



## Kevin P. O'Brien

*Partner*

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### **PRACTICE AREAS**

Employee Benefits

Executive Compensation and  
Fringe Benefits

Plan Terminations and  
Bankruptcy

Health and Welfare Plans

Benefits Rulings and Audit  
Defense

Employment Taxes and Worker  
Classification

Qualified Retirement Plans

### **EDUCATION**

Georgetown University Law  
Center, 1980, LL.M.

Georgetown University Law  
Center, 1976, J.D.

Georgetown University, 1973,  
B.A., *cum laude, with distinction*

### **BAR AND COURT**

#### **ADMISSIONS**

District of Columbia

United States Tax Court

Kevin P. O'Brien is a partner in the firm's Employee Benefits and Executive Compensation practice. His practice has concentrated in employee compensation and benefits for over 30 years. Kevin is widely known as a leader in a wide variety of subjects, including innovative defined benefit plan design, flexible benefits, ERISA fiduciary matters and executive compensation.

Before joining the firm, Kevin worked in the Pension and Welfare Benefits Administration at the Labor Department soon after ERISA was enacted. Kevin represents corporate clients before the Treasury Department, the Internal Revenue Service, the Labor Department, the Pension Benefits Guaranty Association, the Equal Employment Opportunity Commission and Congress on a variety of employee benefit issues. He was one of the founders of the Employers Council on Flexible Compensation (ECFC) and served as an officer of ECFC for many years.

### **REPRESENTATIVE MATTERS**

- Advised multiple clients on the design of retirement programs involving one-time choices between participation in a defined benefit or a defined contribution plan.
- Worked on a variety of matters involving the closing out of defined benefit plans. This has included the representation of plan fiduciaries in conducting plan close-out annuity purchases.

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- For a large foreign corporation, resolved the tax and ERISA hurdles to funding its U.S.-based pension plan with company stock.
- Worked on numerous employment agreements involving senior executive employment agreements. This included negotiating and drafting an employment agreement for the U.S.-based Chief Investment Officer hired to manage a foreign multi-billion dollar endowment, as well as the crafting of numerous separation agreements for departing executives.
- Advised numerous clients on the employee benefits and tax aspects of corporate spinoffs and joint ventures.
- Has participated as a cash balance plan expert on behalf of numerous corporations and groups. For example, submitted the amicus brief on behalf of The American Benefits Council in *Hirt v. Equitable Retirement Plan*, and was retained to submit comments to the IRS and Treasury concerning their cash balance regulations on behalf of several Fortune 100 corporations.

#### **GOVERNMENT SERVICE**

Labor Department, Pension and Welfare Benefits Administration (PWBA)

#### **MEMBERSHIPS & AFFILIATIONS**

American Bar Association

*Benefits Law Journal*, Co-Editor-in-Chief, 1997 - 2001

*Benefits Law Journal*, Contributing Editor, 2001 to present

Best Lawyers in America

American Legal 500

*Chambers*-ranked Lawyer

Charter Member, American College of Employee Benefits Council

#### **PUBLICATIONS**

- October 25, 2010  
Taxing Clawbacks  
*Tax Notes*
- April 12, 2010  
Document Failures in the Section 409A-Covered Plan: Correcting With and Without Notice 2010-6  
*BNA Pension & Benefits Daily*

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**NEWS**

- August 31, 2011  
Ten Ivins Attorneys Named to 2012 Best Lawyers in America
- May 8, 2011  
Ivins Attorneys Named to 2011 Washington DC Super Lawyers
- April 12, 2010  
Rosina Barker and Kevin O'Brien Publish Insights on Correcting 409A Document Failures