

Ref. to Navigating the Complexities of Equity Based Compensation for Corporate Executives Webinar by John Nersessian

Importance of Planning for Client's Executive Compensation:

BEHAVIORAL



Confusing Plan Documents



Cognitive Biases
(Overconfidence, Status Quo, Home Country, Endowment)



Procrastination

INFORMATIONAL



Concentration Risk



Lack of Coordination



Tax Ramifications

COMMON EXECUTIVE COMPENSATION TYPES:

RESTRICTED STOCK

Restricted Stock: Also known as a restricted security, this is an executive benefit growing in popularity over stock options. It is non-transferable, but has potential tax benefits and retains more of its value when compared to stock options. It may or may not also carry dividend or voting rights.

Restricted Stock Unit (RSU) Grants: Have many of the same benefits and drawbacks as restricted stock, but they are not eligible for 83(b) election if exercised early.

Restricted Stock		ESOs
Time Performance Goals	Vesting	Time
No	Leverage	Yes
Yes	Intrinsic Value	No
Yes, when paid to shareholders	Dividends	No
Yes	Voting Rights	No
Vesting	Triggering Event	NSO: Exercise ISO: Sale of Stock
Ordinary Income	Tax Treatment	NSO: Ordinary Income ISO: LTCG Potential
83(b) Election Option	Early Exercise	83(b) Election Option
At Vesting	Issuer Expense	At Exercise

COMMON EXECUTIVE COMPENSATION TYPES:

EMPLOYER STOCK OPTIONS (ESO)

Non-Qualified Stock Options (NSOs):

The more common type of employee stock options, provided to many types of employees. NSOs can also be granted to individuals who are not employees of the company or on the company payroll. NSOs are not as advantageous tax-wise as ISOs, as the profit on NSOs is taxed as ordinary income.

Incentive Stock Options (ISOs):

ISOs are a less common type of employee stock options, provided mainly to C-suite or top-level executives. ISOs can only be granted to employees of a company, and they are tax-advantaged as the profit on ISOs is taxed at the capital gains rate.

NSOs		ISOs
Employees, Directors, Consultants	Grant	Employees Only
Transferable	Transferability	Non-Transferable Except at Death
None	Grant Limit	\$100,000 Rule
Exercise	Triggering Event	Sale of Stock
Ordinary	Taxable Income	LTCG Potential
None	AMT Impact	Preference Item at Exercise

COMMON EXECUTIVE COMPENSATION TYPES:

OTHER EXECUTIVE COMPENSATION PLANS

Non-Qualified Deferred Compensation (NQDC) – 409a Plans: These are qualified DC plans that allow the employee to defer current compensation and taxes to be withdrawn and taxed at a later date, subject to IRS limits.

Employee Stock Purchase Plans (ESPPs): These types of plans allow employees to purchase company shares at a discounted price through ongoing payroll deductions.

	Non-Qualified Deferred Comp (NQDC)	Employee Stock Purchase Plans (ESPPs)
Plan Benefit & Deferral	<ul style="list-style-type: none"> Employees can defer income above IRS limits, depending on the arrangement 	<ul style="list-style-type: none"> Employees can purchase shares at discounted price Flexibility: many plans offer "look back" provision IRA cap of \$25,000/year
Timing	<ul style="list-style-type: none"> <i>Irrevocable</i> election to defer income must be made year prior of compensation grant 	<ul style="list-style-type: none"> Ongoing purchase through monthly payroll deduction
ERISA Protection	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None
Distributions	<ul style="list-style-type: none"> Rollovers NOT available No RMD requirements 	<ul style="list-style-type: none"> No special rules
Important Dates	<ul style="list-style-type: none"> Triggering events: Fixed date, retirement date, change in control, disability, death 	<ul style="list-style-type: none"> <i>Voluntary</i> participation, often limited based on employment duration Offering date