



Employee Benefits

Recognizing that employees are a company's most valuable assets, our Employee Benefits Practice Group helps clients stay current and comply with the regulations governing their employee benefits programs. Our lawyers have experience and expertise in advising publicly-traded and privately-held companies, governmental entities, tax-exempt organizations and churches regarding design, documentation and administration of their employee benefit programs.

The attorneys in this practice group frequently give presentations on employee benefits issues for clients, industry groups, and human resources professionals. We also regularly publish articles on a host of employment and employee benefit topics.

Pension and Retirement Plans

Our lawyers regularly advise clients regarding qualified and non-qualified employee pension and welfare plans to ensure compliance with Employee Retirement Income Security Act (ERISA) and Internal Revenue Code requirements. Additionally, our lawyers assist clients in developing incentive compensation and bonus programs, including incentive stock option (ISO) plans, non-statutory stock option plans, restrictive stock programs, phantom stock plans, and non-qualified deferred compensation arrangements.

Additional experience in this area includes:

- Reviewing and drafting documents related to profit-sharing plans, 401(k) plans, money purchase pension plans, 403(b) tax-deferred annuity plans, 457 plans, and related agreements.
- Representing plan sponsors in Internal Revenue Service (IRS) and U.S. Department of Labor (DOL) audits and correction programs.
- Reviewing and negotiating service agreements with third-party administrators.
- Assisting clients in properly identifying plan fiduciaries and ensuring compliance with fiduciary obligations, including Section 404(c) directed investment rules and Section 408(b)(2) fee disclosure requirements.
- Reviewing and drafting investment policy statements and advising plan investment committees on best practices.

Health and Welfare Benefit Plans

Our lawyers have broad experience with health and other welfare benefit plans, including fully-insured and self-funded group health plans, cafeteria plans, medical care reimbursement plans, dependent care reimbursement plans, high-deductible health plans and health savings accounts, multiple employer welfare arrangements (MEWAs), voluntary employees' beneficiary associations (VEBAs), and life insurance and disability plans.

- Advising clients on compliance with a variety of regulations and statutes — including COBRA, HIPAA, HITECH, Genetic Information Nondiscrimination Act (GINA) and Mental Health Parity Act, as well as ERISA and Internal Revenue Code requirements.

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- Drafting welfare benefit plan documents, cafeteria plans, medical care and dependent care reimbursement plans, and business associate agreements.
- Negotiating Administrative Services Only (ASO) agreements, stop-loss insurance arrangements and third-party administrator agreements.
- Providing timely information and advice about all aspects of the Affordable Care Act (ACA) applicable to employers.
- Advising about plan amendments in order to comply with ACA, implementation of the employer shared responsibility requirements, application of control group rules, identification of employers subject to ACA, and rules related to part-time and seasonal employees.

Executive Compensation

McGinnis Lochridge attorneys advise clients and compensation committees about all aspects of executive compensation arrangements including equity compensation and deferred compensation plans. Our experience includes:

- Designing, drafting and reviewing equity compensation arrangements such as stock option plans, stock grant and bonus agreements, stock appreciation arrangements, top hat plans, supplemental executive retirement plans (SERPs), and split-dollar life insurance arrangements.
- Advising companies about compliance with Internal Revenue Code section 409A and securities law issues related to executive compensation arrangements.
- Drafting and negotiating employment and severance agreements.

Mergers and Acquisition

Dealing with employee benefits is often a challenge in mergers and acquisitions. In such instances, we assist buyers and sellers by providing review and negotiation of representations and warranties related to employee benefit plans, due diligence review of employee benefits plans, and identification and resolution of related problems. We also advise clients regarding transition issues, including post-closing issues related to tax-qualified plans, severance policies, compliance with COBRA and coordination of group health plan coverage.

Regarding tax-qualified plans, our lawyers represent clients in correction of plan failures or errors under IRS and DOL correction programs. We also assist clients in terminations and mergers of plans, including preparation of documents and filings related to plan terminations and mergers.

Government Plans

McGinnis Lochridge represents a wide range of governmental entities on matters related to employee benefit plans. Our experience includes:

- Advising governmental entities regarding federal and state law requirements applicable to governmental tax-qualified retirement plans, as well as requirements related to section 457(b) plans, section 403(b) tax-exempt annuity plans, and alternative plans under the Federal Insurance Contributions Act (FICA).
- Assisting governmental agencies with group health plans, including reviewing and analyzing

responses to requests for proposals (RFPs), as well as negotiating administrative services agreements, stop-loss insurance arrangements, and business associate agreements.

- Advising clients about compliance with state law requirements applicable to governmental plans.

Tax-exempt Organizations

Our Employee Benefits Practice Group works with nonprofit, tax-exempt organizations that provide a variety of charitable, healthcare and educational services. Our experience includes:

- Advising clients on establishment, administration and termination of a full range of pension and welfare benefit plans.
- Drafting and reviewing plan documents, and assisting with the timely adoption of plan amendments.
- Representing plan sponsors in plan audits, and correction of plan errors or failures under IRS and DOL correction procedures.
- Advising clients about plan-eligibility requirements, proper classification of employees and other service providers, and compliance with ERISA requirements.

Primary Contact

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