Holland & Hart



PRACTICES

Employee Benefits and Executive Compensation
Tax

EDUCATION

University of Colorado Law School, J.D., 1998

University of North Dakota, B.Acc., 1993

BAR ADMISSIONS

Colorado

Brenda Berg

Partner

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Brenda provides invaluable insight to employers on a broad spectrum of tax and ERISA matters affecting employee benefit plans.

For over 25 years, Brenda has provided forward-thinking and practical counsel to clients. Her advice spans from the initial stages of design and drafting, to the everyday queries and challenges that emerge in the complex world of ERISA. She collaborates with clients to understand their needs and identify the most suitable compliance options that meet their goals while minimizing legal risks.

Brenda has extensive experience with qualified and nonqualified defined contribution and defined benefit pension plans, in addition to health and welfare plans. She particularly enjoys helping plan sponsors and committees comprehend and execute their fiduciary responsibilities.

CLIENT RESULTS

Representative Clients and Matters

Recommend and prepare documentation for corporate governance structures and best practices for fiduciary governance.

Meet with plan committees and provide ongoing fiduciary training and advice on legal requirements for retirement plans and welfare plans and updates on new developments.

Draft or review plan documents and summary plan descriptions for retirement plans (including 401(k) and defined benefit plans) and welfare plans (including self-insured plans and cafeteria plans) and advise on compliance issues related to these programs.

Represent employers before the Internal Revenue Service (IRS) and Department of Labor (DOL) in audits and penalty assessments related to employee benefit plans.

Review service provider agreements and retirement plan fee disclosures.

Review and negotiate service provider agreements for best plan sponsor and fiduciary protections.

Help fiduciaries proactively comply with welfare plan obligations under the Consolidated Appropriations Act, 2021 (CAA), including health plan fee disclosures.

Assist with PBGC filings and negotiations for defined benefit plan funding

requirements.

Draft severance plans and consult on employee benefits matters in reductions in force (RIFs), including early retirement incentives, partial plan terminations, potential PBGC issues, COBRA, and separation agreements.

Guide employers on corrections through the DOL's Voluntary Fiduciary Correction Program (VFCP) and the IRS program Employee Plans Compliance Resolution System (EPCRS).

Help employers identify risks in due diligence of acquired entities, or prepare plans for sale, and advise buyers on employee benefits structure and implementation for post-deal coverage of employees.

Provide legal compliance support and plan amendments regarding de-risking strategies for defined benefit plans, such as lump sum windows and annuity transfers.

Advise on correction of Section 409A compliance errors in administration of nonqualified deferred compensation plans, and draft IRS correction statements.

BLOG POSTS

"Just Because I'm Missing, Doesn't Mean I'm Lost: Should Plan Sponsors Provide Data for the DOL's Missing Participant Database?," *Benefits Dial*, April 26, 2024

"The Time Has Come, A Fact's A Fact: Consider Adding a Welfare Plan Committee," *Benefits Dial*, September 28, 2023

"Should I Pay Or Should I No(t) Now: Which Expenses Can be Paid with Plan Assets?," *Benefits Dial*, March 10, 2023

"Oh Won't You Stay…Until the Bonus is Paid," *Benefits Dial*, December 09, 2022

"Time Is On My Side: Some Retirement Plan Amendment Deadlines Pushed Back," *Benefits Dial*, August 05, 2022

"How Much is that (Investment) in the Window…A Higher Level of Fiduciary Oversight Could be Required for 401(k) Plan Brokerage Windows," *Benefits Dial*, April 14, 2022

"The Tide is High…Keep Holding On For More Retirement Plan Fee Litigation," *Benefits Dial*, January 28, 2022

SPEAKING ENGAGEMENTS

"Fiduciary Best Practices and Developments," *2026 Denver Retirement Plan University Fiduciary Summit*, June 3, 2026

"Alternative Investments in 401(k) Plans," *Employee Benefits Symposium 2026*, March 11, 2026

"Employee Benefits Symposium 2026," *Employee Benefits Symposium 2026*, March 11, 2026

"Mastering Your Health & Welfare Fiduciary Role in 2025," *Liability & Leadership*, August 14, 2025

"Employee Benefits Symposium 2025," *Employee Benefits Symposium 2025*, March 12, 2025

"Fiduciary Oversight of Managed Accounts," *Employee Benefits Symposium 2025*, March 12, 2025

"Around the World of Employee Benefits," *TEI Denver Chapter Tax Seminar*, June 26, 2024

"Fiduciary Focus - What's On Our Radar," *Employee Benefits Symposium 2024*, February 27, 2024

"Managing Risk in Employee Benefit Plans," *Front Range In-House Counsel Presentation*, November 8, 2023

"SECURE 2.0 Update - What Have We Seen So Far and What's Still To Come?," *WP&BC Denver Chapter Meeting*, October 24, 2023

"The Good, The Bad and The Ugly – What you Need to Know about Retirement Plans," *Panelist, Retirement Plan University*, October 13, 2022

"Three Employee Benefit Trends to Put on Your Radar," *Holland & Hart 2019 SLC Tax Conference*, Salt Lake City, UT, November 14, 2019

"Defined Benefit Plan Communications... Explaining DB Specific Issues and Required Notices to Plan Sponsors," *2019 NIPA Annual Forum & Expo (NAFE), Co-presenter*, April 29, 2019

"How to Avoid Findings in an IRS or DOL Examination," *Innovest & Eide Bailly: Cross Fit Training for Your Plan*, January 23, 2019

RECOGNITION

- *The Best Lawyers in America*® Lawyer of the Year, Employee Benefits (ERISA) Law – Denver, 2017, 2019, 2024, 2026
- *The Best Lawyers in America*®, Employee Benefits (ERISA) Law, 2013-2027; Tax Law, 2019-2027
- *Chambers USA*, Employee Benefits & Executive Compensation, 2021-2026
- Western Pension & Benefits Council - Denver Chapter, Lifetime Achievement Award, 2025

PROFESSIONAL AND CIVIC AFFILIATIONS

- Holland & Hart Tax & Benefits Practice Group Leader, 2019-2022
- Western Pension and Benefits Council Governing Board (all chapters), Past President and Board Member

- Western Pension and Benefits Council, Denver Chapter, Past President and Board Member
- Colorado Bar Association, Member
- American Bar Association, Member
- Child Advocates, Denver CASA, Board Member, 2025-present
- Former CPA designation; not currently licensed