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BUSINESSDIMENSIONS

FINANCIAL STRATEGIES FOR THE ENTREPRENEUR

Retain top talent and maintain tax efficiency

Maximize the compensation you pay top talent with non-qualified deferred compensation plans

Non-qualified deferred compensation (NQDC) plans are a way for an employee to postpone earned income by delaying or deferring when earnings are paid. They allow your employees to earn income in one year but receive it in another, deferring any associated tax burden along with it. It's also a way for an employer to reduce current payroll expenses that will instead be paid in the future.

An NQDC can provide your employees a source of income in the future. Typically, when enrolling in NQDC plans the employee must select when the funds will be distributed. The distribution options are plan-specific, but employees can strategize and anticipate some income needs such as college expenses or retirement when timing their deferred compensation.

NQDC plans can help maximize compensation for your top earners and ensure that they're getting the most out of what you pay them – by leveraging tax efficiency without increasing payroll. Most important, they can serve as incentives for enticing and retaining high-value professionals.

If income is deferred from a year in which an employee is in a high tax bracket and paid when they're in a lower bracket, the employee pays less in taxes over time. Unlike a tax-deferred retirement account, NQDCs feature no contribution limits and your employees don't have to wait until they meet an age requirement to start paying lower taxes on their deferred income.

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Retain top talent (cont.)

TYPES OF NQDC PLANS

NQDC plans fall into two main categories: top-hat plans and deferred savings plans. While top-hat plans are focused on delaying the payment of top earners' compensation and don't contain funds, deferred savings plans are executed through salary reductions of up to 25% of base pay and 100% of bonuses.

With deferred savings plans, the employer agrees to promise a specific rate of return, and taxes are paid after the earnings are received. Because deferred savings plans have fewer restrictions, they can be offered to a wider variety of employees

How an employee is positioned in your company may help determine what sort of NQDC plan to offer. For example, executives and other "key employees" may be subject to different ERISA limits than others. High-earning executives are restricted by how much they can save in an ERISA-type plan whereas there are fewer contribution restrictions in a NQDC plan. Top hat plans might be a beneficial strategy for these executives since top hats provide unfounded deferred compensation to select executives and top management. Your advisor can help you determine which plans may be the best fit for your managers should their status as key employees be a factor.

HOW TO SET UP AN NQDC PLAN

Making the decision to offer NQDC plans to your employees is the first major step, but what about putting them into place? Although having a conversation with your advisor is the best way to know what to do in your specific situation, it's important to note:

> Employees must elect to defer compensation prior to the year in which the deferred compensation is earned.

> The plan must be agreed to in writing and have a set end date for payout of the deferred earnings.

> These types of plans are irrevocable and therefore must be implemented with long-term consideration on the part of both the employer and employee.

> The restrictions imposed by ERISA can vary from plan to plan, depending on the employee.

IT'S NOT JUST ABOUT SALARY

Salaries aren't the only type of income that can be deferred to a later date. You can also defer employee bonuses, commission checks and other variable income sources. This way, employees can keep the steady income they rely on now from their base pay, but also save additional compensation for a rainy day – or for when the tax burden may be lower.

Flexibility is a noteworthy benefit of NQDC plans. Each plan can be tailored specifically to an individual employee's goals, such as putting aside equity payment and bonus incentives for meeting quotas and performance metrics.

No matter how you choose to incorporate NQDC plans into your business, your financial advisor can help you find the most efficient and beneficial strategies. Whether you're focused on attracting new talent or retaining your existing key players, reach out to your advisor and have a conversation about how NQDC offerings can benefit both you and your employees. ■

Notable considerations regarding NQDC plans:

- There is some risk involved for employees since the deferred compensation is an unsecured promise by the employer to pay compensation in the future.
- In the event of bankruptcy, employees' unpaid deferred compensation may not be paid.
- Deferred compensation may be available to the creditors of the company.
- Multiple deferred compensation plans for high-level executives paid at once could cause cashflow constraints and should be planned for accordingly.

NEXT STEPS

- Explore various types of NQDC plans and narrow down options that work best for your business.
- Meet with your financial advisor to discuss how NQDC plans for employee compensation can help boost retention.
- Identify the crucial employees and plan ways to motivate them with deferred compensation.
- Connect with your top performers and explain the advantages of an NQDC plan.

Intellectual property in your business

Facts and issues about ownership of intellectual property in your business

Intellectual property covers a wide range of assets including patents, trademarks, trade secrets, copyrights, and others.

Each asset is protected in order to encourage employees to come forth with new ideas, content and end-products. The work your employees create adds essential value to your business and the people you serve. You trust workers to be experts at what they do and in exchange, you compensate them for their contributions. But sometimes, a dispute can arise over the rightful ownership of work an employee has created. In these situations, it's important to know the facts, as well as the do's and don'ts.

Let's discuss one of the key components of intellectual property, copyright, and how you can protect what belongs to your business while ensuring your employees' rights are upheld to the highest degree.

THE BASICS OF COPYRIGHT

Generally, ownership over a copyrighted work belongs to who is considered the author of the copyright. As the owner, an author is able to reproduce, distribute, adapt and display it at their discretion. The author is not necessarily the creator or the shaper of the copyrighted work, however. For example, if a business hires an independent contract worker, the creator of the work may or may not be the owner. Through advance written contract, the business and the independent contractor can agree whether the created work is "work made for hire" and whether the business or creator will be considered the author and owner of the copyrighted work.

YOUR EMPLOYEE IS THE AUTHOR

There are several ways in which current employees can claim copyright, either fully or partially, on work they created at your company.

- **Scope:** If the employee's creation falls outside of the scope of their specific role, that creation may be exempt from your ownership, in which case the copyright belongs to them.
- **Outstanding benefit:** In a rare case where an employee's creation is so impactful to the overall prosperity of the company that it creates an "outstanding benefit," the creator may be entitled to claim some sort of additional compensation for their contribution.
- **Inventions:** Under historical intellectual property law, inventions are owned by their creators even when an employer facilitates their creation. However, drafting an inventorship agreement prior to employment can help to establish more protections for your business.

WHEN AN AUTHOR LEAVES

Planning early in the employment is critical as it reduces many of the potential later disputes such as who owns what in terms of the work produced, trade secrets and protecting other sensitive information. (Trade secrets are a form of intellectual property that includes specific designs, formulas, or processes within a business/trade which hold inherent value.) For example, a noncompete clause baked early into the employment agreement may help to limit the spread of the company's information. A good severance agreement in the wake of the employee/author's announcement of department can be similarly impactful.

Navigating the logistics and getting the help you and your business need through a copyright dispute may be overwhelming. Knowing where to find help can alleviate your worries. Your financial advisor is always here with helpful advice and to pull in the right resources you need to ride out the trouble spots. ■

Navigating generational shifts in the workplace

The presence of five generations in a single workforce is shaking things up for business owners

As people get older, the world they live in seems to get increasingly younger.

With Gen Z on the verge of becoming much of the modern workforce, business owners must prepare for their different approach to labor, communication and professional goals. While workers continue to apply their skills and wisdom to a plethora of jobs, shifting cultural landscapes bring about the potential for a clash of ideals.

Understanding the similarities and differences between generations is the first step in fostering collaboration toward the common goals of your business.

UNDERSTAND EVOLVING PRIORITIES

Having entered the workforce amid a global pandemic and economic uncertainty, young professionals are navigating a novel set of challenges in the early stages of their careers.

These challenges have led to vastly different priorities and goals for those just now reaching adulthood in the face of unprecedented inflation and social change. Remote work, for example, is becoming much more accepted — and even demanded by those who've seen the advantages firsthand. And for those who haven't experienced work in an office, the benefits may not be immediately apparent.

As a leader in your organization, taking the time to assess different perspectives to help find a solution that bridges the gap between multigenerational workers is key to fostering a productive, comfortable environment for all your employees.

DON'T TAKE IT PERSONALLY

It's important to remind ourselves that what may seem out of the norm to one person may be completely innocuous and unintentional to others who grew up with a different framework.

Younger workers tend to prefer text-based communication to other methods, like phone calls, for its convenience and the ability to refer to written text after the fact. Rather than see a text message or email in response to a voicemail as lacking interpersonal consideration, try to put yourself in the shoes of someone whose primary mode of communication throughout their personal life is text-based.

If you think something necessitates a face-to-face conversation, take the time to explain why. It may expose the recipient to a perspective they hadn't considered, and vice versa.

GET TO KNOW YOUR WORKERS

Stereotypes that pigeonhole different generations of workers, by definition, don't apply to everyone. People have much more in common when you scratch the surface. Though different generations of professionals bring diverse experiences to the table, everyone is navigating the workplace simultaneously with similar goals of productivity and fulfillment. Taking time to get to know your employees individually by listening to their concerns and preferences can help eliminate tension among teams throughout your company. ■

Feeling responsible for the people who help your business flourish and succeed is natural. Having open discourse with your team to help create an environment where they can thrive regardless of age is vitally important.