

Fox & Lalonde

Retirement & Welfare Benefits Consulting, Design & Administration

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HealthCare Annuity Plus® WBP

VEBA, IRC §419(e) & Pension Protection Act (PPA) Summary

VEBA & IRC §419(e) Welfare Benefit Plans (WBP): legal and accounting professionals, financial planners and life agents have to be careful. These are *life & health* plans not deferred comp plans. **Some people are trying to manipulate WBPs to be something they are not meant to be. We are certain that it will backfire on them and unfortunately their clients. Be very careful of any plan that includes severance or in any way has a reversion of cash values to the ER/Owner/HCE/KeyEE. Multiple Employer Plans (MEP) are listed transactions and the penalties for non-compliance are huge.** That said there are, nonetheless, material tax advantaged benefits to be had in a *Single Employer VEBA* or a non-VEBA, IRC §419(e) Welfare Benefit Plan (WBP).

The main differences between a VEBA and IRC §419(e) WBP are twofold: a VEBA is a tax deferred trust and non-discriminatory in nature; an IRC §419(e) WBP is a taxable trust and more flexible re: design and benefit eligibility. Life Insurance and annuities in VEBAs and Life Insurance for IRC §419(e) WBPs are ideal funding choices – benefits can be guaranteed thru policy terms and values. Our **HealthCare Annuity Plus® WBP VEBA** is designed with the *option* to be fully funded with either fixed or indexed annuities.

In an IRC §419(e) WBP, the majority of professionals agree that benefits can be *selective by design* with all but post-retirement medical and post-retirement life. Even plans that provide post-retirement benefits, however, also allow limiting the *benefit entitlements* to those who actually reach a stipulated retirement age and fulfill a minimum number of years of participation and/or service e.g. 10 years. Additionally, a IRC §419(e) WBP, for all but post-retirement benefits, allows you to use all compensation in the design equation - you are not limited to the IRC Sec. 415 limit (\$225,000 in 2007). WBP plan design can help retain and reward valued employees (*golden handcuffs*), as well as, marginalize the plan cost for non-productive, short term human resources.

Contributions to WBPs are tax deductible, grow tax deferred (VEBA as a tax deferred trust; IRC §419(e) in life insurance policies or managed tax portfolios) and benefits are received tax free, either as a death benefit or medical reimbursement. Plan death benefits may also be irrevocably assigned to an ILIT or other appropriate estate planning entities. Table I costs do apply for pre-retirement death benefits. It is our opinion that disability benefits will be taxable when received, unless an election is made to pay tax on the D.I. premiums as paid by the plan.

Our WBP plans provide in benefits (choose any or all) on a tax deductible basis: Long Term Care premiums; AD&D and *supplemental* D.I. premiums (limits: up to 75% of earnings, plus lump sum of 5X pay - max. \$40 million/participant); pre-retirement death benefits (premiums); post-retirement medical contributions - cash or premiums (a tax free fund of \$562,500 single/\$1.125 million joint) and post-retirement death benefits.

Caveat: company contributions to a post-retirement medical account for key ee's have some potential IRC Section 415(c)(2) annual addition "offset" concerns. Offsets can be compensated for thru plan design and/or thru a defined benefit plan in addition to a 401k Plan. (See Retirement Plans, page 2 - below).

Retirement Plans: The Pension Protection Act of 2006 (PPA) is the best news for retirement planning in years. PPA allows us to design a retirement plan that can give a client a full pension plan plus a 6% profit sharing (*safe harbor plus*) and a full elective k deferral. It is quite simply *business owner friendly* pension legislation.

Retirement Plan combinations allow for total contributions of 2X to 5X the 401k stand alone contribution limit for business owners and highly comp'd ee's. Instead of a \$45,000 to \$50,000 limit, combined plan contributions can easily reach or exceed \$100,000 to \$250,000. Guaranteed benefit plans with direct allocations to business owners can reach the \$250,000 to \$450,000 contribution range in addition to the full (k) elective and the 6% profit sharing with a *safe-harbor*.

Conversely, a combination pension- profit sharing plan design that only spends \$50,000 for each owner will normally experience a material reduction in overall employee participant costs.

The business owners gain either way by adding the pension. The pension cost for non-owner employees can, thru design, often be totally mitigated (paid for) by the interest earned on the employees plan allocation - the plan corpus (\$\$\$) stays in the trust and excess earnings belong to the trust. Add the security of a pension to the fact that the owner has total control of the pension trust and a much, much lower fiduciary risk profile and PPA is a huge winner.

For additional information on anything in this Summary or to discuss a specific case please contact us. Census information and your planning wish list is all we need to get started. We look forward to working with you. Thank you for your interest.

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