

New Jersey Employee Benefits Handbook

Stephen F. Herbes, Esq.

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ONE CONSTITUTION SQUARE, NEW BRUNSWICK, N.J. 08901-1500
(732) 249-5100





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FOREWORD

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The *New Jersey Employee Benefits Handbook* was conceived and developed by Stephen F. Herbes, Esq., who recognized the need for a primer on the structure of retirement plans and other employee benefits in New Jersey. His goal is to help keep practitioners up to date with this complex, ever-changing field of law. Without his commitment to continuing legal education and, in particular, his willingness to contribute his practical knowledge and well-crafted forms, this publication would not be possible. ICLE is extremely grateful for his efforts and perseverance.

A publication such as this would also not be possible without a dedicated publishing staff. It is, therefore, fitting to acknowledge the efforts of Michael Weisberg, Esq., ICLE's Director of Publications. Donna Chamberlain, the Publications Administrator, and Dudley Engram, also of ICLE's staff, assure that orders are processed quickly and courteously. They assured that this book was published promptly, accurately, and efficiently.

Your satisfaction with the Institute and the CLE services we provide is very important to us. So that we may continue to provide the very best in educational materials, ICLE welcomes any comments or suggestions you may have about this book.

Lawrence M. Maron, Esq.

Executive Director,
New Jersey Institute for Continuing Legal Education

INTRODUCTION

Concern over employee benefits has reached fever pitch in recent years. With an aging populace — many of whom are woefully prepared to shoulder the financial burdens of retirement and long-term care — and federal and state pensions and other entitlements strapped for cash, employees are increasingly looking to their employers to make up the short-fall. Nowhere is this more evident than in the proliferation of 401(k) plans, IRAs, FSAs, and other tax-advantaged employee benefit arrangements. In the period from 1985 to 2005 alone, the number of 401(k) plans grew from an estimated 30,000 to over 417,000 (roughly 95 percent of all defined contribution plans in 2005).

The increased focus on employee benefits has placed new demands on practitioners. Counsel is expected to have some familiarity with the smorgasbord of employee benefit programs available to employers. When is it advisable to establish a defined benefit plan rather than a defined contribution plan? What requirements must a plan meet to receive tax-favored status under the Internal Revenue Code (“Code”)? The goal of this book is to provide the practitioner with answers to some of those questions.

After a brief review of the history leading up to enactment of the Employee Retirement Income Security Act of 1974 (“ERISA”), the practitioner will find a discussion of the various types of employee benefits that may be subject to ERISA, as well as the requirements that must be met to obtain tax-qualified status under the Code. A description of different employee benefit plans follows with a discussion of situations in which one type of plan might be more suitable than another. Sample language and forms are provided to assist the practitioner in drafting. Finally, the practitioner is provided with a description of the public benefits offered employees of the State of New Jersey.

I would like to thank Andrew Graw for sparking my interest in ERISA and employee benefits, James Karas for being such a wonderful mentor and friend, ICLE’s Director of Publications Michael Weisberg for having the patience of Job as he waited for me to finish this book, and editor Georgia Woodruff for making the book a much finer product than I am sure it would otherwise be. Any mistakes or oversights are, of course, my own. If you find one, please email me at sherbes@herbeslaw.com.

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