

Guide to Assigning & Loaning Benefit Plan Money

Employee Benefits Series

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Be Watchful for Prohibited Transactions on Smaller Plans

Plan administrators should be on the lookout for prohibited transactions even in smaller plans, such as an individual retirement account (IRA) or an individual retirement annuity. Advisory Opinion 2011-04A, issued Feb. 3, 2011 by the U.S. Department of Labor (DOL), counsels that a disqualified person — in this case, an owner of an IRA — completes a prohibited transaction when the IRA buys a promissory note that is held by a bank where the owner and his wife are the obligors on the note.

The rules governing prohibited transactions — including the consequences — can be just as pertinent to IRAs and individual retirement annuities as they are to more large-scale plans. Inside, new Contributing Editor Megan Mardy susses out the details of the DOL advisory opinion, and what they mean for you. *Page 2*

State Pension Benefits May Be Garnished Up to 25 Percent

The 5th U.S. Circuit Court of Appeals ruled that the federal government has the authority to garnish an individual's retirement benefits; however, the amount is capped at 25 percent of the person's monthly pension benefit.

The decision helps to classify retirement benefits as "earnings." Before, district courts have split on whether retirement benefits can be labeled as disposable earnings under the Consumer Credit Protection Act, and thus be garnished. However, the 5th Circuit found that any periodic payments from a pension or retirement program constitutes earnings, despite the precedent that pension benefits are inalienable under federal and state law. *Page 4*

Megan Mardy Joins Lisa Loesel As Contributing Editor

The Thompson Publishing Group is happy to announce that Megan Mardy has joined Lisa Loesel as contributing editor to the *Guide*. Mardy and Loesel are associates at McDermott Will & Emery LLP's Chicago office. Mardy focuses her practice on employee benefits matters, particularly pension plans, 401(k) plans, cafeteria and welfare plans, and executive compensation.

The Thompson Publishing Group also wants to thank Natalie Nathanson, departing contributing editor to the *Guide*, for her long and distinguished service to the publication and its subscribers, as she transitions into her new role as partner at McDermott Will & Emery LLP.

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Update Pages

Added a new discussion of basic information and answers to frequently asked questions on QDROs (¶150)

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