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Litigation Against 403(b) Plan Fiduciaries

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A spate of lawsuits brought against sponsors and named fiduciaries under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, connected to plans established under 403(b) of the Internal Revenue Code of 1986 (Code), as amended, should remind employers, their advisers, and providers that these plans can be subject to ERISA. Thus, with regard to these plans, fiduciaries are required to comply with ERISA in their management and administration.

Notably, these lawsuits challenge the manner in which these plans have been designed, managed, and operated over many years. The purpose of this article is to provide a brief overview of 403(b) plans, discuss when such plans are subject to ERISA, review the key allegations raised in ERISA breach of fiduciary duty lawsuits, and discuss the status of these cases.

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