

Executive Compensation/Employee Benefits

Executive Compensation and Employee Benefit Plans ALL Benefit from Straight Talk

Executive compensation agreements and employee benefit plans are powerful tools for attracting and retaining the best and brightest management and employees. Andrews Kurth lawyers advise clients on establishing and maintaining executive compensation programs and broad employee-based retirement plans.

From regulatory compliance to conflict prevention to litigation defense, we help our clients stay ahead of the curve on changing laws and techniques and trends in compensation and benefits. We assist our clients in designing and establishing the best practices and programs for their needs in these areas:

- Executive Compensation and Employment Arrangements
- Employee Benefits in Business Transactions
- Retirement Plans and Fiduciary Matters
- ERISA and Tax Code Compliance Programs

Executive Compensation and Employment Agreements

Andrews Kurth counsels employers, asset managers, trustees and administrators in the full range of issues involving pay and incentive for executive and board members including:

- Deferred compensation agreements
- Section 409A compliance
- Equity and phantom plans and arrangements
- Restricted stock, stock option plans and stock appreciation rights
- Section 83(b) elections
- 280G golden parachute tax planning
- Employment, retention, termination and severance agreements
- Section 162(m) deduction limitations and compliance
- Supplemental executive retirement plans

We draft, review, analyze and recommend plans and counsel in all aspects of their administration, compliance, correction, redesign and termination. We are experienced in all tax and regulatory considerations and have productive relationships with the Internal Revenue Service and U.S. Department of Labor that help us gain both formal and informal guidance regarding these areas.

Transactional Benefits Counsel

In connection with mergers and acquisitions, we advise and assist buyers, sellers and merger parties, both public and private, with due diligence reviews, issue identification, negotiation of representations, covenants and indemnifications, post-transaction contract and regulatory compliance, as well as plan implementation, in the employee benefits and executive compensation aspects of transactions. Our counsel on tax, regulatory and contractual implications provides clients with an informed perspective, strengthens their position and ensures a sound and workable deal.

Retirement and Benefits Plans/Fiduciary Matters

We advise fiduciaries on the design and review of almost every type of qualified 401(k) plan, pension plan and health and welfare benefits plan, as well as ERISA and Tax Code compliance matters impacting tax-qualified plans. From structuring a complete menu of benefit plans to customizing plans to a client's specific needs, our experience includes:

- Qualified 401(k), pension and profit-sharing plans

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- Cafeteria and FSA benefit plans
- HIPAA and COBRA
- HMOs and PPOs

Our lawyers work with plan administrators on compliance, implementation and operational issues. We also communicate regularly and effectively with agency and regulatory authorities to obtain necessary approvals and secure favorable determination letters, prohibited transaction exemptions and compliance letters.

We actively counsel clients in ERISA fiduciary matters, including stock drop litigation, prohibited transactions and general fiduciary advice.

ERISA Litigation

While proactive measures are highly effective in managing risk, conflicts will arise and we readily and aggressively support our clients in their ERISA litigation challenges.

Andrews Kurth defends trustees and plan administrators in lawsuits or regulatory actions alleging breach of fiduciary duty or violation of plan provisions. We work to protect the interest of business clients when employees, unions or government regulators allege that companies have improperly:

- Mismanaged or misused pension or welfare benefit plan funds
- Denied or withheld severance, pension, health or disability benefits
- Terminated a pension or welfare benefit plan
- Engaged in transactions prohibited by the IRS or Department of Labor regulations
- Failed to comply with ERISA, HIPAA, COBRA or the Tax Code

Because these disputes often hinge on technical points of law, Andrews Kurth's depth of experience in this area can help us resolve these threats and risks efficiently and effectively.