

## EMPLOYEE BENEFITS

### AT A GLANCE

McDermott Will & Emery is a pioneer in the field of employee benefits. We have been advising clients on a variety of employee benefits and executive compensation matters for more than 70 years. With the continuing stream of complex and technical employee benefits legislation and regulation and with the increased globalization of workforces, employee benefit plan administration has become increasingly difficult. Employers and plan fiduciaries must constantly re-examine and redesign employee benefit programs in light of the latest government guidance or case law. Because our lawyers are highly specialized and focus their practices in one or two primary practice groups, our Firm can help clients work through complex problems with a level of employee benefits and international experience not found at most law firms. We represent more than **75 Fortune 500** companies and **29 Fortune 100** companies in employee benefits matters on a regular basis. Many of our clients are service providers for employee benefit plans maintained by other employers (including trustees, record-keepers and insurers). Our broad client base allows us to help clients recognize new trends in the field and quickly identify and address any new or potential legal hurdles.

### Experience

Our lawyers regularly handle the full range of issues that affect 401(k) plans, profit sharing plans, employee stock ownership plans (ESOPs), pension plans (including cash balance and other hybrid pension plans), nonqualified deferred compensation and executive compensation plans, health and welfare benefit plans, employment agreements and fringe benefit plans. Often, we are called upon by our clients to conduct compliance reviews in various areas, such as tax-qualification, COBRA compliance and fiduciary compliance matters. In addition, to better serve the diverse and growing needs of our clients, our employee benefits practice has created several specialized practice groups.

- Our **Qualified Retirement Plan Group** counsels and advises *Fortune* 500 companies that sponsor retirement plans with plan assets normally exceeding \$100 million. This is a core strength of our employee benefits practice and members of this group routinely advise multinational employers on retirement plan compliance with the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Service (IRS), formal and informal correction programs, and tax consequences from such plans and representation before the IRS, U.S. Department of Labor and Pension Benefit Guaranty Corporation.
- Our **Health and Welfare Benefit Plans Group** advises clients on the design and administration of health, welfare and other severance and fringe benefit plans, and is anchored by partners who have more than 60 years of collective experience in counseling clients on health and other group benefit plan compliance matters. Lawyers in this group regularly advise clients on matters involving the recently enacted Patient Protection and Affordable Care Act, ERISA, COBRA, the Mental Health Parity and Addiction Equity Act, the Health Insurance Portability and Accountability Act, the Internal Revenue Code and other federal laws affecting welfare benefit plans.
- Our **Executive Compensation Group** counsels clients ranging from *Fortune* 500 corporations to emerging growth companies on all aspects of executive compensation, including nonqualified deferred compensation, golden parachutes, Section 162(m) and multinational executive benefits, including the impact of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Members of the group include former IRS officials who participated in many of the rulings and regulations that impact the executive compensation area and who hold leadership positions in the American Bar Association.

### Scope of Services

- Benefit plan compliance
- Employee benefits controversy and litigation
- Employee stock ownership plans
- Executive compensation
- Fringe benefits
- Health and welfare benefits
- International benefits
- Plan fiduciary & investment management
- Qualified retirement plans

### Our Team

70+ lawyers

### Contact

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- Our **Employee Benefits Controversy and Litigation Group** regularly represents employers as plan sponsors and plan administrators, as well as individual and corporate fiduciaries and service providers, in both routine and complex employee benefits claims, controversies, and litigation regarding ESOPs, fiduciary duty, health benefits, retiree medical plans, plan termination and severance pay. This group routinely handles large class action litigation.
  - Our **ESOP Group** includes lawyers with experience developed through work on hundreds of ESOP transactions. One of our lawyers drafted most of the ESOP provisions in the original ERISA legislation, and another was the principal lobbyist in the far-reaching changes enacted in the Tax Reform Act of 1984. We have obtained precedent-setting Internal Revenue Service and Labor Department rulings and exemptions for our clients and have been involved in landmark litigation matters in the ESOP field.
  - Our **Plan Fiduciary and Investment Management Group** assists plan fiduciaries in choosing service providers and in analyzing plan asset issues. Employers frequently encounter questions about the payment of plan expenses, the permissible uses of commissions and other assets (such as insurance company demutualization proceeds) and whether certain arrangements are affected by the prohibited transaction rules. We help clients avoid fiduciary problems by providing them with a comprehensive process to follow when dealing with fiduciary decisions, as well as by providing fiduciary training.
  - Our **International Benefits Group** assists clients with cross-border needs. This group includes benefits and employment lawyers in the United States and in Europe who have extensive experience advising employers and trustees on all aspects of international pensions, deferred compensation, equity compensation and labor and employment law issues. We provide quarterly training in our London office on multi-jurisdictional issues facing employers in Europe.

## Hot Topics

We are prepared to handle matters relating to the most current issues in business and law, including:

- Patient Protection and Affordable Care Act of 2010
- New executive compensation requirements under Dodd-Frank
- Navigating the international provisions of Code 409A and 457A
- Global privacy and data protection
- Retiree medical benefits

## Awards & Recognition

Our employee benefits practice is recognized by the prestigious organizations.

- *US News–Best Lawyers* named McDermott “Law firm of the Year” in 2011 in the area of Employee Benefits.
- *Chambers USA* and *The Legal 500 USA* continually rank our Firm among the top 10 firms in the nation in the areas of employee benefits, executive compensation and ERISA litigation, and ranks the practice leader as a leading lawyer nationally in the ERISA area.
- *PLC Which Lawyer?* in 2011 recommended our firm in Employee Benefits in Illinois, Massachusetts and New York.

## Our Firm

McDermott Will & Emery is a leading international law firm with a diversified business practice. We represent a wide range of commercial, industrial and financial enterprises, both publicly and privately held. Our clientele include some of the world’s largest corporations, small and medium-sized businesses, and individuals.

Currently numbering 1,000 lawyers, we have offices in Boston, Brussels, Chicago, Düsseldorf, Houston, London, Los Angeles, Miami, Milan, Munich, New York, Orange County, Paris, Rome, Silicon Valley and Washington, D.C. McDermott Will & Emery has a strategic alliance with MWE China Law Offices (Shanghai).