Viva VEBA!

An important benefit-funding option—the VEBA—is back in the news, thanks to recent state legislation and union negotiations with the Big Three. VEBAs (Voluntary Employees Beneficiary Association) are deserving of attention, since they may prove to be an extremely cost-effective solution for some public and private employers.

First created in the 1920s, VEBAs are tax-exempt funds that hold contributions from employers and employees. Those contributions, in turn, are used to pay insurance premiums—health, life, or other benefits—promised to employees. Created under Section 501(c)(9) of the Internal Revenue Code, the VEBA is a separate legal entity, and its assets are generally safe from the creditors of any sponsoring employer.

From a participant's tax perspective, there's no difference whether benefits come directly from an employer or a VEBA. The benefit continues to be excluded for tax purposes. So, what's the big deal, you ask?

The big deal is that the IRS permits VEBA assets and their investment earnings to accumulate tax-free. This tax-free feature enables contributions to grow much faster than if the earnings were taxed each year at the employer level.

Like a tax-qualified retirement plan, a VEBA can be created as a defined benefit plan (where assets are pooled and available to cover the costs of all participants), or a defined contribution plan (where participants have separate accounts). Regardless of its form, a VEBA can be funded by employer and/or employee contributions—including accrued sick pay or vacation pay.

VEBAs can be established for union or non-union employees, in both the private and public sectors. The only requirement is that covered employees share—or once shared—an employment-related bond.

VEBAs likely will become a popular benefit-funding vehicle for government entities. Under the new Governmental Accounting Standards Board Statement 45 (regulating "Other Post-Employment Benefits"), VEBAs permit municipalities and other governmental units to remove retiree benefit obligations from their financial accounting, thereby maintaining or improving their credit status and lowering the interest rate they pay on bond offerings.

Remarkably, under the recently enacted Public Employees Health Benefits Act of 2007 (effective October 1, 2007), all Michigan governmental and public employers must now obtain a price quote from a VEBA when establishing or renewing medical benefit plans.

While VEBAs may be the perfect option for some employers, it's certainly not appropriate in all situations. Our Federal Tax and Employee Benefits Group has extensive experience with many post-employment benefit vehicles. Contact Kal Goren or Ken Sachs if you'd like to discuss your situation.

Growing practice group welcomes two new attorneys

Kalman G. Goren and Kenneth J. Sachs have joined our Employee Benefits and Tax Group, bringing extensive experience in executive compensation, business and tax planning, estate planning, and work-place benefits to our firm—and making the group the largest in Michigan.

Kalman G. Goren
248/267-3267

Principal Kal Goren has represented individuals and employers in all aspects of tax-qualified retirement plans during his 36 years in practice. He also works with high net worth individuals in designing and coordinating their estate planning with retirement benefits.

Ken Sachs, senior attorney, focuses his practice on employee benefits, business planning, health care issues, and executive compensation. He has substantial experience in the design and implementation of qualified and non-tax qualified retirement plans and ESOPs, as well as benefit compliance issues related to mergers and acquisitions.

Kenneth J. Sachs
313/496-7805