

Long-Term Incentive Plans for Small Business

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- Corporation
- S-Corporation
- LLC/Partnership

- Restricted Stock
 - Taxable upon vesting as “compensation” under IRC Section 83
 - Possible phantom income
- Non-Qualified Stock Options
 - Taxable upon exercise based on “spread” as “compensation”
 - Possible phantom income
- Incentive Stock Options
 - Taxable upon sale of shares
 - 2 year/1 year holding period for capital gain treatment
 - “Spread” at exercise is subject to AMT
- Cash Carve-Out Plan/Restricted Stock Units (RSUs)
 - Taxable at payment as “compensation”
 - Deferred compensation plan may be subject to IRC Section 409A

- Equity Interest
 - Taxable upon vesting as “compensation” under IRC Section 83
 - Possible phantom income
- “Profits Interest”
 - Non-Taxable at issuance
 - Capital gain income at sale
 - Hurdle Amount applies similar to stock options
 - Catchup distribution may be provided
- Cash Carve-Out Plan/Restricted Stock Units (RSUs)
 - Taxable at payment as “compensation”
 - Deferred compensation plan may be subject to IRC Section 409A

- Martin Ice Cream and Bross Trucking
- Requirements
 - Independent Valuation
 - Related Company has no legal entitlement
 - Sale and purchase subject to legal binding contract
- Taxation
 - Sale of capital asset
 - Buyer may amortize over 15 years

Questions ?

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