BASIC COURSE INFORMATION

Professors:

Vanessa A. Scott
Chantel Sheaks

Class schedule:

Mondays, 5:45 p.m.–7:45 p.m., in Room 5020 of the Hotung International Law Building

Our first class is August 31, 2015, and our last class is November 30, 2015. There will be no classes on September 7, 2015 (Labor Day) or October 12, 2015 (Columbus Day). Due to the Columbus Day holiday, we will meet on Tuesday, October 13.

Materials:


Internal Revenue Code of 1986 (Code) and Treasury Regulations

Employee Retirement Income Security Act of 1974 (ERISA) and Department of Labor Regulations

We will post handouts to Courseware at least 24 hours before the relevant class.

Studying supplemental readings and references is optional, but strongly encouraged.

Final Exam:

The final exam is scheduled for December 15, 2015 at 6:00 p.m.

The exam is closed-book and will consist of fifty short answer, fill-in-the-blank, multiple-choice, and true-or-false questions.
SYLLABUS & COURSE OUTLINE

CLASS 1 (AUGUST 31, 2015):

Topic:

Overview: What is a welfare plan and what are the types of plans and MEWAs?

ERISA and Other Reporting and Disclosure Requirements, Part I: SPD, SMM, and SPD

Reading:

EBL Ch. 2.III.A, B.2; Ch. 8.XIII; Ch. 11.II.A–E; Ch. 4.II.A–B;

Supplemental Reading:

Donovan v. Dillingham, 688 F.2d 1367, 1373 (11th Cir. 1982)


References:

ERISA §§ 3(1), 4

29 C.F.R. §§ 2510.3-1, 2510.3-2(b)

CLASS 2 (SEPTEMBER 14, 2015):

Topic:

ERISA and Other Reporting and Disclosure Requirements, Part II: Notice of Exchange Coverage Options, Notice of Rescission, Notice of Primary Care Provider, Form 5500, Form 990, Minimum Essential Coverage Reporting under Code section 6055, Employer Health Coverage Reporting under Code section 6056, W-2 Reporting.

Reading:

EBL Ch. 4.III.A.B.1; Ch. 4.VII; Ch.7.II B.11–12.

Supplemental Reading:

DOL Reporting and Disclosure Guide

DOL Technical Release No. 2013-02 (Notice of Coverage Options)

Questions and Answers on Information Reporting by Health Coverage Providers (Section 6055)
Questions and Answers on Reporting of Offers of Health Insurance Coverage by Employers (Section 6056)

Form 990 General Information

References:

ERISA § 102 (29 U.S.C. § 1022); 29 C.F.R. §§ 2520.102-2 and -3
ERISA § 104 (29 U.S.C. § 1024); 29 C.F.R. § 2520.104b-3
Fair Labor Standards Act § 18B
42 U.S.C. § 300gg–12; 29 C.F.R. § 2590.715-2712(a)

Form 5500 Filing Instructions (welfare plan provisions)
Code §§ 6055, 6056; 26 C.F.R. §§ 1.6055-1, 301.6056-1

Class 3 (September 21, 2015):

Topic:

Plan Design Requirements Under ERISA: COBRA, USERRA, GINA, HIPAA, QMCSO, MHPAEA, Newborn’s and Mother’s Health Protection Act, WHCRA, Michelle’s Law

Reading:

EBL Ch. 8.VI; III.A–C, F; V; IV.D; III.D.3–4.

Supplemental Reading:


References:

COBRA: ERISA §§ 601–608; 29 C.F.R. §§ 2590.606-1 to 2590.606-4; 26 C.F.R. § 54.4980B-1 to -10
HIPAA: ERISA §§ 701, 702, 732, 715; 42 U.S.C. § 300gg-4(j)–(n); 29 C.F.R. Pt. 2590
Class 4 (September 28, 2015):

Topic:

Plan Design Requirements Under the ACA: Grandfathered Plan Status, Preexisting Conditions, Provider Non-discrimination, Maximum OOP, Waiting Period, Clinical Trials, Lifetime/Annual Limit Prohibition, Rescission, Preventive Services, Dependent Coverage Up to Age 26, OB/GYN/ER/Pediatric Care

Reading:

EBL Ch.8.III.D.1–E.5, G; IV

Supplemental Reading:


References:

42 U.S.C. § 18011 (Grandfathered Plan Status)

ERISA § 715; 42 U.S.C. § 300gg, -3 (Preexisting Conditions), -4 (Non-Discrimination), -5, -4(j)(3) (Wellness Incentives), -6 (Maximum OOP), -7 (Waiting Period), -8 (Clinical Trials), -11 (Lifetime/Annual Limit Prohibition), -12 (Rescission), -13 (Preventive Services), -14 (Covering Dependents Up to Age 26), -19a (OB/GYN/ER/Pediatric)

29 C.F.R. § 2590.715-2704 (Preexisting Health Conditions)

29 C.F.R. §§ 2590.702(f), 715-2705 (Wellness Programs)

29 C.F.R. § 2590.715-2708 (Waiting Periods)

29 C.F.R. § 2590.715-2711 (Lifetime and Annual Limit Prohibition)
29 C.F.R. § 2590.715-2712 (Rescission)
29 C.F.R. §§ 2590.715-2713, -2713A (Preventive Care)
29 C.F.R. § 2590.715-2714 (Dependent Coverage Up to Age 26)
29 C.F.R.§ 2590.715-2719A (OB/GYN/ER/Pediatric)

**Class 5 (October 5, 2015):**

*Topic:*

Claims Procedures, Litigation, and Preemption

*Reading:*

EBL Chapter 13; Ch. 14.II.A, C–E; Ch. 11.I.III.IV

*Supplemental Reading:*


[Demystifying the Complexities of ERISA Claims Litigation](#), William E. Altman and Danielle C. Lester, Michigan Bar Journal, January 2013

*References:*

ERISA § 503
29 U.S.C. § 2560.503-1
42 U.S.C. § 300gg-19
76 Fed. Reg. 37,208
75 Fed. Reg. 43,327
ERISA § 514
**Class 6 (Tuesday, October 13, 2015):**

*Topic:*

HIPAA Privacy and Security Rules

*Reading:*

EBL Ch.8.IX

*References:*

42 U.S.C. § 17921; 45 C.F.R. § 164.400 *et seq.*

**Class 7 (October 19, 2015):**

*Topic:*

Tax Treatment of Health and Welfare Benefits

*Reading:*

EBL Ch.7.II.B (excluding B.6); Ch. 7.II.C (excluding C.6); Ch. 7. II D (excluding D.2.); Ch. 7.II.E (excluding E.6); Ch. 7.II.F (Excluding F.8); Ch.7.III.; Ch. 7.IV.A–C

*References:*

Code §§104, 105, 106, 213(d)
26 C.F.R. §1.104-1,
26 C.F.R. §1.105-1 through -5, -11
26 C.F.R. §1.106-1
26 C.F.R. § 1.213-1(e)
CLASS 8 (OCTOBER 26, 2015):

Topic:
Cafeteria Plans and Defined Contribution Plans

Reading:
EBL Ch. 7.II.G (excluding G.8); Ch. 7.II.B.6; Ch. 7.II.H

Supplemental Reading:
IRS Publication 969

References:
Code § 125
26 C.F.R. §§ 1.125-4, 1.125-3
IRS Notice 2002-45
Revenue Ruling 2002-41
IRS Notice 2013-54
26 U.S.C. § 223
IRS Notice 2008-59
26 C.F.R. § 54.4980G-1 to -5

CLASS 9 (NOVEMBER 2, 2015):

Topic:
Tax-Non-Discrimination Requirements

Reading:
EBL Ch.7.II.B.8; Ch. 7.II.C.5; Ch. 7.II.D.2; Ch. 7.II.E.6; Ch.7.II.F.8; Ch. 7.II.G.8

Supplemental Reading:
IRS Notice 2011-1
References:

Code §§ 105(h), 125, 79
42 U.S.C. §§ 300gg-16
42 U.S.C. § 10101(d)

CLASS 10 (NOVEMBER 9, 2015):

Topics:

Affordable Care Act Individual Mandate and Exchanges
Fiduciary Requirements, Monitoring ERISA Compliance

Reading:

EBL Ch.7.X
EBL Ch.10.II.A., B.; Ch. 10 IV.A., B.; Ch. 10.V.A.B.D; Ch. 10.VII.A.
26 C.F.R. § 1.5000A-1
26 C.F.R. § 1.36B-1 to -5
ERISA §§ 3(21), 406, 408

CLASS 11 (NOVEMBER 16, 2015):

Topic:

Employer Mandate and Other Taxes (Reinsurance, PCORI, Cadillac Tax)

Reading:

EBL Ch. 7.VIII

Supplemental Reading:

Questions and Answers on Employer Shared Responsibility Provisions Under the Affordable Care Act

Patient-Centered Outcomes Research Trust Fund Fee (IRC 4375, 4376 and 4377): Questions and Answers
References:

- Code § 4980H; 26 C.F.R. §§ 54.4980H-1 to 6 (Employer Mandate)
- Code § 4980I (Excise Tax on High-Cost Health Plans (i.e., Cadillac Plan Tax))
- Code §§ 4375, 4376, 4377; 26 C.F.R. §§ 46.4375-1, 46.4376-1, 46.4377-1 (PCORI)
- ACA § 1341; 45 C.F.R. Pt. 153 (Transitional Reinsurance Program)

CLASS 12 (NOVEMBER 23, 2015):

Topics:

- Other Laws: FMLA, Title VII and PDA, ADEA, ADA, GINA, USERRA

Reading:

- EBL Ch. 8.VII–VIII; Ch. 15.II; Ch. 15.V (excluding E and F); Ch. 15.VI–VII, VIII (excluding VIII.3.)

References:

- 42 U.S.C. § 12101 et seq. (FMLA)
- 42 U.S.C. §§ 12101–12213 (ADA)
- 38 U.S.C. § 4317; 20 C.F.R. § 1002.164 (USERRA)
- 42 U.S.C. §§ 2000e to 2000e-17 (Title VII)
- 42 U.S.C. § 2000e(k) (PDA)
- 29 U.S.C. § 621 et seq. (ADEA)

CLASS 13 (NOVEMBER 30, 2015):

Topic:

- Review session.