The Pangburn Company, Inc. is a fee-for-service TPA (Third Party Administrator) dealing exclusively with nonqualified executive fringe benefit plans. We administer plans for a diverse clientele ranging from small closely-held family businesses to international Fortune 500 companies. Our clients can be found in all fifty states and represent a broad cross section of the global economy. Our primary objective is to provide you and your clients with accurate and useful information, on a timely basis, at a reasonable cost. As a TPA we have formed a number of strategic alliances with major life insurance carriers, mutual fund wholesalers, accounting firms, banks, producer groups, brokerage houses, and executive benefit specialists. We have combined experience with technology to provide you with state-of-the-art plan administration at a reasonable cost.

IN THIS ISSUE
GUARANTEED BENEFITS
(The SERP Revisited)
GOOD-BYE ESTATE TAX?
PLANNING BRIEFS
WORTHY WEB SITES
TECHNOLOGY TIPS
QUOTABLE QUOTES
INTERESTING RATES

The information in this publication is for general use and should not be applied to individual situations unless coordinated with professional financial advice. — The Pangburn Company, Inc.

GUARANTEED BENEFITS

There is no arguing with the overwhelming popularity of true deferral plans. The combination of a Bull Market that “just won’t quit” and the incredibly competitive VUL policies that reflect this unprecedented one-way market have combined to make 401(k) Mirror Plans the darlings of the nonqualified executive benefit world. However, there is still a large segment of the market that still likes their executive benefits designed the old-fashioned way . . . defined up front, and to the extent possible, guaranteed. We all know that NQDC benefits cannot be guaranteed . . . there has to be a substantial risk of forfeiture, and the plans technically have to be “unfunded”. However, through a combination of plan design and available security devices, plans can be structured to minimize risk and maximize probability. The Rabbi Trust in combination with acceptable premature distribution “triggers” and possibly third party insurance, can go a long way to alleviate the executive’s fears about the impact of mismanagement and / or a sudden downturn in corporate financial conditions. There also exists a large group of executives that are closing in on their normal retirement date. They don’t have the luxury of time to accumulate enough supplemental savings or to weather a mild short-term downturn in the market. For this group, the defined benefit Supplemental Executive Retirement Plan (SERP) offers the best solution. Supplemental retirement benefits tied to salary and years of service are still the most popular design. Benefits are often payable for the executive’s lifetime and occasionally continue to the spouse on a survivorship basis. Benefits can be designed to include automatic or indexed “cost of living” adjustments and can be “in addition to” or “offset by” qualified plan benefits and / or social security. When corporate continuity is a real concern, benefits are often accelerated and paid in a lump sum at retirement. Defined contribution plans, including 401(k) Mirror Plans are also being designed with guarantees. Fixed rate of return indices are being offered as an allocation choice and in many instances the employer is simply guaranteeing yields based on a specified interest rate. Other plans offer the executive a “floor guarantee” . . . at date of distribution the participant will receive the greater of: (a) the account value based on actual market performance, or (b) the account value based on a minimum guaranteed rate of return of XX%. When talking to clients and prospects don’t forget the SERP . . . it is how supplemental retirement benefits all began. SERPs are alive and well and waiting to be rediscovered in the new millenium.

GOOD-BYE ESTATE TAX?

Speaking of political footballs . . . the President has promised a veto so the Republicans appear to be winners in either event. But what about those who have made a career by selling life insurance to pay the dreaded estate tax with “discounted dollars”? Pass or fail, this may be a good time to start considering expanding your practice into the executive benefit market. Conditions couldn’t be better . . . a robust economy, low unemployment, record high incomes, and most importantly, a large number of carriers designing product and support systems to penetrate the as yet untapped “middle” market. As Congress also fiddles with ERISA benefit and funding limits, the spotlight will again focus on the need for retirement income. As the yuppies come of age, the bar of needed retirement income gets raised higher and higher, and despite probable liberalization under ERISA, qualified plans will still not come close to providing satisfactory retirement incomes for today’s high earning fast-trackers. Regardless of what happens to the estate tax, nonqualified executive benefit plans informally funded with corporate owned life insurance should continue to be both a viable and profitable market.
Characteristics of “Top Hat” plan elaborated on by Court of Appeals:

In Demery v. Exetebank the US court of Appeals for the Second Circuit elaborated on some of the factors that determine whether a nonqualified deferred compensation plan constitutes an ERISA “top hat” plan. The plan covered about 15% of the bank’s workforce and included vice presidents and managers some of whom received only about $30,000 in annual compensation. The Court held that it was not necessary for participants to be both management employees and highly compensated for the plan to qualify as a “top hat” plan. The Court did acknowledge that 15% of the workforce was most likely at the upper limit of the acceptable size for a “select group.” Other factors to be considered include: (1) whether the participants were in a position to negotiate the terms of the plan; (2) whether the plan was “primarily” designed for management or highly compensated employees; and (3) whether the employer had timely filed a top hat registration statement with the U.S. Department of Labor. (Must be filed within 120 days of the plan effective date).

2000 Small Employer Retirement Survey Results:

Companies offering 401(k) Plans:
- 20 or fewer employees – 43%
- 21-100 employees – 78%

Major reasons for offering a plan:
- Competitive edge in recruiting – 35%
- Positive effect on attitude – 21%
- Employer views as obligation – 13%
- Tax advantages for key executives – 8%

Major reasons for not offering plans:
- Employees prefer wages – 21%
- Seasonal/part time/turnover – 18%
- Revenue too uncertain – 13%
- Business too new – 11%

InterBase 6 - Open Source!

We at The Pangburn Company are very excited about Inprise / Borland releasing the latest version of their powerful SQL-based relational database management system, InterBase 6, as an open source product. InterBase is a powerful database system, comparable to products such as Microsoft SQL Server and Oracle. However, the move to open source gives InterBase three major advantages:

1. The release of source code gives developers full control over the software allowing them to make changes as needed.
2. The entire software community will work as a whole to improve the product, allowing everyone to benefit.
3. InterBase 6 is now essentially free! InterBase is also cross-platform, running under Windows, Linux, or Solaris. The current plan is for Inprise / Borland to spin InterBase off into a separate company that will manage the new product and earn revenue through the sale of CD / documentation bundles and service / support contracts.

We are embracing this new technology and integrating it with the new Java-based software we are developing. It is this technology that will eventually allow us to “Internet-enable” our systems.

While InterBase is not the first open source database, it is probably the most powerful. Unlike competitors, MySQL and PostgreSQL, InterBase supports features such as referential integrity and outer joins. It has the performance, reliability, and scalability needed for enterprise level software. If your database needs have grown beyond desktop systems such as Access and FoxPro, InterBase is worth a hard look.

For more information, visit:
- www.interbase.com
- www.interbase2000.com

J. Clifford “Cliff” Dixon has joined us effective July 1, 2000 as an Account Executive. Cliff is a graduate of Southeastern Louisiana University where he earned both an undergraduate degree and a Masters in Business Administration. Prior to joining The Pangburn Company, Cliff worked for Toyota Motor Credit.

Odon L. Bacque, Jr.,CLU
Creative Financial Planning, Inc.

As a practitioner, in recommending nonqualified plans to my clients, it is important to both parties that the administration be done professionally and timely. The Pangburn Company makes me look good, and I know that I will never have to worry that something was not done.”

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