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Severance Pay Plans and the Statute of Limitations for Claims

In order to determine if your Severance Pay Plan is governed under ERISA, a determination if the “Plan” requires ongoing administration has to be made. While legal counsel should be consulted concerning your individual plan, the following chart is provided to show the likelihood a particular plan would be governed under ERISA.

Factors	More likely <u>NOT</u> an ERISA Plan	More Likely <u>IS</u> an Erisa Plan
Amount of discretion needed to determine eligibility*	No discretion necessary	Case-by-case review required. For instance the plan may require determination of what constitutes "substantially equivalent" employment
Number of employees covered	Very few	All employees
Number of payments	One lump sum payment	Continuous periodic payments
Duration of obligation	Short term	Long term (month or even years)
number of covered benefits	Wages only	Wages plus several other benefits such as medical and out-placement services
Triggering event	One, such as plant closure	Employees become eligible at different times

*Most important factor