

## Retirement Services

# Audits & Investigations

## Department of Labor

Acting through the Employee Benefits Security Administration (EBSA), an agency of the Department of Labor (DOL), the Secretary of Labor exercises broad investigatory and enforcement authority under Title I of the Employee Retirement Income Security Act (ERISA). EBSA investigators seek to identify possible violations of the statute's fiduciary responsibility and prohibited transaction (PT) provisions through investigations and agency enforcement initiatives. These efforts target plan sponsors, and entities that provide services to ERISA-covered plans. The majority of EBSA investigations lead to monetary results or fines levied against the targeted entity.

Groom attorneys regularly achieve favorable results for individuals and entities targeted by EBSA investigations. In defending EBSA investigations, Groom attorneys address disputes regarding fiduciary issues, prohibited transactions and associated excise tax liability. We are often able to minimize the overall cost of dealing with an EBSA investigation. In responding to such investigations, clients receive the benefit of strong substantive knowledge and thorough understanding of DOL and IRS procedures.

### SPECIALIZATIONS

- Audit and Investigations

Examples of broad types of investigations handled by Groom include:

- Defending numerous plan clients in connection with investigations tied to the handling of missing participants.
- Defending banks and trust companies in connection with investigations related to compliance practices with respect to collective investment trusts.
- Defending financial institutions under investigation for their management of float income.
- Negotiating favorable settlements of investigations of investment manager fee arrangements.

## Internal Revenue Service

Internal Revenue Service (IRS) audits of qualified plans, employment taxes, fringe benefits and executive compensation are all on the upswing. Many benefits have come under increased scrutiny – posing new challenges for tax and Human Resource managers.

Groom attorneys have 50 years of experience producing successful outcomes from IRS challenges through thorough case preparation, maintenance of solid factual documentation, use of creative legal strategies, and execution of careful research to identify authorities. Using these tools – as well as our longstanding work with key IRS staff – we have produced very favorable outcomes for clients such as:

- Settled a complex deferred compensation employment tax audit for 5% of the amount demanded by IRS.
- Negotiated a closing agreement that preserved a governmental retirement plan's qualification for a modest sanction.

- Resolved sophisticated Individual Retirement Account (IRA) compliance issues to conserve maximum IRA assets for the owner's benefit.
- Entered into closing agreements to preserve an inherited IRA status.
- Assisted with payroll and fringe benefit audits, along with successful abatement of various reporting and withholding penalties under reasonable cause (or successful negotiation of a reasonable settlement in appeals).
- Closed numerous qualified plan audits (both pre-approved and individually designed plans) without incident – i.e., the audit of 401(k), profit sharing plan, traditional defined benefit plan, ESOP, 403(b) plan, cash balance plan, SIMPLE IRA, etc. With both focused and comprehensive audits, we successfully closed the audit and preserved the tax-qualified status of the plan, with either no sanction imposed or negotiated a reasonable sanction amount (with reasonable correction action taken). These audits included focus on minimum required distributions, missing participants, benefit calculations, etc.