

Employee Benefits Policy

Our Employee Benefits Policy practice provides strategic representation to clients before Congress and the federal agencies on health plan, retirement plan, executive compensation, and payroll practices. In some cases we work on an issue at a discrete stage in the legislative process, such as obtaining clarifying committee report language. Other times we assist with an issue from the early phases of consideration by Congress through final rulemaking by the appropriate agency. Throughout, we focus on helping our clients navigate the political process to best advance their companies' business strategies and objectives. With the entire team based in our Washington, DC office, our Employee Benefits Policy practice offers clients an "inside the Beltway" approach that relies on a combination of our unparalleled substantive expertise and ready access to and relationships with the regulators and Congress.

With respect to legislative matters, we typically provide clients with summaries and analysis of proposed legislation and draft legislative language. We assist clients in developing policy positions and drafting position papers. We prepare testimony for Congressional hearings, and represent clients during meetings with Congressional members or staff. We also have experience managing and representing large coalitions of companies who choose to work together to advance a common goal on a specific issue. Our lawyers have worked closely with the Senate Committees on Finance and Health, Education, Labor, and Pensions, as well as the House Committees on Education and Labor, Ways and Means, and Energy and Commerce.

Our Employee Benefits Policy practice also assists clients with regulatory matters, particularly as the agencies are developing new guidance or policy positions. To that end, we have provided written comments on proposed rulemaking, testified at public hearings, represented clients in meetings with agency staff, and worked to resolve specific issues of interpretation on behalf of our clients. We have worked closely with the U.S. Department of the Treasury, Internal Revenue Service (IRS), U.S. Department of Labor (DOL), U.S. Department of Health and Human Services (HHS), The Equal Employment Opportunity Commission (EEOC), and Centers for Medicare and Medicaid Services (CMS).

Members of this practice include lawyers with a variety of government and policy experience. Our practice features a former Majority Tax Counsel for the House Committee on Ways & Means, among others.

Representative Engagements

- Launched a successful coalition of large companies from a wide range of industries for the purpose of urging IRS and Treasury to develop simpler rules applicable to substantiating the business use of cellular telephones, BlackBerry smartphones, and similar telecommunications. This initiative was ultimately instrumental in raising awareness of ongoing payroll tax controversies with the IRS, resulting in proposed legislation to remove cell phones from the category of "listed property" under IRS rules.
- Provide Washington, DC representation for an insurance company during the health reform debate, including monitoring and analyzing proposed legislation, drafting materials for Capitol Hill briefings, and representing client's interests in meetings with members of Congress and their staffs.
- Represented clients in successful lobbying efforts to narrow the scope and limit the effective date of Code Section 409A and persuaded Congressional staffers to adopt favorable rules in applying proposed \$1 million cap on deferred compensation to supplemental executive retirement plan (SERP) benefits.
- Represented Fortune 100 company at a meeting with U.S. Department of the Treasury regarding the taxation of wellness programs.
- Analyzed legislative proposals in various states that would affect a health plan client and helped develop a response strategy, as well as draft legislative amendments.
- Obtained closing agreement with IRS for prototype plan provider approving correction for 375 plans.
- Obtained private ruling exempting foreign private issuer from Section 162(m).
- Formed and led the HSA Working Group coalition of more than 175 employers, health plans, and their trade associations and represented member interests before Congress, the White House, and the Department of the Treasury as the legislation and agency guidance were being developed.
- Obtained private ruling approving employee stock purchase plan under Section 423 for high tech company (PLR 200547007).
- Obtained private ruling applying net unrealized appreciation to participant directed investments for agricultural company (PLR 200509032).
- Represented employer interests while providing assistance to the Centers for Medicare and Medicaid Services (CMS) as the agency developed guidance to implement the Medicare Part D Retiree Drug Subsidy provisions of the Medicare Modernization Act of 2003 (MMA). Assisted employers to redesign retiree health programs to take advantage of the provisions in the MMA.
- Obtained private letter ruling for multinational corporation exempting distributions from stock bonus plan to German participants under U.S.-German Treaty (PLR 200406007).
- Obtained IRS approval for financial institutions to act as non-bank custodians for retirement plans.
- Successfully pursued through the Congressional Joint Committee on Taxation review of refund claims involving deductions for employee benefit payments related to major corporate acquisition.
- Prepared extensive written comments, and testified before the IRS and Treasury Department, regarding the numerous challenges that insurers and employers face in soliciting and reporting SSNs/TINs of covered individuals.

Government Experience

- Deputy Associate Solicitor, Office of the Solicitor, U.S. Department of Labor
- Senior Trial Attorney, Office of the Solicitor, U.S. Department of Labor
- ERISA Counsel, Regional Office of the Solicitor, U.S. Department of Labor
- ERISA Trial Attorney, Regional Office of the Solicitor, U.S. Department of Labor

Rankings and Recognition

- *Chambers USA*: Employee Benefits & Executive Compensation Team of the Year, 2015
- *Legal 500*: Employee Benefits & Executive Compensation Team of the Year (U.S.), 2015
- *Chambers USA*: Employee Benefits & Executive Compensation (Nationwide), 2015 - 2022
- *Chambers USA*: ERISA Litigation (Nationwide), 2015 - 2022
- *Chambers USA*: Employee Benefits & Executive Compensation (District of Columbia), 2008 - 2022
- *Legal 500*: Labor & Employment: Employee Benefits, Executive Compensation, and Retirement Plans – Design, 2010 - 2020
- *Legal 500*: Labor & Employment: ERISA Litigation (U.S.), 2012 - 2022
- *Legal 500*: Government: Government Relations (U.S.), 2015 - 2022
- *U.S. News - Best Lawyers*[®] "Best Law Firms": Employee Benefits (ERISA) Law (National), 2013 - 2022
- *U.S. News - Best Lawyers*[®] "Best Law Firms": Employee Benefits (ERISA) Law (District of Columbia), 2010 - 2022