



Employee Benefits and Executive Compensation

Our goals in representing employers are to help clients design, implement and administer their employee benefit programs cost-effectively and to help them minimize the legal risk of participant lawsuits under ERISA, Department of Labor, or Internal Revenue Service investigations, while always keeping in perspective the employer's corporate and human relations objectives.

The employee benefits and executive compensation practice provides a full range of business legal services with respect to employee benefits and executive compensation matters.

Our practice is broad based, covering the design and implementation of qualified retirement plans; compliance with regulatory requirements under ERISA, the Internal Revenue Code, and federal securities laws; ERISA litigation; complex pension fund investments; employee stock ownership plan transactions; welfare benefit plan issues; and the design, implementation, and administration of nonqualified deferred compensation and stock option plans.

The scope of our practice provides our lawyers with deep insights into all aspects of an employer's benefit programs. Similarly, the firm's experience in representing health care organizations provides additional insights in representing employers with respect to their group health plans.

EXPERIENCE

Clients

Our clients include publicly traded, large privately held, small business, governmental, and tax-exempt entities, as well as internal and external plan fiduciary, financial institutions, trade associations, insurance companies, government retirement plans, health care organizations, and employee benefit and executive compensation consulting and administration firms.

General benefits advice

On a regular basis, we:

- Advise and assist clients in designing, implementing, and operating pension, cash balance, profit sharing, 401(k), employee stock ownership requirements, and successfully manage 403(b) tax-sheltered annuity, and 457 deferred compensation plans
- Design processes that are intended to assist plan sponsors and their fiduciaries in complying with applicable fiduciary and prohibited transaction issues that arise from, and impact, upon the operation and administration of employee benefit plans
- Counsel and assist clients with regard to flexible benefit or 'cafeteria' plans, voluntary employee beneficiary associations (VEBAs), and other employee welfare plans, such as medical and dental plans, disability plans, life insurance plans, and retiree health plans, so that clients comply with applicable legal requirements such as tax considerations, ERISA requirements, and other requirements

relating to federal and state law

- Advise clients on compliance with HIPAA and other legislative changes to ERISA affecting group medical plans
- Work with state, local, and federal governmental entities to design and operate retirement and welfare benefit plans, including tax-qualified retirement plans, 403(b) plans, 457 plans, 'pick-up' plans, and cafeteria plans
- Represent major benefits programs in connection with outsourcing of administrative services and benefits administration to third-party administrators, including service agreements and audit controls
- Advise clients on self-insured medical plan liabilities and COBRA obligations in the context of acquisitions and divestitures
- Draft and review plan documents and amendments, summary plan descriptions, and other plan materials
- Obtain IRS approval of new tax-qualified plans and amendments to existing tax-qualified plans
- Help clients resolve plan compliance issues through the IRS Employee Plans Compliance Resolution System, including the Voluntary Compliance Resolution (VCR) Program and the Closing Agreement Program (CAP)
- Represent clients in connection with government investigations and audits of benefit plans
- When necessary, litigate tax, fiduciary, and other issues involving plan operations

Executive compensation and incentive plans

Our lawyers regularly advise clients in designing and operating:

- Supplemental executive retirement plans (SERPs) and excess benefit plans
- Incentive plans and non-tax-qualified deferred compensation plans
- Golden parachutes and discretionary severance agreements that contain the language needed to ensure a favorable judicial review standard under the Supreme Court's decision in *Bruch v Firestone* and its progeny
- Employment agreements for key executives
- Stock option plans, restricted stock plans, stock purchase, stock appreciation, and other equity-based and capital appreciation-based compensation plans, both domestically and internationally. We have prepared registration statements for employee equity programs and regularly advise clients on the securities laws affecting employee benefits

Third party fiduciary responsibility and plan investment counseling

On a regular basis, our lawyers:

- Work with investment fund managers in structuring investment products suitable for qualified retirement plans, and work with plan committees and individual trustees, helping them understand their responsibilities as ERISA fiduciaries
- Represent banks and insurance companies in developing mutual funds and other investment packages for sale to retirement plans
- Design processes that are intended to assist clients in complying with applicable fiduciary issues relating to these transactions
- Analyze plan investments to determine whether unrelated business taxable income may be generated for plan investors
- Advise clients on other tax issues, such as the unrelated business income tax

Mergers, acquisitions and other transactional work

We are experienced in structuring ESOP transactions for tax and ERISA compliance, financing and ESOP's purchase of employer securities, and advising on corporate and securities issues relating to ESOP transactions.

Our lawyers have extensive experience in advising clients on many types of ERISA and other employee benefits litigation. We have handled cases involving multi-employer plan withdrawal liability, benefit claims, contribution collections, and ERISA fiduciary matters.

INSIGHTS

Publications

The Governor of Puerto Rico signed into law new labor reform legislation – but its implementation is unclear

29 June 2022

Act No. 41 will come into effect on July 20, 2022.

***Dobbs v. Jackson Women's Health* : Implications for business of a post-Roe landscape**

23 June 2022

Dobbs raises a number of important questions for companies and entities.

US Supreme Court: Federal Arbitration Act preempts California's Iskanian rule prohibiting individual arbitration of PAGA claims

21 June 2022

The decision underscores the critical importance of severability clauses in preserving a party's right to compel arbitration.

California Supreme Court holds that failure to pay meal and rest period premium wages can support derivative claims

26 May 2022

Key details and implications for employers.

New COVID-19 supplemental paid sick leave signed into California law

11 February 2022

The new requirement will take effect on February 19, 2022 and applies retroactively to January 1, 2022.

Supreme Court remands excessive fee case to Seventh Circuit to determine pleading standard

1 February 2022

The *Hughes* case is indicative of many decisions rendered in the lower courts in recent years where courts facing the same or similar excessive fee allegations have reached opposite conclusions.

Employers: 2022 deadlines approach to furnish incentive stock option and employee stock purchase plan information statements and returns

11 January 2022

IRS increases 2022 flexible spending and transportation benefit plan limits: two short charts

16 November 2021

Action items for employers

2022 retirement and benefit plan limits explained in 5 short charts

11 November 2021

Many of the limits will increase in 2022.

President Biden announces new vaccination requirements – what private employers and federal contractors need to know

14 September 2021

Employers already struggling with a puzzling array of compliance challenges aimed at combating COVID-19 now face additional vaccination and testing requirements.

New workplace protections for medical cannabis patients in Puerto Rico

12 August 2021

The new law creates a new protected category under Puerto Rico antidiscrimination laws.

SCOTUS upholds the ACA: Next steps for employers

8 July 2021

All ACA provisions regarding the employer mandate for large employers continue in effect; in addition, ACA patient protection provisions have been expanded by the Consolidated Appropriations Act, 2021.

IRS extends remote electronic notarization relief for retirement plan elections through June 30, 2022

7 July 2021

The notice extends relief from the "physical presence" requirement for certain participant elections required to be witnessed by a notary public or plan representative.

EEOC updates guidance regarding employer COVID-19 vaccination policies; still more to come

15 June 2021

The updated guidance addresses mandatory vaccination policies, vaccination incentive programs and confidentiality requirements.

Guidance on COBRA subsidies under the American Rescue Plan Act

1 June 2021

Key aspects of the guidance.

Returning to Work: Key Issues for US Employers

27 April 2021

Key issues include what a full return to the workplace will look like, who will return and how, what structural measures will protect the health and safety of employees, and more.

Top employee benefits issues to watch

31 March 2021

The top 10 issues likely to impact plan sponsors in 2021 and beyond.

Benefit plan provisions in the American Rescue Plan

16 March 2021

The practical impact on employers and participants.

Employers: 2021 deadlines approach to furnish incentive stock option and employee stock purchase plan information statements and returns

13 January 2021

Corporations must furnish these statements on Forms 3921 and 3922 no later than February 1, 2021.

FFCRA paid leave requirements set to expire – but employer payroll tax credit extended

29 December 2020

Prudent employers will stay mindful of how the Family First Coronavirus Response Act's impending expiration interacts with their existing policies.

New regional stay-at-home orders in California

9 December 2020

Employers are strongly encouraged to evaluate their compliance with current orders as of December 9, 2020, and prepare for additional restrictions.

IRS announces 2021 dollar limit increases on benefits and contributions in qualified retirement plans

28 October 2020

Action items for employers.

Expanded NYC Earned Safe and Sick Leave Law imposes additional obligations on employers

8 October 2020

New York City's amended Earned Safe and Sick Leave mirrors new, more generous statewide requirements.

California on the verge of instituting new deidentification requirements, broader research exemptions for health

data

23 September 2020

AB 713 has an emergency clause that means it will go into immediate effect once the governor signs it.

Recognizing (and combatting) unemployment insurance fraud amid COVID-19

16 September 2020

States must be prepared to face new challenges associated with the COVID-19 pandemic, such as increased fraudulent activity amid new and emerging fraud schemes.

NLRB overturns restrictions on employee discipline for profane or abusive outbursts

31 July 2020

Another reflection of a labor law landscape undergoing dramatic change.

California mandates female board directors for publicly held companies

1 OCT 2018

California becomes the first state in the US to mandate gender diversity in the corporate boardroom, but the law may face legal challenges.

Global Equity Desk Reference

28 Nov 2011

Events

Previous

Diversity and inclusion in the legal workplace: A discussion with Kenji Yoshino

7 December 2021 | 4:00 - 5:15 EST

Webinar

Crisis management for businesses 2.0: The impact of COVID-19 6+ months in

19 October 2020 | 12:00 - 1:00 CT

Webinar

Keith Ranta joins DLA Piper's Employee Benefits and Executive Compensation practice in Washington, DC and Boston

7 March 2022

DLA Piper announced today that Keith Ranta has joined the firm's Employee Benefits and Executive Compensation practice as a partner based in the Washington, DC and Boston offices.

DLA Piper lawyers and practices ranked in latest edition of *The Legal 500*

17 June 2021

DLA Piper announced today that the firm received 42 individual lawyer rankings and 49 firm rankings in *The Legal 500 United States* 2021 guide.

DLA Piper partners and firm COO named to *Law360* 2021 Editorial Advisory Boards

10 May 2021

DLA Piper is pleased to announce that 11 of its lawyers, as well as firm COO Bob Bratt, have been named to *Law360's* 2021 Editorial Advisory Boards.

DLA Piper and Dimensional Fund Advisors debut comprehensive Fiduciary Resource Guide

16 March 2021

The *Dimensional Fiduciary Resource Guide*, recently debuted by DLA Piper and Dimensional Fund Advisors, is a comprehensive resource for retirement plan fiduciaries when establishing, maintaining or improving plan design.
