

Executive Compensation

Executive Compensation is a vital part of Miller & Chevalier's nationally recognized Employee Benefits and Tax practices. Clients regularly seek our help establishing and administering designing and drafting long-term incentive, deferred compensation, change-in-control, and equity compensation arrangements. Our practice regularly deals with implications of section 409A, section 162(m), and sections 280G and 4999 in addition to other areas such as the taxation of split dollar and executive health care.

What makes our Executive Compensation practice stand out is our ability to address the payroll-tax and information reporting implications of various arrangements, as well as other issues related to fringe benefits for executives, such as the tax treatment of executive security or the use of corporate aircraft. When cross-border issues arise, we work with our foreign tax lawyers to handle any compensation and withholding issues. Few firms can offer this breadth or "one-stop" service.

As with all components of our Employee Benefits and Tax practices, we represent clients before regulatory and legislative bodies and guide them in dealing with important developing issues. If a controversy arises, we have the knowledge and experience to address complex issues in an efficient manner.

Representative Engagements

- Represented clients in successful lobbying efforts to narrow the scope and limit the effective date of Code Section 409A. Persuaded Congressional staffers to adopt favorable rules in applying proposed \$1 million cap on deferred compensation to supplemental executive retirement plan (SERP) benefits.
- Consulted with financial institution on unique issues arising out of participation in the Trouble Asset Relief Program (TARP), such as the special Section 162(m) deduction rules applicable to the institution due to participation in TARP and the tax consequences to employees and employer of employees returning bonuses.
- Assisted a major technology company in structuring compensation arrangements for senior executives of a cross-border joint venture based in Europe. Developed an arrangement under which each of the venture's key executives were given a "country friendly" employment agreement, coupled with a separate severance agreement providing additional benefits subject to U.S. law. This novel arrangement was designed to preclude an executive from ever challenging the severance benefits in a European court.
- Obtained more than 20 favorable private letter rulings (PLRs) in the last 10 years dealing with executive and equity compensation matters in a variety of areas, such as those involving Section 162(m) performance-based compensation and Section 423 employee stock purchase plans. (See, *e.g.*, PLR 200613012, PLR 200537005, and 200547007).
- Advised Fortune 100 companies regarding executive agreements (*e.g.* employment, severance, and change-of-control agreements), deferred compensation plans (*e.g.*, account balance plans, Supplemental Executive Retirement Plans (SERPS), and bonus deferrals) and equity awards (*e.g.*, stock options, Stock Appreciation Rights (SARs), Restricted Stock Units (RSUs), deferred shares, and performance share) on wide-ranging issues dealing with plan design and administration, proxy disclosure, and corrections, arising under that various tax rules set forth in Sections 61, 83, 162(m), 280G, 402(b), 404(a)(5), 404A, 409A, 457A, 3121(v)(2), and 4999.

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
- *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*: Employee Benefits & Executive Compensation Team of the Year (U.S.), 2015

- *Legal 500*: Labor & Employment: Employee Benefits, Executive Compensation, and Retirement Plans – Design, 2010 - 2020
- *Legal 500*: Labor & Employment: ERISA Litigation (U.S.), 2012 - 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