



# Executive Deferred Compensation

## Creating a serious recruiting and retention advantage

Your company depends on the talents of its key executives. They depend on you to help them save for retirement. But government rules restrict the amount of money these highly compensated employees can contribute to tax-deferred plans, like a 401(k). In fact, they may not be able to replace an adequate amount of their compensation when they retire — unless you offer a deferred compensation plan.

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### CONSIDERATIONS OF AN EXECUTIVE DEFERRED COMPENSATION PLAN

A properly designed deferred compensation plan allows you to provide your top performers an affordable, nonqualified solution to the “retirement gap.” Whether they’re domestic or international employees, we can design, implement and administer a highly personalized plan that benefits both them and your company.

## Success depends on the talents of an organization’s key people.

How can they encourage high caliber executives to stay the course? Keeping the people who keep them in business can be easier said than done. Their key employees are not simply looking for a pat on the back. They want to see in tangible ways – preferably financially driven – that an organization recognizes and appreciates their efforts in making their company a success.

**Benefits to Your Executives**

- Ability to defer pretax compensation in amounts above qualified plan limits
- Deferrals and earnings accumulated are tax deferred
- Potential for higher account accumulation than outside personal accounts due to pretax savings and possible employer matching and contributions

**Benefits to Your Company**

- A way to recruit and retain key talent and stand apart from your competitors
- Freedom to select participants among your highly compensated management (must be limited to a “select group of management or highly compensated executives”)
- Control over plan features such as deferral limits, matching contributions, investment choices and vesting deferral amounts

**Considerations for Your Executives**

- Account balance not protected from insolvency or bankruptcy of employer
- Participant is an unsecured creditor\*
- Failure by employer to comply with IRC section 409A subjects the employee’s account to current taxation and a 20% penalty

**Considerations for Your Company**

- The plan creates a corporate liability on the employer’s balance sheet
- The employer cannot claim a deduction until the plan benefits are paid (IRC Section 404(a)(5))
- Due to the delay in tax deduction, the employer incurs economic costs

**WHAT’S THE DIFFERENCE BETWEEN QUALIFIED AND NONQUALIFIED PLANS?**

There are some key differences between 401(k)s (qualified plans) and nonqualified deferred compensation (NQDC) plans.

| Item                                                                                 | 401(k)                                                              | 409(a)      |
|--------------------------------------------------------------------------------------|---------------------------------------------------------------------|-------------|
| Can the employer determine eligibility?                                              | No                                                                  | Yes         |
| Is the plan subject to ERISA requirements?                                           | Yes<br>subject to all requirements including<br>annual 5500 filings | Almost none |
| Are employee deferrals limited?                                                      | Yes                                                                 | No          |
| Are employer contributions limited?                                                  | Yes                                                                 | No          |
| Do employer contributions have to be the same for all participants?                  | Yes                                                                 | No          |
| Are loans permitted?                                                                 | Yes                                                                 | No          |
| Can hardship distributions be made?                                                  | Yes                                                                 | Yes         |
| Can hardship distributions occur before retirement?                                  | Yes                                                                 | Yes         |
| Can balance be rolled into an IRA after termination?                                 | Yes                                                                 | No          |
| Are minimum distributions required?                                                  | Yes                                                                 | No          |
| Is the participant a general creditor of the employer with respect to their account? | No                                                                  | Yes         |

## WHAT CAUSES THE RETIREMENT GAP?

Here's a summary of 2025 tax laws adversely affecting the highly compensated.

### 401(K) | 403(B) RETIREMENT PLANS

- \$160,000 of wages classifies an employee as "highly compensated" (IRC Sec. 414(q)(1)(B))
- \$23,500 maximum annual deferral limit (IRC Sec. 403(g)(1)), and \$7,500 annual catch-up contribution for ages 50 and older\*
- Company contributions limited to the lesser of 100% of compensation or \$70,000 (IRC Sec. 415(c)(1)(A))
- \$350,000 maximum eligible compensation limit (IRC Sec. 401(a)(17))
- 10% tax penalty for early withdrawals (for individuals under age 59 1/2, unless an exception applies)

\* New effective 1/1/2025: Individuals who attain age 60, 61, 62, or 63 in 2025 can make catch-up contributions up to \$11,250 in 2025.

### DEFINED BENEFIT PENSION RETIREMENT PLANS

- \$280,000 maximum benefit payout (IRC Sec. 415(b)(1)(A))
- \$350,000 maximum eligible compensation limit (IRC Sec. 401(a)(17))

### INDIVIDUAL RETIREMENT ACCOUNTS (IRAS)

- Reduced or phased out employee contributions to an IRA account if participating in a qualified retirement plan (IRC Sec. 219)
- For married, adjusted gross income (AGI) greater than \$126,000 but less than \$143,000
- For single, AGI greater than \$79,000 but less than \$89,000
- \$7,000 maximum contribution (\$8,000 over age 50)
- Roth IRA contributions phased out between \$150,000 and \$165,000 for singles and heads of household and between \$236,000 and \$246,000 for married couple filing jointly
- Contributions to Roth IRAs can be withdrawn at any time, with no penalty. Earnings in a Roth IRA before age 59 ½ may be assessed a 10% penalty unless an exception applies.

See [www.irs.gov](https://www.irs.gov) for more information

## GET THE SERVICE YOU DESERVE

Successful executive deferred compensation solutions require tailored ideas, flawless execution, the latest technology and day-to-day support. We provide the deep experience and fine-tuned advice executive deferred compensation plans demand — and the personalized, one-on-one communication that many other companies don't. Our expert services include:

- **Expert consulting**

A best-practices, open-architecture approach to plan design, implementation, administration and distribution that evaluates contribution sources, distribution options, funding considerations and investment benchmarking

- **Seamless implementation and enrollment**

Detailed implementation timeline, coordinated data exchanges, administration guidelines and customized enrollment materials

- **Efficient record keeping and administration**

Processing of plan contributions, distribution rebalancing, and plan reporting to participants and sponsors

- **Easy web access**

Dedicated participant and sponsor sites, including solutions for international plans, on-demand statements, plan documentation and more

- **Informal funding**

Detailed analysis of informal options for client best practices

## EXECUTIVE DEFERRED COMPENSATION — AND A WHOLE LOT MORE

NFP, an Aon company, is an organization of consultative advisors and problem solvers helping companies and individuals address their most significant risk, workforce, wealth management and retirement challenges. With colleagues across the US, Puerto Rico, Canada, UK and Ireland, we serve a diversity of clients, industries and communities.

Our global capabilities, specialized expertise and customized solutions span property and casualty insurance, benefits, wealth management and retirement plan advisory. Together, we put people first, prioritize partnerships and continuously advance a culture we're proud of.

For more information visit, **NFP.com**.

To be exempt from many of the ERISA reporting requirements and IRS contribution limits, nonqualified plans must be subject to a risk of forfeiture. However, the employer can establish a funded Rabbi trust to protect plan benefits from other contingencies such as change in control, change of heart of management resulting from a change in control, and change in financial condition short of bankruptcy.

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