GRAYROBINSON



Richard E. Burke

Shareholder

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Focus

- ERISA and Employee Benefits
- Religious Organizations
- Taxation
- Technology Transactions
- ESOPs

Rick focuses on employee benefits and deferred compensation and has been chair of this practice area of the firm since 1992. GrayRobinson has always been considered a statewide leader in this field and enjoys one of the largest practices in central Florida. Rick has practiced exclusively in this area since 1985. He is a frequent lecturer on benefit issues and has conducted several seminars on a national level.

Rick's practice involves the design, drafting, implementation and operation of "qualified" retirement programs, "nonqualified" deferred compensation arrangements and welfare benefit plans (e.g. cafeteria plans, medical plans, etc.) This field is one of the most complicated areas of the law and is heavily regulated by the federal government. Recently, employee benefit programs have been targeted for increased audit activity by the Internal Revenue Service and the Department of Labor. Over the years, Rick has successfully defended employers against the IRS and DOL in more than 300 audits/appeals/rulings, etc.

Rick's clientele includes both publicly traded companies and privately held employers. He also represents numerous governmental and tax-exempt organizations. In fact, the majority of Rick's practice currently involves governmental plans. The rules that apply to these arrangements are significantly different than the requirements applicable to private sector retirement programs, which makes this area a specialty practice within a specialty practice.

Rick was born on November 3, 1954 in Elizabethtown, Pennsylvania. He graduated from the University of Tampa in 1977. Rick received his juris doctor degree with honors, from Nova University College of Law in 1983 and his masters of law degree (LL.M.) in taxation from the University of Florida College of Law in 1984. He moved to Orlando in 1986, joined GrayRobinson in 1990 and has been a shareholder of the firm since 1992.

Noteworthy Professional Accomplishments

- 1995-1996 – prepared the plan sponsor's position during an IRS technical advice memorandum request that culminated in the IRS National Office's revocation of a 1994 "field directive" issued

to its Key District Offices, challenging the contribution allocation methodology utilized by the majority of so-called "new comparability" cross-tested plans

- 2000-2001 – negotiated $1,000,000 settlement on a potential $31,000,000 liability on behalf of a prestigious private university in the southwest U.S. in a benefits case involving the National Offices of the IRS, DOL and PBGC
- 2001 – at the request of certain members of the American Society of Pension Professional and Actuaries and the National Federation of Independent Business, spent several months negotiating with top U.S. Treasury officials that culminated with the addition of a 7½% allocation rate cap in the final nondiscrimination treasury regulations with respect to the special "gateway" requirement applicable to defined benefit/defined contribution combination plans
- 2005-2006 – prepared the plan sponsor's position during an IRS technical advice memorandum request on behalf of a large, southern, governmental employer, resulting in a ruling by the IRS National Office that so-called "governmental stand-alone accumulated leave conversion" plans satisfy the IRS qualification requirements
- 2012-2016 – successfully defended various municipal pension plans against an IRS assertion that so-called "defined contribution DROP accounts" were subject to the contribution limitations applicable to defined contribution plans during several IRS favorable determination letter requests.
- 2014-2018 – successfully negotiated the correction of various "operational plan qualification defects" (i.e., permitting pension distributions to retirees prior to incurring a "qualifying" termination of employment) with the IRS on behalf of several Florida municipal pension plans via the adoption of a retroactive plan amendment permitting "in-service" distributions after normal retirement age under the IRS Voluntary Compliance Program ("VCP").

Education

- University of Tampa, B.S. (1977)
- Nova University College of Law, J.D. (With Honors, 1983)
- University of Florida College of Law, LL.M., taxation (1984)

Admissions

- Florida

Professional Associations and Memberships

- The Florida Bar
  - Tax Law Section, Member
  - Employee Benefits Committee
- American Bar Association
  - Tax Law Section, Member
- American Society of Pension Professional and Actuaries

Awards and Recognitions

- *Chambers USA*, Employee Benefits and Executive Compensation, 2021-2026