....	1
Organization	1
What Is ERISA?	2
Categories of ERISA Benefits	2
What Is an ERISA Plan?	4
Other Benefits	5
Mandated Benefits	6
Using This Book	7
Chapter 2 – Health Benefit Plans: Medical, Dental and Vision Coverage	11
ERISA Requirements.....	11
Internal Revenue Code Requirements.....	12
Plan Administration	13
Nondiscrimination.....	14
Retiree Health Benefits	15
Prescription Drug Coverage and Medicare Part D	15
Structuring a Health Plan.....	18
Traditional Indemnity Plans.....	19
Preferred Provider Organizations (PPOs).....	19
Health Maintenance Organizations (HMOs)	20
Mandated Benefits	21
Health Insurance Portability and Accountability Act of 1996 (HIPAA)	21
COBRA Continuation Coverage.....	26
Uniformed Services Employment and Re-employment Rights Act (USERRA)	29
Mental Health Parity Act of 1996.....	30
Newborns’ and Mothers’ Health Protection Act of 1996 (Newborns’ Act).....	31
Women’s Health and Cancer Rights Act of 1998 (WHCRA)	32
Defined Contribution Health Plans	32
High-Deductible Health Plan (HDHP) and Health Savings Account (HSA)	
Combinations	34
Conclusion	36
Chapter 3 – Life Insurance, Disability Insurance and Other Insured Benefits	37
Common Types of Life Insurance.....	38
Term Life Insurance	38
Whole Life Insurance.....	38
Universal Life Insurance.....	39
Group Term Life Insurance.....	39
Accidental Death and Dismemberment Insurance.....	45
Dependent Life Insurance	46
Other Types of Death Benefits.....	47
Group Disability Insurance	50
Short-term Disability Plans	51
Long-term Disability Plans	52
Other Insurance Programs	54
Voluntary Insurance Programs.....	54
Group Long-term Care Insurance.....	55
Obtaining and Replacing Insurance Contracts	56

Chapter 4 – Section 125 “Cafeteria” Plans.....	59
Qualified Benefits.....	59
Funding Features.....	60
Flexible Spending Accounts.....	61
Plan Design Options.....	63
Flexible Spending Accounts, Health Savings Accounts and Plan Design.....	64
Cafeteria Plan Document.....	65
Election Changes.....	66
Special Enrollment Rights.....	68
FMLA and Other Leaves of Absence.....	69
Compliance with State Law.....	70
Application of COBRA to Medical Flexible Spending Accounts.....	70
Nondiscrimination.....	71
Tax Advantages.....	71
Qualifying Medical Expenses.....	73
Qualified Dependent Care Expenses.....	73
Insured Benefits.....	75
Vacation Pay.....	75
Retiree Benefits.....	75
Adoption Assistance Benefits.....	76
Identifying Your Objectives.....	77
Conclusion.....	78
Chapter 5 – Retirement Benefits.....	79
Qualified Retirement Plans.....	79
Types of Qualified Retirement Plans.....	80
Nonqualified Retirement Plans.....	88
Nonqualified Plans and the American Jobs Creation Act.....	88
Types of Nonqualified Retirement Plans.....	90
Factors to Consider in Selecting a Retirement Plan.....	90
Operating a Retirement Plan.....	92
Service Providers.....	92
Reporting to Governmental Agencies.....	94
Amendment and Termination of a Qualified Retirement Plan.....	95
Fiduciary Responsibilities.....	95
Fiduciary Insurance.....	96
Factors to Consider in Selecting and Monitoring Service Providers.....	97
Conclusion.....	99
Chapter 6 – Employer Stock: Equity-based Compensation Plans.....	101
Terms Used in This Chapter.....	102
Equity.....	102
Stock.....	102
General Considerations for Equity-based Compensation Plans.....	103
Securities Laws Considerations.....	103
Other Design Considerations.....	103
Equity-based Compensation Arrangements.....	104
Incentive Stock Option Plans.....	104
Nonqualified Stock Option Plans.....	108
Performance Share Plans.....	110
Restricted Stock Plans.....	112
Tax-favored Employee Stock Purchase Plans.....	114
Nonqualified Employee Stock Purchase Plans.....	116
Employee Stock Ownership Plans.....	117
Conclusion.....	121

Chapter 7 – Worker’s Compensation	123
Applicability	124
Providing Coverage	124
Reporting Injuries	125
Remedies Under the Act	127
Medical Services.....	127
Temporary Disability.....	130
Permanent Partial Impairment	132
Death Benefits.....	132
Calculating Compensation	133
Average Weekly Wage	133
Maximum Compensation	133
Bars to Compensation.....	134
Initiating a Claim.....	134
Hearing Procedure	135
Third-party Liability.....	135
Contractors	136
Independent Contractors Working in the Construction Trades	136
Limitations	137
Chapter 8 – Time-off and Severance Benefits	139
Family and Medical Leave.....	139
Maternity Leave	141
Vacation and Sick Pay	141
Holidays	142
Jury Duty.....	143
Military Duty.....	143
Severance Pay	145
Penalties for Failure to Have a Written Plan Document	147
Benefits of Having a Written Plan Document	148
Severance Agreements and Releases.....	149
Conclusion	149
Chapter 9 – Nontraditional Work Scheduling Options: Part-time, Flextime and Telecommuting Arrangements	151
Advantages and Disadvantages of Nontraditional Work Scheduling Options	152
Legal Implications of Nontraditional Work Scheduling Options.....	153
Americans with Disabilities Act of 1990 (ADA).....	153
Wage and Hour Laws	154
Worker’s Compensation.....	155
Family and Medical Leave Act of 1993 (FMLA)	156
Insurance and Liability	156
Confidentiality and Privacy	157
Copyright and Trade Secrets	158
Miscellaneous Legal Issues	159
Conclusion	159
Chapter 10 – Nontaxable Fringe Benefits	163
No-Additional-Cost Services.....	164
Qualified Employee Discounts	164
Working Condition Fringe Benefits	165
Employer-provided Transportation	166
Office Decor and Administrative Support.....	167
Employer-provided Home Computer Equipment	168
Professional Memberships, Dues and Publications.....	168
Educational Assistance.....	168

Security Arrangements.....	169
Consumer Product Testing Programs.....	169
Travel and Entertainment Reimbursements.....	170
Outplacement Services.....	170
Spouse and Dependent Travel.....	171
Cash Payments.....	172
Excluded Benefits.....	172
De Minimis Fringe Benefits.....	172
Office Equipment and Support Staff.....	173
Meal Allowances and Taxi Fares.....	173
Commuting.....	174
Office Social Functions.....	174
Gifts and Awards.....	174
Theater or Sports Tickets.....	175
Employee Welfare Benefits.....	175
Qualified Transportation Fringe Benefits.....	175
Qualified Moving Expense Reimbursement.....	177
Qualified Retirement Planning Services.....	178
Qualified Military Base Realignment and Closure Payments.....	179
Other Rules Regarding Fringe Benefits.....	179
Withholding.....	179
Nondiscrimination Rules.....	180
Definitions.....	180
Recipient.....	180
Employee.....	180
Employer.....	181
Line of Business.....	182
Conclusion.....	182
Chapter 11 – Quality of Life Benefits.....	183
Increase Voluntary Benefits.....	183
Family-Friendly Workplace.....	184
Domestic Partner Benefits.....	185
Focus on Wellness.....	185
Tuition Assistance.....	186
Financial Education.....	187
Personal Time.....	187
Conclusion.....	188
Chapter 12 – HIPAA Privacy and Security for Small Health Plans.....	189
Small Health Plans.....	190
General Privacy Provisions.....	190
Other Uses for PHI.....	192
Minimum Necessary Standard.....	192
Administrative Requirements.....	193
Individual Rights.....	194
Business Associates’ Use of PHI.....	196
Disclosure of PHI from Health Plans to Group Health Plan Sponsors.....	197
Employer Functions.....	197
Plan Sponsor Functions.....	197
Plan Administration Functions.....	198
Security Regulations.....	203
Additional Requirements for Group Health Plans.....	205
Conclusion.....	206

Chapter 13 – Redesigning Your 401(k) Plan to Ease Administration	207
Discontinue Plan Annuities.....	207
Eliminate Plan Loans	208
Avoid Nondiscrimination Testing	208
Simplify the Hardship Withdrawal Procedures.....	210
Adopt a “Safe Harbor” Definition of Compensation.....	212
Simplify Entry Dates	214
Qualified Domestic Relations Orders	215
Reduce Small Benefit Cash-Outs to \$1,000.....	215
Stop Counting Hours of Service	216
Conclusion	216
Appendix A – ERISA’s Compliance Obligations for Pension and Welfare Benefit Plans.....	217
Appendix B – ERISA’s Fiduciary Duties	233
Appendix C – Qualifying Medical Expenses.....	239
Appendix D – Chronological List of Major Federal Employee Benefits Legislation Since ERISA.....	241
Appendix E – Useful Employee Benefits Web Sites.....	243
Appendix F – Form 5500	245
Appendix G – ERISA’s Time Limits for Health Claims (For Health Plans with One Level of Appeal)	249
Appendix H – FSAs, HRAs and HSAs: Comparison of Health Funding Arrangements	253
Appendix I – Selecting and Monitoring Pension Consultants: Tips for Plan Fiduciaries.....	267
Index	271