

Retirement Plans

Practices and Industries

PRIMARY CONTACTS

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The lawyers at Haynes and Boone take a pragmatic and focused approach to help clients draft, modify and administer qualified retirement plans. When calling upon us, companies are assured of reaching someone who understands current and pending law and can explain it in clear terms that apply to their specific situations. We help clients implement, maintain and modify 401(k) plans, 403(b) plans, employee stock ownership plans (ESOPs), 457(b) plans, cash balance plans, profit sharing plans, defined contribution plans and defined benefit plans.

Plan Design and Implementation

We work with employers to design optimal plans from scratch or adapt existing plans to achieve their business objectives and maintain compliance with existing laws. Our services include:

- Counseling public and private companies on alternative qualified plan designs that take into account required testing and cost implications for both new and existing plans
- Preparing and filing applications with the IRS for approval of all tax-qualified plans, private letter ruling requests and exemption requests, and rabbi trusts, as well as funding waivers and other tax matters relating to those plans
- Advising on all aspects of ESOP transactions, including, where applicable, the establishment, funding and bank financing of ESOPs and the application for exemption for the loans for such transactions

Plan Compliance

Retirement plans are living documents that need to be carefully reviewed and updated periodically as a client's business grows or changes. Our lawyers closely follow retirement plan developments, including proposed legislation, to ensure companies maintain compliance with the law. Our goal is to save our clients time and money by proactively identifying potential liability issues and quickly correcting them prior to exposure in litigation or [government investigations](#). Our services include:

- Assisting clients with self-audits to help ensure they are administering plans in compliance with applicable laws, including IRS, DOL and PBGC regulations as well as the plan's rules and terms, and to correct any operational issues or errors that arise
- Helping clients self-correct operational issues by submitting a Voluntary Correction Program (VCP) application, or through self-correction where applicable, and addressing compliance procedures in advance of government audits
- Counseling clients about their fiduciary responsibility under ERISA, including prohibited transaction matters, breach of fiduciary responsibility complaints, claims administration matters and interpretation of plan terms
- Representing clients before the IRS to correct qualification issues in qualified retirement plans under the Employee Plans Compliance Resolution System
- Representing clients before the IRS to correct violations in 403(b) plans, and to obtain private letter rulings resolving issues for qualified plans and 403(b) plans
- Representing clients before the DOL with regard to qualified plan investigations

Plan Disclosures and Participant Communication

ERISA requires that all qualified employee benefit plans have a written plan document and a summary plan description, and that all actions taken with respect to the plan be appropriately documented by the appropriate corporate and/or fiduciary action. In addition to maintaining a written plan document, qualified plans are often subject to additional disclosure requirements. Our services include:

- Helping clients comply with their ERISA disclosure duties, including filing an annual reporting return (Form 5500) with the Department of Labor
- Drafting summary plan descriptions (SPDs) and other employee communications regarding plans
- Documenting corporate actions to adopt, amend, terminate or take other actions with respect to retirement plans
- Documenting fiduciary actions regarding plan administration and investment issues