Home Selling Assistance

On November 30, 2005, the United States Internal Revenue Service issued Revenue Ruling 2005-74. The ruling supports appraised value transactions. It further clarifies that the Appraised Value, deed-in-blank process is safe from a FEDERAL tax standpoint. After an exhaustive evaluation, an ERC Task Force concluded that two deed transacting was still prudent in the following states: Delaware, Kentucky, Maryland, Nevada, New York, Oklahoma, Texas, and Washington owing to factors including predominant local practice, the existence of transfer taxes and/or false claims statutes, and other conveyance restrictions. For further clarification, we suggest you consult corporate tax and legal counsel.

Getting the right employees in the right job, in the right location, at the right time, at the lowest possible cost is more challenging than ever. Today’s workers are reluctant to subject themselves and their families to the disruptions of relocation without receiving extensive benefits. At the same time, corporations need to control relocation costs (and all costs) to remain globally competitive. Complex tax ramifications can make it even more difficult to determine the right level of benefits for home-owning transferees.

This paper is an objective review of the primary types of home selling assistance offered by corporations today (summarized in the chart on page 2). It will discuss the differences among the most popular policies and their related advantages and disadvantages.
Direct Reimbursement
Under a Direct Reimbursement policy, the employee is solely responsible for marketing his or her home, and the selling expenses (which are sometimes “capped”) are reimbursed at the conclusion of the sale. All of these expenses are treated as taxable income, and most companies assist the employee with the resulting tax liability. This tax assistance is referred to as “gross-up.” The tax gross-up on a $10,000 reimbursement can easily amount to $4,500 (depending on the employee’s tax bracket and the types of taxes the company will cover). Of course, the $4,500 is also treated as income and creates additional tax liability.

Advantages
• Based on actual expenses incurred.
• Covers employee’s expenses.
• Employee remains responsible for marketing and costs of vacant home.

Disadvantages
• Failure to sell may delay relocation.
• Potentially owning homes in both the departure and destination locations may contribute to employee’s financial and emotional stress and reduce productivity.
• All expenses are treated as income, and tax liability is incurred on gross-up.
• Numerous expense reports to process.

According to Worldwide ERC®’s 2005 Transfer Volume & Costs Survey, only about 6 percent of companies use Direct Reimbursement as their primary form of home selling assistance (75 percent opt for third-party home sale assistance). Total costs reflect each company’s unique reimbursement and tax assistance policy.


Primary Home Sale Assistance
- Direct Reimbursement: 6%
- Guarantee Against Loss: 6%
- Third Party: 13%
- In-house Purchase: 75%


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Third-party Programs
Three out of four companies (75 percent) provide third-party programs as their primary form of Real Estate Assistance. Third-party programs include Appraised Value Sales, Amended Value and Buyer Value Option.

As Third-party programs are currently the predominant form of home sale assistance, we have chosen to use the term “relocation service company/ies” throughout this document. However, the information contained herein is also applicable to companies with in-house programs.

Appraised Value Sales
An Appraised Value Sale occurs when the employee accepts the relocation service company’s guaranteed offer (which is based on the appraised value of the employee’s home). Under this scenario, two distinct sales occur: one from the employee to the relocation service company, and one from the relocation service company to the ultimate buyer of the home. These transactions tend to be the most expensive, with total average costs of about 15.1 percent of the appraised value. Factors that contribute to the high cost include home vacancy, lengthy marketing periods, and the need for repairs and improvements the longer the home remains in inventory.

Advantages
• Considered a “tax-safe” transaction—most selling expenses are not treated as taxable income and, therefore, the employer does not need to “gross-up” this expense.
• Property is marketed by a third party, which can objectively adjust offering price and property condition to increase buyer appeal.
• Minimizes lost productivity associated with duplicate carrying costs, prolonged family separation, and worry about the sale of the former home.
• Expedites the relocation.
• Employees know the minimum guaranteed offer on their homes.
• Employees can use the guaranteed offer to evaluate new home purchase alternatives.
• Employees can access equity (based on appraised value offer) through an equity advance or loan (subject to the Sarbanes-Oxley Accounting Reform and Corporate Accountability Act).
• Employees are assured of a sale even if they do not find a potential buyer.

Disadvantages
• Employees usually view the appraised value as a “low ball” offer.
• Carrying costs (mortgage interest, taxes, insurance, utilities and maintenance) can mount quickly while the home is vacant and in inventory. (Note: Most direct reimbursement programs will pay duplicate housing costs, which can be equal to or greater than the carrying costs incurred on inventory homes.)
• Appraised Value sales usually sell below the appraised value, reflecting shop-worn, vacant status of the property.
Key Elements and Procedures of the Amended Value Option

1. Any employee (“EMPLOYEE”) wishing to take advantage of the Amended Value Option who lists his or her home with a real estate broker must include a suitable exclusion clause in the listing agreement whereby the listing agreement is terminated upon the sale of the home to either the employer or the relocation company.

2. Under no circumstances should EMPLOYEE accept a down payment from any potential buyer.

3. Under no circumstances should EMPLOYEE sign an offer presented by any potential buyer.

4. EMPLOYEE enters into a binding contract (“Contract of Sale”) with his/her employer or the relocation company (“PURCHASER”).

5. After the execution of the Contract of Sale with PURCHASER and after EMPLOYEE has vacated the home, all of the burdens and benefits of ownership pass to purchaser.

6. The Contract of Sale between EMPLOYEE AND PURCHASER at the higher price is unconditional and not contingent on any event, including the potential buyer obtaining a mortgage commitment.

7. Neither EMPLOYEE, nor the employer in the case of a relocation company transaction, exercises any discretion over the subsequent sale of the home by PURCHASER.

8. PURCHASER enters into a separate listing agreement with real estate broker to assist with the resale of the property.

9. PURCHASER enters into a separate agreement to sell the home to a buyer.

10. PURCHASER arranges for the transfer of title to the buyer.

11. The purchase price eventually paid by the buyer has no effect on the purchase price paid to EMPLOYEE.

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Amended Value Program

In an Amended Value Program, the relocation service company obtains appraisals of an employee’s home in accordance with each client’s policy. The employee may also receive home marketing counseling and broker selection guidance while the appraisals are being completed.

Once the appraised value (guaranteed offer) has been determined and an offer made to the employee, the employee usually will be given a self-marketing period in which he or she attempts to secure a bona fide offer to purchase the home from a qualified buyer. If the employee is successful, the relocation service company will “amend” the guaranteed (appraised value) offer to reflect the amount offered by the potential buyer.

The Employee Relocation Council has issued a set of key elements and procedures, which are essential to the Amended Value Program. (See sidebar.)

In Revenue Ruling 2005-74 regarding the taxability of home sale programs, the IRS supports the continued use of amended value programs that conform to Worldwide ERC®’s Key Elements.

The ruling specifically cites a fact example which penalizes (disqualifies) any Amended Value Program situation where the company’s policy directs the relocation company to wait to execute the contract of sale with the employee until AFTER the relocation company itself fully executes the purchase agreement with the ultimate buyer. In that case, the relocation company, acting as agent for the client, would not be considered to be assuming requisite risk and burdens of ownership.

Advantages
- Employees feel more positive about the amended value offer because it represents what a bona fide purchaser feels the home is worth, versus what they may perceive as a lower guaranteed offer based on appraisals.
- All of the advantages listed for appraised value sales apply to these transactions as well.

Disadvantages
- Employees usually view the appraised value as “low ball” offer.
- Precious energy is wasted debating the validity of the appraisals.
- Appraisals are expensive and can reflect as much as 1.5 percent (of appraised value) in total costs.
- In declining markets, employees may be tempted to accept the appraised value offer quickly without trying to market the home themselves, increasing costs and unsold home inventory.

Worldwide ERC® reports the cost of an amended value transaction is 9.4 percent, based on the average purchase price of a transferee’s home. The median cost of a regular sale (appraised value sale) as a percentage of the purchase price is 15.1 percent.
**Buyer Value Option (BVO)**  
*a.k.a. “Amend from Zero”*  
**Employee Sales Plans**

A Buyer Value Option (BVO) is a variation of the amended value transaction. With BVOs, no appraisals are obtained up front, and usually no initial offer is made to the employee. This eliminates negative perceptions about the appraisal process and saves the costs associated with appraisals and inventory homes. An unconditional offer is made to the employee only when a “buyer value” is determined by an offer from a potential buyer.

With BVOs, the employee receives an explanation of the program and is provided home marketing assistance and guidance in broker selection. The employee must include a “listing exclusion clause” in the listing agreement, which prohibits the broker from earning a commission on the sale of the home to the relocation service company. If a potential buyer is found, the relocation service company verifies that his or her written offer is valid. If the offer is, in fact, bona fide, the process proceeds as it would in an amended value transaction—the company makes an unconditional, non-contingent offer to the employee equivalent to the price offered by the potential buyer. This involves making whatever adjustments are needed so that the two offers may be compared on an all-cash basis. The relocation service company then negotiates and closes its own sale to the buyer who made the outside offer.

As with all Amended Value programs, there must be two separate and distinct sales transactions—one from the employee to the relocation service company, and one from the relocation service company to the ultimate buyer.

In the IRS’ Revenue Ruling 2005-74, which supports Amended Value programs that conform to Worldwide ERC’s 11 key Elements, Buyer Value Option (BVO) programs were not specifically addressed. In order to protect the tax-safe status of a BVO program, companies are well advised to avoid simultaneous closings between the employee and relocation service company and the subsequent sale to the ultimate buyer. This will demonstrate suitable risk and compliance with the 11 Key Elements of Amended Value sales.

If the home does not generate an offer, or Buyer Value, then appraisals should be ordered to establish a delayed Appraised Value.

**Advantages**
- Employees remain as productive as possible because they are not debating the validity of the appraisals.
- Employees receive a “reality check” from the marketplace.
- Employees can begin early and aggressive marketing of their homes without the distraction of issues they cannot influence (such as appraisals).
- Without a guaranteed offer (based on appraisals), homes rarely go into inventory.
- Negative perception of the appraisal process is eliminated.
- Employees perceive the market-based value to be fair, and feel more positive about company benefits.
- Gross-up of direct reimbursements on home selling costs is eliminated.

**Disadvantages**
- Companies must still be willing to accept risk of inventory if sales fall through. (Historically, only 2.5 percent of all Amended Value sales fall through.)
- Without a guaranteed offer, the employee does not have access to equity until a bona fide buyer is identified.
- No guaranteed offer means the employee may not be able to buy a new home as quickly.
Runzheimer International reports that companies with Buyer Value Option programs estimate savings at a median of $8,250 per transferee, making the Buyer Value Option one of the most cost-effective forms of home selling assistance.

As with many home selling programs, a BVO program works best when it’s initiated early (before the employee has listed the property with a broker) and the home is priced competitively.

**Home Selling Assistance Trends**

**Growth of Buyer Value Option**

Recent years have seen many more companies implementing variations of the BVO program. For example, they may delay appraisals and provide the employee a designated pre-marketing period. If the employee succeeds in finding a bona fide potential buyer, the relocation service company makes an offer to purchase and closes the sale as a BVO transaction. If the employee is not successful after a reality check in the marketplace, the employer may begin the appraisal process so that the employee ultimately has a guaranteed offer, facilitating a timely relocation.

Other companies may offer an unlimited marketing time. However, a fundamental premise of the Buyer Value Option program is that the employer (through the relocation service company) stands ready to purchase the home once the employee has tested the market. Given this, an unlimited marketing time may be a riskier variation of this program.

Many companies are attracted to the BVO concept because of the potentially favorable tax benefits while minimizing the potential costs of inventory homes. As a result, we believe the Buyer Value Option is destined to remain a very popular option for many employers.

**Tiered Relocation Policies**

Today more companies are tiering their relocation programs and may offer several types of home selling assistance to different levels of employees. For example, new hire homeowners may be eligible for direct reimbursement with no duplicate housing assistance, while more senior employees or critical new hires would be eligible for a Buyer Value Option program or traditional home sale program. Costs, advantages, and disadvantages vary considerably. Your employees’ needs and your specific relocation objectives will dictate which policy is best for your organization.

**How to Reduce Home Selling Assistance Costs**

Regardless of which program you implement, your costs will be lowest if employee homes sell quickly. There are three fundamental principles to ensure a quick sale:

- Price the home competitively at the outset.
- Complete repairs and improvements prior to listing.
- Market the home while it is still occupied.

Home marketing assistance, incentives and obligations can be used to ensure that all three of these principles are put into effect. ERC reports that most companies (82 percent) provide home marketing assistance to encourage quick sales, while 59 percent of companies offer a bonus or cash incentive, in addition to home marketing assistance, for homes sold during the self-marketing period.

The most common method is to offer a percentage of the home’s value, most commonly 2 percent. The average dollar amount reported was $9,818 with a median of $10,000. Some companies use a sliding scale, based on the amount of the outside offer and allow the transferee to accept an offer of at least 95 percent of the appraised value or most probable sale price.
The most effective programs link eligibility for the bonus (similar to HMO plans) to participation in the home marketing program, or otherwise require the employee to follow professionally developed home marketing guidelines (i.e., maximum list price, repairs and improvements, broker selection). In fact, ERC reports that 79 percent of companies require participation in home marketing programs (up from 40 percent in 1994). Some creative (and effective) incentive programs give the employee part of the incentive just for following the rules. This ensures that employees become part of the solution, helping to minimize the company’s costs by aggressively marketing their homes.

### Fixed Fee Programs

A Fixed Fee alternative has been touted as a cost savings technique, but performance data is not widely available. The Fixed Fee program was originally used under government contracts where the cost of the program needed to be “fixed” to comply with government regulations. Today’s Fixed Fee program operates similarly. Companies contract with the relocation service company to manage the home selling process at a fixed percent of value. Conversely, all other program types have variable costs that depend on how long it takes to sell the home. The fee is typically expressed as a percentage of the home’s appraised value or selling price.

The relocation service company takes on responsibility for all costs, liabilities, and risks associated with acquiring and selling the property. This is markedly different from the more traditional home sale program, through which the client indemnifies the relocation service provider from any and all transaction related liabilities.

The Fixed Fee may apply to employee-generated sales (assigned, amended or BVO) or appraised value sales, reflecting the client’s policy. Provided a properly structured home sale program is used, the transaction will not create income to the employee and, therefore, the costs do not need to be grossed up.

Certain aspects of this approach are undoubtedly attractive. The home sale program is not treated as income; therefore, there is no gross-up expense. Budgets are easier to forecast and accounting and invoice processing occurs only once, regardless of how long it takes to sell the home. Risks and costs of inventory and problem properties are minimized, plus the service provider assumes the risk of a sale-fall-through.

But companies considering a Fixed Fee arrangement must be aware that the costs will likely be higher than that of a well-managed traditional program because the fee must cover unforeseen risks of a sale fall-through, delayed closings, market slowdowns, lawsuits, etc. Another point to consider is that the relocation service company must "buy" right in order to make a profit. This can establish an adversarial relationship between the employee and the relocation service company.

There may also be an adversarial relationship with employees, who may resist restrictions on list price and broker selection that tend to be tied to the Fixed Fee. Ultimately, Fixed Fee programs may be more appropriate in a predictable market.

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### Consulting Services

Weichert Relocation Resources Inc. (WRRI) offers complete consulting, research and information services through our Consulting Services division. Consulting Services include evaluating existing and proposed relocation policies, advising on policy changes, assistance in writing policy and procedure manuals, helping to develop materials for management presentations, and providing counseling on specific program or policy problems as they arise.

Each year, we review hundreds of relocation policies, conduct dozens of relocation seminars, help numerous clients write and implement new policies, and answer hundreds of questions through our Reference Desk.

We maintain an extensive collection of research, surveys and trend information, which we use to help clients benchmark their programs and evaluate their options. We also maintain a library of sample policy language and policy development tools that help clients decide which provisions to offer employees.

Our consultants have the knowledge and expertise to help clients craft the best total solution to their employee relocation needs worldwide.

### References

2005 Transfer Volume & Cost Survey (Worldwide ERC®)  
Runzheimer Benchmarking Service (Runzheimer International)

We have prepared this information reflecting the most current data available. However, readers are advised to consult with their own tax and legal counsel with regard to any interpretation of IRS regulations or subsequent changes in policy.