

BRUCKER



MORRA

A Professional Corporation

EMPLOYEE BENEFITS LAW

ERISA ◇ BENEFITS TAXATION

How Brucker & Morra's expertise and creativity help businesses and individuals

PLAN DESIGN:

Rely on legal counsel at the outset

Problem: Rather than seek advice from an ERISA lawyer, a company relied on a financial professional to establish a 401(k) plan. To limit its matching obligation, the company wanted employees to be able to defer only out of base compensation, not bonuses. After eight years of administration and certified audits assuring that the plan was in compliance, the company discovered that not allowing deferrals from bonuses was contrary to the provisions of the plan document. In similar circumstances, the IRS requires the employer to deposit what each employee might have deferred from their bonuses (based on the average 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 was able to significantly reduce the client's obligation. The client now takes advantage of 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, the IRS informed them of an audit. The IRS discovered that the company had failed to cover 15 of 2,000 seasonal workers whose benefits equaled \$25,000, and sent a \$900,000 tax bill for plan disqualification.

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

Solve pension plan problems before they happen

A stute managers, attorneys, accountants, and consultants rely on Brucker & Morra to handle the most complex issues. They know that changing pension laws open up many opportunities, but that without creative legal talent at the beginning, costly problems are likely to arise 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, and other retirement benefit plan design, implementation, compliance review, and creative problem solving
- ◇ IRS and Department of Labor voluntary compliance initiatives and self-correction alternatives
- ◇ Examinations and controversies with the Internal Revenue Service, Department of Labor, and PBGC
- ◇ Mergers and acquisitions: representations and warranties, due diligence, and benefit plan 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 benefit planning, 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) plans and flexible spending arrangements and related COBRA and HIPAA issues
- ◇ Executive compensation such as nonqualified deferred compensation arrangements and top-hat plans

REPRESENTATIVE CLIENTS

- ◇ Smart & Final
- ◇ Dunn Edwards
- ◇ The William Morris Agency
- ◇ Mt. Sinai Memorial Park
- ◇ Beverly Hills Fire Fighters

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Prevent or correct plan defects

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RECEIVE PERSONAL CARE

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, and third-party administrators and actuaries who need legal advice to serve their clients. The firm also represents individuals in cases of retirement planning or marital dissolution.

ON CALL AT BRUCKER & MORRA

Alex M. Brucker is a nationally recognized speaker and writer on employee benefits. He began his ERISA practice in 1974 and has testified as an expert witness on employee benefits. Alex has designed plan documents and software used by professionals in the field.

Linda Russano Morra focuses on employee benefits issues in family law cases, such as complex benefit divisions in marital dissolution and the preparation of QDROs. Her knowledge and experience with retirement plans makes Linda a frequent speaker for the family law and employee benefits bars.

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.

Meredith J. Sesser emphasizes drafting qualified plans and analyzing affiliated service groups, controlled groups, and contingent workforce and professional employer organizations.

How Brucker & Morra's expertise and creativity help businesses and individuals

M&A: Beware of companies bearing gifts

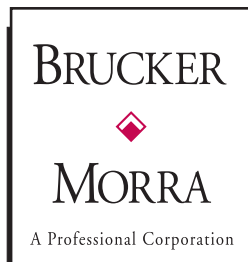
Problem: A client making an acquisition had tentatively agreed to take over the target company's defined benefit pension plan. Based on the target company's financial statements, the acquiring company thought the plan was overfunded by \$1 million, meaning it would obtain a valuable asset for free.

Solution: By applying its strong actuarial background, the firm discovered that the plan was actually underfunded by \$5 million. The shortfall would have taken 10-15 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.

Family Law: The Interim QDRO

Problem: A man with a million-dollar pension account wanted a divorce in order to remarry immediately. A qualified domestic relations order (QDRO) would have secured his wife's interest in his pension plan, but they hadn't agreed to a property division. If the man had been granted a divorce, remarried, and then died, his ex-wife would not automatically have received any of his pension benefits.

Solution: Linda Morra and Alex Brucker invented the "Interim QDRO." Under this order, the man named his first wife as his surviving spouse for his pension benefits pending the final property agreement. Interim QDROs are now required when similar circumstances arise and are used widely in family law practice.



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