

EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION

OVERVIEW

The highly complex nature of retirement, welfare and executive compensation plans renders employee benefit plan sponsorship a challenging task for employers. Lawyers in BCLP's Employee Benefits and Executive Compensation Practice Group help employers meet these challenges by providing traditional employee benefits services, as well as innovative and practical solutions to complicated employee benefit issues.

Our attorneys are highly proficient and broadly experienced in guiding clients through intricate and sophisticated situations. The broad array of services we offer reflects the depth of our attorneys' abilities. From plan design and administration to litigation and corporate transactions, our attorneys handle all types of benefits and executive compensation matters for employers and the benefit plans they sponsor.

The core members of our Employee Benefits and Executive Compensation Practice Group alone bring a significant number of years of comprehensive benefits experience to our clients – and we work closely as a team to ensure that each client reaps the benefit of our cumulative experience. When a client retains one of our lawyers, it receives the combined knowledge and experience of the entire group. Many of our client relationships have been in place for more than twenty years or, for newer companies, since the company's inception; this fact is a testament to our commitment to satisfying client needs and providing value.

Areas of Concentration include:

- Cafeteria plans and their components;
- COBRA continuation coverage obligations;
- Consumer driven healthcare, including health savings accounts (HSAs), health reimbursement arrangements (HRAs) and flexible spending accounts;
- Employee benefits and compensation issues in sales, mergers, acquisitions and dispositions of businesses;
- Employee benefits and compensation issues in bankruptcy;
- Equity Compensation (e.g., Stock Options, Restricted Stock, RSUs);

- ERISA litigation;
- ESOPs
- Estate and income tax planning aspects of retirement plan distributions;
- Executive compensation, deferred compensation and Code Section 409A compliance;
- Executive employment and separation agreements;
- Family Medical Leave Act (FMLA) compliance;
- Fiduciary duties, including prudence analysis and proxy voting advice;
- Health Care Reform (Patient Protection and Affordable Care Act);
- Hedge fund compliance with ERISA;
- HIPAA compliance, including portability, privacy and security;
- Incentive compensation plans;
- Individual retirement accounts (IRAs);
- Investment management and custodial agreements;
- Government audits of employee benefit plans (e.g., IRS, DOL, PBGC);
- Medicare coordination issues for health plans;
- Multiemployer plan delinquent contributions and withdrawal liability arbitrations and litigation;
- Private letter rulings;
- Prohibited transaction exemptions;
- Qualified domestic relations and medical child support orders;
- Qualified retirement plans of all types (e.g., 401(k), cash balance, defined benefit);
- Retirement plans for tax-exempt organizations, churches, and state and local governmental entities;
- Sarbanes-Oxley and its impact on pension plans, including blackout periods;
- Self-insured pools for health liabilities;

- Service provider contracts for all types of employee benefit plans;
- Simplified Employee Pensions (SEPs);
- Unrelated business income tax;
- Voluntary correction issues with the IRS and DOL;
- Voluntary Employee Beneficiary Associations (VEBAs); and
- Welfare plans of all types.

AREAS OF FOCUS

- Interdisciplinary Privacy/HIPAA Practice
- International Pensions and Benefits Practice
- Plan Administration and Fiduciary Issues
- Practice Before Government Agencies
- Welfare Plans
- Plan Design and Implementation
- Association Health Plan Practice
- ERISA and Employee Benefits Litigation
- Pensions
- Share Plans & Incentives
- Executive and Deferred Compensation

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Action Items as a Result of HIPAA Privacy Rule Modifications

On April 22, 2024, the U.S. Department of Health and Human Services (“HHS”) issued new regulations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) that impose new restrictions on the use and disclosure of “reproductive health care” by covered entities, including employer-sponsored health plans. These changes will require most employer-sponsored health plans to update their HIPAA policies and procedures and training practices by December 23, 2024 their Notice of Privacy Practices by February 16, 2026.

Insights

Aug 08, 2024

No Consensus in Sight: Enforceability of ERISA Plan Arbitration Provisions at the Close of 2023

This column, published in the Journal of Pension Benefits, discusses the need for the Supreme Court to deliberate the issue of the enforceability of arbitration provisions in ERISA Plans.

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Complex sale of university advised by multi-practice BCLP team

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IRS releases 2024 adjusted qualified plan limitations