

Employee Benefits

Sills Cummis & Gross provides legal advice to major corporations, tax-exempt organizations, retirement plan trustees and individuals on employee benefit plans and related issues. The Firm also acts as employee benefit counsel to investment institutions and TPAs.

The Firm's attorneys focus on the following areas:

- Retirement and Pension Plans
- Health and Welfare Plans
- Executive Compensation
- Miscellaneous Benefit Matters

Retirement Plans

Our attorneys design and draft retirement plans which are generally "tax-qualified retirement" plans (primarily 401(k) plans) and 403(b) tax-sheltered annuity plans (including for non-profit hospitals, universities and charities). The Firm also handles compliance aspects of such plans before the Internal Revenue Service ("IRS") and the Department of Labor ("DOL"). This area of work includes the submission of plans and plan amendments to the IRS to obtain favorable approval of their tax-qualified status.

In addition, the Firm often handles retirement plan issues in connection with corporate transactions. This work includes due diligence on pension, retirement and ERISA issues, as well as plan mergers and spin-offs, and transfers of plan assets.

The Firm's attorneys are also experienced at resolving retirement plan violations and defects with the IRS and DOL. This area of work includes the utilization of the following programs established by the IRS and DOL: the Employee Plans Compliance Resolution System which encompasses the Voluntary Correction Program and the Self-Correction Program; and the DOL Delinquent Filer Voluntary Compliance Program and the Voluntary Fiduciary Correction Program. In addition, the Firm has been very successful at reducing or abating government penalties that are assessed in connection with late-filed Forms 5500.

Health and Welfare Plans

The Firm designs and drafts health and welfare plans, both insured and self-insured, as well as Section 125 ("Cafeteria" or "Flexible Benefit") Plans. The Firm often resolves issues that concern the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the Family Medical Leave Act of 1993 ("FMLA") and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

Executive Compensation

Sills Cummis & Gross P.C.

The Firm designs and drafts “non-qualified deferred compensation” arrangements. These plans are typically unfunded deferred compensation plans and section 457 plans (both eligible and ineligible).

Miscellaneous Benefit Matters

With regard to miscellaneous benefit matters, the Firm consults with numerous clients on fiduciary protection issues. The “fiduciary protection” work includes the indemnification of fiduciaries, providing “section 404(c)” protection for retirement plan fiduciaries, organizing fiduciary meetings and resolving various fiduciary duty issues. In addition, the Firm handles issues on a wide variety of employee benefit topics (e.g., FICA/FUTA issues, representation in IRS audits or DOL investigations and contesting tax assessments).

Representative Services

- Correction of Tax-Qualification Defects
- Custom Retirement Plan Contribution Services
- Employee Benefit Plan Fiduciary Protection Services
- Employee Benefit Plan Merger/Conversions
- Employee Benefit Plan Transactional Services
- Executive Compensation Services
- Governmental and Not-For-Profit Employee Benefit Plans
- Health and Welfare Plan Services
- Investment Policy Statements
- Multiple Employer Plan Services (including Withdrawal Liability)
- Plan Termination (including “Orphan” Plan) Services
- Professional Employer Organization Employee Benefit Services
- Representation in IRS Audits and DOL Investigations
- Retirement Plan Design and Compliance