

Executive Compensation/Employee Benefits

Pension and welfare benefit plans and other compensatory plans or arrangements are your tools to motivate employees. They can also bring you unexpected cost and controversy if not designed and managed properly. Since the early 1970s, Andrews Kurth lawyers have helped employers balance advantages and risks for effective benefit plans and other compensatory arrangements. Our ERISA and benefits lawyers work with you to help ensure that all your plans achieve business objectives, avoid costly disputes, keep up with economic and regulatory change and are administered to help you save time and money.

Understanding the complex issues

We handle a wide range of employer-sponsored programs and speak the language of investment managers, benefits consultants and plan fiduciaries. Clients can draw upon our team's combined 60 years of exclusive practice in benefits and compensation law, as well as our in-depth knowledge of the tax code and other applicable law. Three of our lawyers have Masters degrees in tax law, one is a former tax law professor at New York University and another is Board Certified in Tax Law by the Texas Board of Legal Specialization. Andrews Kurth benefits lawyers individually and collectively understand the complex benefits issues you face.

Crafting effective compensation packages

We prepare the state-of-the art compensation and benefits packages you need to attract and retain top quality executive and board member talent. Examples of such packages include the following:

- Employment contracts
- "Golden parachute" contracts
- Termination and severance agreements
- Deferred compensation plans
- Supplemental executive retirement plans
- Equity compensation, including stock appreciation rights and phantom stock plans
- Excess benefit and Section 457 plans
- Cash bonuses and other incentive compensation
- "Rabbi trusts" and other informal funding arrangements

Our lawyers work with the IRS and Department of Labor to obtain any necessary or desired approvals of these packages.

Effectively using stock options

Equity compensation remains a key motivator for individual and company performance. Andrews Kurth lawyers understand the tax, accounting, disclosure and securities law requirements of qualified, non-qualified and restricted stock and stock option compensation plans. We show you what to consider before you adopt an equity compensation arrangement and make sure that you follow all tax and other regulatory guidelines for your plans.

Focusing on pension and welfare benefit plans that work

We design and review almost every type of single-employer or multiple-employer qualified pension plan and health and welfare benefit plan. Our lawyers work with traditional and cash balance defined benefit pension plans, as well as defined contribution plans like 401(k) and 403(b) arrangements, as well as various profit sharing, stock ownership, savings and thrift plans.

Where management's objectives are best served by a customized plan, we can tailor the plan to fit our client's need and the law. Where less will do, we can help clients be sure that any prototype plans they adopt will work for them and meet their goals.

We are also experienced with the full range of health and welfare benefit plans and options, including:

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- Managed care programs
- HMOs and PPOs
- Flexible spending accounts
- Cafeteria benefit plans
- Vision plans
- Group life insurance
- Disability insurance and programs
- Paid time off plans

We show clients the best ways to administer and maintain their plans in compliance with all applicable discrimination, privacy and records retention laws. Our lawyers are also skilled advocates before the IRS and the Department of Labor to secure favorable determination letters and prohibited transaction exemptions, and to resolve any reporting or compliance issues. We have substantial experience in helping plan administrators resolve operational and processing problems in the daily administration of both retirement and welfare benefit plans.

Covering ERISA issues in mergers and acquisitions

Business combinations often pose complications for pension and equity compensation plans. When our clients acquire companies, we explain any restrictions that apply to changing, eliminating or consolidating the target firm's plans. We work with our clients to help ensure that the affected benefit plans comply with the law, are free from tax penalty and are adequately funded—all to eliminate surprises and keep hidden costs from suddenly appearing after closing. Finally, we help both private and public companies amend stock option and other equity-based compensation plans affected by a merger, to preserve maximum management incentives and tax advantages.

Complying with HIPAA and COBRA

We help employers conform their health benefit plan procedures to all the privacy standards for individually identifiable health information set by the Health Insurance Portability and Privacy Act (HIPAA). We also make sure that group health plans subject to coverage continuation requirements of COBRA (the Consolidated Omnibus Budget Reconciliation Act) avoid penalties by giving timely notice of continuation coverage following a qualifying termination or layoff event.

Resolving pension, benefit and compensation disputes

While our primary ERISA emphasis is on helping clients comply with the law and avoid problems, we frequently defend trustees and plan administrators in lawsuits or regulatory actions alleging breach of fiduciary duty or violation of plan provisions. We defend business clients when employees, unions or government regulators allege that the company has 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, or administered it poorly
- Engaged in transactions prohibited by IRS or Department of Labor regulations
- Failed to comply with HIPAA, COBRA, ERISA or non-discrimination requirements

These disputes often hinge on very technical points of law, and we have the experience to resolve them effectively.

Doing the right thing—the right way

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Benefit plans have a big impact on employee lives and company financial futures. When they are designed and administered the right way, everyone benefits. But the complexity and cost of the plans themselves and the “alphabet soup” of ERISA, HIPPA, COBRA and other regulations that surround them make doing the right thing difficult in many cases.

Andrews Kurth ERISA and benefits lawyers know that only straight talk can guide you through the benefit plan maze. We don't give you mere legal advice; we give you practical, timely answers to your questions and problems. Andrews Kurth will help you do the right thing for your employees and the financial future of your company.