Non-qualified Deferred Compensation

Producer Guide

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Non-qualified Deferred Compensation Plans
A Reward for Top Talent Employees

Today's highly compensated executives are experiencing a form of reverse discrimination. The impact of legislation on qualified retirement plans has penalized these individuals by reducing their final retirement benefits to a smaller percentage of their pre-retirement income. These executives are often faced with paying additional taxes on income that they don't currently need and are prevented from putting that money into qualified retirement plans on a tax-advantaged basis.

Non-qualified Deferred Compensation

Non-qualified deferred compensation plans help executives achieve their retirement goals by overcoming qualified plan limits. Under this type of voluntary arrangement, executives have the opportunity to defer a portion of income (this can be salary or bonus) for future retirement income.

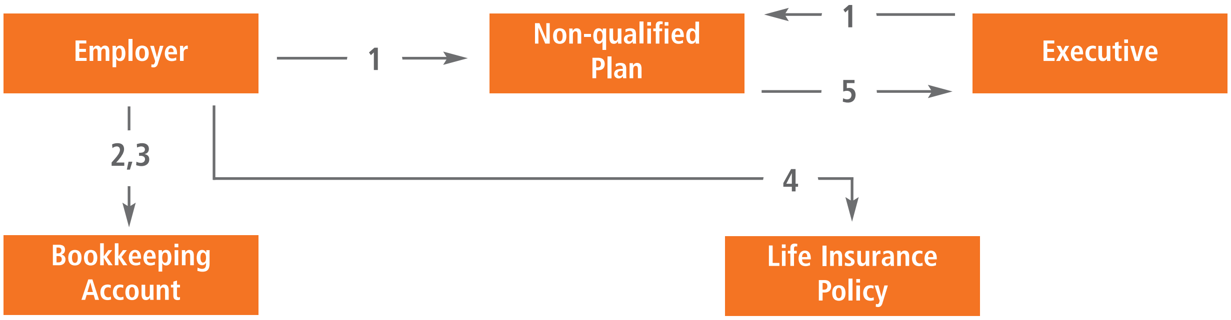
The ideal employer profile is a small to medium sized business that is a regular C corporation. Other types of business entities may also be prospects. Each entity needs to be evaluated on the basis of structure and the individual situation.

Benefits

The employer enters into a non-qualified deferred compensation contract with its key executive(s). Through this voluntary arrangement, the executive elects to defer a portion of their future income. In return, the employer agrees to provide supplemental retirement income for the executive and his or her family. These benefits are not currently taxable to the executive. This is because the benefit is an unsecured promise to pay future benefits and the benefit is at risk if the employer becomes insolvent. When this deferred compensation is distributed to the executive it becomes tax-deductible to the employer and is reported as taxable income to the executive or his or her heirs.

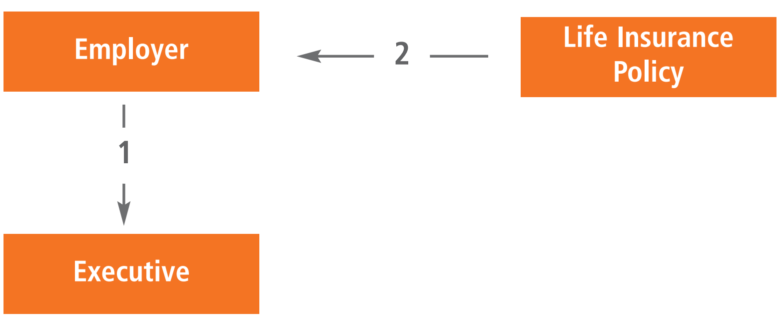
How It Works

While the Executive is Employed



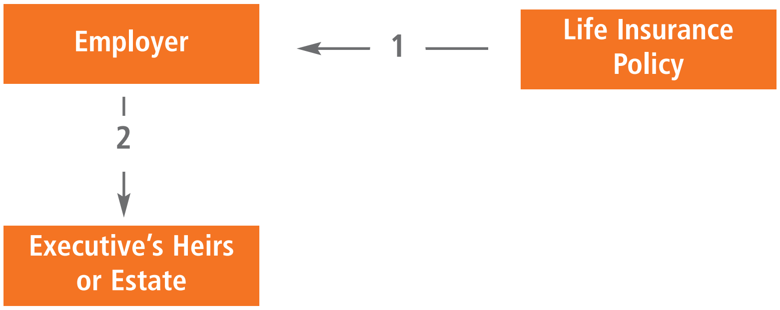
1. The employer and executive enter into a contractual agreement to defer compensation. The terms of the plan are documented.
2. Each calendar year the executive elects to defer a portion of compensation prior to the period of service in which the compensation will be earned. The employer has the right to set limits on the deferral amount.
3. Deferrals, matching employer contributions (if any) and earnings are periodically credited to a bookkeeping account in the executive's name.
4. The employer purchases a key person insurance policy on the executive's life. The policy serves as an informal funding vehicle for the benefit liability.
5. At retirement, termination, death or disability, a benefit is paid to the executive (or heirs) in an amount that generally reflects the balance in his or her bookkeeping account.

When the Executive Retires



1. The employer pays the promised retirement benefit.
   - The payment is deductible by the employer (assuming compensation is reasonable).
   - The retirement benefit is taxable compensation to the executive.
2. With proper design, the benefits can be paid using income tax-free withdrawals from the informal funding vehicle, the life insurance policy. Income tax free distributions are achieved by withdrawing to the cost basis (premiums paid) then using policy loans. Loans and withdrawals may generate an income tax liability, reduce available cash value and reduce the death benefit or cause the policy to lapse. This assumes the policy qualifies as life insurance and is not a modified endowment contract. If the policy lapses or is surrendered, the IRS will tax distributions received over the life of the policy and at termination that are in excess of total premiums paid. Alternatively, the employer can pay the liability from current earnings and recover the cost of the plan upon receipt of the death benefit.

If the Executive Dies Prior to Retirement



1. The policy pays an income tax-free death benefit to the employer, which may be subject to the corporate Alternative Minimum Tax (AMT).
2. The employer pays any benefit owed to the executive's heirs. This payment is deductible by the employer and is taxed as ordinary income to the heirs. Compensation which was earned by the decedent, but not included in his taxable income for the year of death, is income in respect of a decedent (IRD).

Advantages

For the Employer

- Can provide selected executives supplemental retirement benefits with minimal ERISA requirements.
- Controls the plan, owns the policy and carries the cash value as an asset on its balance sheet.
- Cash value (generally) accumulates within the insurance policy on a tax-deferred basis.
- Plan benefits are paid with tax-deductible dollars.
- The policy, which serves as an informal funding vehicle for the plan, can be structured to allow for cost recovery.

For the Executive

- Can be custom designed to meet the executive's individual needs.
- Retirement income may be accumulated without current taxation to the executive.
- Through the policy's death benefit, the plan can be self-completing in the event of the executive's death.
- Reverse discrimination, sometimes associated with qualified retirement plans, can be avoided.

For the Executive's Heirs

- The plan provides death benefits if the executive dies.

Disadvantages

For the Employer

- The plan is subject to Section 409A rules.
- The plan is subject to ERISA "Top Hat" limitations.

For the Executive

- Retirement benefits when paid are subject to income taxes.
- The timing of payments must be fixed when the plan is adopted; there is no flexibility.
- The funding asset is subject to claims of the employer's creditors.

For the Executive's Heirs

- The death benefit paid to the executive's heirs is taxable as ordinary income.

Funding Options

To achieve the desired income tax and ERISA consequences, the plan needs to be unfunded or informally funded. An employer may informally fund a non-qualified plan by setting aside assets that are owned by the employer. These assets remain available to the employer's general creditors. Although the employer is under no obligation to set aside funds, the use of an informal funding vehicle gives credibility to the employer's promise to pay and increases the executive's confidence that benefits will be paid.

Plan Design Phases

Designing a non-qualified deferred compensation plan can be mutually beneficial for the executive and the employer. As a successful financial professional, you know what it means to have attention to detail. Below are the six phases of designing a non-qualified deferred compensation plan tailored to meet the needs of your client:

1. Marketing

- Select sales materials to share with your client. Go to the Life Insurance Home Page on **ING for Professionals** (*www.inglifeinsurance.com*), click on "*Executive Benefits*" (in the center of the page under Highlights), then click on "*Concepts*" and under *NQDC/SERP/401(k) Look-Alike Plans* click on "*Sales Materials*."
- Use the **Non-Qualified Plans Factfinder (#127138)** to help get all of the information you need to start designing a case.

2. Case Design

- Use the **Non-Qualified Plans Census form (#127142)** to get information about selected participants from the Employer.
- Use information gathered from the Factfinder to determine plan design.

3. Product/Illustration

- Select product and illustrate NQDC/SERP/401(k) Look-Alike Plan for your client using the ING Presents illustrations software.

4. Application/Underwriting

- Use "*Forms Wizard*" inside of ING Presents to select all forms needed for policy application(s).
- If you are submitting the case for GI or SI consideration, submit the **Executive Benefits Guaranteed Issue/Simplified Issue Offer Request Form (#127602)** and census to the Executive Benefits Underwriting Team.

5. Implementation/Enrollment

- Provide client with sample documents to be shared with counsel.
- Provide life insurance applications to eligible participants.

6. Administration

- Select third-party administrator to monitor plan and provide regular reporting.
- Hold periodic plan reviews with client.

Factors to Consider

	Self Funding	Treasuries*	Bonds*	Equity Mutual Funds	Stocks	Corporate Owned Annuities	Corporate Owned Life Insurance
Investment	No	Yes	Yes	Yes	Yes	Yes	Yes
Tax-deferred growth	No	Maybe	Maybe	No	No	No	Yes
Tax-advantage treatment	No	Maybe	Maybe	No	No	No	Yes**
Efficient cost recovery	No	No	No	No	No	No	Yes
Financial statement impact	High	Moderate	Moderate	Moderate	Moderate	Moderate	Low

* Favorable tax treatment may be available for certain types of treasury or bond investments.

** Plan benefits are taxable to the executive.

Want to Hear More?

For top-notch sales support from leading industry professionals dedicated to helping you grow your life business, call ING Life Sales Support at 866-ING-SELL (866-464-7355).

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