making the most of your executive benefits package

Businesses are increasingly aware of the valuable role employee benefits play in the workplace. They have become essential in retaining and rewarding productive, motivated employees.

Benefit Types

Employee Benefits

Many employee benefits are offered to everyone in the organization. They consist of the more common or traditional types of benefits — such as 401(k) plans, health insurance and paid vacation. While these benefits may include certain tax breaks and other advantages to employers, businesses primarily offer them to recruit and retain employees. They are usually considered standard by employees in large organizations, and can be a determining factor in attracting employees to small businesses.

You can examine how different benefits fit into your overall organizational goals by:

- Separating benefits by type
- Categorizing benefits by key features

Executive Benefits

Executive benefits are designed primarily for highly compensated employees and key people. They can give key individuals an incentive to stay at an organization ("golden handcuffs") and fill gaps where other benefits fall short. Certain arrangements afford the employer complete control at the expense of current deductibility. In other plans, the employer may receive a current tax deduction for funding the plan, but will generally retain less control over the plan.

Business Priorities

As a general rule of thumb, most benefits will incorporate one or two of these features. Comparing your business priorities to each category will help determine the suitability of different benefits to your needs.

Designing or Enhancing Your Benefits Package

To help you make the most of your benefit offerings, the chart below categorizes some benefit choices by their value to the employer. Items of value to an employer include:

■ **Deductibility —** the ability to deduct part or all of the cost of the benefit from business taxes

△ **Selectability —** the ability to choose who is eligible to receive the benefit

● **Control —** the ability to control the employer contribution amount, plan design and benefit delivery

Your financial professional can help you further outline your business and employee needs, and suggest appropriate strategies to help you meet them.

	Type of Plan	Deductible to Employer? ■	Employer Selects Participants ▲	Who Controls? ●
1	**Qualified Retirement Plans**	Contributions to fund benefits are tax-deductible when contributed by employer.	No	Employer (within regulatory guidelines)
2	**Non-Qualified Deferred Compensation Retirement Plans**	Retirement benefits are income tax-deductible to employer when paid to executive.	Yes	Employer
3	**Executive Bonus Plans**	Premiums are tax-deductible as paid by the employer.	Yes	Employer controls when or if bonus is paid, employee controls policy.
4	**Split-Dollar Plans**	No	Yes	Employer
5	**BATL Plan®**	Premiums are tax-deductible as paid by the employer; however, loans to executive are not deductible and loan interest received from executive is taxable to the employer.	Yes	Employer controls bonus, employee controls policy.

Once your business has examined benefit priorities, you can review different benefit options with your key employees. Your financial professional can help you compare the varying degrees of deductibility, selectability and control for each type.

1 Qualified Retirement Plans

Features: ■

Arrangement: One of the more popular types of employer-sponsored qualified plans is a 401(k) plan. In a 401(k) plan, employee participants contribute to a retirement plan set up by their employer. The employer often contributes additional amounts or percentages to the employee's retirement account. Qualified retirement plans generally offer tax advantages to both employees and employers. Once instituted, they must be offered to everyone (barring a few exceptions, such as part-time workers or new employees, depending on the plan's eligibility requirements), and often control remains with the employee. Employees commonly assume that their place of work will offer a qualified plan. As a result, lack of such a plan can be a disadvantage with respect to attracting and retaining employees.

Advantages:

For employers, benefits include:

- Current income deduction for contributions to plan
- Control over plan design

For employees, benefits include:

- Income tax deferred on employer contributions
- Income tax deferred on eligible employee contributions
- Income tax on plan earnings are tax-deferred
- Source of retirement income
- Life insurance can be purchased inside the plan

Other Considerations:

For employers:

- Must meet strict ERISA rules
- Must include all employees

For employees:

- Limits on yearly contributions to plan and/or benefit amounts
- Cannot discriminate in favor of highly compensated employees

2 Non-Qualified Deferred Compensation Retirement Plans

Features: ■ △ ●

Arrangement: Unlike qualified retirement plans, non-qualified deferred compensation plans are not generally considered to be tax-advantaged in the current year. They are designed to retain top talent by providing a benefit in the future. In certain arrangements, the employer can deduct benefit payments made to the employee at the time of payment and control the design of the benefit plan. In other arrangements, the employer may receive a current deduction for funding the benefit plan, but generally retains no control over the plan.

Advantages:

For employers, benefits include:

- Control over who participates, contributions, plan design and timing of benefit delivery
- "Golden handcuffs" for key employees
- Income tax deduction on future benefits when paid to an employee

For employees, benefits include:

- Income tax deferred on employee compensation deferrals
- Income tax deferred on promised employer supplemental income
- Source of additional retirement income
- Can provide supplemental death benefit

Other Considerations:

For employers:

- No current tax deduction
- Costs to administer the plan
- Plan assets are not protected from creditors

For employees:

- Pre-retirement death benefit is taxable to beneficiary
- Plan is not formally funded
- Retirement income is taxable

3 Executive Bonus Plans

Features: ■ △

Arrangement: Executive Bonus Plans are often used as supplements to group term life policies, enabling select employees to receive additional life insurance protection. The employer pays policy premiums as a bonus, which is treated as taxable compensation to the key employee and is tax-deductible by the employer. The key employee owns the policy and the cash value, and selects the beneficiary. Employers often pay the additional taxes due in the form of a cash bonus to the employee.

Advantages:

For employers, benefits include:

- Current tax deductions
- Control over the participants and the plan
- Potential for "golden handcuffs" on key employees

For employees, benefits include:

- Owning additional life insurance
- Potential for additional retirement income

Other Considerations:

For employers:

- Employee, not employer, owns the policy and its cash value
- Loss of control

For employees:

- May send employee into higher tax bracket
- Employee must pay tax on bonus each year

4 Cost-Sharing Plans (Split-Dollar Plans)

Features: △ ●

Arrangement: These plans are another way to pay for life insurance by splitting the premium and insurance proceeds between the employer and employee. Certain plans that are characterized as loans are prohibited to employees of public corporations under the Sarbanes-Oxley Act. While these plans still offer benefits to private companies, the complexity of applicable regulations calls for the plan to be designed with the help of an accountant or tax attorney.

Advantages:

While not tax-deductible to employers, key benefits include:

- The ability of the employer to recover the costs of the plan
- "Golden handcuffs" on top employees

For employees, benefits include:

- Low-cost permanent insurance protection
- The potential for supplemental retirement income

Other Considerations:

For employers:

- May not be used with public corporations
- Some administration required
- No tax deduction for business share of premiums

For employees:

- Generally no equity ownership
- Must pay tax on economic benefit of death benefit
- Generally not as appropriate for supplemental retirement income

5 The BATL Plan®: A Hybrid of Executive Bonus and Split-Dollar Plans

Features: ■ △ ●

Arrangement: The BATL Plan® (bonus and tax loan) is a combination bonus and loan arrangement between the employer and an executive. With this plan, the employer pays bonus compensation to the executive, and the executive uses the bonus to pay premiums on permanent, cash value life insurance. The employer extends interest-bearing loans to the executive to help the executive pay income taxes that will be due on the bonuses. The executive repays the outstanding loans to the employer from the life insurance policy cash values at retirement in either a lump sum or over a period of years. Policy cash values may also be used to supplement retirement income. These plans are intended for non-public companies, as the Sarbanes-Oxley Act prohibits employer-originated loans to executives of public companies.

Advantages:

For employers, benefits include:

- Current tax deductions
- Control over the participants and the plan
- "Golden handcuffs" on key employees

For employees, benefits include:

- Owning additional life insurance
- Potential for additional retirement income

Other Considerations:

For employers:

- May not be used with public corporations
- May have to recoup loan costs from employee directly if there is not enough cash in the policy to settle the debt

For employees:

- Must pay interest on loan
- Indebted to employer
- Limited access to cash value without employer's permission
- Loan repayments decrease net retirement income

Loans and partial withdrawals will decrease the death benefit and cash value of your life insurance policy, and may be subject to policy limitations and income tax. In addition, loans and partial withdrawals may cause certain policy benefits or riders to become unavailable and may increase the chance your policy may lapse. If the policy lapses, is surrendered or becomes an MEC, the loan balance at such a time would generally be viewed as distributed and taxable under the general rules for distribution of policy cash values.

Executive Benefit Plans Compared

There are many factors to be considered when designing the appropriate Executive Benefits plan, such as who the plan is going to benefit, how much control the employer wants over the plan, as well as other topics, such as deductibility and the emphasis on the plan benefits. This chart will help clarify the types on qualified and non-qualified plans as they relate to the factors that business owners must consider when instituting a plan for their key employees.

Factors to Be Considered	Qualified Plans	Non-Qualified Deferred Compensation	Executive Bonus (Section 162) Plans	Cost Sharing (Split-Dollar Plans)	BATL® Plan
Emphasis on Plan Benefits (DB and/or Retirement)	Yes	Yes	Yes	Yes	Yes
Current Tax Deduction for Business	Yes	No current tax deduction. Deduction when benefits paid.	Yes. Deduction for premium payments treated as bonus to Employee.	No deduction for premium payments.	Yes. Deduction for premium payments treated as bonus to Employee.
Minimize Current Employee Taxation	Yes	Yes	No	Yes	Yes
Cost Recovery for Employer	No	Yes	No	Yes	Partial recovery of loans but not bonuses
Golden Handcuffs	No	Yes	Possible	Yes	Yes
Administrative Simplicity	No	No	Yes	Yes	Yes
Benefits Secure from Employer's Creditors	Yes	No	Yes	Somewhat. Depends on type of plan (Loan Regime or Economic Benefit)	Yes
Requires Employer Willingness to Fund Benefits	Yes	True Deferral plans – No SERP plans – Yes	Yes	Yes	Yes
Impact on Employer Balance Sheet	Contributions reduce earnings	Premium payments and liabilities reduce earnings, policy cash value is booked as an asset	Bonuses, partially offset by deduction, reduce earnings	Earnings may be reduced by premium payments until cash value is equal to or greater	Bonuses, partially offset by deduction, reduce earnings Loaned amount offset by receivable
Stability of Business is Important	No	Yes	No	Loan Regime – No Economic Benefit Regime - Yes	No
Exclusion from Taxable Estate	No	No	Possible	Possible	Possible
Preferable Relationship of Employer/Employee Tax Brackets	Employer in higher tax bracket than employees	Neutral	Employer in higher tax bracket than employees	Employer in lower tax bracket than employees	Employer in higher tax bracket than employees
Accommodates Employee Interest in Deferring Income	Yes	Yes	No	No	No

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G177337

GE-134359 (4/18) (Exp. 4/20)

Cat. #131918 (4/18)