

Payroll Taxes & Fringe Benefits

Payroll taxes – FICA and Federal income tax withholding – represent the single largest source of revenue for the federal government, amounting to 35 percent of total federal receipts. As a result, payroll taxes receive significant attention from the Internal Revenue Service (IRS), including a specific focus on fringe benefits provided to employees and independent contractors, worker classification, and tips earned by hospitality industry employees. Our Payroll Tax and Fringe Benefits lawyers are regarded as foremost authorities in guiding employers through the intricate rules governing the application of payroll taxes to compensation, the negotiation of voluntary corrections with the IRS, and the tax treatment of perks and accountable plans.

Our team helps clients minimize payroll taxes, maximize deductions, develop refund strategies, manage the audit and compliance process, and design favorable administrative solutions. We have a successful track record helping clients achieve their business goals through careful planning, as well as regulatory and legislative channels. We complement these capabilities with our extensive knowledge of executive compensation issues, our experience handling the most complex tax issues, and our ability to litigate a matter if we cannot reach a satisfactory administrative solution. Our team also helps clients navigate Form W-2 and Form 1099 reporting, penalty abatements for late deposits and CAWR mismatches, cross-border withholding (both domestic and international), tip reporting (including the distinction between tips and service charges), payroll tax aspects of corporate transactions (such as FICA re-start issues and agent appointments), payroll tax treatment of stock options, and the payroll taxation and allocation of employment-related settlements.

Our team has also advised clients on state payroll tax issues, including the proper tax treatment of various perks and employee benefits at the state level. As employees become increasingly mobile both domestically and globally, our team have advised some of the nation's largest companies on the implications of employees moving across state lines and around the world including state income tax withholding requirements and payroll tax issues related to inpatriates and expatriates, such as potential treaty claims and tax equalization programs.

Representative Engagements

- Advised a large, multistate financial company on the development of its standalone payroll system for use following a spin-off from its publicly traded parent. As part of the compliance review, evaluated more than 200 different types of earnings and deductions for purposes of determining the proper tax base for federal income tax withholding, FICA taxes, and Federal Unemployment Tax Act (FUTA) tax purposes, as well as state income tax withholding and state unemployment insurance tax treatment in more than 20 states and numerous counties, school districts, and cities.
- Successfully resolved in IRS Appeals a large multinational company's lengthy employment tax dispute with the IRS, which included fringe benefits, cross-border compensation, business expense reimbursements, relocation expenses, settlement payments, information reporting (*e.g.*, Forms 1099), and related intentional disregard penalties of over \$100 million.
- As part of an internal compliance review, reviewed the federal payroll tax implications of a large company's travel plan for executives and directors, including spousal travel, personal use of corporate aircraft, and deduction disallowance rules for entertainment use of the aircraft by executives.
- Successfully represented a large restaurant chain in its compliance review by tip specialists of the IRS National Tip Reporting Program for purposes of ensuring the company's continued participation in the Tip Reporting Alternative Commitment (TRAC) program.

Rankings and Recognition

- *Chambers USA*: Tax Team of the Year, 2016
- *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
- *Chambers USA*: Tax: Controversy (Nationwide), 2007 - 2022
- *Chambers USA*: Government Relations: Specialist Tax Firms (Nationwide), 2019 - 2022
- *Chambers USA*: Tax (District of Columbia), 2003 - 2022
- *Chambers USA*: Tax: Corporate & Finance (Nationwide), 2020 - 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
- *Legal 500*: Tax: Contentious (U.S.), 2007 - 2022
- *Legal 500*: Tax: International Tax (U.S.), 2013 - 2022

- *Legal 500*: Tax: Non-Contentious (U.S.), 2013 - 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
- *U.S. News – Best Lawyers*® *"Best Law Firms"*: Tax Law (National), 2010 - 2022
- *U.S. News – Best Lawyers*® *"Best Law Firms"*: Tax Law (District of Columbia), 2010 - 2022
- *International Tax Review "Americas Tax Awards"*: Americas Tax Policy Firm of the Year, 2012 - 2013, 2015
- *International Tax Review "Americas Tax Awards"*: Washington, DC Tax Firm of the Year, 2013
- *International Tax Review "Americas Tax Awards"*: Washington, DC Transfer Pricing Firm of the Year, 2012
- *International Tax Review*: World Tax (Washington, DC), 2012, 2014 - 2020
- *International Tax Review*: World Transfer Pricing (National), 2014 - 2020
- *International Tax Review*: Tier 1 U.S. Firm, Tax Planning Survey, 2018