

Michelle McCarthy

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Michelle McCarthy advises clients of all types – from governmental plans to Fortune 100 companies – regarding every facet of employee benefits law, including the design, structure, implementation, regulatory compliance and administration of retirement, health and welfare benefit plans. With more than 20 years of legal experience specializing in benefits and taxation, Michelle advises clients from both the private and public sectors and has served as trustee-appointed counsel to some of the largest and most reputable pension, health and welfare funds in the nation.

Specific to governmental plans, Michelle advises on tax and fiduciary issues, plan design, pension and health benefits administration, policy development, as well as tax compliance and maintaining tax-exempt status under the Internal Revenue Code (IRC), underlying Treasury Regulations and applicable state law. Michelle frequently advises governmental plan administrators and Boards of Trustees on issues pertaining to plan governance, administration and compliance, has represented numerous of her clients in matters before the Internal Revenue Service (IRS), including IRS audits and examinations, and has helped clients to obtain private letter rulings, closing agreements and compliance statements with respect to corrective filings under the Employee Plans Compliance Resolution System (EPCRS) Voluntary Corrective Program (VCP). In addition, Michelle has represented her governmental plan clients in collection and enforcement actions before state taxing authorities and has assisted clients in the prosecution and defense of state tax appeals.

Michelle also has had a strong focus on benefits issues arising for Taft-Hartley multiemployer plans throughout her career, serving as management-appointed fund counsel to numerous multiemployer plans and advising boards of trustees on multiemployer plan governance, administration and compliance issues. Michelle has represented numerous of her multiemployer plan clients in matters before the IRS, Department of Labor (DOL) and the Pension Benefit Guarantee Corporation (PBGC), including audits and examinations as well as voluntary compliance programs. In addition, Michelle advises contributing employers regarding their participation in multiemployer health and pension plans and provides corporate transaction support on multiemployer plan issues, including potential withdrawal liability.

In addition to serving governmental and multiemployer plan entities, Michelle has vast experience working in the private sector. Michelle's experience in the retirement plan space includes both defined contribution and defined benefit plans, including cash balance plans. She counsels clients on all aspects of health and welfare plans, working with clients to ensure that their health and welfare plans comply with the complicated and ever-changing requirements under the IRC, ERISA, ACA, COBRA, HIPAA, MHPAEA, GINA, as well as other applicable federal and state law group health plan mandates. And in addition to representing numerous clients in matters involving the IRS, Michelle also has represented clients in matters before the US

Department of Labor (DOL) and the Pension Benefit Guaranty Corporation (PBGC), including in DOL plan audits and examinations, as well as in voluntary corrective programs. She frequently advises on data privacy and cybersecurity issues applicable to retirement, health and welfare plans.

In addition to the numerous publications she has authored, Michelle frequently speaks on employee benefits and tax compliance issues at the International Foundation of Employee Benefit Plans, the American Bar Association, the Los Angeles County Bar Association, the Beverly Hills Bar Association, the California Society of Certified Public Accountants and Lorman, among others.

INSIGHTS

PUBLICATIONS

Co-Author, "Federal Court Rejects States' Challenge to DOL's ESG Investing Rule," *Nossaman eAlert*, 09.25.2023

Podcast Co-Host, "Cybersecurity Risk Management for Pension Plan Administrators: Tips for Staying Ahead of the Hackers," *Pensions, Benefits & Investments Briefings*, 08.02.2023

Podcast Co-Host, "Secure 2.0 Brings Big Changes to Retirement Plans," *Pensions, Benefits & Investments Briefings*, 03.16.2023

Author, "Considerations for Employers and Employer Plan Sponsors Related to Potential Changes in the Effect of *Roe v. Wade*," *LawFlash*, 05.06.2022

Author, "A Survival Guide to DOL Group Health Plan Mental Health Parity Audits," *LawFlash*, 10.22.2021

Author, "IRS FAQs: A Potential Shield for Taxpayers—Not a Sword for the Service," *LawFlash*, 10.20.2021

Author, "Relaxed IRS Self-Correction Rules a Boon for Plan Sponsors—and an Opportunity to Correct Failures Now, Practical Guidance," *LawFlash*, 08.24.2021

Author, "Relaxed IRS Self-Correction Rules a Boon for Plan Sponsors—and an Opportunity to Correct Failures Now," *LawFlash*, 07.28.2021

Author, "Employers May Continue to Defer Payroll Taxes Even After Paycheck Protection Loan Forgiveness," *LawFlash*, 06.10.2020

Author, "COVID-19 Measures: 100 Payroll Tax and Fringe Benefits Questions for the IRS," *LawFlash*, 04.17.2020

Author, "Insight: 100 Payroll Tax and Fringe Benefit Questions for the IRS on COVID-19 Measures," *Bloomberg Law*, 04.17.2020

Author, "COVID-19: LA City Council Approves Ordinances on Sick Leave and Retail and Delivery Workers," *LawFlash*, 03.21.2020

Author, "HIPAA Privacy Rule Still Applies for Employers Amid 2019 Novel Coronavirus Outbreak," *LawFlash*, 02.28.2020

SPEAKING ENGAGEMENTS

Speaker, "Smarter, Greener, Better? Defined Contribution and Hybrid Plans Catch-Up on Secure 2.0 and ESG Investing," National Association of Public Pension Attorneys' 2023 Legal Education Conference, San Antonio, TX, 06.27.2023 – 06.30.2023

Speaker, "Required Minimum Distribution (RMD) Rules Applicable under the Internal Revenue Code (IRS) and County Employees Retirement Law (CERL)," State Association of County Retirement Systems Spring Conference, San Diego, CA, 05.10.2023

Speaker, "Top of Mind Benefits Issues for Employers," Technology Industry Employers Roundtable, 05.18 - 05.20.2022

Speaker, "Attorney Misconduct Case Studies," International Foundation of Employee Benefit Plans Annual Conference 2021, 10.19.2021

Speaker, "Top of Mind Benefits Issues for Employers," Technology Industry Employers Roundtable, 05.19.2021

Speaker, "National ERISA Litigation Trends Against Employers," ERISA Litigation Virtual Roundtable: For Plan Sponsors, 10.20.2020

Speaker, "Responding to the 2019 Novel Coronavirus: Top-of-Mind Employee Benefits Questions for Employers," 03.23.2020

Speaker, "Hot Topics in Employee Benefits: What We're Seeing," 03.19.2020

Speaker, "Responding to the 2019 Novel Coronavirus: Top-of-Mind Questions for Employers," Labor and Employment Employer Roundtable, 03.12.2020

Speaker, "Employee Benefits 2020 – Hot Topics and Trends," Employee Benefits Employer Roundtable, 11.21.2019

Speaker, "International Foundation of Employee Benefit Plans – Health Plan Mergers," 11.11.2019

COMMUNITY & PROFESSIONAL

State Bar of California, Compensation and Benefits Committee, Chair
Taxation Section, American Bar Association, Member
National Association of Public Pension Attorneys, Member
Women's Lawyers Association of Los Angeles, Member
Free Arts for Abused Children, Director

HONORS

Recognized in *Best Lawyers in America*, Employee Benefits (ERISA) Law, Los Angeles, 2020, 2023

PRACTICES

Pensions, Benefits & Investments
Compensation & Benefits
Retirement & Welfare Plan Benefits
Fiduciary
Taxation
Litigation
Health Law

INDUSTRIES

Healthcare

EDUCATION

University of California, Riverside, B.A., 1995, *cum laude*
University of San Diego School of Law, LL.M., 1999
University of San Diego, J.D., 1998

ADMISSIONS

California