



BOUSQUET HOLSTEIN PLLC

***Help For Small Businesses:***  
**Surviving the Ever Changing World of**  
**Health Care Reform**  
**and Employee Benefits**

**Presented by:**  
**Sharon A. McAuliffe, Esq.**  
**Susan L. Dahline, Esq.**

**June 19, 2013**

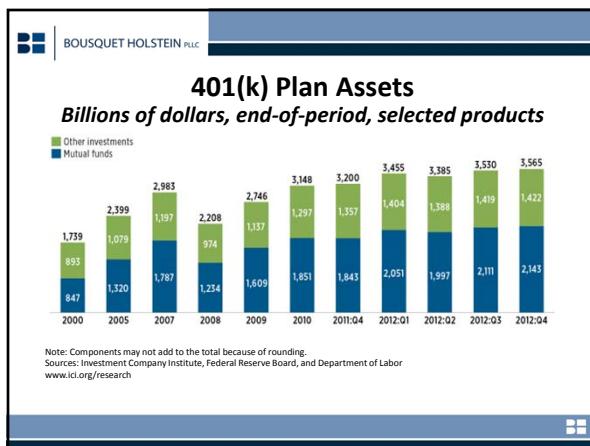
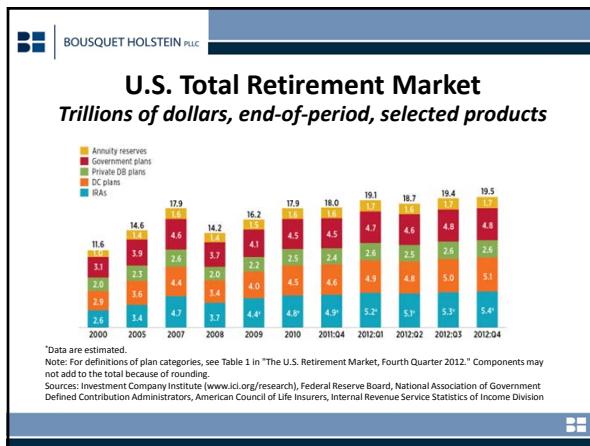
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**Surviving the Ever Changing World  
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## Changing World of Employee Pension Benefit Plans

- Uncertainty regarding Social Security
- More 401(k) Plans, less Defined Benefit (Pension) Plans
- Participants have more investment responsibility and freedom
- Constantly changing regulatory environment
- Internet increases transparency



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## The Changing World's Impact on Plan Sponsors

- Expanded fiduciary responsibilities – fee disclosures
- Increased opportunity for Plan mistakes
- Changing audit climate – Use the DOL & IRS Correction Programs



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## **Fiduciary Fee Disclosures**



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### Fee Disclosures – Where Are We?

- July 1, 2012 – Service provider disclosures to Plans were required
- August 30, 2012 – First annual participant disclosure notices were required
- November 14, 2012 – First quarterly presentation of fee deductions from participant accounts



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### Legal Framework

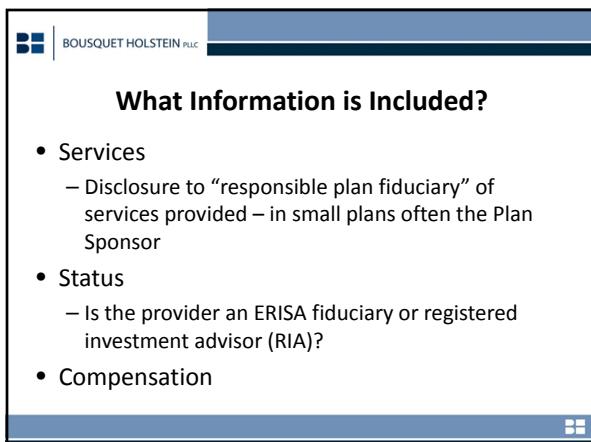
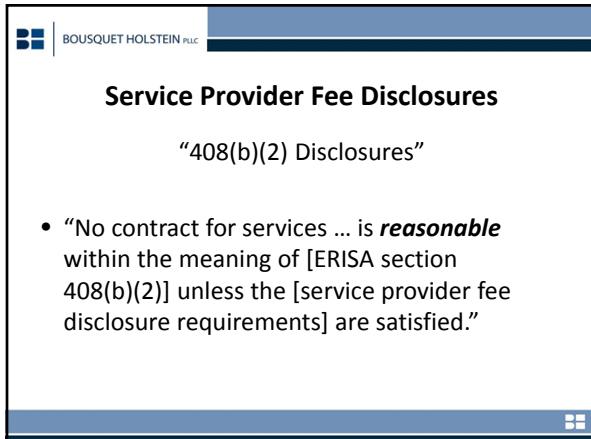
- ERISA Section 404 requires a fiduciary to discharge his duties *solely in the interest of the participants and beneficiaries* .... For the exclusive purpose of ....
  - Providing benefits to participants and beneficiaries and
  - Defraying reasonable expenses of administering the plan



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### Legal Framework

- ERISA 404 – Fiduciary Duties
  - 404(a)(5) – Participant disclosure requirement
  - 404(c) – Limit on Fiduciary liability
- ERISA 406 – Prohibited Transactions
- ERISA 408 - Prohibited Transaction Exemptions
  - 408(b)(2) Exemption for service provider contracts if *proper disclosure*





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## What should Plan Sponsors do with the Information?

- Best practices:
  - Form a committee that meets periodically and reviews the investment performance and fees
  - Complete a vendor search every five to seven years
  - Hire outside assistance, if needed
  - Consider fiduciary liability insurance
  - Once procedures are in place, follow them!



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## Participant Fee Disclosures



#### REFERENCES

## Participant Fee Disclosures

- Required for individual accounts plans
- Required if:
  - pursuant to the terms of the plan, a participant or beneficiary “has the **right to direct the investment of assets** held in, or contributed to, his or her individual account.”



ANSWER

10 of 10 pages

- Required for individual accounts plans
- Required if:
  - pursuant to the terms of the plan, a participant or beneficiary “has the **right to direct the investment of assets** held in, or contributed to, his or her individual account.”



## Which Participants Must Receive?

- Preamble to final regulations: “disclosures must be made to ***all employees that are eligible to participate*** under the terms of the plan, without regard to whether the participant has actually become enrolled in the plan.”
- Why? Intended to be a reminder that they can participate



## Participant Fee Disclosures

- Disclosures required both annually and quarterly
- Annual Disclosure involves:
  - Plan-related information
  - Investment-related information



## Annual Disclosures

- If a change to the information in the annual disclosure:
  - Description of change must be provided at least 30 days, but not more than 90 days, in advance of such change
  - If unforeseeable events or circumstances beyond the plan's control, as soon as administratively feasible
- Change does not have to be material



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## Quarterly Disclosures

- Specific information on the administrative and individual expenses actually charged to the participant or beneficiary's account
- “At least quarterly” = at least once in any 3-month period, regardless of whether plan is calendar year or not



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## Disclosure Issues

- What have we seen?
  - Employees who didn't know they were eligible to be in a plan
  - Deceased or terminated employees with remaining balances
  - Movement in the recordkeeping/investment market



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## Increased Opportunity for Plan Mistakes





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## Common Plan Mistakes

- Document Failures – interim amendments and restatements
- Operational Failures
  - Late deposit of 401(k) elective deferrals
  - Failure to Timely File Form 5500 Annual Report(s)
  - Eligibility Issues – exclusion of employees from making elective deferrals
  - Contribution Problems – incorrect compensation used for contribution amounts
  - Distributions – failure to timely start minimum (70%) distributions



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## Compliance Assistance

- IRS Fix-it Guides
  - <http://www.irs.gov/Retirement-Plans/Plan-Sponsor/Fix-It-Guides---Common-Problems,-Real-Solutions>
- IRS Newsletters – *Retirement News for Employers*
- DOL Educational Sessions
- DOL (EBSA) – *Meeting Your Fiduciary Responsibilities*



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## Make Use of **DOL/IRS Correction Programs**





## DOL Correction Programs

- Delinquent Filer Voluntary Compliance Program (DFVCP)
  - Allows correction of late or unfiled Form 5500 filings
- Voluntary Fiduciary Correction (VFC) Program
  - Provides plan sponsors the opportunity to correct fiduciary breaches



## Delinquent Filer Voluntary Compliance Program (DFVCP)

- Recently updated by DOL
- Reduced penalties of \$750 to \$4,000 instead of potential \$15,000 - \$30,000 penalties
- All filings must now be made electronically with EFAST 2
- Still not available for one participant plans – Form 5500EZ filers



## **Voluntary Fiduciary Correction (VFC) Program**

- Most often used to report late deposit of 401K elective deferrals
- Also employed to correct prohibited transactions
- No self correction
- Correction must include lost earnings

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**DOL Online Calculator**

<http://askebsa.dol.gov/VFCPCalculator/WebCalculator.aspx>

UNITED STATES DEPARTMENT OF LABOR  
Employee Benefits Security Administration

November 11, 2009 [Find All](#) [DOL](#) [EBSA](#) [Logout](#)

DOL > EBSA > [Compliance Assistance](#) > [VFCP Calculator](#)

VFCP Calculator - Lost Earnings

Please see [instructions](#) to assure correct data entry.

Principal:

Loss Date:  /  /  mm/dd/yyyy

Recovery Date:  /  /  mm/dd/yyyy

Final Payment Date:  /  /  mm/dd/yyyy

[Search](#) [Reset](#) [View Instructions](#)

About EBSA  
EBSA Office  
Organization Chart

Laws and Regulations  
Final Rules  
Notices  
Enforcement Rules  
Public Comments

Technical Guidance

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## IRS Correction Program (EPCRS)

- What is EPCRS?
  - Employee Plans Compliance Resolution System
  - Goal is to correct plan issues so that plans can stay qualified (avoid adverse tax consequences of disqualification)

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## EPCRS Correction Principles

- Full correction includes all taxable years, whether or not the taxable year is closed
- Correction method should restore the plan and its participants to the position they would have been in had the failure not occurred
- The correction method should be reasonable and appropriate for the failure



## EPCRS Components

- **Self Correction Program (SCP)**
  - No notification to IRS and no fees or penalties
  - Not available for Plan document failure
- **Voluntary Correction Program (VCP)**
  - IRS Submission and payment of VCP fee
- **Audit Closing Agreement Program (Audit CAP)**
  - Errors found during an IRS examination with fees greater than those available under VCP, but less than the impact of the plan losing its tax benefits



EPCRS

## What's New in 2013?

- EPCRS Updated by Revenue Procedure 2013-12
  - Widens the door for 403(b) plan corrections
  - Creates a new definition of overpayment and provides methods for correcting overpayment errors, especially for underfunded DB plans
  - Presents new forms for VCP submissions



## VCP Submission Fees

- Fees generally based on the number of participants in a plan:
  - 0-20            \$750
  - 21-50           \$1000
  - 501-1000      \$8000
- Fee for failure to adopt a 403(b) plan document is temporarily reduced by 50% if:
  - The only failure included in the submission was the failure to adopt the plan; and
  - The submission is made by end of 2013



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## **EPCRS** **What's Not Addressed**

- Correction of Automatic enrollment issues
- Failure to provide safe harbor notice
- Roth contribution errors



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## Resources

- Overview of EPCRS:
  - [http://www.irs.gov/Retirement-Plans/Another-Way-to-Spell--Relief--E-P-C-R-S-\[Expanded-Article\]](http://www.irs.gov/Retirement-Plans/Another-Way-to-Spell--Relief--E-P-C-R-S-[Expanded-Article])
- Submission Kits for failure to timely adopt plan document:
  - 403(b) Plans:  
[http://www.irs.gov/pub/irs-tege/vcp\\_submission\\_kit\\_403b.pdf](http://www.irs.gov/pub/irs-tege/vcp_submission_kit_403b.pdf)



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# Health Care Reform Update 2013





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## Roadmap and Key Terms

- Roadmap
  - Timeline of events since Affordable Care Act passed in 2010
  - Review of new rules on the employer shared responsibility mandate and related potential penalties
- Key Terms:
  - Self-Insured or Self-Funded Plans
  - Insured Plans
  - Grandfathered Plans



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## TIMELINE



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## 2010: All Plans

- Prohibition on denying coverage of children based on pre-existing conditions
- Prohibitions on rescissions of coverage
- Elimination of lifetime and annual limits
  - Restricted annual limits
- Young adult coverage to age 26
  - Exception for grandfathered plans



ANSWER



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### 2010: Non-grandfathered Plans

- Internal Claims and Appeals and External Review Procedures
- Preventive Care - In-network coverage for certain preventive care services and immunizations at no cost
- Patient Protections



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### 2012: All Plans

- Reporting the cost of employer-provided health care on Forms W-2
  - Applicable for employers issuing > 250 Forms W-2
  - Reporting for 2012 calendar year required to be issued by January 31, 2013
  - Value of group health plan benefits
    - Fully insured = amount of premium charged
    - Self-funded = 100% of COBRA premium



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### 2012: All Plans (cont.)

- Summaries of Benefits and Coverage ("SBC") - updated version of model SBC available at:  
<http://www.dol.gov/ebsa/healthreform>
  - Current participants and beneficiaries (including COBRA) → first day of open enrollment
  - Newly eligible participants and beneficiaries → first day of plan year that begins on or after September 23, 2012
- Electronic disclosure
- Enforcement – Focus on assistance not penalties
  - Safe-harbor for carve-out arrangements



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2013

- Flexible Spending Account Limit capped at \$2,500 annually, effective January 1, 2013
- Cafeteria plan amendments – required to be adopted on or before December 31, 2014 (for January 1, 2013 effective date)
- Does not affect HRAs or employer-funded flex credits offered outside cafeteria plans



**2013 (cont.)**

- **New and Increased Medicare Taxes**
  - Increase in Medicare tax of 0.9% of wages in excess of \$200K (\$250K for joint filers) (3.8% total)
  - New Medicare tax – 3.8% of unearned income, including interest, dividends, capital gains, and other investment income
- **Loss of Medicare Part D Deduction for employers that cover the cost of retiree prescription drug expenses**



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2013 (cont.)

- Open Enrollment in the Health Insurance Marketplace begins, effective October 1, 2013
- Notice of State Exchange – must inform employees of the existence of a state health insurance exchange and applicable contact information
- COBRA Notice



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## 2014

- Bar on:
  - Waiting periods longer than 90 days
  - Pre-existing condition exclusions for all participants (in addition to children)
  - Impose annual dollar limits on essential health benefits
- Dependent to age 26 for all young adults to age 26 for grandfathered plans



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## 2014: Non-grandfathered plans

- Cost-sharing cannot exceed out-of-pocket maximums for HDHP + HSA arrangements
- Coverage required for:
  - Certain costs related to clinical trials
  - Insured plans in small group market – Must cover all “essential health benefits” (Deductibles limited to \$2,000/individual and \$4,000/family coverage)
- Additional reporting regarding payment of claims/financial disclosures



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## Pending Guidance

- Automatic enrollment requirement for large employers (200+ FT employees)
- Nondiscrimination rules for non-grandfathered insured plans
- Quality of care reporting (non-grandfathered plans only)
  - Plan sponsors will be required to report annually to HHS and plan enrollees on whether plan benefits provide incentives for: (i) certain patient care activities; (ii) prevention of hospital readmission; (iii) improving patient safety; and (iv) implementing wellness and health promotion activities



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## **“PAY OR PLAY”: Employer Shared Responsibility Mandate**



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## Individual Mandate

- Every citizen and legal resident (and dependent(s)) required to obtain “minimum essential coverage” (“MEC”) every month of the calendar year
- DHHS proposed rules describing MEC in February, 2013



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## Premium Tax Credit

- Eligibility for premium tax credit
  - Household income between 100-400% of poverty level
  - Not eligible for coverage through government sponsored health program (e.g., Medicaid, CHIP)
  - Not eligible for affordable employer-sponsored health coverage that provides minimum value
  - Qualified health plan coverage obtained through exchange





## Reduced Cost-Sharing

- Eligibility for reduced cost-sharing
  - Employees with income up to 250 percent of the poverty level
  - Qualified health plan coverage obtained through exchange



## **Employer Mandate**

- “Pay or Play” -- Code section 4980H:
  - Employers with 50 or more full-time employees (and dependents) must offer employees the opportunity to enroll in:
    - MEC that is affordable and provides minimum value, or
    - Be subject to penalties



## Who Must Comply?

- Applicable large employers – employers that employed an average of at least 50 “full-time equivalent employees” in prior calendar year
- Must provide FT employees with at least one coverage option that is **affordable** and provides **minimum value**
  - Affordable = does not exceed 9.5% of income
  - Minimum value = covers at least 60% of costs



## Who is an Applicable Large Employer?

- Employer with 50 or more full-time employees and full-time equivalent employees (FTEs)
- General – Common law employee who was employed an average of at least 30 hours of service per week or 130 per month
  - Hours of Service definition follows DOL rules counting all hours *paid* not worked
  - FTEs determined by adding hours of all part-timers within a month and dividing by 120



## Who is an Applicable Large Employer? (cont.)

- Full-Time Employee Safe Harbor:
  - Any employee who averaged at least 30 hours each week during a standard measurement period (3-12 consecutive months) must be treated as a full time employee for subsequent stability period
  - Must offer coverage to new employee that is reasonably expected to be FT as of their start date within first three calendar months



**Applicable Large Employer (cont.)**

- Special Rules:
  - Controlled Groups
  - Seasonal Workers
  - New Employers



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## Controlled Groups

- General – All employees of a controlled group are treated as a single employer in determining applicable large employer status
- Penalties – Apply *separately* to each applicable large employer member (discussed later)

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## Controlled Groups - Example

- For 2013, corporation P owns 100 percent of all classes of stock of corporations S and T.
- For every calendar month in 2013, P has 10 full-time employees, S has 40 full-time employees and T has 60 full-time employees.
- P, S, and T are a controlled group of corporations.
- Because P, S, and T have a combined total of 110 full-time employees during 2013, they are an applicable large employer subject to the pay or play mandate in 2014.

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## Exception for Seasonal Workers

- Will not be deemed an applicable large employer solely because:
  - exceed 50-employee threshold for 120 days or less during the calendar year, and
  - the full-time employees and FTEs in excess of 50 are “seasonal workers”
- What is a “seasonal worker”?
  - defined in Labor Regulations, but not limited to retail and agricultural industries
  - Good faith interpretation may be used until further guidance is issued

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### Exception for Seasonal Workers - Example

- Employer X employs 40 full-time employees for all of 2013. Employer X also employs 80 seasonal full-time employees from October 1, 2013 through December 31, 2013 (91 calendar days).
- Because Employer X's workforce exceeded 50 full-time employees (including seasonal workers) for 120 days or less in 2013, and the number of full-time employees would be fewer than 50 from October 1 through December 31 if seasonal workers were disregarded, the employer is not an applicable large employer for 2014, solely because of the seasonal workers.



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### New Employers

- New employers – not in existence in preceding calendar year will be an applicable large employer if -
  - Reasonable Expectation - reasonably expects to employ and actually does employ an average of at least 50 full-time employees (including FTEs) in preceding calendar year
  - IRS requested comments regarding whether additional guidance should be issued



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### EMPLOYER PENALTIES





## Potential Employer Penalties

- Penalty for failure to provide full-time employees opportunity to enroll in MEC
- Failure to provide MEC that is affordable or provides minimum value



## **Penalty for Failure to Provide MEC**

- If at least one full-time employee receives a subsidy (premium tax credit or cost-sharing reduction) for purchasing coverage on an Exchange, the employer is subject to a penalty of:
  - \$2,000 multiplied by total # of full-time employees (in excess of 30)



## Affordable Coverage the Provides Minimum Value

- Must provide MEC to all Full-time employees (or at least 95% of full-time employees and their dependents) that is **affordable** and provides **minimum value**
  - Affordable = does not exceed 9.5% of employee's household income
  - Minimum value = plan covers at least 60% of costs



## Affordability Safe-Harbors

- Form W-2 Safe-Harbor
- Rate of Pay Safe-Harbor
- Federal Poverty Line Safe-Harbor



## Affordability/Minimum Value Penalty

- If at least one full-time employee receives a subsidy for purchasing Exchange coverage because MEC offered is unaffordable or fails to provide minimum value, the employer is subject to a penalty of:
  - \$3,000 multiplied by # of full-time employees in excess of 30, who actually receive a subsidy



## **Penalties Generally**

- Penalties calculated and applied on a monthly basis
- FTEs disregarded for purposes of calculating penalty amounts
- Applies to each applicable controlled group *member* – i.e., in calculating penalties, the total # of full-time employees includes only those in the controlled group *member*



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## Questions and Answers

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## **Bousquet Holstein PLLC**

### **Firm Profile**

Bousquet Holstein PLLC is a versatile law firm representing clients across many industries. The firm's clientele is comprised of businesses and individual clients for whom we provide legal advice and counsel on a broad range of matters covering thirty practice areas.

Our attorneys are counselors, strategists, and advocates whose goal is to develop a long-term relationship with each of our clients - one that is based on the trust that develops when a law firm understands the client's business and objectives, anticipates the client's needs, and provides prompt, high-quality, and consistently valuable service. An in-depth understanding of the economics of business transactions is one of the firm's defining characteristics. We enthusiastically address the challenges presented by new projects and have embraced new areas of the law as we anticipate our clients' needs for us to master emerging legal trends.

We are organized in practice groups - flexible collections of attorneys and other professionals who bring different facets of expertise to the particular area of practice. This interdisciplinary team approach allows us to achieve creative and complete solutions for our clients. Our professional staff does not fit into any preconceived mold. We have an extraordinarily talented group of individuals, each of whom has a passion for his or her work and for the connections made with our clients. In addition to a strong commitment to our practice, our professionals believe that it is their responsibility to contribute to our community and make it a better place for all to live. The commitments we have collectively and individually made to our community are an integral part of who we are.



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## **Bousquet Holstein Practice Areas**

Agriculture  
Alternative Dispute Resolution  
Appellate Advocacy  
Banking and Financial Institutions  
Bankruptcy  
Brownfields  
Business Transactions  
Economic Development Incentives  
Elder Law & Special Needs Planning  
Employee Benefits & ERISA  
Employment and Discrimination  
Energy  
Environmental, Land Use, and Zoning  
Estate Planning & Administration  
Equipment Leasing and Financing  
Government Relations  
Health Care  
Immigration & Naturalization  
Intellectual Property  
Litigation  
Matrimonial  
Mergers and Acquisitions  
Municipal Representation  
Not-For-Profit Organizations  
Professional Practices  
Real Estate  
Tax Planning and Advocacy  
Telecommunications  
Trusts  
Venture Capital and Private Placement



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## **Bousquet Holstein Employee Benefits Practice Group**

Employee Benefits involves many disciplines. Transactions, such as the purchase or sale of a business, or the drafting of a will or estate plan, often raise employee benefits questions. The formation and operation of many businesses – large and small – requires multiple employee benefit decisions. To understand all of the consequences of a benefits decision, an attorney must have a working knowledge of benefit plan design and operation, accounting practices, employment relations, income taxation, and retirement and succession planning.

The Employee Benefits Practice Group is fully versed in the complex set of rules that regulate the employee benefits area as set forth under ERISA (Employee Retirement Income Security Act of 1974, as amended) and the Internal Revenue Code. We routinely advise clients with regard to the design, implementation, and administration of employee retirement, welfare, and fringe benefit plans.

Often, employers must choose from a complex array of qualified (tax-favored) and non-qualified retirement and deferred compensation plans. Our expertise covers all aspects of retirement plans, including qualified and non-qualified pension and profit-sharing plans such as 401(k) plans, ESOPs, and "age weighted" plans; cafeteria and "flex" plans; welfare benefit plans; and "Top Hat" and other executive compensation plans. As independent advisors, we help our clients evaluate plan designs so that they can choose the benefit plan best suited to their needs and budgets.

We guide our clients with regard to regulatory compliance and assist those clients facing compliance issues, often employing the government-provided correction programs, EPCRS (IRS's correction program) and VFC (the Department of Labor's correction program). We have represented clients before the IRS, DOL and PBGC in audits involving qualified plans, welfare benefit plans and other compliance issues.

We have extensive experience advising clients, at both the employer level and the participant level, with regard to the drafting and approval of Qualified Domestic Relations Orders (QDROs).

Our Employee Benefits Practice Group works closely with the Business Transactions and Mergers and Acquisitions Practice Groups to advise clients of the benefits issues involved with mergers as well as stock and asset transactions.



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## Sharon A. McAuliffe

Member

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### Practice

Sharon is a member of the firm practicing in the areas of employee benefits, trusts and estates, mergers and acquisitions, and tax planning and advocacy, including federal and state fiduciary tax planning and preparation.

Sharon's experience includes advising clients with regard to the establishment, administration, and termination of qualified retirement plans, cafeteria plans, and other fringe benefit plans, and representing clients in connection with Internal Revenue Service, Pension Benefit and Guaranty Corporation, and Department of Labor matters. She has also acted as co-counsel on ERISA litigation matters.

Sharon assists clients in all aspects of the estate planning process. She has extensive experience in the planning and preparation of wills and trusts. In addition, she assists clients in property transfers, changes in beneficiary designations, and estate administration.

Prior to obtaining her law degree, Sharon was the Director of Employee Benefits for Green & Seifter, Certified Public Accountants, PLLC, where she supervised all aspects of plan compliance and annual administration for over 250 employee benefit plans, including cafeteria plans, defined benefit plans, defined contribution plans, 401(k) plans and employee stock ownership plans (ESOPs). Previously, Sharon has been an instructor in the Certified Employee Benefits Specialist Program sponsored by the Wharton School of Business and International Foundation of Employee Benefits. She is also a frequent lecturer for the local bar associations and appears periodically as a panelist on Financial Fitness on WCNY.

### Practice Areas

Employee Benefits  
Mergers and Acquisitions  
Tax Planning and Advocacy  
Trusts and Estates

### Education

J.D., Syracuse University of College Law, 1992

M.P.A., Maxwell School of Syracuse University, 1979

B.A., University of Notre Dame, 1974

### Admissions

- New York



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## **Professional and Community Involvement**

- Adjunct at SU Law School - Pension and Employee Benefits Law
- New York State Bar Association
- Onondaga County Bar Association
- Central New York Women's Bar Association
- Loretto, Past Chair of Board of Trustees
- St. Joseph's Hospital Health Center, Board of Trustees
- New York Employee Benefits Conference, Past Director
- Loretto Independent Living Services, Inc (PACE CNY), Board of Trustees

## **Recent Publications and Presentations**

### **March 2013**

- Dividing Retirement Benefits in a Matrimonial Action – CNY Collaborative Family Law Professionals

### **March 2013**

- Dividing Retirement Benefits in a Matrimonial Action – CLE- Oneida County Bar Assn.

### **February 2013**

- The Continuing Complexity of Employer Responsibilities- CenterState CEO

### **October 2012**

- Dividing Retirement Benefits in a Matrimonial Action
  - CLE – Onondaga County Bar Assn.

### **September 2012**

- The Continuing Complexity of Employer Responsibilities – Employee Benefits Update

### **May 2012**

- Matrimonial and Family Law Basics and Qualified Domestic Relations Orders (QDROs)
- CLE - CNY Women's Bar Association

### **December 2011**

- Possible Plan Amendment Required by December 21, 2011

### **September 2011**

- The Expanding Horizon of Employer Responsibilities – Employee Benefits Update

### **June 2011**

- What Plan for Which Client? – Financial Planners Association of CNY

### **October 2010**

- Update on Health Care Reform - W-2 Reporting Reprieve
- IRS Launches Compliance Check Program for 401K Plans
- The Changing Landscape of Employee Benefits - 2010 Update

### **February 2010**

- 2010 Estate Planning Update



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## Susan L. Dahline

Associate

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### Practice

Susie works with a wide variety of employers (privately-held, publicly-held, and non-profit organizations) in all aspects of employee benefits law, including tax-qualified retirement plans (single and multiemployer), health and welfare plans, nonqualified deferred compensation plans, fringe benefits, ERISA litigation, and executive compensation matters. She concentrates her practice in tax and ERISA compliance for tax-qualified retirement plans and health and welfare benefit plans.

Susie has broad experience in designing and resolving compliance issues related to all varieties of tax-qualified and nonqualified retirement plans. She advises employers regarding ongoing plan administration issues, tax-qualification issues, benefit claims, participant communications, compliance with ERISA's fiduciary responsibility provisions, prohibited transactions, issues that arise in mergers in acquisitions, and withdrawal liability matters related to multiemployer pension funds. She has significant experience working with the IRS on behalf of clients to resolve plan document and operational failures, and obtain letter rulings related to a plan's tax-qualified status. Susie also assists clients with Code section 409A issues related to nonqualified deferred compensation plans, severance agreements, and other executive compensation arrangements.

### Practice Areas

Employee Benefits  
Qualified Retirement Plans  
Tax Planning & Advocacy  
Executive Compensation

### Education

LL.M. Taxation, Georgetown University Law Center, 2008

M.P.A, Public Administration, Syracuse University – Maxwell School of Citizenship and Public Affairs, 2006

J.D, Syracuse University College of Law, 2006

B.A., Concordia College, 2000

### Admissions

- New York
- U.S. District Court for the District of Columbia
- U.S. Tax Court



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In the welfare plan arena, Susie helps employers design and resolve compliance issues related to group health plans and other welfare benefits, cafeteria (section 125) plans, wrap plans, multiemployer health and welfare trusts, as well as multiple employer welfare arrangements. She has extensive experience advising employers regarding issues that arise in administering health and welfare plans, federal tax issues for domestic partners and same-sex spouses, COBRA requirements, and compliance with the health care reform requirements under the Patient, Protection and Affordable Care Act of 2010 (PPACA).

Susie serves as an Editorial Advisor for the *Journal of Pension Benefits*, and also contributes to the *Journal of Pension Benefits*' tax-exempt entities column. Prior to joining the firm, Susie was an associate at Meyer, Suozzi, English & Klein in New York City, and also at Bond, Schoeneck & King in Syracuse, NY.

### **Professional and Community Involvement**

- Member, New York State Bar Association
- Member, New York Asian-American Bar Association
- Member, New York City Bar Association
- "Talk to a Lawyer" Program, Say Yes Syracuse

### **Recent Publications and Presentations**

- "The Self-Determined Path to Retirement Readiness: Providing Transparency and Education for Participants in 403(b) and Other Participant-Directed Individual Account Plans," *Journal of Pension Benefits* (Summer 2012)
- "Section 457(f) Plans: The Multi-Dimensional Substantial Risk of Forfeiture Conundrum," *Journal of Pension Benefits* (Winter 2012)
- "Thou Shall Be Exempt From ERISA: Church Plans Through the Lens of *Thorkelson v. Augsburg Fortress Publishers*," *Journal of Pension Benefits* (Summer 2011)

