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Structured Installment Sales: A Business Seller's New Best Friend



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By Sean Whitehead, founder of [Installment Sales Plans](#)

The process of selling your business or property is inherently stressful. Among all the challenges, looking at your tax bill can be especially daunting. However, exploring financial strategies, such as structured installment sales, might offer some relief. While there are many complex and expensive methods to defer and lower your tax bill, there's a simpler solution rooted in familiar principles: the structured installment sale.

What Is a Structured Installment Sale?

A structured installment sale is a lot like it sounds. Similar to the better-known “installment sale” a structured installment sale allows a seller to spread out the recognition of a capital gain over however many years the seller decides. The key difference in a structured installment sale lies in its funding and security provisions. In a conventional installment sale, the seller relies on the buyer to make scheduled payments. In contrast, a structured installment sale introduces an assignment company and an annuity. The buyer's obligation to make periodic payments is delegated to an assignment company, which then purchases an annuity from a life insurance company using the lump sum paid upfront by the buyer. This helps the seller manage the timing of income recognition for tax purposes and receives payments on a predetermined schedule. The seller now receives payments backed by a financially secure insurance company, reducing default risk and allowing interest to accumulate over time.

How Does It Compare to Seller Financing?

Structured installment sales and seller financing both offer sellers flexibility to receive payments over time rather than a lump sum, which can be beneficial for managing capital gains tax and ensuring a steady income. However, there are some differences and similarities to consider.

- **Structured Installment Sales:** In this arrangement, the seller receives payments from an assignment company, which purchases an annuity to fund these payments. This method can offer a high level of security and predictability, as payments are backed by an insurance company. The structured installment sale reduces the risk of payment default and allows interest to accumulate over time. It can be particularly appealing for sellers looking for steady, predictable income with minimized risk exposure.
- **Seller Financing:** This option allows the seller to [directly finance the sale of their business](#), offering the buyer more flexible payment terms. Seller financing can be a great tool for closing deals that might not be feasible under traditional financing methods. It provides sellers with the opportunity to potentially earn higher returns through interest and to maintain a direct relationship with the buyer, which can be beneficial for ensuring the terms of the sale are met.

What Are the Benefits of Structured Installment Sales for Sellers?

Tax Deferral: Sellers may consider structured installment sales as a strategy to defer [capital gains tax](#). This deferral can lower overall tax liability by potentially placing the seller in a lower tax bracket, such as moving from 20% to 15% or even 0%, because taxes are assessed only on what is received each year. Additionally, deferring proceeds can also minimize the impact of other taxes, like net investment income tax and state taxes, further reducing the seller's overall tax burden.

Income Stream: Since many sellers are selling their business and entering retirement, ensuring a stable income is particularly comforting. A structured installment sale provides a reliable and predictable income stream, secured by the financial stability of an insurance

company, reducing the [risk of default](#) and ensuring timely payments. This arrangement mirrors the steady income sellers are accustomed to and avoids the risk of buyer default. Sellers can maintain their financial stability and lifestyle with guaranteed payments, providing peace of mind and consistent income. For added financial security, sellers can choose a structured installment sale option funded by U.S. Treasuries.

Customization: Managing your money effectively is crucial, and a structured installment sale gives you that control. The seller can customize the arrangement, determining how much to structure, the duration of the payments, and the frequency—ranging from bi-weekly to yearly, or anything in between. For example, in a \$1 million sale, a seller might take a \$500k lump sum and structure the remaining \$500k. This customization occurs before the sale is finalized, allowing sellers to tailor the payment plan to their specific financial needs. Whether you're [planning for retirement](#), covering ongoing expenses, or needing funds for future obligations, a structured installment sale offers the flexibility to design a payment plan that suits your needs.

Cost: As a potentially cost-effective option for tax deferral, a structured installment sale involves a small one-time assignment fee and however many hours your [tax professional](#) needs to find the optimal outcome. This affordability and transparency are why structured installment sales are increasingly favored over other strategies like deferred sales trusts, which involve significant setup cost and ongoing management fees.

What Are the Benefits for Buyers?

Offering a more attractive bid: In a competitive market, buyers might use structured installment sales as a negotiation tool. Making an offer via a structured installment sale and emphasizing its advantages to the seller can set a buyer apart.

Even if the seller isn't too worried about the tax bill, the buyer's bid shows strong interest in closing the deal and a clear intention to work with the seller for the best outcome.

Lower purchase price: By demonstrating to the seller that a structured installment sale can lead to significant tax savings, a buyer can propose a lower offer while still showing the seller that they will ultimately retain more of the proceeds. This approach allows the buyer to negotiate a more favorable purchase price while assuring the seller of a greater net gain after taxes are accounted for.

When Can a Structured Installment Sale Be Used?

For detailed information on installment sale treatment, refer to [IRS Publication 537](#) and Internal Revenue Code 453. In short, the installment method cannot be used for the sale of stocks, securities traded on established markets, or inventory.

Qualified Sales Include:

- Businesses (e.g. professional practices like a law office, manufacturing, healthcare, etc.)
- Real Estate (commercial buildings, residential, investment properties)
- Land (farms, timberland, ranches)
- Other types of assets, like artwork

A key concept mentioned above, 'constructive receipt,' is crucial in structured installment sales as it determines when income is recognized for tax purposes. Constructive receipt occurs when income is made available to a taxpayer without substantial restrictions, even if not physically received. The structured installment sale arrangement ensures that the seller does not have constructive receipt of all the proceeds at once. It's important to note that once the seller receives a lump sum from a regular cash sale, they cannot retroactively structure it into an installment sale. Therefore, the seller must communicate the process to the buyer before money changes hands.

Example: Bill and Betsy, who are married filing jointly, are preparing to sell their veterinary practice, which they've built over the past 30 years, for \$2 million. The practice, including the business and the property, has a cost basis of \$500,000 (tax free), resulting in a \$1.5 million long-term capital gain. Here's the difference in taking a lump sum compared to a structured installment sale.

- **Lump Sum:** If the couple opts for an all-cash sale, they receive \$500,000 tax free as a return of basis. \$90,000 will be taxed at 0%, \$553,000 at 15%, and \$850,000 at 20%, resulting in a tax bill of about \$350,000. This leaves Bill and Betsy with a total of \$1,650,000.
- **Structured Installment Sale:** Let's look at a ten-year structure. Each year, they will receive \$50,000 as a tax-free return of basis, \$90,000 taxed at 0%, \$260,000 taxed at 15%, and \$50,000 in interest taxed as net investment income. Annually, they will owe approximately \$10,000 to the IRS. Over the ten years, this totals to about \$100,000 in taxes, leaving them with \$2,400,000.

Difference in Using a Structured Installment Sale +\$750,000

Structured Sale		Lump Sum	
Sale Price	\$2,000,000	Sale Price	\$2,000,000
Tax	\$100,000	Tax	\$350,000
Interest Earned	\$500,000	Interest Earned	\$0
Total Post Tax	\$2,400,000	Total Post Tax	\$1,650,000

Capital Gains Tax Rate	Single Filing	Married Filing Jointly
0%	\$0-\$47,025	\$0-\$94,050
15%	\$47,026-\$518,900	\$94,051-\$583,750
20%	\$518,901+	\$583,751+

Rates for 2024

Why Haven't I Heard About Structured Installment Sales?

Don't worry if you're not familiar with this product—it's relatively new. Structured installment sales originate from the structured settlement industry, which designs plans that provide individuals with regular payments over time, often following personal injury or wrongful death cases. This industry ensures long-term financial security by structuring these payments through annuities backed by insurance companies.

Leveraging their experience with structured settlements, insurance companies began offering structured installment sales products. These products allowed sellers of significant assets, such as businesses and real estate, to receive payments over time, similar to how injury claimants received their settlements. This approach offered significant tax benefits and financial planning advantages, as mentioned above.

Allstate Life Insurance Company pioneered the concept of structured installment sales in the early 2000s, combining principles of structured settlements with tax rules governing installment sales. This allowed sellers to defer capital gains taxes by receiving payments over time instead of a lump sum. If the 2008 financial crisis hadn't wiped out so much equity, structured sales might have become a common term in today's tax industry. In the years following the recession, many companies offering structured sales shut down their programs due to the barren marketplace.

The innovations of the 2000s laid the groundwork for today's structured sales, as home and business equity have reached all-time highs. The companies offering structured installment sales are experiencing growing demand.

Examining the Drawbacks

- **Tax Law:** Future legislative changes could alter tax rates, impacting the financial aspects of installment sales. New laws could raise or lower tax rates, impacting the seller's tax liabilities. Lower tax rates in the future would be advantageous, while higher rates would be problematic. This adds an element of uncertainty.
- **Interest Rates:** By locking into a fixed interest rate, sellers risk missing out on higher returns if market rates rise. Alternatively, they could explore a new product that tracks the market index, featuring top holdings in companies like Apple, Amazon, and Google, offering a way to capture market shifts and potentially achieve greater returns.
- **Locked In:** Sellers might face situations where they need immediate access to larger funds due to unexpected expenses, investment opportunities, or financial changes. Being locked into a fixed payment schedule limits their ability to respond to such needs. The seller cannot access funds earlier than scheduled because they are the payee, not the 'owner.' If the seller could withdraw funds at will, the IRS might consider it constructive receipt, disqualifying the transaction from installment sale treatment. It's crucial for sellers to consult with their tax professional to determine the optimal amount to structure.
- **Future Payments:** As per the purchase and sale agreement, the buyer agrees to make future periodic payments intended to qualify under the installment sale treatment

outlined in Internal Revenue Code section 453. This means that if the insurance company fails to make the payments, the buyer would still be obligated to continue paying for the business. Essentially, the buyer would have to make the payments that the insurance company failed to make. This concern is typically addressed by a competent advisor, such as a broker, attorney, or CPA. They would point out that MetLife, one of the oldest and most highly rated companies, manages about \$600 billion as of 2024. Insolvency would only occur under extreme circumstances, indicating more than just economic issues. To further ease concerns, sellers can choose a structure funded by U.S. Treasuries.

Structured installment sales are gaining traction among those seeking to defer large tax liabilities from selling a business, home, or land. The growing popularity is clear; people want to minimize taxes, and products like these make it increasingly easier to do so. Most would gladly reduce a 20% tax liability to 15% or even 0% if it were convenient. With the current bull market driving significant asset appreciation, finding ways to reduce tax bills is becoming more essential.

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Sean Whitehead is a Structured Settlement Professional and founder of Installment Sale Plans. He focuses on helping sellers and buyers structure business and property sales. Sean's team has over three decades of experience and has helped structure over \$500 million.

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