

Publications

Nonqualified Deferred Compensation: An Important Source of Retirement Income

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Summary Nonqualified deferred compensation plans provide a valuable source of retirement income for many thousands of US employees. These plans benefit not only senior corporate officers, but also many mid-level managers, salespersons, and other professional staff. Generally, any employer-sponsored retirement plan or arrangement that does not meet the requirements for a “qualified retirement plan” under section 401 (a) of the Code can be described as a “nonqualified deferred compensation plan” or a “nonqualified plan.” Nonqualified deferred compensation plans and arrangements have existed for more than 50 years.

The Code requirements a nonqualified plan needs to meet are less complex than those imposed on qualified retirement plans. The two primary sets of rules under the Code that apply to nonqualified plans are the constructive receipt and economic benefit rules. Any legislation in the nonqualified plan area should target only potentially abusive practices, such as the use of inappropriate off-shore rabbi trusts or insolvency triggering devices.

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