

EXECUTIVE BENEFIT TAX UPDATE

WINTER 2004

For Friends & Clients of NCR Executive Benefit Services...

Please accept my belated wishes for a Happy New Year! I hope that you enjoyed the holiday season and that 2004 promises to be a good year for you and your business. We are hearing from clients that business continues to improve and that the recovery seems to be gaining real traction in many industries.

There are many legislative and tax issues affecting nonqualified plans and insurance funding that will be considered during the coming weeks in Washington. Several items were proposed as legislation in 2003, but none of them became law (or even made it out of committee in the House or Senate, for that matter!)

The proposed pension legislation includes provisions that would require modifications to some existing nonqualified plans – specifically in terms of accelerated payouts and change in election provisions. The current House and Senate versions differ in many areas, so final changes will have to occur in conference committee. Most deferred compensation plans will be able to continue operating with only minor modification / amendments needed.

Corporate-owned life insurance (COLI) also remains on the congressional “radar screen.” The insurance industry defeated an attempt last year to change the taxation of COLI and has found allies in Senators Conrad (D-ND) and Grassley (R-IA) on the Senate Finance Committee. The Conrad amendment (which may also find its way into the pension legislation) would add notice and consent requirements for companies wishing to purchase COLI.

It requires all insured employees to be “key employees” and for those employees to agree and consent in writing to the purchase of insurance on their lives. This will address the perceived abuses that have been raised in the last few years about COLI. (All of our clients current COLI purchases comply with this proposed law, even though it will only apply to purchases made after the date of enactment.)

We will continue to monitor the events in Washington during this election year and will report any impact that new legislation / regulations have on COLI or nonqualified plans. If you need more information on these or other issues, please contact me. You can also visit our website library for back editions of this newsletter and topic-specific papers we’ve written on related issues. I want to be your resource for key employee compensation, benefits and tax information.