bodman

Employee Benefits and Executive Compensation

navigate the complex

Bodman's Employee Benefits and Executive Compensation practice group leverages the skills of its members to offer an inter-disciplinary approach and proven judgment to anticipate and address client challenges in the realm of compensation and benefits.

Our team works with plan sponsors, administrators and service providers across all industries to achieve their goals in tax qualified plan design and management, executive compensation arrangements, health and welfare arrangements, regulatory compliance, and crisis management, including federal agency investigations and corrective action and litigation.

Drawing from numerous areas of knowledge, our team members are experienced with a wide array of plan design and management issues; complex benefits issues arising out of transactions and restructuring; crisis management, including federal agency investigations and corrective action; and ERISA litigation. We are a team of business advisors and seasoned crisis managers known for delivering superior and cost-effective solutions to our clients.

SERVICES

Our services include:

- CONSULTATION, DESIGN, AND DOCUMENTATION SERVICES FOR THE LIFE CYCLE OF THE FOLLOWING ARRANGEMENTS (FORMATION, OPERATION AND TERMINATION) FOR PLAN SPONSORS OF:
  - **Qualified Plans**
    - 401(k) plans
    - Defined benefits plans
    - Cash balance and other hybrid plans
    - Employee stock ownership plans (ESOPs)

- **Health and Welfare Plans**
  - Health plans
  - Life insurance
  - Short-term disability (STD) and long-term disability (LTD) benefits
  - Cafeteria, flexible benefits, health flexible spending account (FSA), and dependent care arrangements

- **Executive Compensation**
  - Stock options, restricted stock, phantom stock, stock appreciation rights
  - Nonqualified deferred compensation, long-term incentive plans
  - Split dollar insurance arrangements
  - Code section 409A analysis and compliance

- FIDUCIARY ISSUES AND ENFORCEMENT
  - **Representation in regulatory correction programs offered by the Internal Revenue Service (IRS) and U.S. Department of Labor (DOL)**
  - **Plan fiduciary counseling**
  - **Contract negotiation with third-party administrators and investment managers**
  - **Prohibited transaction avoidance and correction**
  - **ERISA-focused internal audit guidance**
  - **HIPAA and HITECH Act counseling related to data security and breach**

- CONTROVERSY WORK
  - **ERISA benefit, fiduciary breach, and stock drop litigation**
  - **Federal agency investigations and litigation**

- SERVICE PROVIDERS
  - **Product design for benefit plan service providers**
  - **Consulting and assistance with ERISA reporting and disclosure requirements**

- SUCCESSION PLANNING AND CONSULTATION
  - **Consultation and design of succession plans with a focus utilizing qualified and non-qualified arrangements to achieve client goals**

REPRESENTATIVE MATTERS

Our representative experience includes:

- **Employer Implements HIPAA Compliance Practices & Procedures**

  Helped a large employer design and implement its practices and procedures for HIPAA compliance, including its business associate agreements with third parties, training of employees, and implementation of corporate-wide policies.

- **Obtained IRS Approval on Severely Neglected Retirement Plan**

  Drafted plan documents and obtained IRS approval for a retirement plan that the employer had neglected for more than a decade.

- **Created Retirement Plan that Paid Required Wages Under Davis-Bacon Act**

  Designed, drafted, and obtained IRS approval for a retirement plan to enable the employer to satisfy its goal of providing retirement income to employees and paying the wages required under the Davis-Bacon Act.

- **Employer Withdraws from Multiemployer Plan**

  Assisted an employer in its withdrawal from a multiemployer plan to ensure hundreds of thousands of dollars in involuntarily increased contribution requirements.

- **Designed and Implemented New Retirement and Benefit Program for Multiple Employers**

  Assisted in the design and implementation of a new retirement benefit program to be utilized by multiple employers.

- **Arbitration of Multiemployer Withdrawal Liability Saves Client Almost $250,000**

  Successfully arbitrated alleged multiemployer withdrawal liability for a client, saving them nearly $250,000.

- **Advised Bank on Impending HIPAA Regulations**

  Counseled a publicly-traded financial services company in the preparation of HIPAA business associate agreements related to lending agreements, treasury management services agreements, consumer banking agreements, and insurance services agreements.

- **Implemented HIPAA Compliance Program for Professional Sports Team**

  Implemented a HIPAA compliance program for a professional sports team, including its privacy policies, the drafting and negotiation of Business Associate Agreements, and the drafting and application of risk assessments; represented the team during the league's HIPAA audit.

- **Counseled Multi-Subsidiary Employer on ACA-Related Issues**

  Provided Affordable Care Act (ACA) guidance to a large employer with multiple subsidiaries.

- **Assisted Large Company in Correcting Neglected Welfare Plans**

  Drafted and assisted in correcting several welfare plans for a large company that had failed to maintain plan or summary documentation for several years.