



2016 MDRT Annual Meeting e-Handout Material

Title: Executive Benefit Consulting – The Key to Closely Held and Family Business Sales

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Presentation Date: Tuesday, June 14, 2016

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Slide 2

What We Will Cover

- Small Businesses in America
- Small Business Administration – defines 500 or less employees
- 97% of all U.S. Businesses - \$2.5 Trillion in Equity
- Employ half of all private sector with 43% of payroll
- Huge Market Opportunity

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What We Will Cover

- Identify Psychological Profile
- Compare & Contrast Bonus, Split Dollar & Deferred Compensation
- Discuss ERISA and the “Top Hat” exception that permits alignment of Non-Qualified Plans and Small Business owner desires

Slide 4

Know Your Prospect

- What type of person decides to go into business for themselves?
- Personality traits
- One word that describes these owners?
- Turn On's
- Turn Off's

Slide 5

Employee Benefit Plans

- Group Health Insurance – Affordable Care Act
- Qualified Retirement Plans – 401k
- “Exempt” Non-Qualified Plans

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ERISA

- Retirement Benefit Plans
- Welfare Benefit Plans
- “Top Hat” plans essentially exempt
- Unfunded Plan offered to a Select Group of Highly Compensated and/or Management Employees”

Slide 7

Bonus Plans

- Profit Pool
- Capped or Uncapped
- Incentive Based
- Included in Income – Single or Double
- Deductible as W2 wages per I.R.C. Section 162

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Split Dollar Plans

- Been around since 1954
- Employer & Employee share costs and benefits of Cash Value Life insurance
- 9/17/2003 New Regulations
- Economic Benefit Regime
- Loan Based Regime – Tied to Federal Interest Rates

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Deferred Compensation

- Revenue Ruling 60-34
- Originally income shifting
- Developed as Golden Handcuff
- Abuses led to I.R.C. Section 409A
- Basics of Constructive Receipt, Substantial Risk of Forfeiture remain unchanged

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Plan Comparison Chart			
	Deferred Compensation	Split Dollar	Bonus
Life Insurance	Yes	Yes	Yes
Plan Control	Employer	Exec. Benefit – Employer	Employee
		Non-Exec. – Employee	
Current Deduction for Plan Contribution	No	No	Yes
Taxation of Contributions to Employee	No	Exec. Benefit – Term Cost	Yes
		Loan – Yes, if Rollover; Interest is Paid	
Taxation of Benefits to Employee	Yes	No	No
Taxation of Death Benefits to Employee	Yes	No	No
Selective ERISA Exempt	Yes	Yes	Yes

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Bad Publicity

- How Many of you offer Bonus Plans to Clients?
- How Many of you offer Split Dollar Plans?
- How Many of you offer Deferred Compensation Plans?
- Don't Believe What you Read in the Papers

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409A Highlights	
Feature	Description
Definition	Any arrangement that provides payment of benefits in a year later than when services performed
Excluded Plans	Qualified Plans, TDAs, 457s, SEPs, SIMPLEs, Welfare Benefits
Effective Date	Deferrals after 12/31/04
Election – Initial Deferral	Within 30 days of eligibility
Election – Annual Deferral	No later than 12/31 of the year prior to deferral
Base Risk of Forfeiture	Same as before – general asset of employer subject to claims of creditors
ERISA	Top Hat – same as before enactment of 409A
Distribution Events	Retirement, separation from service, death, disability

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Magic in ERISA

- “Top Hat” Essentially Exempt
- Permits Entrepreneur Small Business designed to “Custom Design” these plans
- Allows you to Collaborate with Owner, CPA, and Attorney in designing a “Compensation Strategy”
- Permits the Boss to be Boss!

Slide 14

Top Hat Requirements

- Primarily
- Select Group
- Highly Compensated
- Management
- Unfunded

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Miscellaneous

- Reporting and Disclosure
- Participation Vesting, Funding
- Fiduciary Requirements
- Claims Procedure

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ERISA Highlights	
Requirements	Description
Unfunded	Any asset owned by employers subject to claims of general creditors
Select Group	No more than 15% of total employees
Highly Compensated	414q limit – \$120,000 in 2016
Plan Fiduciary	Must be named in agreement
Claims Procedure	Basic Due Process with Appeal
Department of Labor Notice	Notice of plan filed within 120 days

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Where Do We Go From Here?

- Split Dollar and Deferred Compensation Plans are NOT too complicated
- “Top Hat” exception permits selective participation
- No Red Tape
- Collaborate with Compensation Team
- Let the Boss be Boss!

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You Make the Difference

- Entrepreneurs are the heroes who drive our free enterprise system
- You are the hero who helps those heroes!
- You can enjoy the personal satisfaction of assisting them in securing their dreams, goals and desires
- Make a list right now of 5 entrepreneurs that you know
- Good selling and God bless!
