

# Kimberly S. Couch

Partner

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Kimberly has practiced exclusively in the area of employee benefits and executive compensation for more than 30 years. Clients look to her for technical and practical experience, and sound business judgment.

Kimberly advises for-profit and nonprofit employers on employee benefits and executive compensation matters, including qualified and non-qualified retirement plans, executive compensation, welfare benefit arrangements, incentive plans, and fiduciary issues. Her experience includes designing and drafting plan documents and employee communications, implementing and terminating programs, and compliance in all aspects of ERISA and tax laws.

Assisting clients with ERISA fiduciary compliance is a key aspect of Kimberly's work. She advises and provides fiduciary education to boards, investment committees, and officers; drafts committee charters, resolutions, and meeting minutes; reviews investment policy statements; and assists with internal audits. She also helps clients avoid, prepare for, and respond to Department of Labor, IRS, and PBGC plan audits and drafts submissions for governmental voluntary correction programs.

Kimberly works extensively with welfare plans, including self-insured health plans, cafeteria plans, and wellness programs, drafting plan documents and providing guidance on the Affordable Care Act, HIPAA, and COBRA. She also prepares HIPAA privacy manuals and provides in-house HIPAA training for clients.

A significant part of Kimberly's practice involves defined benefit pension plan issues, including the implementation of early retirement windows, and other reduction in force programs, lump sum windows and annuity purchases to de-risk liabilities; drafting plan amendments and employee communications; and preparing government filings with respect to plan mergers, spin-offs, and terminations. She works with single employer plans, multiple employer plans, and multi-employer plans.

While Kimberly works with a wide range of domestic and international clients, she has worked extensively with benefit plans for tax-exempt employers and

## Services/Industries

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- Employee Benefits & Executive Compensation
- Higher Education

employers in the energy industry.

Outside the office, Kim is an avid skier and baseball fan. She enjoys spending time with her two sons, running with her dog, practicing yoga, and reading classics.

## Education

- The George Washington University Law School (J.D., *With Honors*)
  - Phi Alpha Delta
  - Vice Chair, Van Vleck Moot Court Board
- University of Vermont (B.A., *cum laude*)

## Bar Admissions

- Washington, D.C.
- Maine

## Memberships

- Maine State and American Bar Associations: Section of Taxation, Employee Benefits (subcommittees on Defined Benefits Plans, Welfare Plan Design and Funding, and Exempt Organizations and Governmental Plans)
- New England Employee Benefits Council

## Honors

- *Chambers USA: America's Leading Lawyers for Business*
- Listed in *The Best Lawyers in America*® for Employee Benefits (ERISA) Law in Portland, Maine

To learn more about third-party ratings and rankings, and the selection processes used for inclusion, [click here](#).

## Publications & Podcasts

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July 5, 2023

**Establishing Practices and Procedures to Support Retirement Plan Self-Correction**

September 6, 2022

**Amending Your Retirement Plans this Year for SECURE Act and CARES Act Changes**

December 6, 2021

**2021 Year End Employee Benefit Plan Amendments**

August 19, 2021

## **Employee Benefits & Executive Compensation 2021 Summer Client Advisory**

December 17, 2020

## **Employee Benefits & Executive Compensation 2020 Year-End Client Advisory**

# **Blog Posts: Benefits Law Update**

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Verrill's Benefits Law Update blog delivers timely insights and practical guidance on the ever-evolving landscape of employee benefits and executive compensation. Our blog provides up-to-date analysis and commentary on a wide range of topics to provide timely updates and commentary on developments in law affecting employee benefit plans and executive compensation arrangements.

July 30, 2024

### **A Primer on COBRA Continuation Coverage for Health Care Flexible Spending Accounts**

It is a common practice for employers to offer employees a health care flexible spending account ("Health FSA") option under a cafeteria plan. However, employers (and their COBRA administrators) may not be aware that Health FSAs are subject to...

February 29, 2024

### **Cross-Plan Offsetting in Group Health Plans—The DOL Makes its Position Clear**

Under Section 404 of ERISA, plan fiduciaries must act for the exclusive benefit of plan participants and beneficiaries and use plan assets only to provide benefits and defray reasonable expenses of administering the plan. In addition, Section 406 of...

August 30, 2023

### **Catch-Up Contributions: IRS Provides Relief from Roth Requirements of SECURE 2.0**

On August 25, 2023, the IRS issued IRS Notice 2023-62, providing much needed relief for employers who have been struggling to implement Section 603 of the SECURE 2.0 Act of 2022 ("SECURE 2.0"), which requires high income employees...

April 26, 2023

### **Alternatives for Sponsors of Defined Benefit Pension Plans**

For decades, it was common for employers to maintain employer-funded defined benefit pension plans ("DB Plans" or "Plans") to provide retirement benefits to their employees. In recent years, DB Plans have become increasingly expensive and difficult to administer due...

November 10, 2022

### **New IRS Determination Letter Program for 403(b) and 401(a) Plans**

On November 7, 2022, the IRS issued Revenue Procedure 2022-40 , which allows certain tax-exempt employers (such as schools, charities, and churches) to apply for IRS determination letters on their individually designed section 403(b) retirement plans (“403(b) plans”) in...

June 6, 2022

### **IRS Announces New Pilot Program for Retirement Plan Audits**

On June 3, 2022, the Internal Revenue Service (“IRS”) announced a new pre-examination compliance pilot program beginning in June 2022. Under the pilot program, the IRS will notify a plan sponsor by letter that its retirement plan has been...

January 27, 2022

### **Required Minimum Distributions and Missing Plan Participants**

In January of 2021, we published two blog posts regarding Department of Labor (“DOL”) guidance on missing retirement plan participants. The first post describes DOL guidance on best practices for locating missing retirement plan participants. The second post describes...

September 30, 2021

### **Recent Court Decisions Extend the Statute of Limitations for Breach of Fiduciary Duty Lawsuits under ERISA**

ERISA Fiduciary Duties and Liability Under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), a plan fiduciary must (i) act prudently, for the exclusive purposes of providing benefits to plan participants and defraying plan expenses, and...

August 19, 2021

### **Employee Benefits & Executive Compensation 2021 Summer Client Advisory**

[Click here to view as a PDF.](#) This Client Advisory summarizes developments in the law governing employee benefit plans prompted by the COVID-19 pandemic. We explain what these developments mean for plan sponsors and highlight the need to adopt...

June 29, 2021

### **Primer on Severance Plans Under ERISA and the Tax Code**

Many employers maintain formal or informal severance policies or practices that they use sporadically. Other employers may implement a severance program for a limited period of time to reduce the number of employees overall or within a work classification...

January 21, 2021

### **DOL Guidance on Missing Pension Plan Participants - Part II**

On January 18, we published a blog post regarding new Department of Labor (“DOL”) guidance on missing plan participants. That post is available [here](#) , and describes the DOL’s guidance on Missing Participants - Best Practices for Pension Plans...

January 18, 2021

### **DOL Guidance on Missing Pension Plan Participants**

The Department of Labor (“DOL”) has undertaken a nationwide compliance initiative to ensure that retirement plan participants receive the benefits that they were promised when they reach their retirement age. To that end, the DOL recently issued three pieces...

December 30, 2020

### **Employee Benefits & Executive Compensation 2020 Year-End Client Advisory**

[Click here to view as a PDF](#) . This Client Advisory highlights important developments in the law governing employee benefit plans over the past year. It offers insight into what these developments mean for employers and plan sponsors and...

September 28, 2020

### **ERISA and COBRA Implications for EAPs and Wellness Programs**

There is a growing trend for employers to provide employee assistance programs (“EAPs”) and wellness programs for the benefit of their employees. Typically, the employer pays for benefits under these programs out of its general assets. These programs are...

June 24, 2020

### **IRS Issues New Guidance on CARES Act Retirement Plan Distributions and Loans**

The IRS recently issued Notice 2020-50 , which expands relief provided for retirement plan distributions and loans under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Distributions Under the CARES Act, a retirement plan may allow participants...

May 15, 2020

### **IRS Relaxes Rules for Cafeteria Plans and Clarifies Relief for High Deductible Health Plans**

In response to the 2019 novel coronavirus outbreak (COVID-19), earlier this week the IRS issued two notices allowing certain changes to cafeteria plans. Notice 2020-33 increases the limit on unused amounts remaining at the end of the plan year...

December 19, 2019

### **December 2019 Client Advisory**

This Client Advisory, originally distributed in December 2019, highlights important developments in the law governing employee benefit plans and executive compensation over the past year. It offers insight into what these developments mean for employers and plan sponsors and...

December 31, 2012

### **Same-Sex Marriage and Your Employee Benefit Plans**

Maine has now officially joined nine other states in allowing same-sex marriage. The new Maine law (“An Act to Allow Marriage Licenses for Same-sex Couples and Protect Religious Freedom”) was approved by a referendum election on November 6, 2012...

November 27, 2012

### **Working with the New Annual Limit on FSA Contributions**

The Patient Protection and Affordable Care Act modified the rules relating to cafeteria plans to impose a new \$2,500 annual limit on the amount that an employee may elect to contribute to a health flexible spending account ("health FSA&quot;...)