



Anthony G. Provenzano

MEMBER

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PRACTICES

ERISA & Employee Benefits
Litigation
Executive Compensation
FATCA, Withholding &
Information Reporting
Payroll Taxes & Fringe Benefits
PBGC Advice and Controversy
Qualified Plans
Tax Controversy & Litigation

EDUCATION

- J.D., American University
Washington College of Law,
cum laude, 1998
- B.A., Pennsylvania State
University, 1995

Anthony Provenzano's practice focuses on the tax, ERISA, and other laws impacting executive compensation and employee benefits, as well as the employment tax and reporting issues that may arise with respect to such arrangements. He routinely advises clients on the various rules regarding non-qualified, equity, and tax-qualified arrangements, and the surrounding employment tax and deduction issues. In addition, Mr. Provenzano's practice includes controversy matters involving the IRS, DOL and PBGC exams and disputes.

Mr. Provenzano's extensive experience in executive compensation and employee benefit matters allows him to advise clients on the broader legal implications of an arrangement and how various benefit regimes could interact. His experience in handling controversy matters, involving split dollar arrangements, deferred compensation programs, mispriced stock options, and qualified plans, can also help a client understand how plan language may be viewed by a government examiner or a participant asserting a claim. Clients quoted by *Chambers* have described Mr. Provenzano as "very thorough and very knowledgeable of the tax code."

Mr. Provenzano is frequently asked to speak on matters regarding executive compensation, including deferred compensation and the attendant payroll tax and reporting obligations with respect to such arrangements, the deduction limitations under Internal Revenue Code Section 162(m), defending against IRS executive compensation and employment tax audits, and IRS guidance regarding correction of failures under a Code Section 409A arrangement.

REPRESENTATIVE ENGAGEMENTS

- Advised employer regarding the ERISA and tax implications of borrowing from life insurance policies under split dollar program.
- Advised multinational on U.S. tax law issues, including Section 409A issues, involved portion of global equity incentive scheme dedicated to employees subject to U.S. tax law.
- Advised employer involved in one of the largest bankruptcies in the U.S. with respect to the employer's pension obligations. This matter involved extensive negotiations with the PBGC regarding the bankruptcy and proposed emergence transactions.
- Frequently advise employers on the payroll tax implications of their executive compensation programs, including the proper FICA procedures.
- Advised a large financial institution regarding the interaction between Section 409A and split-dollar arrangements and assisted in structuring a new arrangement that would comply with Section 409A but retain many of the tax-favorable features of the split-dollar arrangement.
- Successfully resolved certain employment tax and corporate deduction issues regarding

- mispriced incentive stock options with the closing agreement resulting in a favorable corporate deduction.
- Successfully defended companies in PBGC examinations regarding PBGC premium calculations and pension terminations.
- Obtained a favorable IRS ruling regarding a controlled group determination that included both taxable and tax-exempt entities despite the lack of authority surrounding such an arrangement.
- Advised numerous employers regarding permissible corrections of Section 409A failures pursuant to IRS Notice 2008-113 and the potential income inclusion implications under IRS Notice 2008-115 and proposed Treas. Reg. Sec. 1.409A-4.
- Advised a public company regarding tax and benefits implications of a spin-off of a subsidiary including the potential allocation of the deductions relating to the stock option income.
- Advised numerous companies regarding the termination of defined benefit pension plans and defined contribution plans.
- Advised numerous companies regarding the implications of Section 280G and golden parachute payments. Restructured arrangements to avoid excise tax implications.
- Advised numerous public companies regarding the implications of Section 162(m) structured arrangements to fit within definition of performance-based compensation.
- Assisted an employer in conversion of the traditional formula pension plan to a cash-balance pension arrangement.

RANKINGS AND RECOGNITION

- *Chambers USA*: Employee Benefits & Executive Compensation (District of Columbia), 2014 - 2015, 2019
- *Legal 500*: Labor & Employment: Employee Benefits and Executive Compensation, 2013 - 2014

ADMISSIONS

Bar Admissions

- District of Columbia
- New York