



# NAVIGATING THE LANDSCAPE OF NONQUALIFIED DEFERRED COMPENSATION PLAN OPPORTUNITIES

In the ever-evolving landscape of financial and retirement planning, individuals and organizations are continuously seeking innovative ways to secure their financial futures.

Nonqualified Deferred Compensation (NQDC) plans may be a powerful tool, offering flexibility and strategic advantages that can substantially impact long-term financial well-being for key stakeholders and employees.

## ABOUT NQDC:

Deferred Compensation is any compensation that has been earned by an employee, but not yet received. As such, the amount that is deferred is not counted as currently taxable income. A Nonqualified Plan is one that is not subject to the same reporting and funding requirements of an Employee Retirement Income Security Act (ERISA) Qualified plan. Therefore, these plans are well-suited to high income earners, offering greater flexibility, allowing for a higher level of contributions than commonly offered qualified retirement plans like 401(k)s.

NQDC plans may also benefit the employer, offering a powerful way to recruit, retain, and reward top talent. Customizable informal funding and payout structures allow employers to make discretionary contributions based on company or individual performance or other metrics to drive business growth.

Identifying a potential opportunity for a NQDC plan is not as challenging as you might think. Here are some key factors to look and listen for when speaking with employers or business owners:



## THINGS TO ASK

### Recruitment & Retention

- What are you doing to attract talent or to keep your talented key people from leaving?
- What would the impact be to the company if one of your key employees departed for a competitor?
- What are your plans for growth over the next 3 years? Do you plan to expand or change your management team over time?

### Current Qualified Plans

- Have any executives received corrective distributions/refunds from the 401(k) plan?
- Are there executives who can't capture the full company match because of maximum contribution limits to their 401(k) plan?
- Are your key people limited in what they can contribute to the company's 401(k) plan due to discrimination testing?

### Beyond Qualified Plans

- Do you currently maintain some form of executive retirement plan, beyond the 401(k) plan for key employees or highly compensated employees/executives? If you do have an existing deferred compensation plan in place, have you had it analyzed for efficiency lately?

### Corporate Owned Life Insurance (COLI)

- Do you currently informally fund your deferred compensation plans? Why or why not?
- If you currently maintain COLI to informally fund nonqualified plan obligations, are you comfortable with how it's performing? Have you had it analyzed for efficiency in light of potential enhancement alternatives or funding approaches available in the marketplace today?



## THINGS TO LISTEN FOR

### Recruitment & Retention

- “We have lost key people over the last year or two and are having trouble finding qualified candidates.”
- “We are concerned with the retention of our key talent, management or executive group. We’d like to retain them without diluting ownership.”
- “Rather than a sign-on or other form of bonus, maybe we can set these aside for future compensation.”

### Current Qualified Plans

- “Many of our executives have ‘maxed-out’ under our basic 401(k) or other qualified plan limits and they have expressed a desire to save more for retirement.”
- “Our qualified plan is top-heavy and the executive group is excluded from the plan altogether.”
- “We’re concerned about protecting/enhancing the retirement of our owners without having to rely on the business being sold or liquidated in the future.”

### Beyond Qualified Plans

- “The accounting accruals for our NQDC post-retirement benefit payments are creating an incredibly negative drain on our earnings. We’d like to start to address that future liability now rather than rely exclusively on future earnings.”
- “We are having administrative challenges/difficulties with our current executive benefits/deferred compensation plans.”

### Corporate Owned Life Insurance (COLI)

- “We’ve purchased life insurance in the past, to informally fund our NQDC plan, but we’re not sure what the benefit of this is, how it’s working, or even if it is necessary to maintain. What are my options? How can we maximize the value from these policies?”
- “Our current life insurance policy/policies are not performing as efficiently as we anticipated or expect them to.”

As you start to navigate the landscape of identifying NQDC plan opportunities, this journey will take you into the depths of plan structures, tax implications, and distribution strategies. You are taking the steps towards providing unique tools to your clients to ensure their key executives and intellectual capital are looked after, well into the future.

Embracing the opportunities that NQDC plans present requires a commitment to learning, a willingness to seek guidance from executive benefit specialists, and the prudence to balance risk and reward. As your clients prepare their financial futures, take it upon yourself to be educated in all offerings that can bring value to their business, as well as yours.

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