



NYLEX News

Customized Executive Benefit Plans

Benefit plans often make a real difference in recruiting and retaining your key people. By demonstrating that you have adequately provided funding for your organization's benefit obligations, your employees and investors will recognize that the organization is making promises it can afford to keep.

Inside this issue:

- 1.** A Funding Audit Can Benefit Your Financial Picture
- 2.** What's Next Under the Budget Control Act of 2011?
- 3.** Using COLI To Fund Your ESOP

A FUNDING AUDIT CAN BENEFIT YOUR FINANCIAL PICTURE

Your approach to meeting your company's nonqualified benefit obligations can have a major impact on your organization's cash flow, income statement, and balance sheet. A properly structured funding arrangement can create an asset that closely matches both the amount and timing of your benefit liabilities.

Organizations, large and small, generally implement several different types of plans for the benefit of employees and the owners themselves. Qualified retirement plans by law must be funded, but the organization is not required to set aside assets to fund many other types of plans.

However, each of these plans creates an "obligation" for the company. In many cases, these plans have been separately implemented over a period of years and the funding for these plans may not have been reviewed since they were implemented.

Benefit plans often make a real difference in recruiting and retaining your key people. By demonstrating that you have adequately provided funding for your organization's benefit obligations, your employees and investors will recognize that the organization is making promises it can afford to keep.

WHEN IS A FUNDING AUDIT NEEDED?

There are two situations which warrant conducting a funding audit for your benefit plans.

- 1.** If you have existing obligations that are funded with **taxable investments**...a funding audit can analyze the benefits available by using funding alternatives.

(continued page 2)

WHAT'S NEXT UNDER THE BUDGET CONTROL ACT OF 2011?

The immediate threat of national debt default has dimmed, at least temporarily, but when President Obama signed the Budget Control Act of 2011 into law on August 2nd, it established a two-phase process to deal with the long-term issues. The legislation accomplished four things:

- 1.** Increased the debt ceiling
- 2.** Determined the applicable budget baseline
- 3.** Established a Joint Select Committee on Deficit Reduction
- 4.** Set a timeline in which Congress must act to avert mandatory spending cuts

The first phase was immediately realized with an increase in the government's borrowing cap.

The second phase establishes a Committee to propose \$1.5 trillion in deficit reductions by November 23, which must be voted on before the end of the year.

As the Committee looks for spending reductions, programs such as federal retirement

(continued page 2)



A FUNDING AUDIT CAN BENEFIT YOUR FINANCIAL PICTURE (cont.)

2. If your **existing funding arrangements** have been in place for some time...a funding audit can determine how well your current funding is meeting your needs and consider other options.

THE NYLEX BENEFITS' FUNDING AUDIT

Our team of experts can consider the variables and components of your benefit programs to identify the best funding option for your particular situation. NYLEX Benefits can:

1. Determine your organization's obligations from all your different plans and project when those obligations will become due using our proprietary Actuarial Modeling System
2. Evaluate your current funding method and compare other funding possibilities to determine the most cost-effective and tax-efficient approach
3. Provide recommendations to help manage funding so you can meet current and future obligations on a systematic basis

The result is a detailed analysis of alternative funding methods with cash flow, profit & loss, and balance sheet implications.

TYPICAL FUNDING OPTIONS FOR NONQUALIFIED PLANS

Most organizations use one of three options to finance or fund nonqualified benefit liabilities:

- **Unfunded – Pay As You Go:** Use funds from working capital or borrow funds to meet current obligations
- **Taxable Investments or Mutual Funds:** Accumulate and/or set aside taxable investments owned by the organization
- **Company-Owned Life Insurance (COLI) Or Trust-Owned Life Insurance (TOLI):** Build assets through the purchase of institutional cash value policies to offset benefit program costs

Let NYLEX Benefits help you find the right funding strategy to secure your company's obligations.

WHAT'S NEXT UNDER THE BUDGET CONTROL ACT OF 2011? (cont.)

benefits, farm subsidies, Medicare and Medicaid will all be up for review. There's no guarantee the committee will agree on such legislation. But there are powerful incentives to do so because more budget gridlock would trigger a crippling round of automatic cuts across much of the budget. A further increase in the borrowing cap is also a legislative possibility.

At this point, there has been little discussion of increased corporate taxes or changes in the taxation of life insurance used to fund nonqualified employee benefits. We will continue to monitor developments and keep you informed as new legislation is drafted.

USING COLI TO FUND YOUR ESOP

If your organization has or is considering an Employee Stock Ownership Plan (ESOP), the cash flow demands on the company can be challenging to manage. Company-Owned Life Insurance (COLI) can be an effective funding vehicle to provide funding to hedge the unpredictable and fluctuating ESOP repurchase liability.

There are three primary uses of an ESOP, an employee benefit plan which gives the employees of a company the benefits of owning stock in that company.

1. **Buy the shares of a departing owner.** Traditionally business owners have had three options for their succession planning: sell to an outsider, sell to an insider, or a “till death do us part” strategy. For those business owners desiring to sell to an insider, an ESOP is an attractive option.
2. **Borrow money at a lower after-tax cost.** ESOPs are unique among benefit plans in their ability to borrow money. The ESOP can borrow cash to buy company shares or shares of existing owners, leveraging the financial obligation.
3. **Create an additional employee benefit.** A company can simply issue new or treasury shares to an ESOP, deducting their value (for up to 25% of covered pay) from taxable income. Or a company can contribute cash, buying shares from existing public or private owners.

WHAT ARE THE BENEFITS OF AN ESOP?

There are three different parties involved in an ESOP: 1) the business owner, 2) the company’s employees, and 3) the company. Each party has a different perspective as to what an ESOP does for them.

- For the **business owner**, the ESOP is a way to get money out of the company on a tax-advantaged basis and transfer control of the company to key employees or family.
- For the **company’s employees**, the ESOP is a retirement plan (like a 401(k) plan) that allows employees to share in the value of their company.
- For the **company**, the ESOP is a vehicle of corporate finance that offers unique tax benefits.

WHY USE COLI TO FUND THE ESOP?

The ESOP can build assets through the purchase of institutional cash value policies to provide cash when needed to purchase shares. Cash value life insurance has certain tax attributes that can make it attractive as a funding alternative.

1. No current taxation of increases in cash value
2. Death benefits are tax free
3. Withdrawals from cash value up to basis are tax free*
4. Cash value can be borrowed
 - Loan is not a taxable event
 - Minimal interest cost
 - Doesn’t have to be repaid until policy surrendered or insured dies

IF YOU HAVE AN ESOP OR ARE CONSIDERING AN ESOP

When an ESOP is implemented, the company, the ESOP sponsor, assumes a repurchase liability to its shareholders, and of course, to the participants. Since the ESOP repurchase liability is ongoing, COLI can assure cash will be available when needed.

NYLEX Benefits can help you determine how COLI can be used effectively to fund your ESOP.

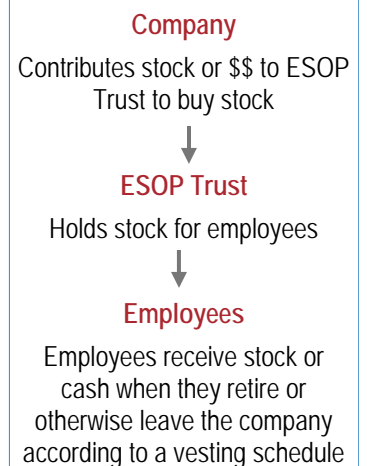


Using an ESOP for Business Succession Planning

As baby boomers reach retirement age, those owning businesses are looking for ways to assure that their businesses will continue beyond their leadership.

An ESOP is an ownership succession strategy that has unique tax benefits.

How Does an ESOP Work?



*Loans and withdrawals will reduce the policy’s cash value and death benefit. Loans and withdrawals can have tax consequences if the policy is deemed a modified endowment contract.



NYL Executive Benefits LLC

281 Tresser Boulevard, Suite 1110
Stamford, CT 06901
Phone: (203) 353-5800

www.nylexbenefits.com

About NYLEX Benefits

NYL Executive Benefits LLC (“NYLEX Benefits”) provides supplemental executive benefit programs to a wide range of clients. We focus on developing cost effective executive benefit solutions that are designed to attract, reward and retain key employees.

Our services are designed to assist clients at all stages in the adoption and operation of executive benefit programs and include:

- Initial assessment
- Plan design
- Funding
- Plan implementation
- Ongoing administration

NYLEX Benefits’ professional staff includes the following professional disciplines, all dedicated to supporting our clients’ programs, processes, systems and services:

- Accountants
- Actuaries
- Attorneys
- Benefit specialists
- Insurance specialists

We take great care to assure that client programs are practical and that they are designed to achieve our clients’ strategic and operational goals.

Nothing contained herein is, or should be construed as, legal, tax or accounting advice, nor is it intended or can it be used for the purpose of avoiding penalties under the Internal Revenue Code or applicable state or local tax provisions. This communication was written to support the promotion or marketing of the matters or transactions addressed herein, and clients should always consult with their independent professional advisors to seek advice on the applicability of this information to their particular circumstances.

NYL Executive Benefits LLC (NYLEX Benefits) is a subsidiary of New York Life Insurance Company. Securities offered through NYLIFE Securities LLC, Member FINRA, SIPC, a Licensed Insurance Agency.