



Benjamin Gibbons

Of Counsel

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Ben counsels both for profit and non-profit employers on a broad range of qualified retirement plans, health and welfare plans, executive compensation arrangements, and other employee benefit plans.

Ben is adept at helping design and implement employee benefit plans that are tailored to an organization's specific needs. He also provides advice on the ongoing administration of employee benefit plans, equity incentive plans, and nonqualified deferred compensation plans under Section 409A and Section 457, including compliance matters with respect to ERISA, the Affordable Care Act, and federal tax law.

Ben also specializes in advising clients in M&A transactional matters with respect to the challenges that arise from transitioning or terminating employee benefit plans, equity incentive plans and deferred compensation arrangements, negotiating purchase agreements, and golden parachute payment matters under Section 280G.

Prior to joining Holland & Hart, Ben was an attorney at Choate, Hall & Stewart in Boston, MA. In addition, Ben has over a decade of public accounting experience and is a Certified Public Accountant licensed in Massachusetts.

PRACTICES

Employee Benefits and Executive Compensation
Tax

EDUCATION

New England School of Law, J.D., 2011
cum laude

University of New Hampshire, M.S. -
Accounting, 2004

University of New Hampshire, B.S. in
Business Administration, 2003

BAR ADMISSIONS

Idaho
Colorado
Massachusetts

EXPERIENCE

- Drafting and maintenance of qualified retirement plans and health and welfare plans.
- Qualified retirement plan compliance and correction matters.
- Drafting and analyzing nonqualified deferred compensation arrangements, under Section 409A, Section 457(b), and Section 457(f).
- Health and welfare plans compliance matters, including with respect to the Affordable Care Act and nonquantitative treatment limitation (NQTL) comparative analyses.
- Drafting and advising on equity compensation plans, bonus plans, and similar arrangements.
- Advice on executive compensation, ERISA, and other employee benefit plan issues arising in connection with mergers, acquisitions, credit facilities and other business transactions.
- As a former public accountant, supervised over 500 annual employee benefit plan audit engagements over a 10-year period for

clients ranging in size from approximately 100 to over 10,000 participants.

PUBLICATIONS

"Here I Go Again in the Plan...Treatment of Rehired Employees," *LexisNexis Practical Guidance*, 12/06/2021

"Consolidated Appropriations Act, 2021 (CAA) Benefits Summary," *Holland & Hart News Update*, January 4, 2021

"COVID-19: Retirement Plans," *Holland & Hart Coronavirus Resource Site*, April 20, 2020

"EMPLOYEE BENEFITS RELIEF: Increased Distributions and Loans from Plans/Elimination of RMD," *Holland & Hart News Update*, 03/27/2020

"CARES Act Update: How the \$2.2 Trillion Relief Impacts Businesses and Employers," *Holland & Hart News Update*, March 27, 2020

BLOG POSTS

"Deferred Compensation Arrangements for Non-Profits: What I've Felt, What I've Known, Is Not Consistent with the Code," *Benefits Dial*, February 05, 2024

"Don't Think Twice, It's All Right to Ignore That Late Form 8955-SSA Notice," *Benefits Dial*, September 15, 2023

"Can't Stop the AI*," *Benefits Dial*, May 02, 2023

"Closing Time...for the COVID-19 National Emergency and Public Health Emergency," *Benefits Dial*, February 01, 2023

SPEAKING ENGAGEMENTS

"Do You Know Who Your Fiduciaries Are?," *WP&BC Boise Chapter's April 2024 Seminar*, April 17, 2024

"Your Retirement Plan Audit - From the Legal Perspective," *Employee Benefits Symposium 2024*, February 27, 2024

"2023 Secure 2.0 & Form 5500 Update," *Harris CPAs Employee Benefit Plan Webinar Series*, July 12, 2023

"Regulatory Update - Secure 2.0," *2023 Boise Fiduciary Summit*, May 11, 2023

"Fiduciary Responsibilities, Liability & Preparing for a DOL/IRS Audit," *Retirement Plan University Fiduciary Summit*, 11/02/2022

"Recent Retirement Plan Legislation and What's Coming Next," *AmeriBen 2022 Leadership Conference*, Sun Valley, ID, 09/22/2022

"2022 EBP Update: Tips to Ensure a Smooth Audit & Legislative Update," *Harris CPAs Employee Benefit Plan Webinar Series, 07/27/2022*

"2021 EBP Legal Update," *Harris CPAs Employee Benefit Plan Webinar Series, 07/27/2021*

"ABCs of 401(k) Plans," *Western Pension & Benefits Council (WP&BC) Boise Chapter, Webinar, 04/28/2021*

"ERISA Fiduciary Refresher and Update," *Western Pension & Benefits Council (WP&BC) Boise Chapter, Webinar, 03/17/2021*

"2020 Retirement Plan Update – COVID-19 Edition," *Harris CPAs Employee Benefit Plan Webinar Series, 08/19/2020*

"The SECURE Act: Impacts on Current Retirement Plan Design and Legal Compliance Requirements," *Western Pension & Benefits Council (WP&BC) Boise Chapter, Webinar, 06/24/2020*

"COVID-19: Impact on Retirement Plans," *Western Pension & Benefits Council (WP&BC) Boise Chapter, Webinar, 05/07/2020*

"Retirement Plan Regulatory Update," *AmeriBen's 51st Annual Leadership Conference, Sun Valley, ID, 09/26/2019*

RECOGNITION

- *Idaho Business Review*, Leaders in Law, 2020
- *Best Lawyers: Ones to Watch in America*®, Employee Benefits (ERISA) Law, 2022-2024

PROFESSIONAL AND CIVIC AFFILIATIONS

- American Society of Pension Professionals & Actuaries (ASPPA), Member
- American Institute of Certified Public Accountants (AICPA), Member
- Western Pension & Benefits Council, Boise Chapter, Board Member
- Pension Action Center, Advisory Board Member
- Boise Bicycle Project, Board of Directors, Chair