



Restricted Executive Bonus

A restricted executive bonus is identical to the Executive Bonus plan but restricts the executive's ability to access the policy's cash value for a period of time. The executive bonus plan is an effort to recruit, reward and/or retain top talent. The employer agrees to pay the premiums on a life insurance policy owned by the executive. This amount is includible in the executive's compensation and is generally deductible to the employer (it would not be deductible to the extent that his or her compensation is not "reasonable" IRC 162).

The policy is under the complete control of the executive with the exception of withdrawing cash value or receiving loans from the policy for a period of time (the restriction period). The employer has no interest in the policy. The executive can change the beneficiary, take a withdrawal from the policy (after the restriction period), take a loan against the policy (after the restriction period), collaterally assign the policy (after the restriction period), and may consider

transferring the policy to an irrevocable trust (ILIT) for estate planning purposes. If the policy is transferred to an ILIT, the transfer will have gift tax implications, three year inclusion implications, and transfer for value implications. All implications can be adequately handled with proper planning (eg. the executive can make cash gifts to the ILIT using his/her annual exclusions, the ILIT is structured as a "grantor trust", and the ILIT trustee purchases the policy from the executive).

This arrangement is slightly more handcuff than the executive bonus in that the executive cannot access policy values for a set period of time without the employer's consent but he/she can still terminate employment and does not forfeit any rights or benefits in the policy. If a slightly stronger handcuff is desired see "Golden Executive Bonus Arrangement". If a complete handcuff is desired see "Employer Loans" or "Employer Endorsement".

Pros

Simple to understand and administer

Valuable benefit for Executive

Helps recruit, reward, retain – a slightly stronger handcuff than executive bonus without restriction

Generally deductible to Employer

Cons

Still is not much of a handcuff – Executive is free to leave and take policy

Is classified as a welfare benefit plan for ERISA purposes

Entire premium amount is included in Executive's – as opposed to premium sharing arrangements