Evolution of Executive Compensation Since the Passage of ERISA

Moderator: Kathryn Kennedy, UIC

Panelist: Michael Melbinger, Winston & Strawn

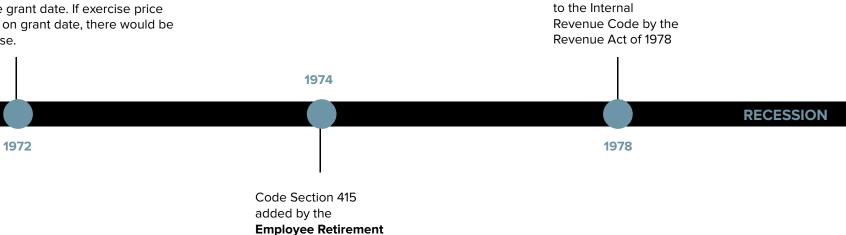


Polling Question

- When did you enter the workforce permanently (i.e., after university)?
 - Before 1980
 - Between 1980 and 1989
 - Between 1990 and 1999
 - Between 2000 and 2009
 - In or after 2010

1970 – 1979

APB Opinion No. 25, Accounting for Stock Issued to Employees. The compensatory value of a stock award is the difference between the fair market value of the stock and the exercise price to the employee to acquire the stock, on the grant date. If exercise price is equal to FMV of stock on grant date, there would be no compensation expense.

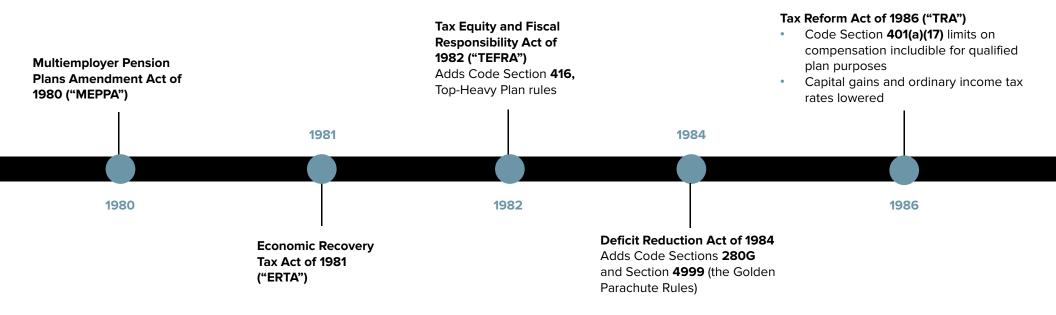


Income Security Act

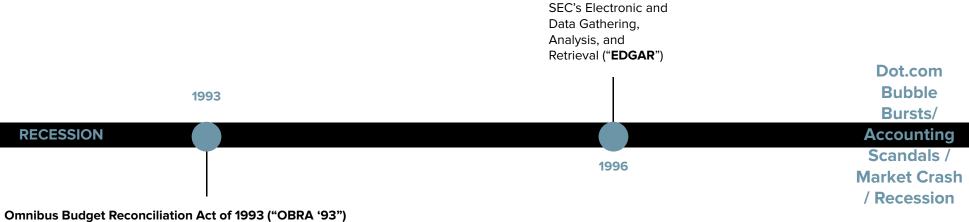
of 1974

Section 401(k) added

1980 - 1989



1991 – 1999

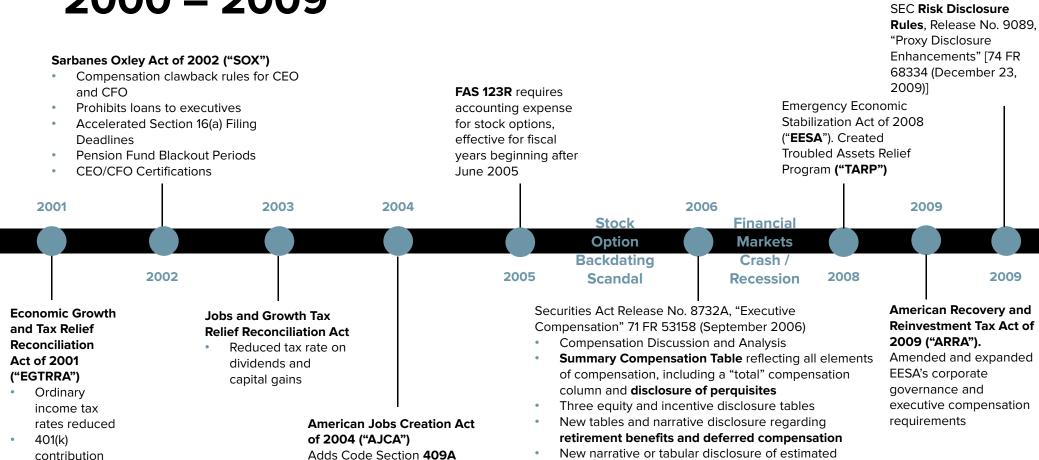


- Reduced the Section 401(a)(17) cap of compensation includible for qualified plan purposes to **\$150,000** (from \$238,000)
- Added Code Section **162(m)** \$1 million cap on compensation deduction by public companies for "covered employees." Includes an exception for "qualified performance-based compensation"
- · Capital gains and ordinary income tax rates increased

2000 – 2009

limits

increased



amounts payable upon termination of employment and

a change-in-control

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Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

- Shareholder Say on Pay and Say on Pay Frequency
- Shareholder Approval of Golden Parachute Compensation
- Disclosure Regarding Chairman and CEO Structures
- Compensation Committee Member Independence
- Independence of Compensation Consultant, Legal Counsel, and Other Advisers
- Pay Ratio Disclosure
- Whistleblower Bounties
- Incentive Compensation for Financial Institutions
- Disclosure of Pay Versus Performance
- Policy on Recovery of Erroneously Awarded Compensation [Clawbacks]

2010 - 2020

Tax Cuts and Jobs Act of 2017 ("TCJA")

- Expands the coverage of Code Sec. 162(m) to some private companies
- Expands the number of officers who are "covered employees"
- Repeals the performance-based compensation exception to the \$1 million deductibility limit
- Capital gains and ordinary income tax rates lowered

2012

2010

Jumpstart Our Business Startups Act of 2012 (JOBS Act)

 Introduced a new category of issuer—the "emerging growth company" (EGC)—that is relieved from certain compensationrelated disclosure requirements 2017

2021 - 2030: ???

2021