

BRUCKER



MORRA

A Professional Corporation

EMPLOYEE BENEFITS LAW

ERISA ◊ BENEFITS TAXATION

How Brucker & Morra's expertise and creativity help companies and their owners and individual clients

PLAN DESIGN:

Rely on legal counsel at the outset

Problem: Rather than retaining an ERISA lawyer, a company relied on a financial professional to establish a 401(k) plan. To limit its matching obligation, the company had employees defer only from base compensation, not bonuses. After eight years of administration and certified audits assuring plan compliance, the company discovered that excluding bonus deferrals violated provisions of the plan document. In similar circumstances, the IRS has required employers to deposit what employees might have deferred from their bonuses (based on the employee's actual rate of deferral from base compensation) plus matching funds and approximate earnings. This would have cost the client several hundred thousand dollars.

Solution: Brucker & Morra significantly reduced the client's obligation. The client now uses the firm's ERISA expertise to prevent problems.

IRS AUDITS:

Little things can become big

Problem: Two owners terminated their company pension plans with IRS approval. After rolling over \$2 million of retirement benefits to IRAs, they were called by the IRS for an audit. The IRS alleged that the company had failed to cover fifteen of 2,000 seasonal workers whose benefits equaled \$25,000. The company faced a \$900,000 tax bill for plan disqualification.

Solution: The IRS correctly identified the defect. Still, Alex Brucker and Michael Cotter negotiated a \$50,000 settlement under Audit CAP. The owners saved \$400,000 beyond the standard 50% Audit CAP discount.

Solve pension plan problems before they happen

Astute managers, attorneys, accountants, and consultants rely on Brucker & Morra to handle the most complex issues. They know that changing employee pension and welfare benefits laws open up many opportunities for them and their clients, but without creative legal talent at the beginning, they are likely to face costly problems in the future.

Brucker & Morra is the largest Southern California firm exclusively practicing employee benefits law. The firm has expertise in every tax and labor aspect of ERISA, including:

- ◊ 401(k), defined benefit, cash balance, ESOP, tiered profit sharing, and other retirement benefit plans: design, implementation, compliance review, termination, and creative problem solving
- ◊ Internal Revenue Service and Department of Labor voluntary compliance initiatives and self-correction alternatives
- ◊ Volume submitter defined benefit and defined contribution plan documents offered to pension professionals throughout the United States
- ◊ Examinations and controversies with the IRS, DOL and PBGC – including alleged abusive retirement and welfare plan transactions
- ◊ Mergers, acquisitions and dissolutions: due diligence reviews, representations and warranties, and benefit plan continuation and restructuring
- ◊ Fiduciary compliance review and fiduciary advice for plan sponsors, trustees and investment managers
- ◊ Creative retirement plan investment strategies, prohibited transaction exemptions, life insurance, and disability
- ◊ ERISA litigation support and expert testimony
- ◊ Family Law: QDROs, premarital benefits planning, death benefit claims, litigation support, and expert testimony on benefit issues
- ◊ Tax-exempt and governmental benefits such as §457 plans and §403(b) programs
- ◊ Health and welfare benefit plans such as cafeteria (§125), post-retirement medical, (§419), flexible spending arrangements (§105), and related COBRA and HIPAA issues
- ◊ Executive compensation such as nonqualified deferred compensation arrangements, top-hat plans and §409A analysis

REPRESENTATIVE CLIENTS

- ◊ Roll International / Teleflora
- ◊ The William Morris Agency
- ◊ Mt. Sinai Memorial Park
- ◊ Beverly Hills Fire Fighters
- ◊ Newkirk / McKay Hochman

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Prevent or correct plan defects

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RECEIVE PERSONAL ATTENTION

Brucker & Morra is large enough to have expertise in every aspect of employee benefits law, yet small enough to provide personalized problem solving, on a confidential basis, by senior ERISA attorneys. The firm represents the full spectrum of organizations with employee benefit plans – public companies, specialty firms, nonprofits, and collectively bargained plans.

Businesses hire Brucker & Morra to prevent or correct defects that can disqualify a plan and result in IRS or DOL penalties or personal liability. The firm is results driven and is particularly experienced in protecting employers and plan fiduciaries from incurring liability.

COUNSEL TO FELLOW PROFESSIONALS

Brucker & Morra counsels lawyers, accountants, third-party administrators, and actuaries who need legal advice to serve their own clients. The firm also represents individual clients in retirement planning or marital dissolution.

ON CALL AT BRUCKER & MORRA

Alex M. Brucker began his ERISA practice in 1974. He is a nationally recognized speaker and writer on employee benefits, and he testifies as an expert witness. Alex serves on the board of the Small Business Council of America, a Washington DC legislative advocate for privately owned small businesses.
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Linda Russano Morra focuses on employee benefits issues in family law and death benefit cases, such as complex benefit divisions in marital dissolution and the preparation of QDROs. With her knowledge and experience with retirement plans, she is a frequent speaker for family law and employee benefits organizations.
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Michael L. Cotter applies his eight years of experience at the IRS Employee Plans Division to handling IRS, DOL and PBGC controversies, and merger and acquisition planning and problem solving.
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Meredith J. Sesser emphasizes drafting qualified plans and analyzing affiliated service groups, controlled groups, and contingent workforce and professional employer organizations. She is a board member of the National Institute of Pension Administrators (NIPA), Los Angeles Chapter.
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Cathryn B. Sportsman concentrates on tax and ERISA compliance, including qualified plans and prohibited transaction analyses. For non-qualified deferred compensation plans, she handles §409A document and operational compliance reviews.
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Jeremy M. Pelphrey centers his practice on drafting individually designed qualified plans, including ESOPs, and maintaining tax and ERISA compliance. He has expertise in health and welfare benefits and cafeteria plans, and he analyzes COBRA and HIPAA compliance issues.
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How Brucker & Morra's expertise and creativity help businesses

M&A:

Beware of companies bearing gifts

Problem: A client making an acquisition had tentatively agreed to take over the target firm's defined benefit pension plan. After reading financial statements, the acquiring company claimed the plan was overfunded by \$1 million, meaning it would obtain a valuable asset for free.

Solution: Reading the same documents, Brucker & Morra successfully argued that the plan was actually underfunded by \$5 million. The shortfall would have taken between 10 and 15 years to fund if the plan continued. If the plan terminated immediately, the company would owe up to the full \$5 million. Brucker & Morra helped its client avoid a substantial liability.



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