ECKERT SEAMANS

Employee Benefits & Executive Compensation

OVERVIEW

Eckert Seamans' Employee Benefits & Executive Compensation practice group provides full-spectrum legal services to state, city, and municipal governmental employers, non-profit organizations, and private and publicly traded companies that sponsor employee benefit plans.

Benefit plan offerings provide critical tax and recruitment advantages that are contingent on structural and operational compliance with a complex patchwork of state and federal statutes and regulations. Our job is to make navigating these rules straightforward: distilling them into practical, plain-language advice that clients and their employees alike can act on, while providing timely alerts for statutory or regulatory changes and emerging litigation trends.

Plan Compliance Advising. We work closely with human resources professionals, in-house counsel, plan administrators, plan professionals, and service providers on matters affecting their tax-qualified retirement plans, non-qualified compensation arrangements, employee stock ownership plans (ESOPs), health and welfare plans, and other ancillary benefit offerings and perks, all of which are critical strategic tools used to attract, motivate, and retain employees.

General Compliance. We design and draft plan documents, amendments, policies, notices, and participant communications for plans of all varieties, provide ongoing assistance with day-to-day plan administration and fiduciary issues, advise on tax withholding and reporting obligations under various compensation arrangements, and assist in the design of prudent operational processes that are tailored to meet their needs and business rhythms.

Health & Welfare Plans. We advise on health and welfare benefit plan matters, which include: advising on correction methods; advising and training on compliance with state and federal laws (e.g., ACA, HIPAA, MHPAEA, COBRA, GINA, the ADA, and the ADEA); reviewing and preparing plan policies and procedures (e.g., privacy, HIPAA); assisting with nondiscrimination testing for cafeteria plans, self-insured group health plans, and medical and dependent spending accounts; reviewing and negotiating administrative service agreements, business associate agreements (BAAs), amendments, and other contracts with vendors; distributing timely alerts to clients when the legal landscape changes.

Retirement Plans. We assist clients with the design and operation of 401(k), money purchase pension, defined benefit plans, and ESOPs, including issues arising under ERISA or the Code.

Governmental Plans. We regularly advise state, city, and municipal entities on matters affecting their defined benefit funds (governed by, e.g., Pennsylvania Act 600 and the Police Pension Fund Act), and other arrangements under 403(b), 457(b), and 457(f). We also advise on employee and retiree welfare benefit plans, including creating and maintaining Other Post-Employment Benefits (OPEB) trusts.

Fiduciary Counseling. We serve as outside benefits counsel to plan administrators, fiduciary committees, and boards of trustees. We attend committee and subcommittee meetings to provide insight and advice. This includes supporting committee members and staff in meeting preparations, evaluating and soliciting vendor materials, drafting or reviewing meeting minutes, facilitating any follow-up actions, and providing regular fiduciary training.

Plan Investments. We advise plan fiduciaries on tax, funding, disclosure, and other fiduciary issues relating to the investment of plan assets. This includes conducting due diligence reviews (e.g., reviewing and negotiating investment management agreements, side letters, and disclosures), documenting plan investment decisions, evaluating changes to funding or investment policies proposed by plan professionals, and drafting participant communications and disclosures.

Labor & Employment Advising. We work closely with Eckert's Labor and Employment group on multiemployer plan issues, including interpreting and negotiating collective bargaining agreements, reviewing withdrawal liability assessments, and advising contributing employers and administrators on disclosure and reporting obligations.

Benefit Aspects of Corporate Transactions. We have significant merger and acquisition experience and have played a major role in many high-profile transactions. We partner with corporate counsel to identify benefit plan compliance issues that typically arise during a transaction, and advise on strategies to navigate these issues, such as how to allocate pension and retiree medical assets and liabilities, whether to terminate or merge existing benefit plans at closing, and how to integrate new benefit platforms after closing.

Executive Compensation. We regularly counsel employers on navigating the complex tax, securities and accounting rules applicable to employment, retention, and severance agreements, nonqualified deferred compensation agreements, supplemental executive retirement plans (SERPs), excess benefit plans and rabbi trusts, incentive stock options, nonqualified stock options, restricted stock, phantom stock, stock appreciation rights, employee stock purchase plans and other equity and non-stock incentive arrangements.

Litigation, Investigations and Audits. Our mission is to provide advice aimed at preventing participant litigation or agency enforcement actions from ever occurring, through proactive client counseling, mock audits, plan document reviews, and the development of robust compliance procedures. When disputes cannot be avoided, we represent clients in state and federal courts, including in administrative proceedings before labor or tax agencies like the Internal Revenue Service (IRS), Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC), and Department of Health and Human Services (HHS). We also assist our clients in obtaining favorable IRS determinations.

EXPERIENCE

Employee Benefits and ERISA Counseling. Our attorneys work closely with our clients' human resources professionals and in-house counsel, advising on special projects and day-to-day matters involving plan administration and legal compliance, including Internal Revenue Code, FMLA, Affordable Care Act, and Health Insurance Portability and Accountability Act (HIPAA) compliance. Our experience ranges from qualified retirement plans to health and welfare and retiree medical benefits.

Fiduciary Counseling. Our team members serve as outside benefits counsel to fiduciary committees. We attend committee meetings and provide insight, advice, and training on relevant topics including investments and fees. We design and tailor fiduciary compliance programs to meet the needs of our clients.

Investigations and Audits. We represent clients in matters involving the Internal Revenue Service (IRS), Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC), and Department of Health and Human Services (HHS) on issues ranging from audits, voluntary corrections under the IRS and DOL correction programs, reportable events and PBGC liability issues, and HIPAA compliance.

Benefit Aspects of Corporate Transactions. We have significant merger and acquisition experience and have played a major role in many high-profile transactions. We advise and counsel on the executive compensation and employee benefit aspects of all types of corporate transactions, including allocation of pension and retiree medical assets and liabilities and post-closing matters related to the integration of new benefit platforms.

Executive Compensation. We regularly counsel employers on executive compensation matters, focusing on plan design and implementation, Internal Revenue Code Section 409A compliance, employment, retention, and severance agreements, supplemental executive retirement plans (SERP), and U.S. Securities and Exchange Commission (SEC) compliance (e.g., Sarbanes-Oxley, disclosure, registration requirements, etc.).

ERISA & Benefits Litigation. Eckert Seamans litigators and employee benefits attorneys work in close collaboration, resulting in a team that has been successful in both resolving difficult litigation and avoiding it through proactive client counseling.