

John Hancock

LIFE INSURANCE

Non-Qualified Benefit Plan Features



Non-Qualified Benefit Plan Features

Plan	162 Bonus Plan	REBA
Target Employer	<ul style="list-style-type: none"> • Higher tax brackets than employee • Wants to reward only a few employees • Wants to avoid plan administration • Willing to give up control of the funding vehicle to enjoy current income tax deductibility 	<p>Same as 162 Bonus, plus:</p> <ul style="list-style-type: none"> • Wants some control over how employee uses policy cash values • Wants to potentially recover costs if employee leaves early
Target Employee	<ul style="list-style-type: none"> • Lower tax bracket than employer • Has life insurance or supplemental retirement income need • Wants maximum control over plan assets • Willing to pay taxes currently to achieve control of plan assets 	<ul style="list-style-type: none"> • Key non-owner employee • Highly compensated • Maxing out all company sponsored retirement plans • Departure may have a devastating effect on the company and its morale
Benefits	<ul style="list-style-type: none"> • ERISA Avoidance • Selective • Tax-deductible • Minimal administration • Cost effective to employee • Policy can be outside of insured's estate • No potential corporate alternative minimum tax problem 	<ul style="list-style-type: none"> • Top-Hat Plan – minimal ERISA compliance • All the benefits of a 162 Bonus Plan, with added protection for the employer (golden handcuffs) • Potential cost recovery of unvested benefits • Easy to set up and administer • Encourages employee loyalty • No potential corporate alternative minimum tax problem
Policy Owner	<ul style="list-style-type: none"> • Employee 	<ul style="list-style-type: none"> • Employee
DOL Letter Required	<ul style="list-style-type: none"> • No 	<ul style="list-style-type: none"> • Recommended but not required
Plan Administration	<ul style="list-style-type: none"> • Little to none 	<ul style="list-style-type: none"> • Medium to little • Must comply with 409A regulations but impact of 409A is generally minimal for a REBA
Employer Deductibility	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes, as benefit vests to employee
Employer Cost Recovery	<ul style="list-style-type: none"> • No 	<ul style="list-style-type: none"> • Yes, for unvested portion of bonuses paid
Employee Tax Deferral	<ul style="list-style-type: none"> • Premiums are reportable as income but policy cash values grow tax deferred. Employer could pay tax cost via a double-bonus. 	<ul style="list-style-type: none"> • Premiums are reportable as income but policy cash values grow tax deferred. Employer could pay tax cost via a double-bonus.
Degree of "Golden Handcuffs"	<ul style="list-style-type: none"> • Low 	<ul style="list-style-type: none"> • Medium

Salary Deferral	SERP	Key-Person Coverage
<ul style="list-style-type: none"> • Wants to reward selected key employees • Wants maximum control of plan and assets • Wants cost recovery of plan outlay • Does not need immediate tax deduction • Does not mind some plan administration • Wants employee to contribute to plan costs 	<ul style="list-style-type: none"> • Wants to reward selected key employees • Wants complete control of plan and assets • Wants cost recovery of plan outlay • Does not need immediate tax deduction • Does not mind some plan administration • Is willing to fully fund plan with corporate money 	<ul style="list-style-type: none"> • Has a key executive whose loss would cause great harm to business • Loss of key executive would disrupt sales, creditors, and/or customers • Would incur great expense to replace and retrain replacement
<ul style="list-style-type: none"> • Highly compensated employee • Maxed out on 401(k) plan • In a high tax bracket and wants to defer more income 	<ul style="list-style-type: none"> • Highly compensated employee • Would not need or use additional current income • Has a high standard of living that must be maintained in retirement 	<ul style="list-style-type: none"> • Key executive • Has special knowledge of corporation's operations and products or has special creative talents • Is a "rainmaker" • Has special relationship with customers or creditors
<ul style="list-style-type: none"> • Top-Hat Plan – minimal ERISA compliance • Can discriminate in participants, vesting, and corporate match • Can provide employer cost recovery • Immediate plan funding with life insurance • Employee deferral of immediate income, as much as employer will allow • Restores benefits lost to reverse discrimination • Employer may allow selection of deferral sub-accounts, just like with a 401(k) plan 	<ul style="list-style-type: none"> • Top-Hat Plan – minimal ERISA compliance • Choice of participants and vesting schedule • Can have different benefit levels for different employees • Can provide employer cost recovery • Immediate plan funding with life insurance • Employee receives an additional retirement benefit • Restores benefits lost to reverse discrimination 	<ul style="list-style-type: none"> • Provides source of income to cover death of key person • Provides access to policy cash values in case of unexpected expenses • Could use policy cash value at retirement to fund a benefit for employee
<ul style="list-style-type: none"> • Employer 	<ul style="list-style-type: none"> • Employer 	<ul style="list-style-type: none"> • Employer
<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • No
<ul style="list-style-type: none"> • High • Must comply with 409A regulations • Employee must sign consent to insure form 	<ul style="list-style-type: none"> • High • Must comply with 409A regulations • Employee must sign consent to insure form 	<ul style="list-style-type: none"> • Little to none • Employee must sign consent to insure form. • If used to fund a retirement benefit, must comply with 409A.
<ul style="list-style-type: none"> • Pre-retirement contributions to the funding vehicle are not deductible • Retirement benefit payments are deductible as they are paid out 	<ul style="list-style-type: none"> • Pre-retirement contributions to the funding vehicle are not deductible • Retirement benefit payments are deductible as they are paid out 	<ul style="list-style-type: none"> • No
<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes
<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Not Applicable
<ul style="list-style-type: none"> • High 	<ul style="list-style-type: none"> • High 	<ul style="list-style-type: none"> • Not Applicable

Section 409A of the Internal Revenue Code imposes extensive substantive requirements on arrangements that purport to accomplish a deferral of income or the taxation of income. By its own provisions, failure to satisfy these requirements will result in the loss of deferral of recognition and taxation of the income. Section 101(j) of the Internal Revenue Code imposes income tax on the death benefit of life insurance contracts owned by the employer of the life insured unless certain exceptions apply. All such exceptions include satisfaction of notice and consent requirements set forth in the section.

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