

Nonqualified Deferred Compensation

Overview

A nonqualified deferred compensation plan represents an unsecured promise by an employer to pay compensation to an employee at a future date. Such a plan is not subject to the complex rules under ERISA that are applicable to tax-qualified retirement plans (regarding eligibility, nondiscrimination, funding, trust requirements, etc.). This gives employers significant flexibility in designing nonqualified deferred compensation plans to meet specific objectives.

Who is covered under a nonqualified deferred compensation plan?

The scope of coverage under a nonqualified deferred compensation plan varies widely and often depends on the nature of the plan. However, as a general matter, nonqualified deferred compensation plans are not broad-based in nature due to certain legal restrictions. Generally, these plans are limited to senior management, but may cover employees who are in middle management.

What are the types of nonqualified deferred compensation plans?

The most prevalent types of nonqualified deferred compensation plans are: (i) elective deferral arrangements; (ii) restoration plans; and (iii) supplemental executive retirement plans. A nonqualified deferred compensation plan may reflect only one of the foregoing types of plans or all three types. An overview of each type of nonqualified deferred compensation arrangement follows:

Elective deferral arrangement. An elective deferral arrangement allows a participant to defer the
payment of all or some portion of his or her compensation to a later date. Compensation eligible for
deferral may be limited to base safary or include annual and long-term incentive compensation.

Amounts deferred are credited to a bookkeeping account in the name of each plan participant. These amounts may earn a stated rate of interest or may be notionally invested at the direction of the employee.

Any earnings on amounts credited to an employee's account accumulate on a tax-deferred basis. The employee's benefit is equal to the aggregate amount credited to the bookkeeping account. Typically, an employee is permitted to elect the time (e.g., upon separation from service, specified date) that the account balance is distributed and the form of distribution (e.g., lump sum, installments).

 Restoration plan. A restoration plan is designed to "restore" benefits or contributions that are cut back or limited under a tax-qualified retirement plan due to Internal Revenue Code limits. Restoration plans are common and generally do not result in negative attention from shareholders.

A restoration plan may be in the form of a defined contribution plan or defined benefit plan, each discussed below.

— Defined contribution restoration plan. A 401(k) restoration plan is the most common type of defined contribution restoration plan. Under a tax-qualified 401(k) plan, a participant's elective deferrals are limited to \$18,000 per year (indexed to inflation). Any employer matching contribution on elective deferrals is necessarily limited by this cap on elective deferrals (as well as certain other tax rules). However, under a 401(k) restoration plan, a covered employee may make elective deferrals without.

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United States. Congress. House.

Committee on Ways and Means.

Subcommittee on Social Security

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Taxation and Funding of Nonqualified Deferred Compensation Michael G. Goldstein, Michael A. Swirnoff, William A. Social Security Tax Treatment of Nonqualified Deferred Compensation United States. Congress. House. Drennan, 1998 Committee on Ways and Means. Subcommittee on Social Security, 1990 Nongualified Deferred Compensation Plans, 1995 Nonqualified Deferred Compensation Plans, 2006 Nongualified Deferred Compensation Answer Book Henry A. Smith, III.Barry K. Downey.Michael P. Conners.Roberto Smith.1995-11-20 Non-qualified Deferred Compensation Plans, 1988 Living Trusts Doug H. Moy, 2004-04-14 Everything estate owners need to establish a successful living trust When properly designed a revocable living trust can provide all of the estate tax saving benefits available under a decedent s Last Will eliminate a lifetime court supervised financial guardianship of a person s financial affairs in the event of physical or mental incapacity and upon the trustor's death facilitate estate administration without the necessity of a court supervised process or probate Shockingly often however trusts are poorly designed and underfunded nullifying all of their considerable advantages Living Trusts Third Edition shows the estate owner how to set up fund and manage a living trust that will protect the trustor's financial affairs in both life and death Order your copy today *Code of Federal Regulations* United States. Internal Revenue Service, 2013 Special edition of the Federal register containing a codification of documents of general Code of Federal Regulations ,1999 Special edition of the applicability and future effect as of April 1 with ancillaries

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Table of Contents Nonqualified Deferred Compensation

- 1. Understanding the eBook Nonqualified Deferred Compensation
 - The Rise of Digital Reading Nonqualified Deferred Compensation
 - Advantages of eBooks Over Traditional Books
- 2. Identifying Nonqualified Deferred Compensation
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
- 3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Nonqualified Deferred Compensation
 - User-Friendly Interface
- 4. Exploring eBook Recommendations from Nonqualified Deferred Compensation
 - Personalized Recommendations
 - Nonqualified Deferred Compensation User Reviews and Ratings
 - Nonqualified Deferred Compensation and Bestseller Lists
- 5. Accessing Nonqualified Deferred Compensation Free and Paid eBooks
 - Nonqualified Deferred Compensation Public Domain eBooks
 - Nonqualified Deferred Compensation eBook Subscription Services
 - Nonqualified Deferred Compensation Budget-Friendly Options
- 6. Navigating Nonqualified Deferred Compensation eBook Formats

- o ePub, PDF, MOBI, and More
- Nonqualified Deferred Compensation Compatibility with Devices
- Nonqualified Deferred Compensation Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Nonqualified Deferred Compensation
 - Highlighting and Note-Taking Nonqualified Deferred Compensation
 - Interactive Elements Nonqualified Deferred Compensation
- 8. Staying Engaged with Nonqualified Deferred Compensation
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - \circ Following Authors and Publishers Nonqualified Deferred Compensation
- 9. Balancing eBooks and Physical Books Nonqualified Deferred Compensation
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Nonqualified Deferred Compensation
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Nonqualified Deferred Compensation
 - Setting Reading Goals Nonqualified Deferred Compensation
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Nonqualified Deferred Compensation
 - Fact-Checking eBook Content of Nonqualified Deferred Compensation
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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