

Ownership Attribution

The 4th and final article in our series on Understanding Employer Structures

The Understanding Employer Structures series explains how employer structures can affect qualified retirement plans. Previous topics include [Controlled Groups](#), [Affiliated Service Groups](#), & [Multi v. Multiple Employer Plans](#).

As previously discussed in this series, understanding employer structures and ownership interest is critically important for qualified plan purposes such as determining if a controlled group or an affiliated service group exists. Ownership takes on different forms based on the employer structure of the business, as shown in the table below.

<i>Employer Structure</i>	<i>Ownership Type</i>
Corporation	Stock Value or Voting Power
Limited Liability Company	Membership Interest
Partnership	Capital Interest or Profits Interest
Sole Proprietorship	Sole Proprietor has 100% ownership
Trust or Estate	Actual Interest

Family Attribution

The Family Attribution rules dictate that lineal relatives own the same percentage of a company as the owner. These rules were designed to prevent owners from gifting their ownership interest to family members in order to avoid forming a controlled group or affiliated service group. Many of the same rules govern each group type with a few specific distinctions.

Controlled Groups

The following lineal relatives attribute stock to one another with regards to controlled groups:

- Parent to minor child, under age 21
- Minor child, under age 21, to parent
- Adult child to parent if the parent has more than 50% ownership
- Parent to adult child if the child has more than 50% ownership
- Grandchild to grandparent if the grandparent has more than 50% ownership
- Grandparent to grandchild if the grandchild has more than 50% ownership
- Spouses, with exemption

A special exemption for spouses exists to avoid unintentional attribution if both spouses own a business. To qualify for this exemption, spouses must each own their own business and satisfy all of the following conditions.

- Neither spouse has direct ownership in the other's business or participates in the other's business in any way, including as an employee, director, or manager.
- No more than 50% of the business' gross income is from passive investments.

Affiliated Service Groups

The rules regarding attribution in affiliated service groups are very similar to those governing controlled groups, but with fewer circumstantial exceptions.

The following lineal relatives attribute stock to one another with regards to affiliated service groups:

- Parent to child
- Child to parent
- Spouses

Notice that, in contrast to the attribution rules for controlled groups, there is no exemption for spouses and the age of the child does not affect attribution between a parent and child. Additionally, attribution does not occur between grandparents and grandchildren.

Double Attribution

Once ownership is attributed to a relative, it cannot be reattributed from that individual to another as this would be considered double attribution. However, ownership can be attributed from the original owner to multiple individuals such as a spouse and minor child.

Conclusion

Understanding Employer Structures is crucial in qualified plan administration. Ownership interest and resulting attribution are important factors in determining if a group structure exists. As we have conveyed in this series, identifying a controlled group or affiliated service group is critical for understanding which employees must be covered by the plan. *For this reason, always alert Plan service providers of any companies in which you have ownership interest, any family members working at these companies, and all existing service agreements.*

Lawson, Larry. Internal Revenue Service Tax Exempt and Government Entities. Chapter 7. Controlled and Affiliated Service Groups. Pages 7-4 through 7-10.

Simoneaux, Sarah E. Retirement Plan Consulting for Financial Professionals, 2nd Edition. The American Society of Pension Professionals and Actuaries. © 2009. Pages 3-6 through 3-19.