

# Non-qualified benefit plan features at a glance

## BUSINESS PLANNING

PLAN	162 BONUS PLAN	REBA	SALARY DEFERRAL	SERP	KEY PERSON COVERAGE
<b>Target Employer</b>	<ul style="list-style-type: none"> <li>Wants to reward selected key employees</li> <li>Wants to avoid plan administration</li> <li>Wants a current tax deduction</li> </ul>	Same as 162 Bonus, plus: <ul style="list-style-type: none"> <li>Wants some control over how employee uses policy cash values</li> <li>Wants to potentially recover costs if employee leaves early</li> </ul>	<ul style="list-style-type: none"> <li>Wants to reward selected key employees</li> <li>Wants maximum control of plan and assets</li> <li>Wants cost recovery of plan outlay</li> <li>Does not need immediate tax deduction</li> <li>Does not mind some plan administration</li> <li>Wants employee to contribute to plan costs</li> </ul>	<ul style="list-style-type: none"> <li>Wants to reward selected key employees</li> <li>Wants complete control of plan and assets</li> <li>Wants cost recovery of plan outlay</li> <li>Does not need immediate tax deduction</li> <li>Does not mind some plan administration</li> <li>Is willing to fund plan without employee contributions</li> </ul>	<ul style="list-style-type: none"> <li>Has a key executive whose loss would cause great harm to business</li> <li>Loss of key executive would disrupt sales, creditors, and/or customers</li> <li>Would incur great expense to replace and train replacement</li> </ul>
<b>Target Employee</b>	<ul style="list-style-type: none"> <li>Highly compensated and/or key employee that employer is looking to provide with an additional benefit</li> <li>Has life insurance need, and may want to supplement retirement income as well</li> <li>Wants maximum control over plan assets</li> </ul>	Same as 162 Bonus	<ul style="list-style-type: none"> <li>Highly compensated employee</li> <li>Maxed out on 401(k) plan</li> <li>In a high tax bracket and wants to defer more income</li> </ul>	<ul style="list-style-type: none"> <li>Highly compensated employee</li> <li>Maxed out on 401(k) plan</li> </ul>	<ul style="list-style-type: none"> <li>Key executive</li> <li>Has special knowledge of the corporation's operations and products or has special creative talents</li> <li>Is a "rainmaker"</li> <li>Has special relationship with customers or creditors</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Possible welfare benefit plan – minimal ERISA compliance</li> <li>Can be selective in terms of who participates</li> <li>Can have different bonus amounts for each selected employee</li> <li>Tax-deductible</li> <li>Minimal administration</li> <li>Cost effective to employee</li> <li>Policy can be outside of insured's estate</li> </ul>	<ul style="list-style-type: none"> <li>Possible welfare benefit plan – minimal ERISA compliance</li> <li>All the benefits of a 162 Bonus Plan, with added protection for the employer (golden handcuffs)</li> <li>Potential cost recovery of unvested benefits</li> <li>Easy to set up and administer</li> <li>Encourages employee loyalty</li> </ul>	<ul style="list-style-type: none"> <li>Top-Hat Plan – minimal ERISA compliance</li> <li>Can discriminate in participants, vesting, and corporate match</li> <li>Can provide employer cost recovery</li> <li>Immediate plan funding with life insurance</li> <li>Employee deferral of income, as much as employer will allow</li> <li>Employee receives additional retirement benefit</li> </ul>	<ul style="list-style-type: none"> <li>Top-Hat Plan – minimal ERISA compliance</li> <li>Can discriminate in participants, vesting, and funding</li> <li>Can have different benefit levels for different employees</li> <li>Can provide employer cost recovery</li> <li>Immediate plan funding with life insurance</li> <li>Employee receives an additional retirement benefit</li> </ul>	<ul style="list-style-type: none"> <li>Provides source of income to cover death of key person</li> <li>Provides access to policy cash values in case of unexpected expenses</li> <li>Could use policy cash value at retirement to fund a benefit for employee</li> <li>Where available, policy may include a "critical illness benefit rider" that provides an additional pool of tax-free income in case key person is diagnosed with a covered critical illness (e.g., cancer, stroke, etc.)</li> </ul>

PLAN	162 BONUS PLAN	REBA	SALARY DEFERRAL	SERP	KEY PERSON COVERAGE
<b>Policy Owner</b>	Employee	Employee	Employer	Employer	Employer
<b>Plan Administration</b>	Little to none	<ul style="list-style-type: none"> <li>• Little to medium - employer must keep track of vested and unvested amounts</li> <li>• Must comply with 409A regulations but impact of 409A is generally minimal for a REBA</li> </ul>	<ul style="list-style-type: none"> <li>• High</li> <li>• Must comply with 409A regulations</li> <li>• Employee must sign consent to insure (101(j) compliance)</li> </ul>	<ul style="list-style-type: none"> <li>• High</li> <li>• Must comply with 409A regulations</li> <li>• Employee must sign consent to insure (101(j) compliance)</li> </ul>	<ul style="list-style-type: none"> <li>• Little to none</li> <li>• Employee must sign consent to insure (101(j) compliance)</li> <li>• If used to fund a retirement benefit, must comply with 409A</li> </ul>
<b>Employer Deductibility</b>	Yes	Yes, as benefit vests to employee	<ul style="list-style-type: none"> <li>• Pre-retirement contributions to the funding vehicle are not deductible</li> <li>• Retirement benefit payments are deductible as they are paid out</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-retirement contributions to the funding vehicle are not deductible</li> <li>• Retirement benefit payments are deductible as they are paid out</li> </ul>	No
<b>Employer Cost Recovery</b>	No	Yes, for unvested portion of bonuses paid if employee terminates employment early	Yes	Yes	Yes
<b>Employee Tax Deferral</b>	<ul style="list-style-type: none"> <li>• Premiums are reportable as income but policy cash values grow tax deferred.</li> <li>• Employer could pay tax cost via a double-bonus.</li> </ul>	<ul style="list-style-type: none"> <li>• Premiums are reportable as income but policy cash values grow tax deferred.</li> <li>• Employer could pay tax cost via a double bonus.</li> </ul>	Yes, amounts contributed are tax deferred until received by employee	Yes, amounts contributed are tax deferred until received by employee	N/A
<b>Degree of "Golden Handcuffs"</b>	Low	Medium	High	High	N/A

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. IRS Notice 2009-48 provides additional clarification of the rules for employer-owned life insurance.

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