



# Payback Time: Tax Treatment of Executive Compensation Clawbacks

## ATTORNEYS

Kevin P. O'Brien

Kevin P. O'Brien

## PRACTICE AREAS

Benefits & Compensation

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Rosina B. Barker and Kevin P. O'Brien

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Rosina B. Barker and Kevin P. O'Brien are partners with Ivins, Phillips & Barker in Washington, DC. Rosina and Kevin have explored the tax treatment of compensation clawbacks, the tax treatment of clawbacks generally, and the tax questions raised by the many special cases likely to arise. This Chapter summarizes the many tax issues raised by clawbacks and their solutions. Topics are: (1) repayment of same year's compensation; (2) repayment of prior year's compensation; (3) retroactive clawbacks; (4) bad boy clawbacks; (5) retirees and other former employees; (6) Section 409A; (7) employer stock; (8) FICA taxes; and (9) practical conclusions and what to do.