

INTERNAL REVENUE SERVICE, DEPARTMENT OF LABOR AND PENSION BENEFIT
GUARANTY CORPORATION AUDITS

Danziger & Markhoff LLP's pension attorneys have substantial experience in dealing with audits of qualified retirement plans initiated by the Internal Revenue Service ("IRS"), the Department of Labor ("DOL") and the Pension Benefit Guaranty Corporation ("PBGC"). Plans may be selected for audit from the computer databases maintained by these agencies either by random selection or based on sets of "confidential" factors determined by government officials. Audits are also generated from complaints forwarded to the IRS, DOL or PBGC by Plan participants. The audits conducted by each of the agencies usually have different focuses covering different matters and requiring special skills to protect the client's best interests. These audits must be taken seriously since even slight problems have recently been subject to intense scrutiny by auditing agents.

IRS plan audits can result in imposition of taxes and penalties, or the risk of plan disqualification. DOL audits focus on imposing penalties on Plan fiduciaries, and in rare cases, the DOL has begun asserting criminal charges. PBGC audits may occur several years *after a Defined Benefit Pension Plan has been terminated*, and after all plan assets have been distributed. In these audits, the PBGC will try to impose penalties on Plan fiduciaries many years after a Plan has been terminated. Such audits present a major risk of liability to the plan trustees and fiduciaries, making it important to maintain records for terminated Defined Benefit Pension Plans for extended periods of time after the assets have been distributed.

Our firm's pension attorneys are experts in dealing with each of the auditing government agencies, and are familiar with the methods used by auditors from these agencies. In the event negotiations are necessary to resolve audit issues, our firm's name recognition and high reputation in higher levels of these governmental offices frequently enable us to successfully conclude audits with very favorable results. Our firm has successfully represented clients in many such audits whether the plan is administered by our office or by another third party administrator.

If there are any questions regarding these audits, please contact Irwin N. Rubin, Esq. at Irubin@dmlawyers.com or Andrew E. Roth, Esq. at Aroth@dmlawyers.com or by calling them at (914) 948-1556.

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