

Benefits + Compensation

Aside from being one of the top expense items on the books, a company's employee benefits and compensation packages go to the heart of attracting and retaining a strong workforce. That said, these items all operate in a stringent regulatory environment where small mistakes can carry large liabilities.

Our benefits and compensation attorneys understand the business practicalities that drive benefits and compensation issues and decisions. Our clients count on us to design and implement plans that strike the right balance of compliance, cost and administrative ease.

Executive Compensation

At a time when the need to attract, retain and incentivize key employees has never been more acute, we help our clients design compensation packages that are fully compliant yet calibrated to market conditions. We draft carefully crafted executive agreements that leverage the full range of incentives, from deferred compensation plans to every type of equity award. We also advise clients in not-for-profit organizations, helping them to address their own unique set of compensation rules in a fully compliant manner.

Fiduciary Compliance and Government Audits

Many of our clients are fiduciaries of their plans, in which executives and board members have personal liability for plan operation. As the law encourages them to seek knowledgeable counsel, we guide them in the performance of their fiduciary responsibilities. We work with them to spot issues in advance of government audits, and when those audits appear we create response strategies to handle them.

ERISA/Qualified Plans

The drafting, interpretation and administration of retirement plans is a complex undertaking, and the plaintiffs' bar has grown adept at exploiting that complexity. Between the aggressiveness of these plaintiffs and the stepping up of government enforcement, our clients are increasingly sensitive to compliance issues in this area. They depend on us to monitor the administration of their plans, probe for weaknesses, provide advice, and generally assure their compliance with all applicable laws and regulations. Such rigor in plan operations becomes their best inoculation against both government audits and class action lawsuits. Then, when either of these things inevitably occurs, they are in a strong position to mount a vigorous defense.

Health and Welfare Plans

The escalating cost of employee medical plans has been accompanied by dramatic increases in the complexity of the laws governing them. Under these stresses, every design decision that goes into a plan carries compliance consequences that must be confronted. As many of our clients are self-insured, we work with them to draft, review, interpret and administer fully compliant plans, and we negotiate the service contracts and monitor the performance of the vendors that run them.

Representative Matters

- Created the primary non-qualified deferred compensation vehicle through which holding company executives across all operating companies and businesses can defer base salary and bonuses and through which the company can provide deferred incentives. Handling compliance with Section 409A across all operating companies and businesses.
- Handled multiemployer plan withdrawal liability issues and procurement of bonds in connection with a real estate private equity firm's acquisition and sale of hotels and office buildings.
- Handling all aspects of employee benefits for a tax-exempt organization, including compliance with 403(b) and 457. Converted traditional pension and cash balance plan to a variable annuity plan. Regularly advising on health and welfare issues.
- Counseled plan sponsor, a holding company of numerous operating companies, and fiduciary committee on the merger of over 100 401k plans, some with employer stock in the plan, others with esoteric and complicated legacy investments, into a single multi-billion dollar plan, ensuring documentary and operational compliance throughout the process.
- Operated as outside ERISA counsel for benefits brokerage firm, responsible for answering questions about compliance (including the Affordable Care Act) and health care reform regulations from benefits professionals and their clients through the country.
- Represented a team of executives working for a large health care company in a multi-billion dollar transaction. Ensured that the team obtained maximum benefits and protections in connection with and following the transaction, including base compensation, bonus, equity and other incentives and market-appropriate restrictive covenants.