Structured Sale Definition

A **structured sale** is a special type of installment sale pursuant to **Internal Revenue Code Section 453**. Installment sales permit sellers to defer gains on the sale of a business or real estate to the tax year in which the related sale proceeds are received. Structured sales allow the seller of an asset to pay taxes over time while having the payments guaranteed by a high credit quality alternate obligor, who accepts assignment of the buyer's periodic payment obligation. Transactions can currently be done as small as $100,000.

In a structured sale, rather than the buyer paying the installments, the buyer pays cash, some of which is used as consideration for a third party assignment company to accept the payment obligation. The assignment company then purchases an annuity from a life insurance company with high financial ratings from A. M. Best. Case law and tax precedents have long supported substitution of obligors include **Rev. Rul. 82-122 amplifying 75-457 and Wynne v. Commissioner 47 B.T.A. 731 and Cunningham v. Commissioner 44 T.C. 103**. In addition, a properly handled transaction will avoid issues with constructive receipt and economic benefit.

While negotiating the installment payments, the seller is free to design payment streams with a great deal of flexibility. The seller recognizes capital gain in each year an installment payment is received. Interest is imputed and taxed annually, even in years during the contract where no installment payments are received. Taxation is the same as if the buyer were making installment payments directly.

Structured sales are an **alternative to a section 1031 exchange**, which defers recognition of capital gain, but forces the seller to continue holding some form of property. Structured sales work well for sellers who want to create a continuing stream of income without management worries. Retiring business owners and downsizing homeowners are examples of sellers who can benefit.

The structured sale must be documented in the transaction documents and money must be handled in such a way that the ultimate recipient does not constructively receive the payment until it is actually paid. For the buyer, there is no difference from a traditional cash-and-title-now deal, except for additional paperwork. However, because of tax advantages to the seller, structuring the sale might make the buyer's offer more attractive. Because the buyer has paid in full, the buyer gets full title at time of closing.

There are **no direct fees to the buyer or seller to employ the structured sale** strategy. The structured settlement specialist who implements the transaction is paid directly by the life insurance company that writes the annuity.

The **internal rate of return** is comparable to long term high quality debt instruments.

Allstate Life was the originator of the structured sale concept and until recently was the only structured settlement annuity company whose product was available for the structured sale transaction. **Prudential** has begun to use its non-qualified assignment product on a very limited, and very restrictive basis.

Source: Wikipedia