

Employer Funded Deferred Compensation: Supplemental Executive Retirement Plan (SERP)



Basic Information

- ◆ Key Employee (Key) is employed by ABC Company. The business does not have a qualified plan, and Key is concerned about his retirement.

Goals and Objectives

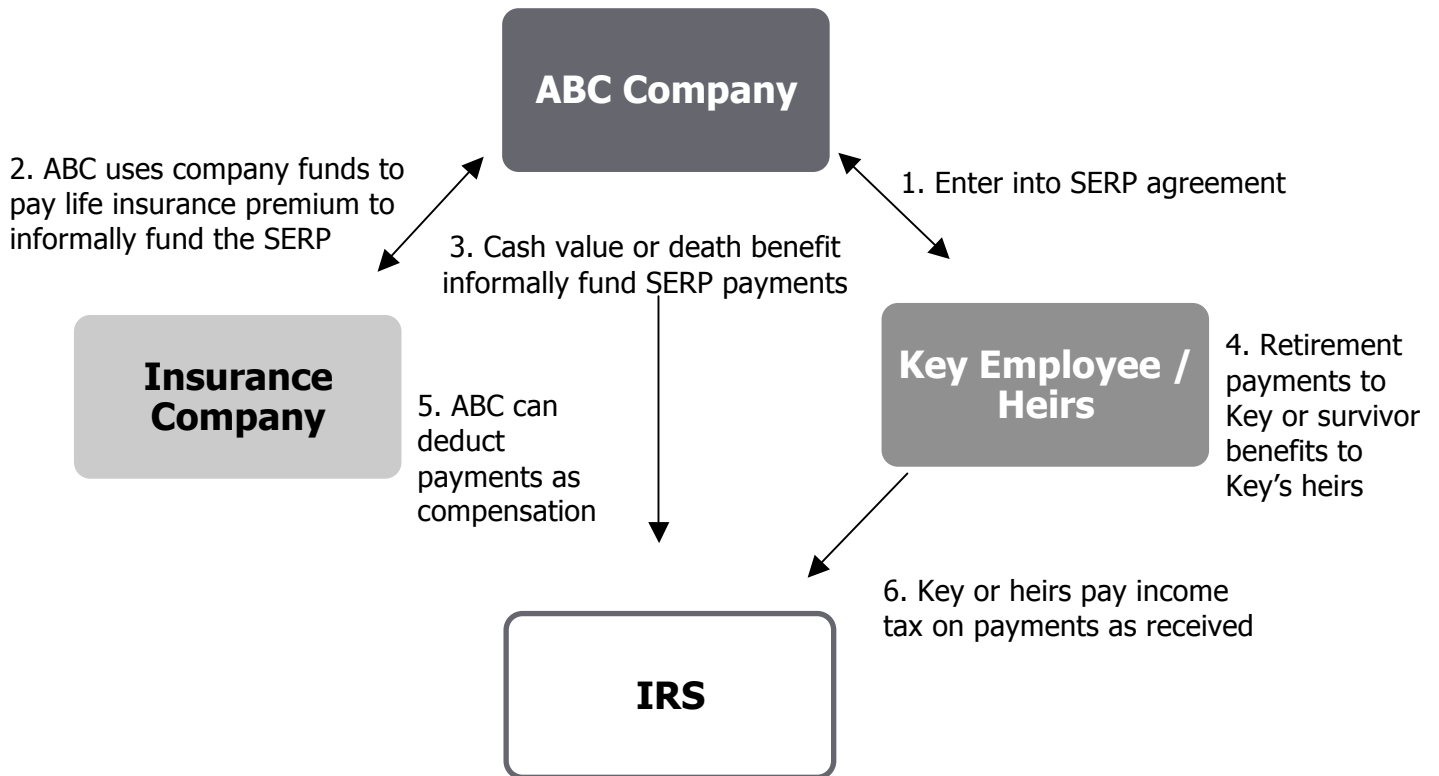
- ◆ ABC wants to make certain Key does not leave, as Key is talented and losing him would be costly.
- ◆ Key would like to open a discussion with ABC over his concerns about retirement.
- ◆ Key would also like for his family to be taken care of after his death.

Proposed Concept

- ◆ ABC and Key enter into a written SERP agreement, drafted to comply with IRC section 409A.
- ◆ Under a SERP, ABC may informally set aside assets to fund a benefit at Key's retirement and/or fund a benefit to Key's heirs at Key's death. The informal funding medium could be a permanent life insurance policy owned by ABC. To preserve the income tax free nature of the death benefit for ABC, ABC must comply with the notice and consent and exception requirements under Internal Revenue Code Section 101(j). At Key's death, ABC would have cash from the death benefit to reimburse the company for payments made, and to pay any death benefits as outlined in the SERP agreement.
- ◆ At Key's retirement, the plan would pay income to Key for a period of years. ABC can use the cash value of the policy to informally fund the retirement benefits. ABC could withdraw the cash value from the policy up to ABC's basis and then switch to loans from the cash value to pay the retirement benefits. Loans against the policy accrue interest and decrease the death benefit and cash value by the amount of the outstanding loan and interest.
- ◆ In exchange, the plan generally would have a requirement that Key stay with the business until his retirement date. If Key left early, he would forfeit all or part of the money in the plan as set forth in the SERP agreement.
- ◆ The plan would be subject to the claims of ABC's creditors.

- ◆ At Key's death, ABC will receive any life insurance policy death benefit free from income tax.
- ◆ When benefits are paid to Key in retirement or to the family at death, ABC can deduct the payments as compensation.
- ◆ The benefits in retirement or the benefits at Key's death to his family would be taxable income to the recipient.

Supplemental Executive Retirement Plan (SERP)





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