



NYLEX News

Customized Executive Benefit Plans

Your company's younger, extraordinary achievers may not be motivated by long-range retirement plans. A retention bonus arrangement can help keep those individuals from leaving your company and reward them for their significant contributions to your company's success.

RETENTION BONUS ARRANGEMENTS

EXECUTIVE TURNOVER CAN IMPACT YOUR BOTTOM LINE

Even in normal times, turnover can negatively impact a company's bottom line. A company bears significant costs, both direct and indirect, when a key employee leaves and a qualified replacement must be recruited and hired. Frequently, once one valued employee leaves, others follow. As more employees leave, a vicious cycle of turnover can be created.

The recent economic recession has created a pending turnover frenzy. As the economy rebounds, companies may be offering new opportunities to the best individuals. Younger, talented employees may be likely to be the first to leave.

EXECUTIVE MOTIVATION CHALLENGES

A business' success is often linked to a handful of its employees committed to its objectives. A retention bonus arrangement allows your company to appropriately reward individuals for their contribution to your success. In today's competitive marketplace, this incentive can motivate your top employees to excel beyond normal performance levels to help make your business more competitive.

To keep key executives focused on your objectives, they should feel at the same time that they can effectively achieve their own financial objectives. A retention bonus arrangement is designed to make these employees know they can enhance their own financial success in step with their contribution to the company's success.

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NOW MAY BE A GOOD TIME TO EXPAND YOUR DEFERRED COMPENSATION PROGRAM

If you have previously implemented a nonqualified deferred compensation plan allowing your key employees to defer income, now may be a good time to expand that program to other highly compensated key employees who may not have been included in your original plan. It is a good way to reward top performers for their valued contribution to your business.

All highly compensated individuals, young and old, face the challenges of limits on amounts that can be contributed to qualified retirement plans such as Section 401(k). These factors restrict an executive's ability to accumulate adequate funds for retirement on a tax-favored basis, resulting in reverse discrimination when compared to a rank-and-file employee's ability to save as a percentage of pre-retirement income.

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RETENTION BONUS ARRANGEMENTS (cont.)

Compensation beyond base salary can motivate and reward executives for reaching organizational performance goals. The bonus may be based on any number of performance outcomes ranging from increased company profits to increased market share.

CREATING A CUSTOMIZED EXECUTIVE INCENTIVE PLAN TO...

- Retain younger, extraordinary performers being courted by your competitors
- Motivate those already extraordinary performers to achieve even more, and
- Reward outstanding performance and contribution to your company

HOW IT WORKS

The company determines a pre-set grid of desired earnings and growth, or other factors crucial to the company's success, over a set period of time. Executives crucial to achieving these goals are selected as participants.

The company credits an amount each year equal to a stated percentage of the participant's salary into individual hypothetical accounts. These hypothetical account balances are credited annually with a company determined rate of interest. The percentage of salary to be credited and the applicable earnings rate of interest can be independently determined by the company each year for each participant.

A Bonus Period (usually 3, 5, or 7 years) is established for each participant during which these credits will be made to his or her hypothetical account. If the participant is employed by the company at the end of the Bonus Period, the balance in the hypothetical account is considered vested. In addition, the company can elect to increase the amount of bonus credited based on productivity criteria measured over the Bonus Period. If the company's performance over the Bonus Period meets these preset targets, the balance in the participant's hypothetical account is increased accordingly.

The balance in the hypothetical account is distributed to the participant at the end of the Bonus Period. Federal income taxes on the bonus amounts credited and earnings are deferred until the bonus is paid to the employee.

FURTHER DEFERRAL

Participants often are given the opportunity to defer receipt of their bonus and thereby defer income taxation of the bonus amount. The timing of the Participant's election to defer and the length of time of the added deferral depends on the character of the Plan.

Note that the amounts credited and earnings thereon are subject to FICA, Medicare and FUTA taxes at the time they vest (End of Bonus Period), not at the time they are distributed.

INFORMALLY FINANCING RETENTION BONUS ARRANGEMENTS

To informally finance retention bonus arrangements, the company frequently acquires and owns a special institutionally priced permanent life insurance policy on selected employees to recover the costs of the benefits estimated to be provided by the arrangements. The Participants' cooperation in acquiring this insurance coverage will be required.

CREATING A MEANINGFUL INCENTIVE PLAN

To ensure that your retention bonus arrangement will create the enhanced business results you desire:

1. Make sure that the performance criteria established is specific, obtainable, and will accomplish your company's objectives.

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RETENTION BONUS ARRANGEMENTS (cont.)

2. Make sure that the employee's reward is matched to his or her job responsibilities for attaining set company objectives.

As you design your retention bonus arrangement, carefully consider the impact of each objective in meeting your company's goals.

- Quantify everything
- Determine core success measures for the company
- Identify individuals crucial to achieving set success measures
- Create core success measures for each individual
- Determine appropriate bonus levels for individual enhancement goals

SUMMARY

If you want your executives to do extraordinary things, they must be given incentives beyond ordinary compensation. If you are concerned that your competitors will seek to entice your best performers to leave your company, now is the time to implement a meaningful incentive plan to keep those top performers. A retention bonus arrangement might be the appropriate solution for your situation.

NOW MAY BE A GOOD TIME TO EXPAND YOUR DEFERRED COMPENSATION PROGRAM (cont.)

In addition, recent economic conditions may have caused many to experience significant investment losses – leaving executives in their mid 50's and beyond limited time to catch up.

Nonqualified deferred compensation plans provide highly-paid employees the opportunity to defer receiving salary and/or bonuses. These plans generally are elective, with the employee deciding annually how much to defer.

Amounts deferred are not subject to income taxes until actually distributed, so the employee can put more money to work over time. Distributions are subject to tax at ordinary rates and the employer gets a compensation deduction for the total amount paid. Social security taxes are due when amounts vest.

A deferred compensation plan can give the participant the ability to elect when to receive distributions. Unlike qualified plans, participants in nonqualified deferred compensation plans can receive distributions prior to age 59½ without penalty. These distributions can be timed to lifetime events, such as children starting college, or the purchase of a second home. Also, nonqualified deferred compensation accounts are not subject to the required minimum distribution rules applicable to qualified plans, so participants can defer the receipt of taxable income until needed.

Deferred compensation plans have sufficient flexibility so they can be designed to meet the needs of almost every company and plan participant.

SUMMARY

Deferred compensation plans help employees accumulate funds so that their retirement income will allow them to maintain their accustomed lifestyles. These plans also offer significant tax advantages to participants.

Companies adopt these plans in order to meet the needs expressed by their employees. Properly structured, these plans also can provide a strong motivational force for key staff.



DODD-FRANK EXECUTIVE COMPENSATION OVERVIEW

One of the general objectives of these provisions is to better align executive compensation with company performance.



On July 21, 2010, President Obama signed into law a sweeping financial reform bill known as the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”). Although the bulk of Dodd-Frank focuses on the regulation of financial institutions, there are also sections that address executive compensation and corporate governance provisions, which apply to virtually all domestic public companies.

A few of the key provisions include:

1. Shareholder nonbinding votes on executive compensation – “say-on-pay”
2. Disclosure of incentives tied to mergers and acquisitions – “say on golden parachutes”
3. Compensation “claw backs”
4. Incentive plan limitations to minimize risk

One of the general objectives of these provisions is to better align executive compensation with company performance. Although these provisions only apply to public companies, some private companies are already changing their compensation practices to mirror some of these provisions.

The reforms being introduced in private companies are designed to align employee incentives more closely with company financial goals and the longer run stability of their companies. These companies can see that it is in their own interests to follow risk-reducing policies.

In an apparent response to the provisions in Dodd-Frank, a foreign bank last year announced new rules for how it would pay its top employees. First, a higher portion of total compensation will come in the form of fixed monthly salary. Second, a higher proportion of variable compensation (bonus pay) will be deferred. Third, deferred variable compensation will be more closely tied to performance as measured by share price, return on equity, and the profit/loss of the employee's unit.

These provisions are not intended to dramatically alter or even lower the level of compensation for executives. The goal is to align better pay practices with long-term employee and company interests.

We are likely to see more changes in executive compensation structures in the coming years as a result of Dodd-Frank.



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.

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