



NORTHWOOD

Financial Services cc

Authorized Financial Services Provider No. 13296

Contingent Liability Agreement

The Need

- At some time or another, a business will require credit facilities from a financial institution
- Usually the financial institution will require a co-owner to sign as surety and co-principal debtor
- In doing so, the co-owner contractually binds his or her personal estate to the liabilities of the business

The Problem

- If the owner dies or is permanently disabled and:
 - the business is not in a financial position to settle the debt;
 - there is nobody to replace the co-owner as surety;
 - alternative collateral surety cannot be obtained;
 - the business is unable to come to some alternative arrangement
- ...then the creditors may claim the full outstanding debt directly from the deceased surety's personal estate.

The Solution

- The solution for the Settlement of Contingent Liabilities:
 - Provides cash to settle any outstanding debt;
 - Separates the surety's personal estate from that of the business;
 - And does not create any adverse tax consequences for either the business or the surety.

The Structure

- The bank provides a loan to the company
- The director signs surety for the loan
- The company and Director sign a contingent liability agreement
- The company effects a policy on the life of the director/member
- In the event of death policy proceeds are paid to business
- The business pays the loan as per the agreement

Benefits for Business

- Proceeds are received tax-free if the premiums are not tax-deductible
- The contingent liability is settled in full
- The financial resources of the business are not put under any undue strain
- No additional tax burden is created for the business if the proceeds are tax-free
- Surplus proceeds can be retained tax-free
- Business is free of tax liability

Benefits for Surety

- Personal estate is released from any liability and attachment by creditors
- Personal estate is not depleted of much needed cash
- The payment of the premium is not for the co-owner's account
- The life-style of the dependants is unaffected

Income Tax and Estate Duty

- ***Income tax*** - no premium tax deduction
- ***Estate Duty*** – policy no longer qualifies for estate duty exemption