NONQUALIFIED DEFERRED COMPENSATION PLAN

A tailored solution to help you recruit, reward and retain the best people

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Does your organization have a strategy for recruiting, retaining and rewarding top talent?

Your company's executive and management teams include some of the most important hires your organization can make. Their leadership and expertise are highly-valued skills that are paramount to your company's success—which makes it critical your organization has a strategy for attracting and keeping top talent.

Offering all of your employees a competitive and affordable benefits package is important, but your key employees have unique needs and goals that may require additional savings tools to supplement a traditional retirement plan. Some things for you to consider after taking a closer look at your organization include:

- Are you concerned about losing key employees to your competitors?
- Are your key employees' performance metrics and incentives properly aligned with your organization's goals?
- Do you have executives and key talent you want to reward?
- Are you doing enough to help key employees bridge the retirement gap created by 401(k) plan testing and contribution limits?
- Does your benefits package encourage the best talent to join your organization as it grows?

Your key employees may need more than a qualified plan

Rewarding your key employees is important. But, as their salary increases, the percentage of their total compensation that they can defer into a qualified retirement plan declines.

An employee making a $150,000 salary who contributes $23,000 into a 401(k) plan is saving 15% of compensation for retirement	But an employee with a $460,000 salary who also contributes $23,000 is only saving 5% of compensation for retirement

There are additional limitations that can compound this issue

Limitations on your company

- **Nondiscrimination requirements**
  Every year qualified plans must pass IRS-mandated tests to confirm contributions and benefits do not discriminate in favor of highly compensated employees (HCEs)
- **Top-heavy testing**
  Remediation may be required when total assets attributed to key employees exceed the IRS mandated threshold
- **Minimum coverage rules**
  Generally, at least 70% of all non-highly compensated employees must participate in the qualified plan

Limitations on your key employees

- **Contribution limits**
  Limited to contributing $23,000 annually, as of 2024[1]
- **Withdrawal penalty tax**
  Early withdrawals are subject to an extra 10% tax on gains
- **Required minimum distributions**
  Participants must take distributions annually after reaching 73 years of age

[1]Annual contribution limit is indexed for inflation

At a glance: the differences between 401(k) and NQDC plans

Nonqualified deferred compensation (NQDC) plans can provide unique flexibility for both employers and key employees that is not offered by a qualified 401(k) plan. Where a 401(k) plan doesn't satisfy a need, a NQDC plan can be designed to complement and fill those gaps. However, there are important differences between qualified and NQDC plans that you should consider before establishing an NQDC plan.

	NQDC Plan[1]	401(k) Plan[2]
Contributions can be targeted toward key performers	✓	
Contributions and investment returns are generally income tax-deferred until distribution	✓	✓
No limit on contributions	✓	
Allocate amongst a variety of investment options	✓	✓
Penalty-free scheduled distributions before age 59½	✓	
Plan balances can be rolled over to an IRA or other qualified plan		✓
Allows for golden handcuff provisions	✓	
Plans are formally funded and protected from the claims of creditors in the event of company bankruptcy		✓
Plans can be structured to be insulated from the general capital needs of the corporation[3]	✓	✓
Loans are permitted		✓
Deferrals/contributions can be changed at any time		✓

The comparative summary above does not necessarily apply in the same way to every possible vehicle that could be used to informally fund an NQDC plan. Consult with your registered representative, legal, accounting and tax advisors for details.

So what can you do now to help:

- Recruit, retain and reward key employees
- Supplement equity-based compensation packages
- Compete with peer companies for new talent
- Reduce key employees' taxable compensation while enabling them to save for retirement
- Provide extra benefits in addition to a qualified plan

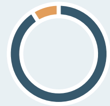
Let's take a look

[1]Subject to section 409A of the Internal Revenue Code ("IRC") and your plan rules; IRC section 409A has documentary, distribution and deferral limitations, which if violated can result in immediate taxation of plan amounts and a 20% penalty on participants

[2]Subject to IRC section 401(k) plan qualification rules and your plan rules

[3] NQDC plans are subject to the claims of creditors in the event of company bankruptcy or insolvency

Implementing a NQDC plan provides many benefits to you and your key employees



91% of companies offer a NQDC plan[1]

Potential candidate

- An employer who has key employees that they cannot afford to lose
- A corporation who is looking for ways to improve compensation and benefit packages for key employees
- An organization who needs to recruit, retain, or reward one or more key employees
- A company with key employees who are already contributing maximum amounts to—or accruing maximum benefits from—a qualified retirement plan
- A company sponsoring a qualified retirement plan that is not benefitting key employees

How does a NQDC plan benefit you?

- **Attract and incent talent**
  Appeal to new talent and provide a valuable benefit addressing key employees' unique concerns
- **Retirement vehicle supplement**
  Offer tax-advantaged retirement benefit without the constraints of IRS testing requirements
- **Simplification**
  Easily administer with no minimum participation or Form 5500 filing, if set up properly by the employer
- **Customization**
  Deferred compensation arrangements are "nonqualified," meaning they don't have to meet IRC qualification requirements (but they are subject to certain requirements under IRC section 409A)

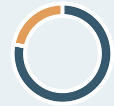
How does a NQDC plan benefit your key employees?

- **Save more for retirement**
  Defer compensation to meet retirement and other personal financial goals
- **Reduce taxable income**
  Pre-tax deferrals can delay paying income taxes on compensation
- **Create a personalized investment strategy**
  Design an investment strategy that meets certain objectives and risk tolerances while enjoying tax-deferred growth
- **Timing flexibility**
  Take payouts from the plan without the same age restrictions as 401(k) plans and control when benefits are paid to manage taxation timing (subject to IRC section 409A rules around permitted distribution events and changes to distribution elections)

You should design a NQDC plan in conjunction with your own tax, accounting, and legal experts.

[1]According to the 2019 Executive Benefit Survey published by PLANSPONSOR

NQDC plans can be tailored to you and your key employees



The primary objective of 78% of companies that offer a NQDC plan is to supplement key employees' retirement savings[1]

The concept

- Nonqualified deferred compensation is an arrangement employers use to provide retirement income—and often death and/or disability benefits—to a select group of management or highly compensated employees
- Plan contributions can be:
  - 100% executive (pre-tax salary deferral)
  - 100% employer (incentive compensation or grant)
  - Combination of executive and employer (match, grant and/or award)
- Contributions generally accumulate tax-deferred
- Employer determines vesting of company contributions
- Employee has the flexibility in determining when to schedule distributions, subject to IRC section 409A restrictions:
  - Death, Disability, Separation from Service (including Retirement), unforeseeable financial emergency, specific date withdrawals[2]
  - Not subject to IRS distribution rules applicable to qualified plans[2]
- Properly arranged, plans are exempt from many of ERISA's requirements, such as ERISA's minimum participation, vesting and funding rules

The rationale

- Providing attractive compensation and benefits to key employees is a continuing source of concern for large and small businesses
- In this environment, strict regulations surrounding qualified retirement plans—coupled with high administrative costs, nondiscrimination rules, and caps on benefits and contributions—have steered many businesses toward supplemental arrangements for key executives
- Deferred compensation is typically viewed as an added benefit and is used to supplement a qualified retirement plan, group life and health insurance coverage, and other broadly based employee benefits to recruit, reward and retain top talent

[1]According to the 2018 Executive Benefit Survey published by PLANSPONSOR
[2]Subject to IRC section 409A

How a NQDC plan works

You and your key employees adopt an agreement defining the plan's features and benefits

Your key employees elect future compensation deferrals. If the plan offers participant-directed accounts, employees also choose how to allocate deferrals amongst a hypothetical investment menu

You may make a matching contribution based on a formula or may make discretionary contributions, per the agreement[1]

Your key employees take scheduled distributions to help pay for personal expenses and/or supplement their retirement, which allows the company to take a tax deduction

Note that section 409A of the Internal Revenue Code imposes certain requirements on non-qualified plans. Failure to satisfy these requirements can result in immediate taxation and penalties on plan balances or values.

[1]Contributions are credited to the employee's deferred compensation account, along with any gains or losses

Key points to take away

Remember these important points:

- You can target and reward your key employees
- You can design this tax efficiently
- You can do this in a cost-efficient manner
- You can generally do this without a significant administrative burden

When you determine that you are ready to take advantage of the many benefits that can come with offering a NQDC plan, we'll begin by:

- Modeling the benefits for key employees as well as the financial impact to the company
- Showing you resources you will need so that we can do this together seamlessly

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