



PARTNER

Philip Koehler

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📍 Riverside

Best Best & Krieger LLP (BBK) Partner Philip Koehler brings more than 30 years of tax and employee benefits plans legal experience to his Business practice group clients. His focus is on providing guidance to clients regarding their obligations under ERISA, Internal Revenue Code (IRC), the Affordable Care Act (ACA), COBRA, state and federal tax and securities laws and other relevant regulations. Phil has considerable experience helping clients manage their qualified and nonqualified plans, equity-based compensation and welfare benefit plan compliance, and managing employee benefits plans affected by mergers, acquisitions and plan sponsor bankruptcies.

Phil started his legal career with BBK after graduating from the University of Southern California Gould School of Law. He returned to the firm after a distinguished legal career which saw him practice with local and national law firms and two of the Big 4 accounting firms. Phil also opened his own firm in Newport Beach, where he advised clients on complex tax, ERISA, ACA and executive compensation issues. As a sole practitioner, Phil successfully resolved numerous ACA compliance and qualified plan audits and Employee Benefits and Security Administration (EBSA) investigations regarding multiple tax and employer shared responsibility provisions (ESRP) exposure and fiduciary responsibility issues, abating millions of dollars in potential liabilities and penalties for his clients.

In addition to his legal practice, Phil spent 10 years as an adjunct professor in the LL.M. taxation program at Chapman University's Dale E. Fowler School of Law. He is also a certified employee benefits specialist (CEBS), certified pension consultant (CPC) and compensation management specialist (CMS). He is licensed to practice in California.

Notable Experience

Employee Benefit Plans

- Design, draft and advise on all types of qualified pension and profit sharing plans and trusts, including 401(k), 403(b) and 457(b) plans, Taft-Hartley trusts and ESOPs, as well as insured/self-insured employer provided group health plans.
- Advise on compliance with Department of the Treasury, Department of Labor (DOL), Pension Benefit Guaranty Corporation (PBGC) and SEC guidance, including structuring transactions to avoid nonexempt prohibited transactions, and general fiduciary responsibilities.
- Advise ESOP-owned companies regarding all aspects of plan administration, transactions, repurchase obligation management, Code Sec. 1042 eligibility and ERISA fiduciary aspects of stock valuations.

CORE PRACTICES

Business

Employee Benefits & Executive Compensation

EDUCATION & ADMISSIONS

Education

University of Southern California
Gould School of Law, J.D.

University of California, Irvine, M.B.A.,
finance and investment analysis

University of Texas at Austin, B.A.,
biology and philosophy, cum laude

Bar Admissions

California

Court Admissions

U.S. Court of Appeals Ninth Circuit

- Advise employers and multiemployer welfare benefit plan trustees on insured and self-insured health, dependent care, life insurance, disability insurance and severance benefit plans, cafeteria plans, health reimbursement arrangements (HRAs), flexible spending accounts (FSAs) and health savings accounts (HSAs) regarding compliance requirements of ERISA, IRC, and other regulations and legislation.
- Represent clients before the IRS, DOL and PBGC regarding discrimination in coverage and benefits, Section 415 limits, Section 404(a) deduction limits, merger and spin-off of plans, participant loans, hardship distributions, required minimum distributions (RMDs) and plan termination.
- Negotiate resolutions with the IRS regarding qualified plan audits and with the EBSA regarding plan sponsor and service provider investigations and reliance on applicable Employee Plans Compliance Resolution System (EPCRS), Delinquent Filer Voluntary Compliance Program (DFVCP), Voluntary Fiduciary Correction Program (VFCP), Compliance Audit Program (H-CAP) and Prohibited Transactions Exemption (PTE) procedures.

Executive Compensation and Nonqualified Plans

- Design and implement nonqualified plans and equity-based compensation arrangements, including stock option plans, restricted stock, phantom stock, stock appreciation rights and performance-based arrangements, as well as supplemental executive retirement plans and insurance-based compensation, including split-dollar arrangements.
- Advise on federal and state tax issues regarding reasonable compensation, with emphasis on IRC §§83, 162(m), 280G and 409A, proxy disclosure and mergers and acquisitions issues.
- Advise on GAAP financial statement impacts of equity-based compensation arrangements and stock option repricing issues.
- Draft and advise on executive employment contracts, including excess parachute payment penalties and enforceability of noncompete provisions, executive severance and change-in-control agreements.

ERISA Fiduciary Governance

- Advise third-party fiduciary service providers, corporate boards, trustees and other plan fiduciaries regarding ERISA fiduciary standards, including DOL regulations governing prohibited transactions, service provider disclosures and participant-level and investment-level fee disclosures, “plan asset” rules, venture capital operating company (VCOC) and real estate operating company (REOC) status, principal and agency transactions, qualified professional asset manager (QPAM) issues, collective investment fund issues and conversion to mutual funds, synthetic guaranteed investment contracts (GICs), and incentive fee arrangements.
- Conduct ERISA compliance audits and operational reviews and provide fiduciary training.
- Support strategic planning at board and compensation committee governance levels.

ERISA/Employment Law Litigation

- Advise third-party fiduciary service providers and plan sponsors and undertake lead role regarding IRS plan audits and EBSA investigations and obtaining resolutions under EPCRS, VFCP and DFVCP, and adverse claims by potential litigants and negotiate settlements resolving prohibited transaction claims, other allegations of breach of fiduciary duty, wrongful interference and wrongful denial of benefits and inadequate cyber security risk mitigation.
- Perform research, draft pleadings, propound and respond to discovery and provide expert testimony.
- Represent individual executives in transition regarding change in control and severance pay agreements and advise clients regarding terms of prospective employment agreements.

Professional & Community Involvement

- American Bar Association, Tax Section

- Orange County Bar Association, Tax Section
- Western Pension & Benefits Conference
- American Society of Pension Professionals & Actuaries
- International Foundation of Employee Benefit Plans
- National Association of Stock Plan Professionals
- International Foundation of Employee Benefit Plans and Wharton School of Business, University of Pennsylvania, Certified Employee Benefits Specialist
- International Foundation of Employee Benefit Plans and Wharton School of Business, University of Pennsylvania, Compensation Management Specialist
- American Society of Pension Professionals & Actuaries, Certified Pension Consultant

Thought Leadership

Presentations

- “SECURE 2.0 and Pension-Linked Emergency Savings Accounts: New DOL and IRS Guidance, Fees, Limitations, Reporting,” Strafford Webinar, Aug. 27, 2024
- “Cybersecurity Issues for ERISA Plan Fiduciaries,” MISBO (National Association of Independent Schools), Oct. 2023
- “SECURE Act Compliance and Plan Design Opportunities,” Public Sector HR Association, Mar. 2022