

## WEALTH PRESERVATION STRATEGY

### Frequently Asked Questions

- 1. Q. What is the Wealth Preservation Strategy?**

A. A contractual arrangement between an individual or a trust or company in which the individual transfers property to a trust in exchange for the trust's agreement to pay the individual a certain amount for a term of years.
- 2. Q. Will I be taxed when I transfer property to the trust?**

A. No. When properly structured, a Wealth Preservation Strategy allows an individual to transfer or dispose of property without paying any taxes currently.
- 3. Q. If I don't report any taxes upon the transfer or subsequent sale of the transferred property, when do I incur taxes in the Wealth Preservation Strategy transaction?**

A. The individual receiving the payments will report the income as it is received from the trust making the payments.
- 4. Q. How am I taxed on the payments?**

A. Part of each payment is returned to you tax-free as a return of your investment. The remainder of each payment is taxed partially as capital gains and partially as ordinary income. Some depreciation recapture may have to be accounted for as well, depending on the type of asset sold.
- 5. Q. Why do I need a Wealth Preservation Strategy?**

A. A properly structured Wealth Preservation Strategy will provide significant estate tax savings while affording tax deferral asset protection, increased investment opportunities and increased financial privacy.
- 6. Q. Is this a loophole that will be closed by the IRS?**

A. The IRS originally determined that certain transactions would qualify for special tax treatment in 1969. Since that time, the IRS has attempted to reduce the opportunities to abuse these types of transactions but has never suggested eliminating Wealth Preservation Strategy as a whole
- 7. Q. What happens if the IRS does close the loophole?**

A. When U.S. tax laws change, they are very rarely made retroactive. So, if there is a law change, most likely, it will not affect a pre-existing Wealth Preservation Strategy.

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- 8. Q. Will I be more likely to be audited if I enter into a Wealth Preservation Strategy transaction?**
- A. No. There is nothing in the transaction that should cause an audit flag, but if there is an audit, it should be remembered that the transaction is 100% legal. Please consult us for further guidance and/or counsel should an audit occur.
- 9. Q. Who owns the trust or company?**
- A. It is dependent upon the situation. In some cases, the trust may be established specifically for purposes of issuing the Wealth Preservation Strategy payments and owned by family members or other trusted individuals. In other cases, the trust or company will be owned by persons unrelated to the seller.
- 10. Q. Who is responsible for making payments to the seller?**
- A. In order for the Wealth Preservation Strategy to be properly classified, the trust or company is responsible to make all payments regardless of the income generated by the property the company received from the seller.
- 11. Q. Can the seller control the property once it is transferred to the trust or company?**
- A. The seller may appoint members of the management of the trust or company, as well as nominate an independent person to oversee management of the trust or company. In some cases, the seller can be trustee of the trust, as long as he/she has no control over changing the beneficiaries or their distribution amounts. The seller can remain manager of the company as long as he/she cannot change the members of the company nor their profit distributions.
- 12. Q. Can the seller control the investments?**
- A. The seller may appoint an investment advisor who will manage any investments made by the trust or company.
- 13. Q. What happens to the property if I die?**
- A. In most cases, additional planning will allow the value of the property to pass estate tax and income tax free to the heirs of the seller.
- 14. Q. Can I take a loan from the trust or company?**
- A. Under certain circumstances, loans can be taken out of the trust or company.
- 15. Q. Once the Wealth Preservation Strategy is entered into, can it be cancelled?**
- A. Under certain circumstance, including default on the payments by the trust or company, the trust or company can be dissolved, and all capital gains will be owed for the remaining portion at that time.

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- 16. Q. Is it possible to defer collecting payments until my retirement?**
- A. Yes, typically our clients can control when their payments begin
- 17. Q. Can I choose to discontinue collecting payments once they begin?**
- A. Once payments begin, they must continue for the remainder of the contract.
- 18. Q. Once a Wealth Preservation Strategy is established, can additional property be added?**
- A. Yes, additional property can be added to the trust or company after it has been established.
- 19. Q. Can the transfer of assets be challenged under fraudulent conveyance laws?**
- A. As long as the property is sold for fair market value using the Wealth Preservation Strategy, the transfer should not be overturned under the fraudulent conveyance laws.
- 20. Q. Will the transferred assets be included in my estate for Medicare?**
- A. Generally, the transferred assets will not be included in the seller's estate for Medicare purposes.
- 21. Q. Is there a limit to the amount of property that can be transferred using the Wealth Preservation Strategy without causing tax to be recognized?**
- A. No. You may transfer any amount of assets using the Wealth Preservation Strategy in exchange for payment without causing a taxable event.

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