

## Employee Benefits

We assist our clients with a broad range of employee benefits matters—from designing and administering retirement and welfare benefit plans to litigation of fiduciary duty claims. We represent large and small companies, school districts, colleges and other educational institutions, municipalities and other governmental entities, insurers and Taft-Hartley plans and have experience in a broad range of industries. We represent clients before the Internal Revenue Service, Department of Labor, Pension Benefit Guarantee Corporation and in state and federal courts.

### TAX-QUALIFIED RETIREMENT PLANS

- We design, draft and amend 401(k) plans, "safe harbor" plans, profit sharing plans, money purchase plans, cash balance plans and defined benefit plans.
- We assist plan sponsors in assuring that their retirement plans are operated in compliance with tax requirements, such as non-discrimination testing, vesting, plan loan administration, qualified domestic relations order (QDRO) determinations and distribution requirements.
- We prepare and review employee communications such as summary plan descriptions (SPDs), summaries of material modification (SMMs), summary annual reports (SARs) and other notices.
- We advise plan sponsors and other fiduciaries as to compliance with their obligations under ERISA, for example, establishing and maintaining a 401(k) plan's self-directed investment status under ERISA §404(c), evaluating the reasonableness of investment fees charged to 401(k) plan participants and avoidance of a potential breach of fiduciary duty or prohibited transaction.
- We evaluate and negotiate plan service provider agreements, including third-party administration contracts, investment manager and investment provider agreements.
- We represent plan sponsors in IRS, DOL and PBGC plan audits and in addressing plan compliance problems with IRS and DOL voluntary compliance resolution programs.
- We advise contributing employers and plan sponsors in various aspects of multiemployer pension plans, including withdrawal liability issues.
- We assist in maintaining tax compliance of individual retirement annuities (IRAs), non-qualified annuities and life insurance contracts.
- We represent plan sponsors before the IRS and PBGC in connection with the termination of tax-qualified pension plans.

### GOVERNMENTAL PLANS

- We design and draft Code §403(b) plans (also known as tax-sheltered annuity plans), Code §457(b) plans and Code §401(a) plans and advise plan sponsors on compliance with evolving IRS requirements, such as the 403(b) final regulations.
- We design and draft early retirement incentive (ERI) plans.
- We evaluate and negotiate plan service provider agreements, including third-party administration contracts, investment manager and investment provider agreements.
- We advise governmental employers on compliance issues arising under MPSERS and MERS plans.
- We advise plan sponsors and other fiduciaries as to compliance with their obligations under the Public Employee Retirement System Investment Act.
- We work with governmental entities in design, drafting and tax compliance of all types of group health and

welfare plans, including flexible benefit plans, HRAs and HSAs and advise on compliance with the COBRA, HIPAA and Medicare requirements.

## **EXECUTIVE COMPENSATION**

- We design and draft non-qualified deferred compensation plans, excess benefit plans, Rabbi trusts, phantom stock, stock option and other incentive compensation plans and supplemental retirement plans.
- We advise plan sponsors on compliance with Code §409A, Code §457(f), constructive receipt and assignment of income rules and coordination with tax-qualified plans.
- We provide advice as to the administration and amendment of executive compensation arrangements.

## **HEALTH AND WELFARE PLANS**

- We design and draft group health and welfare plans, including cafeteria plans, flexible benefit plans, dependent care assistance plans, medical reimbursement plans, HRAs and HSAs.
- We advise plan sponsors on compliance with the Internal Revenue Code, ERISA, HIPAA, COBRA, FMLA, ADA and various state law requirements applicable to self-insured and fully-insured group health plans.
- We evaluate and negotiate third-party administration agreements for group health and welfare plans.

## **EMPLOYEE BENEFITS LITIGATION**

- We represent plan sponsors in a broad range of employee benefits litigation, including breach of fiduciary duty matters, claims for disability, life, group health and retirement benefits, claims for interference with benefit rights, and multiemployer pension plan collection and withdrawal liability disputes.