Please note: This is a transcription so there may be slight grammatical errors.

As a plan sponsor, one of the options you have to recruit and retain executive talent is a nonqualified retirement savings plan.

Nonqualified plans get their name because unlike other employer sponsor retirement plans, such as 401ks, defined benefit pensions or profit sharing plans, they do not meet all the requirements for qualification of the plan's trust, as laid out in the Internal Revenue code Section 401(a). And while there are trade-offs, there are also several key advantages for a plan lacking this qualified status. Unlike qualified plans, nonqualified plans are not constrained by IRS deferral limits, nor must they adhere to most requirements the Employee Retirement Income Security Act, or ERISA, imposes on qualified plans. Most notably, the ERISA requirement to make the plan available equally to all employees doesn't apply. As such, nonqualified plans are generally used to provide a select group of highly paid employees with an additional savings tool to accumulate pre-tax employee and employer contributions above and beyond qualified plan limits.

So let's take a look at who might be eligible to receive these benefits. Nonqualified plans are typically designed for no more than 10% of your total employee population. Eligible participants should be considered highly compensated according to IRS guidelines, and have an average compensation two to three times that of your non-highly compensated employee group. The most common nonqualified plan designed today is a plan where participants can elect to defer large amounts of their own compensation, and employers can make large elective matching or discretionary contributions.

These plans are often administered by the same record keeper as the qualified plan, using a similar, although perhaps broader, self-directed investment menu. Utilizing the same record keeper can provide pricing and administrative efficiency for the plan sponsor, and creates familiarity for plan participants. From a participant's point of view, not only does a nonqualified plan allow for significant pre-tax employee and employer contributions, but it can also offer broader investment menus and more flexible distribution options than a qualified plan, including distributions while still working.

From a plan sponsor's perspective, a nonqualified plan is a targeted way to provide key employees with benefits that wouldn't be allowed under qualified plan coverage and discrimination rules. This includes the ability to limit participation, the ability to offer matching and/or discretionary employer contributions without limitation, and the option to use unique vesting parameters. All of this can be achieved with minimal reporting and disclosure requirements.

Demand for nonqualified plans tends to be highest when tax rates are increasing or expected to go higher, when investment markets are strong and when unemployment is low and plan sponsors are looking for a unique recruiting and retention tool. At CAPTRUST, we spend a lot of time helping plan sponsors develop and manage their nonqualified retirement plans. If you're ready to explore options for your nonqualified retirement plan, call your CAPTRUST advisor today.