

EXECUTIVE AND DEFERRED COMPENSATION

OVERVIEW

We have vast experience in cash and equity-based executive compensation as well as deferred compensation, including the tax consequences of such arrangements. Our attorneys are familiar with the various external and internal pressures in this important field and have worked closely with senior executives and compensation committees to design and advise on a wide variety of programs ranging from simple cash bonus arrangements to stock option plans with complex rights and features and from individual executive employment agreements to intricate change in control plans. We have assembled a multi-disciplinary legal team to advise, as appropriate, on the highly technical securities, employment and other legal issues that can arise with respect to executive compensation.

As with qualified plans, we maintain a list of nonqualified deferred compensation arrangements sponsored by our clients to facilitate compliance with IRC Section 409A. We have been vigilantly proactive in educating clients and colleagues so that employees might avoid the extremely harsh tax consequences associated with violation of that provision.

Representative examples of our experience in this area include:

- Represented a Fortune 500 company in developing a program to replace underwater options while limiting adverse tax, accounting and securities law consequences.
- Assisted the US affiliates of a Japanese multinational corporation develop an option compensation program in which the employer grants employees rights to purchase property other than employer stock. (This type of program is attractive to an employer that does not want to use its own stock as compensation currency and, because of the investment-diversification opportunities that it provides, has proven attractive to option recipients.)
- Designed a stock option plan for a pre-IPO company that could be used after an initial public offering to grant stock options and other equity incentives to employees in the US and three European countries. We worked closely with our securities lawyers and foreign counsel to address applicable tax and securities issues.
- Represented the entire senior management group in negotiating sales bonuses, retention bonuses, compensation packages and severance pay in a transaction in which the employer sold a major real estate business to an Australian company.

- Represented the management group of a Fortune 200 company involved in a contest for control that resulted in one of the largest US leveraged buyouts. We counseled management on restructuring their executive compensation packages in connection with the buyout. These restructuring techniques permitted the acquirer and our clients to attain mutually acceptable objectives and avoid litigation.
- Represented a publicly traded REIT in restructuring compensation arrangements for senior executive group in connection with change in control of the REIT.

MEET THE TEAM



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