The timing and content of assignments on this syllabus may change as the course progresses. If so, you will be notified of any changes in class. For this reason, if you miss a class you should contact another student or me to confirm the next week’s assignment.

1. **January 21: Origins and Fundamentals of the Pension System:** "Will you still need me, will you still feed me, when I’m 64?" The Beatles.
   a. Langbein, Stabile & Wolk, skim pages 2 through 39, read pages 40 through 71
   b. Internal Revenue Code of 1986, as amended (the "Code"), sections 414(i) and (j), 401(a) (introduction only); Treas. Reg. section 1.401.1
   c. Employee Retirement Income Security Act of 1974, as amended ("ERISA"), sections 3(1) through (3), (34) through (37), (41)
   d. **Study Questions**
      1. What is a qualified plan?
      2. Why does Congress provide tax incentives for a voluntary private pension system (i.e., one provided by private employers rather than public programs)?
      3. Briefly define "defined benefit plan" and "defined contribution plan."

2. **January 28: Overview of ERISA; What is an ERISA Plan?**
   a. Langbein, Stabile & Wolk, pages 72 through 117
   b. Donovan v. Dillingham (handout)
   c. ERISA sections 3(1) through 3(8), 3(11), 3(12), 3(32), 4(a), 4(b), skim ERISA sections 101-110
   d. DOL Reg. sections 2510.3-1 through 2510.3-3
   e. **Study Question**
      1. Under Dillingham what are the four factors to be considered in determining whether an employer has established or maintained an ERISA plan?

3. **February 4: ERISA and the Regulation of Welfare Benefit Plans**
   a. **What is a Welfare Benefit Plan?**
      1. Langbein, Stabile & Wolk, pages 117 through 127
      2. ERISA section 3(1); DOL Reg. section 2510.3
   b. **Severance Plans**
      1. Donovan v. Dillingham revisited
   c. **COBRA Obligations**
      1. Langbein, Stabile & Wolk, pages 127 through 132
      2. ERISA sections 601 through 609
      3. Code section 4980B
   d. **Taxation of Welfare Benefits**
      1. Code sections 79, 105, 125, and 129
e. Nondiscrimination Rules for Employee Welfare Benefits
   1. Langbein, Stabile & Wolk, pages 433 through 434 and 455 through 457
f. Reducing or Terminating Health Plan Benefits
   1. Langbein, Stabile & Wolk, pages 179 through 200
g. Study Questions
   1. What are the advantages of providing welfare benefits through a cafeteria plan?
   2. What circumstances trigger the obligation for an employer to provide COBRA continuation coverage?

4. February 11: Preventing Forfeitures
   a. Langbein, Stabile & Wolk, pages 133 through 167
   b. Code sections 401(a)(7), 411
   c. ERISA sections 201, 203, 204, 404, 502
   d. Study Questions
      1. Is a plan required to give service credit for vesting purposes on account of an employee's service before such employee was eligible for participation in the plan?
      2. Is a plan required to give service credit for vesting purposes on account of an employee's service before the plan was put into effect?
      3. In the event a participant in a defined benefit plan dies during employment and prior to attaining his or her normal retirement age, may his or her accrued benefit be forfeited?

5. February 18: Plan Amendment
   a. Langbein, Stabile & Wolk, pages 168 through 204 (excluding pages 180 through 199)
   b. Code sections 401(a)(7), 411
   c. ERISA sections 204, 510
   d. Study Questions
      1. Why limit the ability to amend a qualified plan?

6. February 25: Overview of the Taxation of Qualified Plans
   a. Langbein, Stabile & Wolk, pages 327 through 376 (excluding pages 354 through 372)
   b. Code sections 401(a), 403, 404, 408, 501(a); Treas. Reg. section 1.401-1
   c. Study Questions
      1. When can an employer generally deduct its contribution to a qualified plan?
      2. When are the earnings on assets in a qualified plan's trust taxable?
      3. When are benefits under a qualified plan taxable to participants?
      4. What are the tax effects to the employer of a qualified plan that is disqualified?
      5. What are the tax effects to an employee who is participating in a qualified plan that is disqualified?
7. **March 4: Taxation of Non-Qualified Compensation: Section 83; Section 409A; Constructive Receipt & Economic Benefit; Deduction of Expenditures by Payor**
   a. Langbein, Stabile & Wolk, pages 354 through 372
   b. Code sections 61, 83, 162(a), 409A, 451
   d. ERISA sections 3(1), 3(2)
   e. *Study Question*
      1. Given the rule of section 404 (preventing deduction until inclusion in income for non-qualified compensation), what purpose is served by section 409A?

8. **March 11: Taxation of Non-Qualified Compensation (Continued – see above) and Review**

9. **March 18: Spring Break**

10. **March 25: Coverage Nondiscrimination**
    a. Langbein, Stabile & Wolk, pages 377 through 399
    b. Code sections and Treas. Reg. sections (read together as follows):
       1. Code sections 410(b)(1)-(2) (coverage testing in general); Treas. Reg. section 1.410(b)-5 (average benefits percentage test)
       2. Code sections 414(q) (definition of highly compensated employee)
       3. Code section 410(b)(6)(B); Treas. Reg. section 1.410(b)-7(c)(d) (plan aggregation);
       4. Code sections 414(b), (c), and 1563(a), (d), (e) (definition of a controlled group of corporations); Code sections 414(m), (n), (o), and 318(a) (affiliated service groups and leased employees).
       5. Code sections 410(b)(5), 414(r); Treas. Reg. section 1.414(r) (separate lines of business)
    c. *Study Questions*
       1. Which employees must be taken into account in applying the minimum coverage test of Code section 410(b)?
       2. Which employees can be counted as "benefiting" under a plan for purposes of Code section 410(b)?
       3. For purposes of Code section 410(b), if the average benefit percentage of highly compensated employees is 9%, what must the minimum average benefit percentage of nonhighly compensated employees be in order to satisfy that part of Code section 410(b)?

11. **April 1: Nondiscrimination in Contributions and Benefits**
    a. Langbein, Stabile & Wolk, pages 399 through 433
    b. Code and ERISA sections; Treas. Reg. sections (read together as follows):
       1. Code section 411(b); ERISA section 204 (accruals)
       2. Code sections 401(a)(4), (5), (17) and 414(s)
3. Scan Treas. Reg. section 1.401(a)(4)-1 (general nondiscrimination principles)
4. Scan Treas. Reg. section 1.401(a)(4)-2 (nondiscrimination in contributions)
5. Scan Treas. Reg. section 1.401(a)(4)-3(a) & (b) (nondiscrimination in benefits)
6. Scan Treas. Reg. section 1.401(a)(4)-3 (general test for nondiscrimination)
7. Scan Treas. Reg. section 1.401(a)(4)-4 (nondiscrimination in availability of benefits, rights, and features)
8. Code section 414(s) (compensation); Treas. Reg. section 1.415-2(d)(2) (definitions of compensation)

9. Code sections 401(k), 402(e), 402(g) (cash or deferred arrangement); Code section 401(m) (employee and matching contributions); Code section 414(v)

d. Study Questions

1. What is the basic rule of Code Section 401(a)(4)? What are the three basic parts of the Code section 401(a)(4) general nondiscrimination requirements?
2. What is the significance of Code section 401(a)(17)? Why did Congress lower the limit in Code section 401(a)(17) from $200,000 (adjusted for inflation) to $150,000? Why did Congress raise it again in EGTRRA to $200,000?
3. What is the relevance of Code section 414(s) "compensation" to Code section 401(a)(4) nondiscrimination testing?
4. What is the advantage of a Code section 401(k) arrangement over ordinary profit-sharing or stock bonus plans?
5. What plan qualification requirements apply to a Code section 401(k) arrangement that do not apply to ordinary profit-sharing or stock bonus plans?
6. What is the difference between the limitation set forth in Code section 401(g) and the test set forth in Code section 401(k) ? Code section 415?
7. Why are an employee's pre-tax contributions treated as employer contributions?
8. Briefly define:
   (1) CODA
   (2) Elective Deferrals
   (3) Employee Contributions
   (4) Employer Matching Contributions
   (5) ADP Test
   (6) ACP Test
   (7) Excess Contributions
   (8) Excess Aggregate Contributions
   (9) Excess Deferrals
9. Why would an employer want to sponsor a Code section 401(k) plan? Why would a participant want to participate in such plan?
12. **April 8: Limitation on Contributions and Benefits; Deductibility of Contributions**
   a. Langbein, Stabile & Wolk, pages 435 through 461
   b. Code sections 404, 415; Treas. Reg. section 1.415-2(d)(2)
   c. ERISA sections 3(36), 201(7), 301(9)
   d. **Study Questions**
      1. Describe the components of the Code sections 415(b) and 415(c) limits.
      2. What is the sanction for violation of Code section 415 limits?
      3. Why does Congress limit deductibility of contributions to a qualified plan?

13. **April 15: Distributions**
   a. Langbein, Stabile & Wolk, pages 462 through 507
   b. Code sections 401(a)(11), 417, 414(p), 72(a)-(f), 401(a)(14), 402(a), 401(a)(9)
   c. ERISA sections 205, 206
   d. **Study Question**
      1. Angela's uncle died and left her several million dollars, so Angela is not going to need her pension and profit-sharing benefits for retirement. Angela would like to simply refrain from receiving those benefits after she retires and let them be paid to her grandchildren at death. What tax rules will come into play and how will they affect the time of the distribution of Angel's pension and profit-sharing plan benefits?

14. **April 22: Funding**
   a. Langbein, Stabile & Wolk, pages 205 through 223
   b. Code section 412, ERISA sections 301 and 302
   c. **Study Questions**
      1. What is the sanction for failure to satisfy the minimum funding requirements for a year?
      2. Who is liable for failure of a plan to meet the minimum funding requirements for a year?
      3. How does an employer who sponsors a plan subject to the minimum funding requirements know the amount of the contribution that is required for a given year to satisfy Code section 412?

15. **April 29: Prohibited Transactions**
   a. Langbein, Stabile & Wolk, skim pages 511 through 539, read pages 556 through 570, read pages 588 through 595
   b. Code section 4975; Treas. Reg. section 54.4975-1
   c. ERISA sections 3(14), 3(16), 406, 408, DOL Reg. sections 2510.3-21, 2550.408b-2, 2250.408b-4, 2250.408b-6, 2250.408c-2, 2570.30, 2570.32
   d. **Study Question**
      1. Why did Congress impose "strict liability" on prohibited transactions without regard to whether the transaction imposes harm on the participants or beneficiaries of a plan?
16. May [?]: Final Exam

It is currently my expectation to give a final exam consisting of approximately twelve equally-weighted short-answer essay questions. The questions may come from any part of the assigned reading, materials provided in class, or classroom instruction or discussion. Generally speaking, I hope each answer to a question will cover identification of issues, analysis of issues, citation of relevant laws, cases, and regulations, discussion of applicable policies or trends, and a clear exposition of the foregoing points (that is to say, good writing counts). I expect to allow you to use the book and other materials, notes, or anything else that you might want as reference material during the exam.

I want class participation, but I have found in the past that the material is difficult to cover using only the Socratic Method. Further, this would be extremely taxing on the students, since the class size is usually quite small. I prefer genuine discussion to the Paper Chase kind of stand-and-recite. So, while I state that class participation counts as ten percent of the grade, I should note that in past classes, everyone has gotten the participation points. Thus, it is more of a reserved threat to use against the truly recalcitrant student, a hypothetical person who has not yet attended any of my classes.