



Employee Benefits

Foster Swift's employee benefits practice offers a full range of tax, labor law and litigation services relating to employee benefit plans. We advise clients who are subject to the Employee Retirement Income Security Act (ERISA), as well as state and local governments and qualifying church organizations that are exempt from ERISA.

Our attorneys assist with the design and drafting of benefit plans and related employee disclosure materials. We also help employers ensure that their programs comply with changes in relevant law. We negotiate closing agreements and private letter rulings with the Internal Revenue Service (IRS) and work with employers regarding IRS and U.S. Department of Labor Audits. Our practice also includes advising clients regarding important corporate transactions that involve Employee Stock Ownership Plans (ESOPs), and prohibited transaction and other special legal problems.

Our team provides advice to employers regarding the corporate governance and fiduciary duty aspects of implementing and administering an employee benefit plan. We also advise clients regarding the growing area of international employee benefit planning. This work includes the taxation of employee benefit plans pursuant to tax treaties.

Our work covers all kinds of qualified retirement plans, including (1) 401(k), ESOP, 403(b) and other defined contribution plans, and (2) defined benefit plans (including cash balance plans). Foster Swift also has an extensive practice relating to nonqualified top hat plans, excess benefit plans, Internal Revenue Code Section 409A compliance, funded nonqualified deferred compensation and rabbi trust issues, and the securities law (SEC and blue sky) implications of nonqualified deferred compensation arrangements.

We have extensive experience with health plan compliance and documentation (including Affordable Care Act issues); funded welfare benefits; the creation of Voluntary Employees Beneficiary Association (VEBA) programs; cafeteria flex plan design and implementation; welfare benefit plan discrimination testing; COBRA compliance; Health Reimbursement Arrangement (HRA); Health Savings Account (HSA); dependent care assistance; transportation fringe; and other welfare benefit programs. We have also advised clients regarding the

ATTORNEYS

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RELATED PRACTICES

Employee Stock Ownership Plans (ESOPs)

Employer Services

ERISA

Federal Taxation



establishment of Revenue Credit Account (RCA) arrangements (ERISA expense accounts) and the related U.S. Department of Labor (DOL) guidance.

Foster Swift clients have been as varied as the challenges they've faced over the years. When it comes time to meet your own unique challenges, be comforted knowing that members of our Employee Benefits Practice Group are on your side, drawing upon our breadth of experience and skill to assist you.

Foster Swift has been named a Tier 1 firm in **Employee Benefits (ERISA) Law** in Lansing by *U.S. News – Best Lawyers®* "Best Law Firms" in 2014, 2016, 2017, 2018, 2019, 2020 and 2021.

PUBLICATIONS & ALERTS

2023 Legal and Regulatory Developments for Agribusinesses, *Foster Swift Agricultural Law News*, August 30, 2023

What You Need to Know About SECURE 2.0, *Foster Swift Business & Tax Law News*, February 23, 2023

Employee Benefits Considerations After Dobbs v. Jackson Women's Health Organization: Foster Swift Highlights Options Available to Employers, *Foster Swift Employee Benefits Law E-blast*, July 7, 2022

Recent IRS Guidance and Clarification for the COBRA Subsidy Imposed by ARPA, *Foster Swift Business & Tax Law News*, June 3, 2021

Governor Whitmer Signs Extension of Unemployment Benefits into Law and Other COVID-19-Related Legislation, *Foster Swift Labor & Employment Law News E-blast*, October 23, 2020

The Benefits of Adopting a Pre-Approved Plan, *Foster Swift Business & Tax Law News E-blast*, August 11, 2020

New Safe Harbor Announced for Electronic Disclosures Required by ERISA, *Foster Swift Legal Update E-blast*, June 4, 2020

Impact of Executive Orders on Reduction and Termination of Benefits, *Foster Swift Workers' Compensation Update*, April 2, 2020

Employers Remember to Take These Steps by April 1, 2020, *Foster Swift Legal Update E-blast*, March 31, 2020

New DOL Guidance Excludes Workers from Federal Emergency Paid Sick Leave, *Foster Swift Legal Update E-blast*, March 29, 2020

Update to the Families First Coronavirus Response Act, *Foster Swift Legal Update E-blast*, March 20, 2020

Families First Corona Virus Response Act –Division E–Emergency Paid Sick Leave Act, March 17, 2020

IRS Announces 2020 Cost-of-Living Adjustments For Retirement Plans and for Health and Welfare Benefit Plans, *Foster Swift Business & Tax Law News*, November 22, 2019

New Policy Makes it Easier for Municipalities to Terminate Participation in MERS Defined Benefit Plan, *Foster Swift Municipal Law News E-blast*, February 27, 2019

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Can Michigan Employers Terminate Employees Who Lawfully Use Medical Marijuana?, *Foster Swift Employment Labor & Benefits News*, January 25, 2018

Understanding the Ins and Outs of the "Favored-Work" Doctrine Under Michigan Workers' Compensation Law, *Foster Swift Employment Labor & Benefits News*, January 25, 2018

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Military Family Leave Under the FMLA, *Employment, Labor & Benefits News*, May 19, 2015

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IRS Allows Mid-Year Reduction of 401(k) Plan 3% Safe Harbor Non-elective Contributions, *Foster Swift Employment, Labor & Benefits Quarterly*, July 2009

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Unemployment Compensation and Severance: Double-Dipping?, *Foster Swift Employment, Labor & Benefits Quarterly*, September 2008

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New Pension Plan Distribution Rules, *Foster Swift Employment, Labor & Benefits Quarterly*, April 2008

NEWS

Dernovshek Named to ICBA's "Top 5 under 35" Attorneys, *Ingham County Bar Association*, March 15, 2024

Preparing Women Business Leaders for 2024 Legal Challenges, *Meltwater Newswire*, February 20, 2024

Grand Rapids Attorneys Listed as 2023 Top Lawyers, *Grand Rapids Magazine*, November 8, 2023

Foster Swift Attorneys Named 2024 Best Lawyers in America, *Best Lawyers in America*, August 17, 2023

Foster Swift Best Lawyers® 2024 "Ones to Watch", *Best Lawyers in America*, August 17, 2023



Foster Swift Listed in "Best Law Firms" 2023, *Best Lawyers "Best Law Firms"*, November 3, 2022

National Employee Benefits Day Gains Traction as Employers Compete for Employees, *Global Newswire*, April 5, 2022

New Virtual Program Addresses Legal Strategies for Women Business Leaders, *Michigan Business Network*, March 28, 2022

Foster Swift Elects Four Shareholders, January 10, 2022

Foster Swift Attorneys Named to 2022 Best Lawyers in America®, August 19, 2021

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Learn Employee Benefits Legal Trends and Policies in 2021, *Foster Swift Employee Benefits E-blast*, April 19, 2021

Foster Swift Elects Six Shareholders in 2021, January 13, 2021

Resource Published to Help Organizations Link to Trending Legal Issues, *Foster Swift Business & Tax Law News*, November 17, 2020

Foster Swift Listed in "Best Law Firms" 2021, *Best Lawyers*, November 5, 2020

Legal Requirements For Employer Benefit Plans, *Michigan Business Network*, September 29, 2020

Johnson Presents on ESOPS as a Succession Strategy, September 22, 2020

Workers' Comp Defense Blog Provides Michigan Case and Legislative Updates, April 13, 2020

Foster Swift Welcomes Three Associates, November 14, 2019

Foster Swift Listed in Best Lawyers® "Best Law Firms" 2020, November 1, 2019

Foster Swift Announces Women in Leadership, *Michigan Business Network*, June 5, 2019

Johnson Appointed as Business Practice Group Co-Leader, April 12, 2019

Foster Swift Rated Tier 1 in 27 Practice Areas in Best Lawyers® "Best Law Firms", November 1, 2018

Johnson Selected to "Women in the Law" Class of 2018, *Grand Rapids Business Journal*, August 2, 2018

Attorney Howard Named to Novi Planning Commission, *Detroit Legal News*, January 19, 2018

Foster Swift Attorney Re-Elected as Council Member with the SBM's Taxation Section, *Grand Rapids Bar Association*, October 12, 2017

Foster Swift Southfield Office Has Second Growth Spurt, September 18, 2017

30 Foster Swift Attorneys Selected to 2017 Michigan Super Lawyers and Rising Stars Lists, September 8, 2017

21 Foster Swift Attorneys named to 2015 Michigan Super Lawyers and Michigan Rising Stars, September 8, 2015

44 Foster Swift Attorneys Named to 2016 Best Lawyers in America® Roster, August 21, 2015

Entrepreneur Institute of Mid-Michigan names Attorney Joel C. Farrar "Volunteer of the Year", June 11, 2015

Attorney Mindi Johnson to Lead Foster Swift Employee Benefits Practice, January 20, 2015

dbusiness Names Four Foster Swift Attorneys Top Lawyers 2014, December 2013



Foster Swift welcomes Attorney John Mashni, June 18, 2013

Seven Foster Swift Attorneys named "Lawyer of the Year", April 9, 2013

EVENTS

Be Intentional About Your Repurchase Obligation, *ESOP Association - Great Lakes Regional Conference*, October 17, 2023

Fall 2023 Labor & Employment Law Update, *Foster Swift Going Forward Webinars*, October 12, 2023

Navigating the New Normal for ESOPs, *ESOP Association- Michigan Chapter*, April 11, 2023

ADA and FMLA Compliance and Regulation Issues, *Fall 2022 Labor & Employment Law Update Webinar*, October 12, 2022

Learn Executive Compensation Options & Negotiation, *Foster Swift Legal Strategies for Women Leaders*, June 7, 2022

Moving Forward: Succession Planning for Your Business, *Michigan Movers Association*, February 16, 2022

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ESOPs: A Trending Business Succession Strategy, *MICPA Learning Showcase*, June 15, 2021

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The Future of Benefits- The SECURE Act, *American Bar Association: Mid-Year Meeting of Taxation Section*, February 1, 2020

ESOP Basics - Who, What, Where, When, How & Why?, *5TH Annual Great Lakes Regional ESOP Conference*, October 17, 2019

Ask the Experts ~ A Q&A for Non-Management Employee Owners, *2019 Spring ESOP Conference: Michigan Chapter of the ESOP Association*, April 17, 2019

Executive Deferred Compensation Arrangements in ESOP Companies, *2019 Spring ESOP Conference: Michigan Chapter of the ESOP Association*, April 17, 2019

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Can an employee be fired while away on FMLA?, *Stop Before You Crash: Workers' Compensation and Employment Law*, March 22, 2017

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An Introduction to ESOPs, *WEBINAR: The National Center for Employee Ownership*, December 2, 2014

A Look Into A DOL Audit, *Michigan Chapter of the ESOP Association*, September 25, 2014

Second-Stage ESOP Transactions, *National Center for Employee Ownership (NCEO)*, March 25, 2014

Health Care Reform – An Overview from an Employer's Perspective, *Michigan Association of Ambulance Services*, December 9, 2013

ESOP: The Cliffs Notes' Version, *Michigan Chapter of the ESOP Association*, March 13, 2013

WEBINAR | New Developments in Health Care Reform, June 12, 2012

Health Care Reform Information Session for Employers, *Benefit Review Services*, August 12, 2010

FMLA and ADA Update, *Capital Area Manufacturing Council*, 2009

Invoking your Statutory Rights to Control the Use of Intermittent and Reduced Schedule Leave, *Council on Education Management - FMLA Update*, 1999

Knowing your Employer Rights when Employees are Ready to Return to Work, *Council on Education in Management - FMLA Update*, 1999