LAW OFFICE OF GERALD R. NOWOTNY, PLLC

The Accidental Entrepreneur – Part V

Using the Ideal Corporate Structure for Personal Healthcare Cost Savings

We continue with Part V of The Accidental Entrepreneur. So far, I have not run out of planning ideas as to how and why the ideal corporate structure should be used by actual business owners or Accidental Entrepreneurs. The Accidental Entrepreneur may also be the corporate jock or Day Trader who works for "*The Man*" but is involved in investing and moonlighting activities that provide additional personal income. The ideal corporate structure provides management, asset protection and tax benefits to the Accidental Entrepreneur and his family.

As many of you have already suspected, I suffer from nostalgia for Wile E. Coyote and his endless pursuit of his goal, the Roadrunner. Wile E. Coyote was also is the definition of the loyal customer and he was forever committed to Acme, Inc. which supplied him with gadgets to dispense with the roadrunner. This week's picture is a classic, featuring Wile E. Coyote in a hospital bed with a personal visit from his nemesis, the roadrunner, a true picture of grace.

The ideal corporate family business structure for holding business and investment interests, involves the creation of a new family limited partnership (LP) with a general partner that is structured as a regular corporation, also known as a C corporation. The taxpayer follows up the creation of this family business corporate structure with the transfer through legal assignment of business holdings and investment holdings owned in separate LLCs to the new LP.

The LP has a calendar year end for tax purposes, and the corporate general partner has a fiscal year end - say November 30th. The corporate general partner has a staggered year end creating a significant tax deferral opportunity through the payment of a management fee to the corporate general partner. This staggered year end can provide an additional twenty months to defer taxes.

This structure provides important management, asset protection and tax benefits. The LP's separate business and investment holdings are segregated from each other, isolating each entity from the liabilities of each separate business and investment activity. Each entity starting at the LP level has its own charging order protection.

This week's segment focuses on how the corporate general partner can install a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) within the corporate general partner. This plan allows a small business to provide reimbursement of medical expenses on a tax-favored basis, e.g. the company can use pre-tax dollars to reimburse these expenses without personal tax consequences to the business owner. This article briefly outlines three versions of the plan for small business.

Overview of the Qualified Small Employer Health Reimbursement Account (QSEHRA)

A QSEHRA allows small employers to set aside a fixed amount of money each month that employees can use to purchase individual health insurance or use on medical expenses, tax-free. To be eligible, a company must have under 50 full-time employees and not offer a traditional group plan. QSEHRA provides maximum annual contribution rates in 2020 set at $5,250 for single taxpayers or $10,600 for families. In my view, every taxpayer has health-related expenses that are subject to a deductible or co-payments. In many cases, coverage for vision or dental benefits are not covered. It is my view that very few small business owners or corporate employees participate in any type of health reimbursement arrangement. The ideal corporate set up would allow anyone to set up their own plan at the corporate general partner level.

The news of the availability of QSEHRA had the problem of bad timing going into effect in January 2020 and having to compete with airtime against news about the Pandemic and economic collapse and shutdowns. This article is a first step in creating a “steady drip” of awareness to open the eyes of taxpayers to take advantage of this benefit among many other benefits utilizing the ideal corporate set up.

Unlike a Health Savings Account (HSA) or Flexible Spending Account (FSA), health reimbursement accounts (HRA) do not require money the employee or employer to be put into an account. A HRA simply reimburses for expenses along the way. Three different HRAs are available, an Individual Coverage HRA (ICHRA); an Excepted Benefit HRA (EBHRA) and a QSEHRA.

The ICHRA allows employers to reimburse any amount per month of health care expenses incurred by employees on a tax-free basis. Benefits can be scaled for different classes of employees. Employee can opt out of participation in the ICHRA if it is more favorable to receive premium tax credits for induvial coverage.

The Excepted Benefit HRA (EBHRA) allows employers of any size to use pretax dollars to reimburse certain limited benefits that are not covered under health plans on the Exchange. Excepted benefits include, COBRA premiums, premiums for short-term major medical, and coverage not in primary health insurance plans such as benefits for vision, dental and long-term and nursing coverage. However, excepted benefits are limited to $1,800 per year.

Case Study

Larry Lawyer, age 50, is married and practices law as a sole practitioner. He owns several rental properties and has a personal investment portfolio. He also has a minority interest in several small businesses. He creates the Lawyer Family Limited Partnership (LFLP)and creates LL Family, Inc., as the corporate general partner of LFLP. LFLP has a calendar year end. LL Family, Inc. as a November 30th year. He contributes his real estate and business interests to the LFLP.

LL Family Inc. is taxed as a regular corporation. It forms a Qualified Small Employer Health Reimbursement Account. Larry adds his children as employees to the Plan. They are eligible to participation in the QSEHRA which will allow LL Family, Inc. to reimburse up to $10,600 per family for each child employed by the company. These expenses will be tax-deductible to the company and non-taxable to the children to cover unreimbursed medical expenses including health insurance premiums.

Summary

Every article that I have done in this series has attempted to show how business owners and "would be" business owners which I refer to as Accidental Entrepreneurs have everything to gain and nothing to lose by structuring their business and investment activities to avail themselves of the excellent tax benefits available to business owners. This article shows how the after-tax cost to taxpayers can be reduced significantly. What are you waiting for?