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Special Considerations in Designing and Operating an ESOP

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An employee stock ownership plan ("ESOP") is a qualified defined contribution retirement plan, in the same category as a profit-sharing or 401(k) plan. An ESOP differs from other defined contribution plans, however, because it is designed to invest primarily in employer securities. The ESOP concept pre-dates the Employee Retirement Income Security Act of 1974 ("ERISA"), but ERISA now, in combination with the Internal Revenue Code ("IRC"), provides substantial tax incentives and planning opportunities for employers that sponsor ESOPs. Besides providing retirement benefits for eligible employees, ESOPs also can facilitate corporate finance and other objectives.

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