RESTRICTED PROPERTY TRUST ("RPT"): *Concept Overview*

Provides Business Owner's the opportunity to reduce income taxes by as much as 70% with asset protection, and TAX-FREE INCOME

The RPT design allows for tax deductible life insurance for funding Buy/Sell agreements, or for Estate Tax planning.

What is a Restricted Property Trust and its objectives?

The RPT is an employer sponsored plan for owners and key executives. The primary objective of an RPT is to provide tax-favored long-term cash accumulation (with asset protection) and income distribution in a conservative vehicle.

How are the contributions to the RPT reported?

Each annual contribution is fully tax deductible by the employer and only partially taxable to the participant. Asset growth is in the cash value of a life insurance policy and is therefore tax-deferred and can, via policy loans be distributed tax-free. The policy is distributed to the participant at plan termination at which time a portion of the cash value is taxable, and a tax-free withdrawal from the policy cash values can be taken to settle the calculated tax liability.

How does the RPT work?

Contributions made to the RPT are fully tax-deductible to the business. A portion of the contributions is considered income taxable to the participant, which will typically be in the 20% to 30% range of the total contribution. This will reflect a substantial income tax savings reducing the participant's effective tax cost to 18% or lower, saving up to 70% of in taxes.

What are the tax characteristics of the RPT?

The tax treatment of the RPT depends on two factors; the provisions of the life insurance contract and the provisions of the Trust document governing the plan. The Trust restricts access to the cash accumulation during the term of plan funding and requires annual funding to be made for a stipulated number of years. Failure to fund the annual contribution will result in a policy lapse, and forfeiture of all funds to that year, which will be paid to a preselected charity. This risk of forfeiture is essential to the tax design of the RPT to avoid the rules of constructive receipt and the plan being deemed deferred compensation.

What happens at plan termination?

The policy is distributed to the participant who assumes full ownership and has multiple options available. These include maintaining the death benefit, holding the policy as distributed for continued cash growth, and taking tax-free cash distributions via policy loans as desired.

How much can be contributed?

The plan is a compensatory benefit design, so the amount of the benefit is subject to the rules of reasonable compensation. In most cases however, this would allow for a significantly higher contribution limit than the contribution limit to a qualified plan (ie, pensions, 401k).

Can the RPT design cover employees?

Yes. The plan design is discriminatory and may include selected employees. It may be designed as a "golden handcuff" benefit plan to retain or attract key employees.

Frequently Asked Questions

The RPT is a discriminatory plan.

As such, the tax-free benefits will be substantially greater than those available from a qualified plan when employees must be included.

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Is the RPT a "qualified plan"?

No, as qualified plans (ie, pensions, 401K) must therefore cover all employees. **The RPT is a discriminatory plan design and as such, need only cover the business owne**r. Considering the cost of covering employees, the RPT will substantially outperform the after-tax income results of a qualified plan.

What types of corporate entities are able to fund an RPT?

All entities my implement an RPT including a C Corporation, S Corporation, LLC, and Partnership. Sole proprietorships are the only form of business that cannot.

Since the RPT employs life insurance held in Trust can I name my beneficiary?

Yes. There is flexibility in naming your beneficiary(ies) whether individuals or your Trust to receive the Death Benefits which would be tax-free proceeds. The beneficiary(ies) may be changed at any time. In Buy/Sell planning each owner will name the other owner's as the beneficiary(ies) in accordance with their Agreement.

Why doesn't everyone set up an RPT?

The RPT is not for everyone. First the planned funding period and any plan extensions must be for no less than five years. Secondly, the contributions are not accessible during the funding period. It is important that the business have predicable cash flow, and preferable that the owner(s) have liquidity of up to two years of funding (for a loan to the business) to avoid the risk of forfeiture. In addition, it is important that the owner(s) will not need access to their contributions for the five-year period.

Why is the RPT so strictly governed?

In order to achieve the benefits of the RPT design, it is necessary to follow the rules as outlined in various tax court cases from which RPT was designed. RPT is not a tax avoidance scheme, but a tax-deferral arrangement.

Are there IRS regulations governing an RPT plan?

No. There have been hundreds of RPT plans implemented, and several, not as a direct result of being an RPT, were reviewed and left unchanged. In 2016 an extensive review of the RPT design was undertaken, and there was no change to the plan acceptance.

Since RPT is a benefit plan, how can it help with my estate planning?

Through the ability to obtain life insurance on a tax-deductible basis, RPT can provide significant leverage in securing death benefit protection to provide for both estate liquidity and the payment of estate taxes on a discounted basis. At plan termination the life insurance policy is distributed to the participant who assumes ownership; the policy can be established in trust to exempt it from estate inclusion.

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