Thursday

1. Purchase required books at the bookstore or otherwise.
   – The casebook is:

   – There is also a required statutory supplement:
     - Andersen, Pratt, and Stumpff, Pension and Employee Benefit Statutes and Regulations, Selected Sections (Foundation Press (2017 Edition))

2. Prepare Problem I which is available in the Course Documents section of the class website. A Course Objectives and Course Outline document is also available in the Course Information section of the website.
Course Objectives: This course provides a thorough understanding of the federal tax, labor, and other regulatory and policy aspects of employee benefit plans – both employee pension and employee welfare plans – for students interested in an employee benefits practice. This understanding is developed through a detailed examination of the principal federal tax and labor statutes governing eligibility, vesting, benefit accruals, nondiscrimination, deductions, funding, plan distributions, reporting and disclosure, fiduciary responsibility, prohibited transactions, and terminations for employee benefit plans. This course also integrates an understanding of ERISA provisions involved in employee benefit plan litigation, such as Remedies and Preemption, with the substantive provisions of federal employee benefit plan laws.

Course Outline:

I. National Retirement Income Security Policies, Terminology, Statutory Overview and Structure (1 class)

II. Pension and Retirement Plans Generally
   – types of plans (2 classes)
     – defined benefit plans
     – defined contribution plans
     – hybrid plans
     – IRAs
   – failure of market-based plan provisions leading to ERISA (3 classes)
     – vesting/portability
     – benefit accrual
     – funding
     – spousal protection
     – bankruptcy and creditor protection
   – funding, benefit reduction, plan amendment and termination issues (3 classes)
     – in general
     – defined benefit plans in particular
     – should there be a public guarantee?
III. Taxation and Tax Subsidy for Qualified Plans of Deferred Compensation
   – what form(s) does the subsidy take (2 classes)
   – at the time of contribution and distribution
   – taxation of the fund
   – economics of deferral
   – comparison with nonqualified plans of deferred compensation
   – availability and abuses of subsidy (4 classes)
     – nondiscrimination
     – section 401(k)
     – scope of subsidy (section 415, etc.)
   – regulation and taxation of distributions (2 classes)
     – rollovers (policy and regulation)
     – penalty tax under section 72(t)
     – minimum distributions under section 401(a)(9)

IV. Fiduciary Responsibility and Prohibited Transactions (3 classes)
   – who is a plan fiduciary?
   – what are the applicable fiduciary standards and fiduciary duties?
   – consideration of the special case of medical plans and HMOs (Pegram)
   – what is a prohibited transaction?
   – who is subject to the prohibited transaction rules?

V. Plan Administration, Claims Procedures, Remedies, Judicial Review (3 classes)
   – benefit denials
   – judicial review of plan decisions
   – enforcement and remedies
   – judicial restrictions on remedies under ERISA § 502

VI. ERISA Preemption of State Regulation of Employee Benefit Plans (3 classes)
   – ERISA §§ 514(a) and the interpretation of “relate to” by the courts
   – the savings clause of ERISA § 514(b)
   – the special case for preemption of state law remedies under ERISA § 502(a)

VII. Welfare Plans under the Code and ERISA (2 classes)
    – basic taxation of welfare plans (especially health care plans)
    – basic ERISA regulation of welfare plans
    – overview of 2010 Health Care Reform Legislation
EMPLOYEE BENEFITS LAW

Problem I
Introduction
Policies, Terminology, and Statutory Overview and Structure

Assignment

Code: §§ 401(a) (skim); 414(i); 414(j); 501(a)

ERISA: §§ 2; 3(1); 3(2); 3(3); 3(34); 3(35); 4

Langbein, Pratt, Stabile & Stumpff (6th ed) (LPSS): 1-36; 77-80; 287-292; 303-308

The purpose of this problem is to acquaint you with the basic federal statutory and regulatory structure that applies to employee benefit plans. This is an area of law in which two major statutes – the Internal Revenue Code and ERISA – have significant application. We will want to consider in this problem what general policy issues both statutes aim to address, and we will want to begin to become familiar with both of these statutes.

This course will focus primarily on "retirement plans." Another purpose of this problem is to begin to become familiar generally with the concepts, terminology, and statutory pattern associated with retirement plans under the Code and ERISA, particularly qualified plans of deferred compensation. We will primarily be attempting to create a conceptual foundation for the more thorough examination that will follow in later problems.

Overview of Statutory Policies and Statutory Structure

The course will begin with a discussion of some of the policies that underlie the federal regulatory scheme for employee benefit plans, particularly retirement plans. Students should consider the following preliminary questions:

(1) What is the current national policy with respect to retirement income security? How did the national policy evolve to its current status?

(2) What roles should be played relative to national retirement income security policy by (a) private savings, (b) government transfers, and (c) employer sponsored plans? Should the federal government be involved at all in each individual's decision to save for retirement?
(3) What is the basic relationship between the Code and ERISA? Are the policies behind each statute properly coordinated with each other? What is the basic enforcement structure for each statute?

(4) Are there any other sources of legal rules that should be considered in the context of employee benefit plans?