Carolyn E. Smith

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Clients count on Carolyn's unique policy and legal background for strategic planning, advocacy and compliance advice on complex tax, health and employee benefit issues. She has 20 years of experience with the Congressional Joint Committee on Taxation, where she was the associate deputy chief of staff and counseled members and staff of the House Ways and Means and Senate Finance Committees.

Carolyn brings to her practice a unique blend of technical and policy experience, having served for over 20 years as counsel to the members and staff of the House Ways and Means and Senate Finance Committees. Carolyn utilizes her substantive background and in-depth experience in the regulatory and legislative process not only to counsel clients on compliance, but also to assist in strategic planning and advocacy in an uncertain and changing regulatory and legislative environment. Her current practice focuses on regulatory, compliance and legislative issues relating to health care, pensions, executive compensation and tax. Her clients include insurers, health plans, financial institutions, pharmaceutical manufacturers, media conglomerates and trade associations.

Prior to joining Alston & Bird, Carolyn was associate deputy chief of staff of the Congressional Joint Committee on Taxation. During her 20+ years on the Joint Committee staff, she was responsible for major health, pension and tax legislation from the Tax Reform Act of 1986 through the Pension Protection Act of 2006. In addition to advising Ways and Means and Finance Committee members and staff, she also worked closely with the U.S. Department of the Treasury, the Internal Revenue Service, the House Education and Labor Committee, the Senate Committee on Health, Education, Labor and Pensions, the Pension Benefit Guaranty Corporation and the Department of Labor. She is recognized by *The Best Lawyers in America®* in Employee Benefits (ERISA) Law.

Representative Experience

- Counsel to a wide range of clients with respect to compliance issues under the Affordable Care Act, including insurers, providers, health plans and employers in a variety of industries.
- Counsel to individual companies, coalitions and trade associations on health care reform regulatory issues.
- Counsel to a publicly held media conglomerate with dynamic, complex benefit structures involving numerous traditional pension, cash balance and savings programs. Issues include plan design, early retirement window programs, compliance, and adapting to new legislative and regulatory developments.
- Counsel to a large governmental organization with respect to pension and savings plans.
- Counsel to financial institution clients with respect to planning and compliance issues relating to the executive compensation restrictions under the Troubled Assets Relief Program and counsel to public and private companies with respect to executive compensation issues including Sections 409A and 457A.
- Counsel to pension plans and investment funds regarding ERISA title I issues and alternative investments.
- Counsel to a variety of clients with respect to current legislative and regulatory issues ranging from pension funding to health care reform.

- Co-hosted Alston & Bird's 16-part weekly series on the progress and effects of the Tax Cuts and Jobs Act of 2017 ("tax reform"). Topics included International Tax, Corporate Tax, Executive Compensation, Employee Benefits, Health and Welfare, and Partnerships.

Publications & Presentations

Publications

- "Into the Unknown: Employee Retention Credit Remains Murky," *Tax Notes Federal,* June 8, 2020.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: 2019 Health Benefits Year In Review," *The Self-Insurer,* December 2019.
- "ACA, HIPAA, and Federal Health Benefit Mandates: Practical Q&A: IRS Expands Scope of Preventive Care for HSA Purposes for Individuals with Chronic Conditions," *The Self-Insurer,* November 2019.
- "ACA, HIPAA, and Federal Health Benefit Mandates: Practical Q&A: A New Era of HRAs Begins in 2020," *The Self-Insurer*, October 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Cracks Down On Health Plan Tax Avoidance Schemes With Criminal Sanctions; Employers And Employees May Be Left Holding The Bag," *The Self-Insurer,* August 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: HHS Guidance: A Reminder And Some Relief," *The Self-Insurer,* July 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DC Court Sends AHP Rule Back To DOL," *The Self-Insurer,* May 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: A Texas Court Says the ACA Is Unconstitutional! What Does It Mean? Perhaps Back to the Future, But Nothing For Now," *The Self-Insurer,* March 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Agencies Pump New Life Into CDHC With HRA Guidance," *The Self-Insurer,* February 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Legislative Update: Recap of 2018 Employee Benefit Provisions," *The Self-Insurer,* January 2019.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Benefit Compliance Issues That Arise In Connection With Employer Sponsored Clinic Arrangements: Part Two," *The Self-Insurer,* December 2018.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Benefit Compliance Issues That Arise In Connection With Employer Sponsored Clinic Arrangements: Part One," *The Self-Insurer*, November 2018.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Passage of House Bills Warrants A Fresh Look At Health Savings Accounts – Part Two," *The Self-Insurer,* October 2018.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Passage of House Bills Warrants a Fresh Look At Health Savings Accounts – Part One," *The Self-Insurer,* September 2018.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Issues Final Regulations for Association Health Plans: Real Opportunity for Small Employers or Much Ado About Nothing," *The Self-Insurer,* August 2018.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Issues Comprehensive Compliance Guidance for Mental Health Parity and Addiction Equity Act (MHPAEA)," *The Self-Insurer,* June 2018.

- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: IRS QSEHRA Guidance Leaves Many 'Gotchas' for the Unwary Small Employer,” *The Self-Insurer,* May 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: AHP Opportunities for Small Employers and Business Owners,” *The Self-Insurer,* March 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Wellness Program Incentives and Recent Litigation,” *The Self Insurer*, February 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Auld Lang Syne; Farewell 2017 – Greetings 2018 – The Health & Welfare Benefits Law Year in Review,” *The Self Insurer*, January 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Come Together: Executive Order Raises Potential Opportunities for Association Health Plans,” *The Self Insurer*, December 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Dealing With Disaster: Issues and Relief for Health Benefit Plans,” *The Self-Insurer,* November 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Lawsuits are Focused on Wellness Program Compliance. Are You?,” *The Self-Insurer,* October 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Avoiding Common Practices That Violate The Mental Health Parity And Addiction Equity Act,” *The Self-Insurer,* September 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: IRS Clears the Air as to Tax Treatment of Benefits Under Traditional Health Fixed Indemnity Coverage,” *The Self-Insurer,* July 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: AHCA (v2): What’s In Store for Employer Plan Sponsors Under House-Passed Bill,” *The Self-Insurer,* June 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Whack-A-Mole – IRS Takes Aim At Latest Wellness Program Scheme, But Overly Broad Language Can Be Taken Too Far As Applied To Traditional Coverage,” *The Self-Insurer,* March 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, QSEHRAs: End-of-Year Legislation Provides a New Health Care Option for Small Employers,” *The Self Insurer,* February 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, 2016 Health and Welfare Compliance Highlights: A Walk Down Memory Lane,” *The Self Insurer,* January 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, Navigating the Winding Highway of Wellness Program Compliance – A GPS for the EEOC’s Wellness Program Rules,” *The Self Insurer,* December 2016.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A,” *The Self Insurer,* September 2016.
- “So You Heard About HIPAA Phase 2 Audits. What Should You Do Now?,” *The Self Insurer*, May 2016.
- “IRS Notice 2015-87 Provides Much Needed Guidance for Account-Based Plans and ACA Employer Shared Responsibility Requirement (IRC 4980H) Part II,” *The Self Insurer*, April 2016.
- “Supreme Court Strikes Down Vermont Health Data Reporting Law as Applied to Self-Funded ERISA Plans: Ruling Could Have Broader Implications,” *ECFC Flex Reporter*, March 2016.
- “Staying on the Compliance Track: The 2015 Health Benefits Year in Review,” *The Self Insurer*, February 2016.
- “EEOC’s Proposed Rules for Wellness Programs Under the Genetic Information Nondiscrimination Act (GINA),” *The Self Insurer*, January 2016.

- "HIPAA Double Take: What Health Plan Sponsors Need to Know (Again)," *The Self Insurer*, November 2015.
- "The (Poorly Named) 'Cadillac Tax' Part Two: IRS Provides Further Guidance in Notice 2015-52," *The Self-Insurer*, October 2015.
- "The Cadillac Tax Part One: The Potential Impact of the Tax on Account-Based Plans (FSAs, HRAs and HSAs)," *The Self Insurer*, September 2015.
- "The (Poorly Named) 'Cadillac Tax' Part Two: IRS Provides Further Guidance in Notice 2015-52," *ECFC Flex Reporter*, September 2015.
- "A Supremely Busy Week: The Supreme Court Issues Two Rulings That Impact Health Plans," *The Self Insurer*, August 2015.
- "IRS Notice 2015-17: Window Has Closed on Pre-Tax Funding for Individual Major Medical Policies for Employees," *The Self Insurer*, July 2015.
- "Agencies Issue New Proposed Rules for the Summary of Benefits and Coverage," *The Self Insurer*, March 2015.
- "Health Care Reform Litigation Update: SCOTUS Takes Another Look at the ACA; The House of Representatives Takes Aim at the President," *The Self Insurer*, February 2015.
- "2014 Health Plan Sponsor Year End Checklist," *The Self Insurer*, December 1, 2014.
- "IRS Notice 2014-55 Allows New Health Coverage Election Changes," *The Self Insurer*, November 3, 2014.
- "To Subsidize or Not to Subsidize - That Is the Question - How *Halbig* and *King* Affect Employer Requirements Under the Affordable Care Act," *The Self Insurer*, September 2014.
- "ACA Administrative Simplification Provisions for Health Plans: Time to Apply for an HPID and Prepare for Certification of Compliance", *The Self Insurer*, July 2014.
- "New EEOC Proposed Rules Require a Gut Check for Wellness Programs," *The Self Insurer*, June 2015.
- "The Affordable Care Act and Account-Based Plans: Impact of the ACA on HRAs, FSAs, and HSAs,"*The Self Insurer*, April 2014.
- "Departments Issue New ACA FAQs on Preventive Services, Cost-Sharing Limits, Fixed Indemnity Insurance, Wellness Programs and Expatriate Health Plans," *The Self Insurer*, March 2014.
- "Agency Guidance Strikes a Major Blow for Individual Policy Premium Reimbursement and Stand-Alone Health Reimbursement Arrangements," *The Self Insurer*, February 2014.
- "Impact of Supreme Court Same Sex Marriage Ruling on Health Benefits: Part II," *The Self Insurer*, January 2014.
- "Friday the 13th: Agencies Take a Chainsaw Approach to HRAs and Employer-Funded Individual Medical (IM) Coverage," *ECFC Flex Reporter*, September 2013.
- "Private Exchanges and the Impact on Health Coverage," *The Self Insurer*, August 2013.
- "CER Fees – Funding the Patient-Centered Outcomes Research Trust," *The Self Insurer*, May 2013.
- "New HIPAA Omnibus Rule: Issues for Employer Plan Sponsors and Group Health Plans," *The Self Insurer*, April 2013.
- "IRS Issues Game-Changing Regulations Interpreting Health Care Reform's Pay or Play Requirement, Part Two," *The Self Insurer*, March 2013.

- "Recent Proposed Regulations Modify Requirements for Employer Wellness Programs," *Legal Affairs Bulletin* – BlueCross BlueShield Association, March 2013.
- "2012: The Year In Review (and then some)," *The Self Insurer*, January 2013.

Presentations

- "Tax Reform in the 115th Congress," November Membership Meeting, Atlanta Estate Planning Council, Atlanta, GA, November 7, 2017.

Professional & Community Engagement

- Fellow of the American College of Employee Benefits Counsel

Education

- University of California, Berkeley (J.D., 1981)
- University of California, San Diego (B.A., 1978)

Admitted to Practice

- District of Columbia
- California

Related Services

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