iSPAdvisors

GLOBAL EXECUTIVE COMPENSATION
CONSULTING > ADMINISTRATION

How does your ESPP measure up?

NOW YOU CAN QUICKLY CHECK YOUR ESPP DESIGN AGAINST CURRENT MARKET TRENDS AND COMPARE ACTUAL PLAN DOCUMENT PROVISIONS.

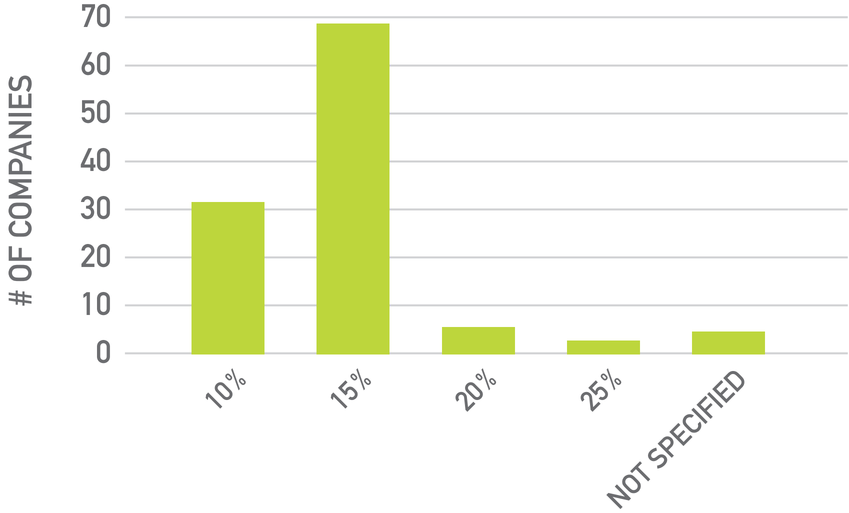
Introducing ISP Advisors' custom ESPP Design Repository. We evaluated 114 recent proxy statements and cataloged over 20 distinct design features—ranging from the ordinary (423 tax-qualified) to the less ordinary (leave-of-absence provision)—to create an easy-to-use repository of plan data that includes the exact language used to adopt each design feature:

- ESPP share pool (# of shares authorized + prevalence of evergreen provision)
- Eligibility criteria (minimum service requirements)
- Purchase price setting (prevalence of "look-back" provision)
- Offering/purchase rules (offering period length + # of purchases per offering)
- Purchase rules (# of shares + post-purchase transfer/sale)
- Administrative features (enrollment window + residual contribution treatment)

Unlike other surveys that rely on each respondent's individual interpretation, all plans were viewed through the same unified, objective lens. We'd submit this approach produces more accurate, more consistent findings. Inside we've highlighted our findings on three of the ESPP design elements included in our repository.

Maximum Contribution %

Companies limit the percentage that a participant may contribute toward an ESPP. The most common limitation percentage is 15% (accounting for over 60% of plans). The second most popular contribution limitation is 10% (accounting for approximately 27% of plans).

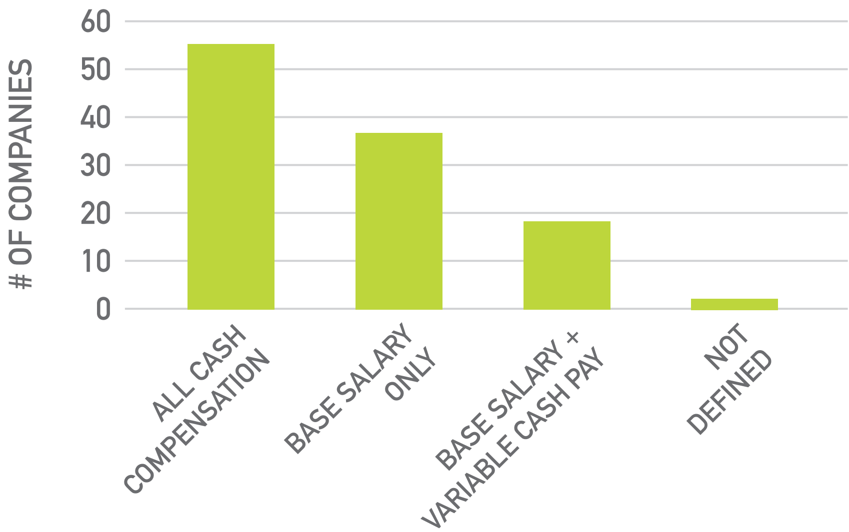


ISP ADVISORS VIEW…

This design element is not directly regulated by the IRS. However, thoughtful contribution limits can go a long way toward preventing a breach of IRC Section 423's $25k annual purchase limit. The contribution caps we observed are eerily similar to those seen in the 401k world. And given the risks associated with offering stock, it's hard to fault employers for applying fiduciary-like thinking to the design of a non-ERISA program such as an ESPP.

Eligible Pay

Almost 50% of the ESPPs allow for an employee to contribute all cash compensation toward the ESPP. However, approximately 33% of companies limit contributions to an employee's base salary. And 16% of plans allow for employees to contribute base salary plus some (but not all) variable cash pay.

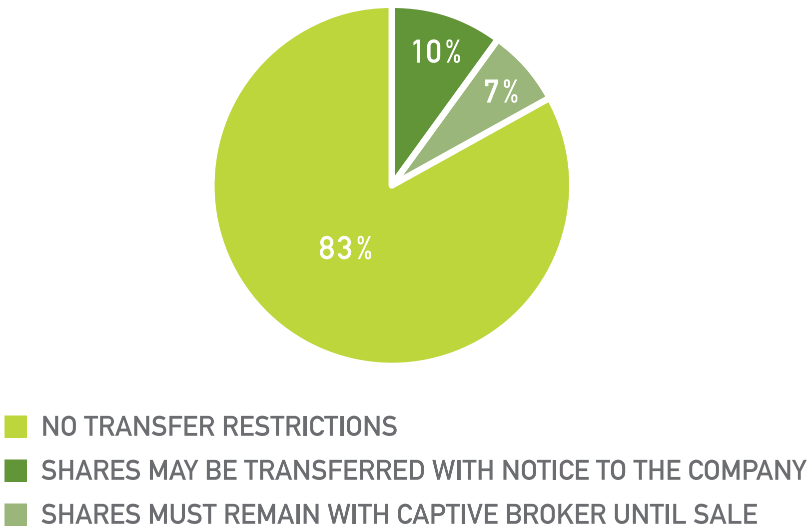


ISP ADVISORS VIEW...

Like Maximum Contribution Percentage, this design element isn't legislated by IRC Section 423, so the results are arguably more representative of actual business drivers. And it's refreshing to see that the majority of those drivers err on the side of being more inclusive/generous.

Post-Purchase Transfer Restrictions

The vast majority (83%) of companies do not impose such restrictions, while approximately 10% require that shares may only be transferred during the relevant holding period with "notice" to the company. Seven percent of plans require shares to remain with the captive broker until sale.



ISP ADVISORS VIEW...

US employers must report the ordinary income component of the ESPP gain on an employee's Form W-2 for the year of sale. For shares sold at the captive broker, it's relatively straightforward to identify these transactions. But what happens when an employee has moved their shares to a personal account? Since most major brokers can enforce post-purchase transfer restrictions, it's surprising that only 7% take advantage of this administrative manna.

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