

THE WAGNER LAW GROUP

Legal Updates in ERISA, Employee Benefits & Human Resources

ERISA & Employee Benefits
Estate Planning & Administration
Employment, Labor & Human Resources

January 2012

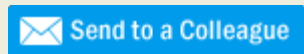


Table of Contents

[Year in Review](#)

[ERISA/Employee Benefits
Compliance Checklist](#)

[Welfare Benefit Plans](#)

[Tax Qualified Plans](#)

[Employee Plan Issues in
General](#)

Wagner Law Group Year in Review

The 401kWire has nominated **Marcia Wagner** as one of the "100 Most Influential People in Defined Contribution." For a full list of names and information about voting, go to:

www.401kwire.com

The Wagner Law Group website provides comprehensive resources on

Happy New Year! This promises to be a challenging year as a number of regulations take effect in 2012. To kick off the New Year, we've developed an ERISA and employee benefits legal compliance checklist to help you assess your benefits program and structure. Please take a few minutes for this important due diligence check.



If you have any questions about the checklist and your answers, please contact me or your primary law firm contact. Even one poorly answered question could be very problematic, with significant cost and liability implications. Make sure that 2012 starts with your benefits in full legal compliance.

Best regards,
Marcia Wagner



ERISA/Employee Benefits Legal Compliance Checklist

Welfare Benefit Plans

1. Do you have an ERISA-compliant plan document?
2. Do you have an ERISA-compliant summary plan description?
3. To the extent that the plans are self-insured, are they in writing?
4. Has consideration been given to the Medicare Part D requirements regarding required notification for prescription drugs and potential federal subsidies?
5. To the extent that there are more than 100 eligible employees participating in the plan, have Forms

ERISA and employee benefits. Below are links to these resources.

Television Appearances

In 2011 Marcia Wagner appeared on several **national television programs** talking about ERISA issues.

Articles Quoting The Wagner Law Group

The Wagner Law Group team was quoted 28 times in **national, regional and local publications** in 2011.

Seminars and Presented Papers

The Wagner Law Group **presented papers** at 44 seminars and conferences in 2011.

Publications and Articles

The Wagner Law Group wrote 20 **articles** in 2011 discussing a broad range of topics in ERISA and employee benefits; estate planning; and employment, labor and human resources law.

Webinars and Podcasts

In 2011 Marcia Wagner presented seven **webinars** addressing ERISA and employee benefits.

News Releases

The Wagner Law Group had an exciting year in 2011 adding two new offices in **New York** and **Florida**, and expanding the practice into **Estate Planning** and

5500 been filed annually and timely?

6. If you maintain a 125, flexible spending account, dependent care assistance or other cafeteria plan, is it in writing? When was it last updated?
7. When were your COBRA notices last updated? Are such notices distributed timely and in compliance with the law?
8. Are your health plan documents, open enrollment forms and premium conversation documents updated to comply with the Health Care Reform rules?

Tax Qualified Plans

1. Has the plan document been amended for the Economic Growth and Tax Relief Reconciliation Act of 2001 and other tax and ERISA law changes?
2. When must your plan be filed for a favorable determination letter under the IRS' new cycle requirements?
3. Has the plan received a favorable determination letter and/or does the employer have a copy of the opinion or a notification letter in the case of prototype plans?
4. Does the summary plan description accurately reflect the terms of the plan?
5. If there are more than 100 employees participating in the plan, does the Form 5500 contain the required audited financial statements?
6. Are employer contributions made timely and in accordance with the terms of the plan, and are employee elective deferral contributions (e.g. 401(k) and 403(b) contributions) made as soon as administratively practicable as required by law?
7. Are all nondiscrimination tests accurately performed, including controlled group testing?
8. How is the investment asset mix determined, modified, monitored and re-balanced?
9. Who is rendering appropriate investment advice and is this entity a fiduciary?
10. Has it acknowledged its fiduciary status in writing?
11. What are all the direct and indirect fees being paid from plan assets, including, but not limited to, revenue sharing?
12. Has a reasonableness analysis been undertaken to determine if the plan is getting good value for the services it is paying for?
13. When was the last time an RFP was done vis-à-vis plan administration, investment, accounting and recordkeeping?
14. Are the plan and all fiduciaries appropriately bonded?
15. Do the fiduciaries have liability insurance?
16. Does the plan sponsor indemnify its fiduciary-employees and Board members?
17. Are you aware of and prepared for all of the new disclosure requirements that will become effective in 2012?

Employment Law.

Newsletters

The Wagner Law Group's **Newsletter** provides information on the latest changes in ERISA and employee benefits; estate planning; employment, labor and human resources law.

Contact Info

The Wagner Law Group

Massachusetts Office

Tel: (617) 357-5200
Fax: (617) 357-5250
99 Summer Street
13th Floor
Boston, MA 02110

Florida Office

Tel: (561) 293-3590
Fax: (561) 293-3591
7121 Fairway Drive
Suite 203
Palm Beach Gardens, FL 33418

New York Office

Tel: (716) 650-5987
Fax: (716) 633-0301
333 International Drive
Suite B-4
Williamsville, NY 14221

www.wagnerlawgroup.com

This Newsletter is protected by copyright. Material appearing herein may be reproduced with appropriate credit.

Pursuant to Internal Revenue Service Circular 230, we hereby inform you that any advice set forth herein with respect to US federal tax issues is not intended or written by The Wagner Law Group to be used and cannot be used, by you or any taxpayer, for the purpose of avoiding penalties that may be imposed on you or any other person under the Internal Revenue Code.

This Newsletter is provided for information purposes by The Wagner Law Group to clients and others who may be interested in the subject matter, and may not be relied upon as specific legal advice. This material is not to be construed as legal advice or legal opinions on specific facts. Under the Rules of the Supreme Judicial

Employee Plan Issues in General

1. Do you have an employee handbook?
2. When was your employee handbook last updated?
3. Are your leave of absence policies in writing and distributed (e.g., maternity/paternity, military leave, and other leaves of absence)?
4. What policies and procedures do you have in place with respect to same-sex spouses and domestic partners?
5. Do you understand and are you complying with the tax ramifications concerning same sex and domestic partner benefit coverage?

Court of Massachusetts, this material may be considered advertising.

Current and back issues of this Newsletter are available on our website at:

www.wagnerlawgroup.com.