



Buyer Value Option (BVO) With “Sunset Clause”

Market Trends

While Buyer Value Option (BVO) programs are subject to a degree of interpretation, there are parameters which should be followed to ensure the program is tax-protected while facilitating employee mobility. Paragon recognizes the risks associated with a BVO program and understands the challenges in overcoming the potential expenses associated.

As markets soften, correct and/or decline, client corporations should consider a “sunset clause” for a Guaranteed Buyout Offer (GBO) at some time during the BVO process. Some key drivers for the “sunset clause” include:

- Companies that currently offer BVO as the only homesale option are becoming challenged with an increase in exceptions for temporary living, duplicate housing, and storage costs
- An employee’s move is not complete until they are relieved of the home disposition process and the family is all in one location
- Although not a mandatory procedure according to IRS Revenue Ruling 2005-76; Worldwide ERC’s Tax Counsel recommends client organizations provide a GBO at the end of the BVO process in order to operate in the most favorable way to protect the tax exempt status of the third party relocation homesale program

Implementation

The “Sunset Clause” could take effect after the home has been on the market for six months. However, this is client prerogative. Most clients choose mandatory marketing of anywhere from 120-180 days. After this mandatory marketing period, appraisals would be ordered so that a guaranteed offer could be established no more than 30 days later. Upon receiving the guaranteed offer, the transferee would have 30 additional days to aggressively market their property in order to find a buyer, before having to fallback on the guaranteed offer, thus bringing conclusion to the homesale for the employee.

Another consideration for this type of program is to base the guaranteed offer on a percentage of the appraised value. The same process for determining the value is followed except at the time of calculation, an employee is offered, for example, 95% of the appraisal value, resulting in the GBO amount. This approach may allow for an employee to have more incentive earlier in the process and facilitate a change in the strategies for selling a home prior to having to accept a GBO.

Companies that are instituting the “Sunset Clause” indicated it was primarily to avoid the dual risks of an IRS audit and letting homes languish in slow markets.