NOWOTNY KNOWS SQUAT!

Helping Advisors Build a Clientele and Assets Under Management

Part 3 – Using Malta Pension Plans to Raise AUM and Sell More Life Insurance

I know that I have been going on and on about how much I love the Iron Game while retracing my steps from the unique perspective as an American kid growing up in the Panama Canal Zone. Interesting people visited the Canal Zone on occasion, and usually unannounced. In 1972 I was waiting for my mother (of blessed memory) in the parking lot of the Balboa Commissary while she shopped. My Dad (of blessed memory) was the manager of the Balboa Commissary at that time. I knew an Air Force "brat" from Howard Air Force Base named Tony Franklin who attended the Canal Zone schools. We played sports against each other. On that particular day, he happened to pass by our parked car at that time with his mother and another woman. I called him to say hello and noticed that the other woman was none other than the Queen of Soul, Aretha Franklin, his aunt who was visiting them.

In 1977, I happened to be at the Iron Temple, e.g., the weight room at the Balboa YMCA, my home away from home. The weight room was hot like a sauna and wasn't air conditioned. Imagine the heat and humidity of Panama! One day, in walks Tony Carroll, who was the reigning Mr. Universe and former Mr. World, to work out while visiting a friend in the military stationed in the Canal Zone. Honestly, it was the reincarnation of Hercules. He attended a movie at the Balboa Theater that evening and the people attending the movie just stared at him in the lobby before the movie. Honestly, it was if Hercules had just walked into the room. I might mention that he had the strength to match the look. He did high reps with 405 as if he were lifting a pencil. It's not every day that you get a chance to see Mr. Universe in person, let alone in the Canal Zone.

This is the third installment in the series *Nowotny Knows Squat*. This series focuses on value added planning ideas that financial advisors and life insurance agents should introduce to their clients. In case, you haven't heard, the top marginal tax rate is going up and the estate tax exemption is likely to decrease. I don't know the date and time yet, but it is! This episode focuses on the Malta Pension Plan for the high-net-worth client. This planning technique produces great results for the client and provides an excellent structure to attract, retain and increase assets under management.

Overview of the Malta Pension Plan (MPP)

The Plan is a persona pension plan that is administered by a pension administrator that is licensed by the Malta Financial Services Authority. The Plan is registered as a "personal pension plan" within the provisions of Article 4 of the Retirement Pensions Act 2011(Chapter 514 of the laws of Malta). The Plan is not an employer-sponsored plan. The Plan is a personal retirement benefits plan like a Roth IRA in concept that is structured as a trust under Maltese law. Participation in the Plan is restricted to U.S. citizens and residents for tax purposes. The Plan also requires that U.S. tax residents comprise more than seventy five percent of the participation in the Plan.

The Plan assets of a participant are held in a separate participant account within the Master Trust that comprises the Plan. The Plan assets of each participant are held within a U.S. limited partnership or limited liability company ("LLC") which is wholly owned by the Plan. The custody of the investment assets within the limited partnership or LLC is usually at a U.S. bank or investment firm. The assets within a participant's account are not subject to the claims of the pension administrator's creditors or the creditors of other participants within the Master Trust. The Plan is audited each year by a Big Four accounting firm (PWC). The Plan also requires monthly reporting to the Plan administrator.

The normal retirement age is age 55. However, a participant may access benefits beginning at age 50. Pension benefits begin at age 75 and continue until death or termination of the plan. Malta law does not prescribe a minimum benefit. Additionally, the beginning date for Plan distributions may be delayed. At death, Plan benefits are distributed to a designated beneficiary which may be a spouse, family member or trust on behalf of descendants. Retirement benefits are not linked to employment service or an employer. Contribution to the Plan may be made in cash or property including (but not limited to) marketable or private securities, limited partnership or limited liability company interests, U.S. real property interests, and loan portfolios. The Plan has no annual contribution limit. The Plan does not accept contributions from an Employer. The Plan is exempt from the ERISA requirements under U.S. law. The Plan also allows for self-directed investments through an independent third-party manager selected by the participant.

So, What's in It for Me?

The financial advisor has several paths of additional revenue by virtue of recommending and implementing a Malta Pension Plan. The investment advisor can become an investment manager managing the investment assets within the policy. The financial advisor and his organization might also serve as the manager or general partner of the investment holding company that is wholly owned within the Plan. This company is formed in the U.S. and has bank and custodial accounts in the U.S. 'The manager or general partner of this company provides a management and compliance role for the participant and reporting function to the Plan administrator.

The planning utility of the Plan is exceptional whether it is funding for retirement planning purposes in tandem with the sale of an appreciated capital asset. The retirement and tax planning may also reposition intellectual property within the Plan that can be leased back to the participant's operating company. The operating company's payment of royalties is a deductible expense, and the royalty payment is non-taxable within the Plan.

A participant with a taxable estate may also structure the Plan so that investment growth is controlled within the Plan while shifting excess growth above a preferred return outside of the Plan and outside of the taxpayer's taxable estate on an income and estate tax-free basis while protecting the assets from the taxpayer's personal and business creditors. The positioning of the investment growth involves the sale of life insurance.

The Plan may also be positioned as an alternative to non-qualified deferred compensation arrangement for business owners and key executives. The Plan has better asset protection treatment from creditors than a Rabbi Trust. The Plan may also be funding with capital assets that can be sold without gain to provide for benefits. Plan assets can be used to fund the purchase of retail life insurance outside of the plan using split dollar life insurance. I am always thinking about!

Summary

The Malta Pension Plan is an important tool in the financial advisor's toolbox. First, it is a high value idea that not every "Tom, Dick, and Harry" is bringing to the attention of clients. Its tax-benefits are unique and arguably not easily surpassed. From a tax compliance standpoint, the tax treaty is strong authority if you ask me. While many tax advisors are saying that it is too good to be true, it may pay to take a closer read of the Treaty to change your mind. It may not be the law tomorrow, but it is the law today!

The absence of tax erosion means that you have more assets to grow and manage. There are advanced planning applications that involve the sale of life insurance and split dollars. Take on faith for now, that the sales are large sales. The takeaway message is that if you aren't talking to clients about this idea, you are short-changing your client and yourself.

Operators are standing by to take your call!