

# Nonqualified Deferred Compensation

## Comparison of Qualified Vs. Nonqualified Plans



Factors to Consider	Qualified Plans	Non-qualified Plans
<b>Employer Deduction</b>	Deduction at the time of contribution to trust.	Deduction is deferred until benefit payments are made and EE recognizes income and is taxed.
<b>Income Tax on Investment Earnings</b>	Income tax on investment earnings deferred until the executive withdraws amounts.	Employer currently taxed on earnings of any assets unless earnings are tax-deferred such as with life insurance cash values.
<b>Income Tax on Executive's Benefits</b>	Income tax deferred until amounts distributed to executive. Income tax free rollover to IRAs and other qualified plans allowed.	If properly structured, executive is not taxed until actual receipt. Rollovers to other non-qualified plans are not allowed.
<b>Limits on Contributions</b>	Section 415 limits for 2010 (defined contribution and defined benefit); \$245,000 compensation limit; 401(k) deferral limit of \$16,500; nondiscrimination rules.	Only as imposed by employer and reasonable compensation limits. Treas. Reg. §1.162-7(b)(3).
<b>Benefit Payment Flexibility</b>	Constructive receipt rules do not apply.	Constructive receipt rules apply; thus, executive's access to funds subject to substantial restrictions.
<b>Assets Subject to Claims of Employer's Creditors</b>	Amounts must be placed in trust therefore employer's creditors have no claim to assets.	Employer's creditors have claims to assets, even if held in a Rabbi Trust.
<b>Assets Subject to Claims of Executive's Creditors</b>	Protected from creditor's claims.	Not protected from creditor's claims when paid out or made available to the employee.