

Governmental Qualified Defined Benefit and Defined Contribution Plans

The principal retirement plan for state and local employees in the United States is the qualified defined benefit plan. Many have been in existence for quite a few decades. In structure, they are very different from private sector 401(a) qualified plans. They are usually based on statutes, rules and regulations rather than having a traditional plan document, and are not subject to many of the rules that apply to other qualified plans. They are typically overseen by retirement system boards that are separate from the employers who participate and governed by their own statutes. In addition, these plans are exempt from Employee Retirement Income Security Act (ERISA).

Increasingly, governmental employers are using hybrid plans such as cash balance plans, and defined contribution plans such as money purchase plans or grandfathered 401(k) plans to provide retirement benefits. These, too, operate under rules quite different than private sector defined contribution plans.

Groom is very familiar with all of the special rules applicable to public qualified plans. Examples of our experience include:

- Drafting governmental qualified plans.
- Compliance reviews of governmental plans focused on some of the issues particular to the public plan world.
- Obtaining Internal Revenue Service (IRS) determination letters for public plans - many for the first time.
- Advising on governmental plan corrections, including under the IRS correction program, Employee Plans Compliance Resolution System.
- Advising on taxation of distributions, including disability benefits.
- Advising on plan limitations, and assisting in establish 415(m) excess plans.
- Assisting plan sponsors in IRS audits.
- Reviewing proposed plan legislation for IRS compliance.
- Advice in changing from a defined benefit system to a defined contribution system.
- Assisting the system in communicating tax issues to state legislative staff.

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- Obtaining IRS private letter rulings for governmental plans on IRS issues.
- Advice regarding the 414(h) "pickup" rules.
- Application of Federal Insurance Contributions Act to governmental plan contributions.
- Advice regarding what types of employers can participate in a governmental plan.