Bankruptcy Impact on Employee Benefit Plans

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As some companies experience financial hardship as a consequence of the Covid-19 pandemic, bankruptcy filings under Chapter 11 of the U.S. Bankruptcy Code are on the rise. Companies looking to restructure and streamline costs in the bankruptcy process often look to employee benefit plans as one area for change.

This article broadly addresses the impact of a Chapter 11 bankruptcy on employee benefit plans and some of the significant employee benefits issues that debtors face in a Chapter 11 restructuring, including potential sale of the debtor's assets under 11 U.S.C. §363 of the Bankruptcy Code.

Companies with significant benefits liabilities are sometimes forced to file for bankruptcy to facilitate a transaction that would not otherwise be possible outside of the bankruptcy process. Following a bankruptcy filing, a debtor must examine whether to continue or terminate its employee benefit plans as part of the restructuring. The laws applicable to employee benefit plans in bankruptcy are complex, and their application to any particular debtor is very fact specific.

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