



Harvey M. Katz

Partner

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Harvey is Co-Chair of the firm's Employee Benefits & Compensation Department. His practice focuses on all aspects of pension, executive compensation and employee benefits law.

During his 40-plus year legal career, Harvey's practice has included an extremely broad array of sophisticated employee benefits issues for public and private companies, including:

- representation of a prominent worldwide media organization with responsibility for compliance for all of its U.S. benefits compliance and restructuring its worldwide benefit structure to integrate its U.S. benefit structure with benefit programs available to executives in the U.K. and Australia
- representation of a major banking institution based in Ireland with respect to its U.S. workforce, including a major restructuring of its U.S. benefit and executive compensation programs following a large divestiture and extensive integration of benefits for expatriates
- representation of a New York Stock Exchange temporary and technical staffing organization with respect to all of its benefits and executive compensation issues, including extensive advice regarding controlled-group, independent contractor, and related benefits issues
- representation of 40,000 ground service employees of a major bankrupt airline in connection with their claim for enhanced benefits from the Pension Benefit Guaranty Corporation
- representation of the trustee the Employee Stock Ownership Plan of a U.S. Airline in the process of major restructuring and emergence from chapter 11 bankruptcy proceedings
- representation of a prominent Boston-based hospital in connection with structuring and negotiating its executive benefits packages and compliance with associated "intermediate sanctions" requirements for tax-exempt organizations under the Internal Revenue Code
- representation of a major Connecticut-based religious affiliated hospital in connection with employee benefits compliance issues both generally and in the context of a proposed merger with another non-religious institution
- representation of the largest supplier of plumbing products in New York City in connection with employee benefits and executive compensation issues and in connection with the sale of its shares to its Employee Stock Ownership Plan
- representation of the equity committee in bankruptcy of a major silverware manufacturer in connection with a dispute regarding the liability to the Pension Benefit Guaranty Corporation in the context of chapter 11 bankruptcy proceedings
- representation of several major Japanese public companies with respect to benefits compliance and issues relating to integration of worldwide benefits issues for expatriate executives

In addition to the specific representations noted above, Harvey has extensive experience in the following benefits and compensation areas:

- representation of employers in connection with compensation issues relating to union employees, multiemployer plans and multiemployer liability
- representation of plan administrators of pension and welfare plans in connection with benefit disputes with employees and executives throughout the administrative exhaustion process and in connection with federal court litigation
- representation of public and private employers in connection with cash and equity based compensation arrangements, both in general and in connection with negotiation and litigation of disputes with terminated executives
- drafting of employment, change in control, and severance agreements with particular emphasis on compensation elements of those arrangements and associated tax implications
- advice to public and private employers regarding correction of compliance related benefits problems, including self-correction, EPCRS, DVFC, and other IRS and Department of Labor sponsored correction programs
- representation of plan sponsors and fiduciaries in connection with Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation audits and investigations, including administrative appeals and Tax Court litigation
- advice to public and private plan sponsors regarding welfare plan compliance including issues involving tax and coverage, COBRA, and HIPAA issues as well as those issues relating to use of VEBA's and insurance vehicles to fund those benefits
- advice to plan administrators, trustees and other fiduciaries in connection with fiduciary compliance issues relating to plan investments, prohibited transactions, conflicts of interest, and general fiduciary compliance, including applications for prohibited transaction exemptions
- extensive involvement with pension and welfare programs structured to meet the requirements of the Davis Bacon Act and similar state prevailing wage laws
- representation of financially troubled plan sponsors in connection with funding waiver applications, distress plan terminations, WARN act issues, and benefits issues arising in connection with bankruptcy proceedings of the plan sponsor
- representation of employers and trustees in connection with Employee Stock Ownership Plans, including compliance, fiduciary, and transactional matters and use of ESOPs in connection with business acquisitions
- extensive representation of public and private employers in connection with design, structuring, and implementation of benefit programs, including controlled group, affiliated service group, coverage, discrimination and testing issues involving cross tested plans, floor-offset plans, mandatory contribution plans, cash balance plans, discrimination testing, and QSLOB issues
- representation of employers and plan administrators in connection with negotiations and disputes with record keepers, financial institutions, consultants, and insurance companies regarding administrative agreements, excessive fee arrangements, and correction of third-party errors
- representation of benefit plans and investors relating to so-called "plan asset issues" in connection with plan investments and related financial products
- extensive experience relating to benefits issues in connection with company mergers and acquisitions

Knowledgeable about health care reform, Harvey frequently helps clients sort through myriad issues and changes stemming from the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010.

Services

- Employee Benefits & Compensation
- Taxation & Wealth Planning
- Health Law
- Executive Compensation
- Business Succession Planning
- Mergers & Acquisitions
- Employee Stock Ownership Plans
- Private Companies
- Multiemployer Plans

Before Fox Rothschild

Prior to joining the firm, Harvey was the senior employee-benefits partner in the corporate department of Brown Rudnick Berlack Israels LLP in New York.

Harvey frequently lectures professional groups including the American Society of Pension Actuaries, the Enrolled Actuaries Conference, the ASPPA Benefits Counsel of New York, and The Actuaries' Club of Hartford and Springfield, as well as conferences sponsored by Fidelity Investments, Plan Sponsor Magazine, and Lorman Teleconferencing.

Beyond Fox Rothschild

Before starting his legal career, Harvey was a licensed electrical contractor. He has completed several graduate level courses in actuarial science. Outside of work, he enjoys playing the piano, listening to jazz, collecting art, reading science fiction and building furniture.

Client Resources

[Qualified Plans for Tax-Exempt Employers Presentation](#)

Bar Admissions

- New York
- Pennsylvania

Court Admissions

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of Pennsylvania
- U.S. Court of Appeals, Second Circuit
- U.S. Tax Court

Education

- Temple University James E. Beasley School of Law (LL.M., 1982)
- New York Law School (J.D., 1977)
- Temple University (B.A., 1973)

Memberships

- American Bar Association
- New York Bar Association
- American Society of Pension Professionals and Actuaries
- ESOP Association
- National Center for Employee Ownership
- National Association of Public Pension Attorneys

Board of Directors

- American Society of Pension Professionals and Actuaries – New York
- Benefits Counsel (Chairman)

Honors & Awards

- Highest peer review rating by Martindale-Hubbell (AV)
- Named in *AVENUE* magazine's Legal Elite list of top tax attorneys in New York City (2011)
- Named to "Super Lawyers" by *New York Super Lawyers* and *Law & Politics Magazine* (2009 and 2010)
- Named among the "Corporate Counsel Super Lawyers" in the area of Employee Benefits/ERISA (2009 and 2010)

Overfunded Benefit Plans

Interest rates, which have been at historic lows for many years, are on the rise, resulting in lower lump sum values of plan benefits. This in turn results in a dramatic increase in the number of overfunded plans and the amount of the overfunding.

The effect of interest rate hikes on many retirement plans is not a welcome development, but business owners can take decisive steps to control any adverse consequences.

Harvey is experienced in guiding employers and business owners in properly dealing with overfunding situations in the most tax-efficient manner.

Two resources he has created for clients and their other professional advisers:

- [Interest Rate Hikes Present Challenge for Fully Funded Pension Plans](#)
- [Issues Involving Overfunded Defined Benefit Plans](#)