

VEBAs/419 Plans

Have clients put it all together in
Their Own Private
“Tax Reduction Act”

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The Wealth Preservation Institute

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End of year planning



- The end of the year is coming and many of our higher income small business owners are looking for ways to reduce their income taxes.
- There are many plans a client can look at such as a 401(k)/profit sharing plan, DB or 412(i) DB plan, WealthBuilder, Section 79 plan (for c-corps) or a VEBA/419 plan (single employer).

“WISH LIST” FOR ACCUMULATING WEALTH

- Save money on tax-deductible basis
- Allow assets to accumulate tax-free
- Available to any type of business
- A letter of determination from the IRS grants the trust tax exempt tax status
- Protected from creditors
- Pass to heirs estate-tax free
- Limited vesting for employees
- Flexible contributions - no minimum commitment
- May make large contributions in good years
- Funds are securely held - safety of investment
- **VEBAs can help accomplish the above mentioned goals.**



Real benefits of VEBAs/419 plans



- The previous list was long and a great sale's slide, but the following are the main benefits
- 1) Allows clients to take a **corporate deduction** for “employee benefits.”
 - This can be done in lump sum at year end (Prior to December 31st).
- 2) Contributions to the plan are **protected from creditors.**
- 3) **Benefits** if setup properly are **income and/or estate tax-free** to the beneficiaries.

What is a VEBA?



- Section 501 of the Internal Revenue Code (the “Code” or the “IRC”) describes various arrangements that are **exempt from Federal income tax**.
- Section 501(c)(9) specifically describes VEBAs:
 - “(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.”

Is a VEBA the same as a 419A(f)(6) plan?



- There are several differences between VEBAs and 419A(f)(6) plans.
 - A VEBA trust, is not subject to tax except on unrelated business taxable income. A Section 419 trust is a taxable entity.
 - **This is key if you want to invest something other than life insurance (such as equity indexed annuities).**
 - VEBAs can obtain a favorable letter of determination from the IRS on the tax exempt status of the trust.

Type of VEBAs



- There are three types of VEBAs:
 - single employer plans (419E plans),
 - multiple employer plans where a group of employers share the costs of establishing and maintaining a plan with similar benefits for each employer group, and,
 - ten-or-more employer plans which seek to comply with 419A(f)(6).

Which kind to implement?



- Since IRS issued Regulations, most 10-or-more-employer 419A(f)6 plans have terminated.
- **Now it is preferable to implement a VEBA through the use of a single employer plan.**



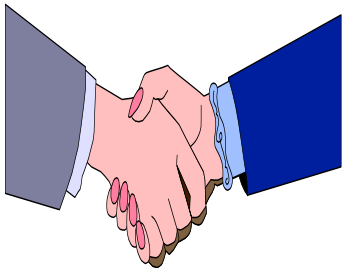
TYPES OF BENEFITS PROVIDED



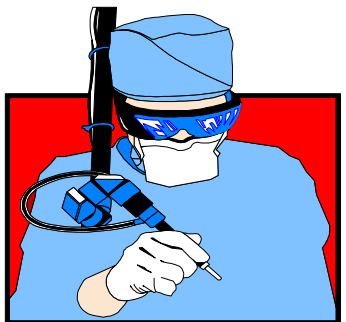
Death Benefit



Retiree Medical Benefit



Disability Insurance Benefit



Health Reimbursement Benefit

All benefits are tax free benefits.

Post retirement medical expenses



- Is it fair to say that the number one or number two largest expense of our retired clients will be their health care expenses?
- “Our” clients (those with wealth) will not be receiving Medicaid benefits to pay for their long-term care expenses.
- How do clients normally pay their LTC expenses?
- Out of pocket with “after tax” money.

How about through a VEBA/419 plan?



- With these plans, clients can fund in a **tax deductible** manner a sinking fund that will grow in a tax favorable manner and where the money can be used to pay for post retirement medical expenses.
- The **benefit** from a properly setup plan will be received by the client “**income-tax**” **free**.
- Would your clients who have surplus income like to fund for this guaranteed expense NOW with **tax deductible** dollars where the benefit is **income tax free**?
- We think the answer is **yes** and one of the reasons you should learn this topic.

Offset for defined contribution plans (not an issue for DB plans)



- If a client has a defined contribution plan AND implements a 419e or single employer VEBA, the client might have a reduction of benefits issue to deal with.
- If key highly compensated employees are **maxing out** their DC plan contributions and then implement a 419e/VEBA which provides post-retirement medical benefits, there is a required offset.
- For example, if the employee has 44k contributed into the 401(k)/PSP and then wants to contribute \$10k into 419e/VEBA for post-retirement medical, the \$44k contribution to the DC plan will be reduced by \$10k.
- This can be good for the client since the money coming out of the DC plan is taxable and the money coming out of the 419e/VEBA is not when used for medical benefits.

Creditor protection



- Many small business clients (especially physicians, attorneys, accountants, FPs) worry about being sued personally for the advice they give clients (giving advice on 419 plans is a classic example).
- VEBAs/419 plans help clients protect this pool of assets from multiple creditors such as a client's spouse or any creditor from a negligence lawsuit.

Death benefit planning



- Clients with wealth have estate tax problems.
- Most client cringe at the thought of buying life insurance post tax by gifting premiums to an ILIT.
- If a client had the chance to pay for their life insurance policy in tax deductible manner where the DB would pass income and estate tax free, would they?
- Sure.

Estate Tax Advantages



- By making an irrevocable beneficiary designation of the life policy in a VEBA/419 plan (usually a trust), the death benefit paid from the plan will pass income and estate tax free to through the trust to the beneficiaries.
- This is one of the main selling points of a VEBA/419 plan

Where is the money in a VEBA invested and why?

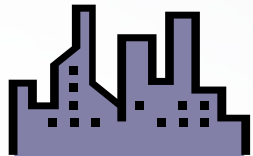


- Cash value life insurance.
- It is always used in non-VEBA trusts because life insurance cash value grows without income tax consequences.
- Life insurance is used to fund the **death benefit** of the client.
- Cash value life insurance is used to pay for the “other living benefits.”
 - **Post retirement medical**

TAX IMPLICATIONS



- Contributions to the *VEBA/419 plan* are tax-deductible to the Employer.
- **Employees** realize an annual economic benefit for life insurance coverage which enables death benefit proceeds to be paid tax-free.
 - **As the client gets older these costs grow. We recommend you fully disclose this to your clients when selling one of these plans.**
- Benefits **other** than death proceeds of life insurance and medical are taxable when received.
- A Life Insurance Trust can render benefits free of Federal Estate taxes.



**Client's
Company**

**Company pays tax
deductible contributions
to the VEBA**

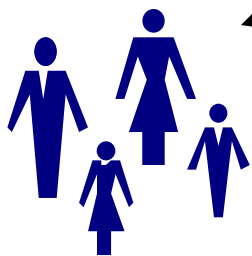
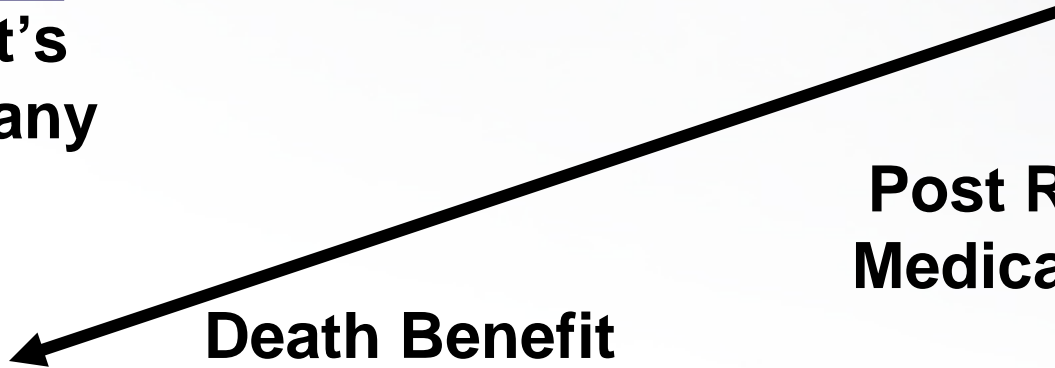


VEBA Trust

**Post Retirement
Medical (tax free)**



**Death Benefit
Income and
Estate Tax Free**



**Designated
Beneficiary**



Employee exclusions



- Remember, this is an “employee” benefit plan and the employees must be covered.
- Stay away from 419 “carve-out” plans.
- Who can be excluded?
 - 1. Employees who have not attained age 21;
 - 2. Employees with less than three years of service with the employer;
 - 3. Seasonal or part-time employees; and
 - 4. Union members.
- In addition, uninsurable employees may be excluded if the plan provides death benefits.

Employer Termination



- Can a single employer plan be terminated?
- Sure.
- If an employer terminates from a single employee trust, the life insurance policies will revert to the individual employees who would have to pay income taxes on any cash value in the policies.
- DO NOT set up these plans to terminate. That would be a deferred compensation plan and the IRS will hammer you.
- Never give out an illustration that shows termination where the client receives the policy and borrows from it.

VEBA/419 Plan turmoil



- Welfare Benefit Plans (including Voluntary Employee Benefit Associations (VEBAs) and 419A(f)6 Plans) is a topic that has gone through much turmoil especially in light of the new regulations that were passed in 2003 that dramatically changed the way that WBPs can be used by client.
- Improperly setup 10 or more multiple employer WBPs have now been added to the **listed tax transaction list** by the IRS.

Doing it right



- There is a \$100,000 penalty for an individual and a \$200,000 penalty for all other taxpayers when the client does not disclose involvement with a “listed” tax transaction.
- “The Secretary may impose a **monetary penalty** on **any representative**
- An IRS press release (IR 2004-138) states that:
“Under the new law, attorneys, accountants and other tax advisers who fail to comply with these disclosure requirements will face significant monetary penalties.”

What about those clients already in 10 or more multiple employer plans?



- ERs can no longer terminate from 10 or more multiple employer plans and have cash value policies transfer to the individual employees.
- Because single employer plans were not covered under the regulations, employers looking to have those policies revert to the employees, would roll their policies into a newly created single employer plan for termination.

419A(f)5 Union Plans



- Union plans are were also placed on the **listed tax transaction list**.
- The union plan is sold to professional practices (like physician) that never unionize.
- The plans tout unrealistic (non-compliant) benefits like tax free loans while the policy is owned by the trust.
- For the vast majority of clients there is no redeeming value to a A(f)5 “union” plan.

Other abusive plans



- Everyone seems to want to get “cute” with WBPs/VEBAs.
- Many advisors want to make the topic too good to be true.
- Be careful when selecting a trust to work with and avoid:
 - Plans where the life insurance policy is **owned individually by the employees** (where the death benefit is irrevocably assigned to the trust).
 - Avoid anything that looks like a split dollar arrangement.

Should your clients be using a VEBA/419 plan?



- Yes if
- they have a profitable businesses with **surplus income**.
- the owners are looking to **reduce their income taxes**.
- they have maximized their retirement plan contributions.
- want to fund for their **post-retirement medical expenses** now in a tax deductible manner where the benefit is income tax free.
- the owners have **estate tax problems** and who wish to fund a life policy in a tax favorable manner.
- The business wishes to **protect their assets** from creditors.

Conclusion



- By learning the proper way to use WBPs/VEBAs for your clients, you will be able to provide a unique tool and in a manner that complies with the new laws (so as to keep your clients and you as an advisor out of trouble).

Questions?



- For more information on VEBAs please contact The Wealth Preservation Institute at info@thewpi.org 269-216-9978.

Overview for the Professional Designation: CWPP™ (Certified Wealth Preservation Planner)



The Wealth Preservation Institute

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What do Advisors want?



- To earn more money?
- To have more knowledge than other advisors?
- To provide better advice to clients on multiple topics?
- To be more credible than other advisors?
- A team of advisors for support and back office when dealing with “advanced” planning.
- The ability to market to CPA, Attorneys and physicians through continuing education credit.
- Are these of interest to you?
 - If so you are a candidate to become an CAPP™ or CWPP™

The WPI and CWPP™/CAPP™



- What is the Wealth Preservation Institute (WPI)?
 - The **only** educational entity in the country devoted to provide education on “**advanced**” **planning** (asset protection, tax and estate planning)
 - The **only** entity in the country focusing on topics that apply mainly to the **high income/net worth client**.
 - Certifying entity for the CWPP™ designation.
- The CWPP™ course is a 24 hour certification program which can be taken all online or in person.
- The Certified Asset Protection Planner designation is for those simply want to deal with AP (18 hours).³¹

Are you should learn “Asset Protection”



- Why learn asset protection?
 - 99% of your current and future clients are not asset protected.
 - Most clients with wealth, once made aware of this fact, will want help.
 - Once you learn the topic you can help.
 - You are not talking “product” with a client and therefore will not be seen as pitching product.
 - Of all the topics you would deal with, asset protection is best client gathering tool.

Topics



- What topics are covered in the CWPP™ course?
- **Asset protection (3 hours)**
 - Domestic
 - Offshore
- **Deferred Compensation (4 hours)**
 - WealthBuilder® Annuity; Traditional NQDC and the Leveraged Bonus Plan®
 - Qualified plans/412(i) plans (“carve-out” planning)
 - ESOPs
 - IRAs
- **Business Planning (6 hours)**
 - Account Receivables (A/R) Leveraging (done the right way)
 - VEBAs and 419A(f)(6) Plans
 - Section 79 Plans
 - Closely Held Insurance Companies
 - Corporate Structure
 - International Tax Planning

Continued



- **Estate Planning (8 hours)**
 - Basic
 - “Advanced”
 - Life Insurance
 - Qualified Pension Insurance Partnership®
(Mitigating the 75% Tax Trap)
 - Charitable planning
 - Long Term Care Insurance
- **Personal Finance (4 hours)**
 - Annuities
 - Life Settlements
 - 1% CFA Mortgages (Equity Harvesting the “right” way)
 - Reverse Mortgages
 - Private Annuity Trust

Marketing



- The WPI helps is certified advisors market in several very unique ways.
- 1) The ability to become an instant author through a 340+ page “ghost book.”
- The WPI will allow CWPP™ advisors to give CPE continuing education courses on a local level to CPAs and accountants.
- Ability to give CME seminars to physicians.

Continued



- The WPI has a number of **articles** that CWPP™ advisors can use to place in local medical, accounting, legal and other business journals.
- The WPI also has dozens of PowerPoint presentations CWPP™ or CAPP™ advisors can use to present topics to either client or other advisors. (what a time saver).

Marketing continued



- **Ghost Web-Site** for those who want a web-site which tells your clients about your special knowledge.
- www.thewpi.org/template
- **E-newsletters** The WPI creates for you to send out to your clients.
- **E-newsletter blasting system** so you can drip on your client's with Educational newsletters.
 - This system is setup to track who opens your newsletters and how many times they open them.
 - Can you imagine calling a client and telling them that you noticed they opened the last e-newsletter 5 times and you wondered if you could answer any questions for them.

Should you become a CWPP™?



- YES. IF you are looking to learn several new topics which:
 - can help high income/net worth clients;
 - can help position you as the client’s trusted advisor and team leader;
 - are very insurance and annuity friendly.
- If you are looking to become better educated on topics you currently deal with.
- If you would like keep updated on law changes, new concepts and have access to PowerPoint presentations, articles and the ability to have your own “Ghost” book and ghost web-site and e-mail blasting system.

How to sign up.



- If you would like to sign up to become a CWPP™ and/or CAPP™ advisor, you can do so by clicking on the appropriate tabs on the left front bottom part of the web-site under Product Categories
- You can take the course entirely online or in person.
- You can **get started with a \$500 deposit** which will get you access to over 640 pages of CWPP™ course material and the tests.



Questions

Please contact The WPI at
269-216-9978 or e-mail at
info@thewpi.org