



STRUCTURED INSTALLMENT SALES

A Tailored Solution for Structured Installment Sales

A Structured Installment Sale is appropriate for any seller provided that the seller does not require the full sale proceeds immediately and the sale of the asset has not already closed.

Sellers of assets in the U.S. have the ability to receive payment of the sale proceeds through participation in an installment sale arrangement. Under such an arrangement the purchaser agrees to pay the sale proceeds to the seller in installments over a number of years (“the Periodic Payments”).

The Havelet Plan allows Havelet to assume the purchaser’s obligation towards the Seller. In order to fund its obligations, Havelet will purchase an annuity (“the Annuity Contract”) that is tax-qualified for U.S. tax purposes.

In a structured sale, rather than the buyer paying the installments, the buyer pays cash, some of which is used as consideration for Havelet Assignment Company to accept the payment obligation. Havelet will then purchase a variable or fixed annuity from a leading private placement annuity provider, depending upon the client’s investment preference.

While negotiating the installment payments, the seller is free to design payment streams with a great deal of flexibility. Each installment payment to the seller has three components: deferred return of basis, deferred capital gains, and ordinary income earned on the money in the annuity. Under the doctrine of constructive receipt, no taxable event is recognized unless a payment is actually received. Structured sales may be considered an alternative to a section 1031 exchange, which defers recognition of capital gain, but forces the seller to continue holding some form of property.

Key Take Aways*

- Flexible payment streams
- Secure flow of funds
- Tax efficient
- Attractive rates of return both variable and fixed

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*Havelet does not offer client specific tax, legal or investment advice but is able to liaise with your advisors in this regard.

Structured Installment Sales

This relatively new, secured method of selling your real estate, business or other qualified real property, is one of the least known and poorly understood financial tools in the tax and investment community.

A structured sale, is a somewhat derivative product that combines the best of a structured settlement periodic payment annuity and the tax rules governing Installment sales. As you might know, installments have a long and established tax history and are used in many transactions when the seller of real property, typically a business or some real estate, wishes to defer their tax hit over a period of years, or "structure" the income. What this new "structured sale" annuity allows is to create an installment sale, and then fully fund the future payments, with interest, to be paid on a schedule designed by the seller to best meet their future plans. Many individuals selling a business, professional practice or personal property would like to liquidate their investment in those assets, with out having to at the same time recognize a huge taxable gain in the year of the sale. For people who are so inclined, the structured sale annuity is a powerful tool. However, keep in mind this only works for the sale of Real Assets. In other words it is not a deferred compensation tool to be used on commissions, ordinary income, or any other type of revenue not associated with the sale of a long term asset.

Each installment payment you receive consists of the following components; non-taxable recovery of investment, taxable gain and interest income on the money held with the funding company.

Since an installment sale permits the seller to receive the payments from the buyer of the property in future tax years, it is obviously crucial to consider who that buyer is, and do they have the resources and track record to assure you that you will in fact receive your promised payments. Outside of using the new "structured sale" annuity, there is almost no way to reduce or minimize this risk short of buying a stand by letter of credit from a commercial lender which is a complex and costly transaction that the seller typically doesn't want or need to engage in just to secure their future payments. This bring out one of the key benefits of using a structured sale annuity. By using this product through an authorized agent the sale can be structured so that the periodic payments will be funded with an annuity from a large, highly rated life insurer and Assignment company, such as Havelet, with the assurance built into the transaction that the future payments will be paid By the Life Company, and not the buyer, thus upgrading the security of the transaction by a huge margin.

Havelet works with professionals in life insurance and the tax planning community familiar with this type of

structure. That said, the actual process of the sale and quotation process is quite simple compared to more complex transactions such as private annuities and 1031 real property exchanges.

You enter into an installment sale agreement under which a buyer promises to make periodic payments for a stated number of years, and then you have the funding life insurance company run a quotation for you illustrating the payment options you desire. The buyer then assigns their obligation to make those periodic payments to an assignment company, Havelet Assignment Company, an independent provider who in turn works with competent insurance providers to obtain the best returns in the marketplace. As they are independent, Havelet is not obligated to work with one insurance carrier over any other. The assignment company funds the payment obligation by purchasing an annuity from the life insurance company. The life insurance company then begins making the payments to the seller as agreed to under the terms of the sale, and issues an agreement to pay on the performance of the assignment company.

It's that simple and the paperwork is exceptionally low compared to other means of Deferral.

First of all you get to defer the recognition of taxable gain until future year. Deferral is almost always preferable to immediate recognition of income and the huge tax hit that comes with it.

Second, you get a guaranteed rate of return from the life company. Just like with any other fixed annuity product you get a fixed, guaranteed payment schedule, at interest that is tax deferred as well, at what are usually very competitive yields.

Third, through the structured sale you eliminate concerns about the buyers ability to make the future payments that are so crucial to the seller. Havelet stands in place of the buyer and makes the payments directly to the seller with no middle man or trustee Involved.

Finally, long term financial security and planning options. Just as you can in a court settlement annuity, by using a structured sales annuity you can do monthly, quarterly, annual, semi-annual payments, balloon lump sums, increasing income streams, etc. There are almost no limits to how you design the cash flow, it's up to the seller and their advisor to devise the best options.

FOR MORE INFORMATION

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